Status: *Point in time view as at 27/07/1993. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Finance Act 1993 is up to date with all changes known to be in force on or before 08 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Finance Act 1993

1993 CHAPTER 34

PART I

CUSTOMS AND EXCISE AND VALUE ADDED TAX

CHAPTER I

GENERAL

Alcoholic liquor duties

1 Rates of duty.

(1) In section 36 of the [M1]Alcoholic Liquor Duties Act 1979 (beer), as that section has effect apart from section 7(1) of the [M2]Finance Act 1991, for "£1.108" there shall be substituted " £1.163 ".

(2) 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.

(3) In section 62(1) of that Act (cider) for "£21.32" there shall be substituted " £22.39 ".

(4) This section shall be deemed to have come into force at 6 o'clock in the evening of 16th March 1993.

Commencement Information

I1 S. 1 in force at 6 p.m. on 16.3.1993 see s. 1(4)

Marginal Citations

M1 1979 c. 4.

M2 1991 c. 31.

Status: *Point in time view as at 27/07/1993. This version of this Act contains provisions that are not valid for this point in time.*
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2 Beer duty: rate for new regime.

(1) In section 36(1) of the [M3]Alcoholic Liquor Duties Act 1979 (beer duty), as substituted by section 7(1) of the [M4]Finance Act 1991, for "£10.60" there shall be substituted " £10.45 ".

(2) This section shall be deemed to have come into force on 1st June 1993.

Commencement Information

I2 S. 2 in force at 1.6.1993 see S. 2(2)

Marginal Citations

M3 1979 c. 4.

M4 1991 c. 31.

3 Low strength beer.

(1) In section 1 of the Alcoholic Liquor Duties Act 1979 (alcoholic liquors dutiable under that Act) in subsection (3) (beer) for "1.2 per cent." there shall be substituted " 0.5 per cent. ".

(2) In section 36 of that Act (beer duty), as substituted by section 7(1) of the Finance Act 1991, after subsection (1) there shall be inserted the following subsection—

"(1A) No duty shall be chargeable under subsection (1) above on beer which is of a strength of 1.2 per cent. or less; but any such beer shall in all other respects be treated as if it were chargeable with a duty of excise."

(3) This section shall apply in relation to liquor which is produced in or imported into the United Kingdom, or removed into the United Kingdom from the Isle of Man, on or after the day on which this Act is passed.

4 Beer duty: abolition of certain reliefs, etc.

(1) The Alcoholic Liquor Duties Act 1979 shall be amended as follows.

(2) In subsection (2) of section 42 (drawback on exportation etc. of beer)—

(a) paragraph (a) (drawback on removal to excise warehouse) shall be omitted,

(b) in paragraph (b) the words "or removal to the Isle of Man" shall be omitted,

(c) also in paragraph (b) for "any such beer" there shall be substituted " any beer to which this section applies ", and

(d) for "exported, removed or shipped" there shall be substituted " exported or shipped ".

(3) In subsections (3) and (4) of that section the word "remove,", in each place where it occurs, shall be omitted.

(4) Section 43 (warehousing of beer for exportation, etc.) shall cease to have effect.

(5) In section 45(1) (repayment of duty on beer used in the production or manufacture of other beverages etc.)—

(a) at the end of paragraph (a) there shall be inserted " or ", and

(b) paragraph (b) shall be omitted.

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(6) Section 51 (power to require production of books by brewers for sale) shall cease to have effect.

(7) Subsections (2)(a) and (c) and (4) to (6) above shall come into force on 1st September 1993.

(8) Subsections (2)(b) and (d) and (3) above shall come into force on such day as the Commissioners of Customs and Excise may by order made by statutory instrument appoint.

Commencement Information

I3 S. 4 wholly in force at 1.1.1995; s. 4(1)(7)(8) in force at Royal Assent; s. 4(2)(a)(c)(4)-(6) in force at 1.9.1993 see s. 4(7); s. 4(2)(b)(d)(3) in force at 1.1.1995 by S.I. 1994/2968, **art. 2**

5 Blending of alcoholic liquors.

(1) In Part VI of the [M5]Alcoholic Liquor Duties Act 1979 the following section shall be inserted before section 67—

"66A Blending of alcoholic liquors.

(1) Subject to subsections (4) to (6) below, a person shall not blend two or more alcoholic liquors—

(a) each of which is of a kind mentioned in paragraphs (a) to (e) of section 1(1) above, but

(b) not all of which fall within the same one of those paragraphs,

except in an excise warehouse or on premises which, in relation to the liquors blended, are for the time being permitted premises.

(2) Subject to subsections (4) to (6) below, a person shall not blend two or more alcoholic liquors which—

(a) fall within the same paragraph of section 1(1) above, but

(b) are not all of the same alcoholic strength,

except in an excise warehouse or on premises which, in relation to the liquors blended, are for the time being permitted premises.

(3) In relation to the blending of particular alcoholic liquors—

(a) if the liquor which is the product of the blending is beer, permitted premises are premises which are registered under section 41A above and premises in respect of which a person is registered under section 47 above;

(b) if the liquor which is the product of the blending is wine, permitted premises are premises in respect of which a licence under section 54(2) above is held;

(c) if the liquor which is the product of the blending is made-wine, permitted premises are premises in respect of which a licence under section 55(2) above is held;

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(d) if the liquor which is the product of the blending is cider, permitted premises are premises in respect of which a person is registered under section 62 above.

(4) Subsections (1) and (2) above do not apply unless the blending is done with a view to offering for sale the liquor which is the product of the blending.

(5) Subsections (1) and (2) above do not apply where the liquor which is the product of the blending is intended for consumption on the premises on which the blending takes place.

(6) The Commissioners may direct that subsections (1) and (2) above shall not apply to the blending of alcoholic liquors in such circumstances as are specified in the direction.

(7) Where a person contravenes subsection (1) or (2) above, the following shall be liable to forfeiture—

(a) the liquor which is the product of the blending;

(b) all such vessels, utensils and materials for the blending of alcoholic liquors as are found in his possession.

(8) In this section any reference to blending liquors includes a reference to otherwise mixing them.”

(2) In subsection (5) of section 55 of that Act (exemption for certain producers of made-wine from requirement to hold excise licence) before paragraph (a) there shall be inserted the following paragraph—

“(aa) he does not blend or otherwise mix two or more alcoholic liquors to which paragraphs (a) and (b) of section 66A(1) below or paragraphs (a) and (b) of section 66A(2) below apply;”.

(3) In that section—

(a) paragraph (e) of subsection (5) and the word “and” immediately preceding that paragraph shall be omitted, and

(b) subsection (5A) shall be omitted.

(4) This section shall apply in relation to the blending or other mixing of alcoholic liquors on or after the day on which this Act is passed.

Marginal Citations

M5 1979 c. 4.

6 Mixing of wine and spirits in excise warehouse.

(1) In subsection (1) of section 58 of the [M6]Alcoholic Liquor Duties Act 1979 (mixing of wine and spirits in excise warehouse)—

(a) for “6 litres” there shall be substituted “ 12 litres ”,

(b) for “except as provided by subsection (2) below” there shall be substituted “ by virtue of this section ”, and

(c) for “23 per cent.” there shall be substituted “ 22 per cent. ”.

(2) Subsection (2) of that section shall be omitted.

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(3) This section shall apply in relation to mixing done on or after the day on which this Act is passed.

Marginal Citations
M6 1979 c. 4.

7 Sparkling wine or made-wine.

(1) In Schedule 1 to the Alcoholic Liquor Duties Act 1979 (rates of duty on wine and made-wine), for paragraphs 1 and 2 there shall be substituted the following paragraphs—

"1 Paragraphs 2 and 3 below apply for the purposes of this Act.

2 (1) Wine or made-wine which is for the time being in a closed container is sparkling if, due to the presence of carbon dioxide or any other gas, the pressure in the container, measured at a temperature of 20°C, is not less than 3 bars in excess of atmospheric pressure.

(2) Wine or made-wine which is for the time being in a closed container is sparkling regardless of the pressure in the container if the container has a mushroom-shaped stopper (whether solid or hollow) held in place by a tie or fastening.

(3) Wine or made-wine which is not for the time being in a closed container is sparkling if it has characteristics similar to those of wine or made-wine which has been removed from a closed container and which, before removal, fell within sub-paragraph (1) above.

3 (1) Wine or made-wine shall be regarded as having been rendered sparkling if, as a result of aeration, fermentation or any other process, it either falls within paragraph 2(1) above or takes on such characteristics as are referred to in paragraph 2(3) above.

(2) Wine or made-wine which has not previously been rendered sparkling by virtue of sub-paragraph (1) above shall be regarded as having been rendered sparkling if it is transferred into a closed container which has a mushroom-shaped stopper (whether solid or hollow) held in place by a tie or fastening.

(3) Wine or made-wine which is in a closed container and has not previously been rendered sparkling by virtue of sub-paragraph (1) or (2) above shall be regarded as having been rendered sparkling if the stopper of its container is exchanged for a stopper of a kind mentioned in sub-paragraph (2) above."

(2) This section shall apply in relation to wine and made-wine which is produced in or imported into the United Kingdom, or removed into the United Kingdom from the Isle of Man, on or after the day on which this Act is passed.

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8 Denatured alcohol.

(1) Denatured alcohol of such a description as may be specified in regulations made by the Commissioners of Customs and Excise shall not, if it would otherwise be so charged, be charged with any duty of excise under section 5 of the [M7]Alcoholic Liquor Duties Act 1979 (charge on spirits) on its importation into the United Kingdom from another member State.

(2) The following references, namely—

(a) the references in sections 75, 77, 79 and 80 of that Act (regulation of methylated spirits) to methylated spirits;

(b) the reference in section 77(1)(e) of that Act to spirits for methylation; and

(c) the references in section 78 of that Act to methylated spirits or spirits (other than in the expression "duty payable on spirits"),

shall each be construed as including a reference to denatured alcohol of any description from time to time specified in regulations made for the purposes of subsection (1) above.

(3) In this section "denatured alcohol" means any substance appearing to the Commissioners of Customs and Excise to fall within Article 27.1.(a) of the Directive of the Council of the European Communities dated 19th October 1992 No.92/83/EEC (directive on the harmonisation of the structures of excise duties on alcohol and alcoholic beverages).

(4) Any description of denatured alcohol specified in regulations under this section may be framed by reference to such circumstances or other factors, or to the approval or opinion of such persons (including the authorities in any member State), as may be so specified.

(5) The power of the Commissioners of Customs and Excise to make regulations under this section shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of the House of Commons; and any such regulations may contain such transitional, supplemental and incidental provision as those Commissioners think fit.

Marginal Citations

M7 1979 c. 4.

Hydrocarbon oil duties

9 Rates of duty.

(1) In section 6(1) of the [M8]Hydrocarbon Oil Duties Act 1979 for "£0.2779" (duty on light oil) and "£0.2285" (duty on heavy oil) there shall be substituted " £0.3058 " and " £0.2514 " respectively.

(2) In section 11(1) of that Act (rebate on heavy oil) for "£0.0095" (fuel oil) and "£0.0135" (gas oil) there shall be substituted " £0.0105 " and " £0.0149 " respectively.

(3) In section 13A(1) of that Act (rebate on unleaded petrol) for "£0.0437" there shall be substituted " £0.0482 ".

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(4) In section 14(1) of that Act (rebate on light oil for use as furnace fuel) for "£0.0095" there shall be substituted " £0.0105 ".

(5) This section shall be deemed to have come into force at 6 o'clock in the evening of 16th March 1993.

Commencement Information

I4 S. 9 in force at 6 p.m. on 16.3.1993: see s. 9(5)

Marginal Citations

M8 1979 c. 5.

10 Mineral oil fuel substitutes.

(1) The Hydrocarbon Oil Duties Act 1979 ("the 1979 Act") shall have effect in relation to such cases as may be specified in an order made by the Treasury as if references in that Act to hydrocarbon oil or to road fuel gas included references to any mineral oil which is designated by that order as a substance which is to be treated for the purposes of that Act as the equivalent of hydrocarbon oil or, as the case may be, of road fuel gas.

(2) The Treasury may by order provide, in relation to any substance which by virtue of this section is to be treated for the purposes of the 1979 Act as the equivalent of hydrocarbon oil, for that substance to be treated for the purposes of such of the provisions of that Act as may be specified in the order as if it fell within the description of such one or more of the following as may be so specified, that is to say—

(a) heavy oil or light oil, as defined in section 1 of that Act;

(b) aviation gasoline, as defined in section 6(4) of that Act;

(c) fuel oil or gas oil, as defined in section 11(2) of that Act; and

(d) unleaded petrol, as defined in section 13A(2) of that Act.

(3) In exercising their powers under this section, the Treasury shall so far as practicable secure that a mineral oil which is intended for, or capable of being put to, a particular use is treated for the purposes of the 1979 Act as if it were the substance falling within the descriptions specified in subsection (2) above to which, when put to that use, it is most closely equivalent.

(4) In this section "mineral oil" means any substance which—

(a) falls within the definition of mineral oil in Article 2.1 of the Directive of the Council of the European Communities dated 19th October 1992 No. 92/81/EEC (directive on the harmonisation of the structures of excise duties on mineral oils), as amended by the Directive of the Council dated 14th December 1992 No. 92/108/EEC; and

(b) is not, apart from this section, hydrocarbon oil or road fuel gas within the meaning of the 1979 Act.

(5) The power of the Treasury 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; and any such order may make different provision for different cases and different substances.

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(6) No duty of excise shall be charged by virtue of section 7 of the 1979 Act (duty on petrol substitutes and power methylated spirits) on any substance on which duty is charged under that Act by virtue of an order under this section.

VALID FROM 01/12/1995

11 Other fuel substitutes.

(1) After section 6 of the [M9]Hydrocarbon Oil Duties Act 1979 there shall be inserted the following section—

"**6A Fuel substitutes.**

(1) A duty of excise shall be charged on the setting aside for a chargeable use by any person, or (where it has not already been charged under this section) on the chargeable use by any person, of any liquid which is not hydrocarbon oil.

(2) In this section "chargeable use" in relation to any substance means the use of that substance—
  (a) as fuel for any engine, motor or other machinery; or
  (b) as an additive or extender in—
    (i) any substance on which duty is charged by virtue of paragraph (a) above; or
    (ii) any hydrocarbon oil which is or is to be used as mentioned in that paragraph.

(3) The rate of the duty under this section shall be prescribed by order made by the Treasury.

(4) In the following provisions of this Act references to hydrocarbon oil shall be construed as including references to any substance on which duty is charged under this section; and, accordingly, references to duty on hydrocarbon oil shall be construed, where a substance is to be treated as such oil, as including references to duty under this section.

(5) The Treasury may by order provide for any substance on which duty is charged under this section to be treated for the purposes of such of the following provisions of this Act as may be specified in the order as if it fell within the description of such one or more of the following as may be so specified, that is to say—
  (a) heavy oil or light oil;
  (b) aviation gasoline;
  (c) fuel oil or gas oil, as defined in section 11(2) below; and
  (d) unleaded petrol, as defined in section 13A(2) below.

(6) In exercising their powers under this section, the Treasury shall so far as practicable secure—
  (a) that a substance set aside for use or used as mentioned in subsection (2)(a) above is—
    (i) charged with duty at the same rate as, and

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(ii) otherwise treated for the purposes of the following provisions of this Act as if it were,

the substance falling within the descriptions specified in subsection (5) above to which, when put to that use, it is most closely equivalent; and

(b) that a substance set aside for use or used as an additive or extender in any substance is—

(i) charged with duty at the same rate as, and

(ii) otherwise treated for the purposes of the following provisions of this Act as if it were,

the substance in which it is an additive or extender.

(7) For the purposes of this section "liquid" does not include any substance which is gaseous at a temperature of 15°C and under a pressure of 1013.25 millibars.

(8) The power of the Treasury 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.

(9) An order under this section—

(a) may make different provision for different cases and for different substances;

(b) may prescribe the rate of duty under this section in respect of any substance by reference to the rate of duty under this Act in respect of any other substance; and

(c) in making different provision for different substances, may define a substance by reference to the use for which it is set aside or the use to which it is put."

(2) Sections 4, 7 and 16 of that Act (petrol substitutes and power methylated spirits) shall cease to have effect.

(3) In section 22(1) of that Act (offence of using petrol substitutes on which duty has not been paid), for the words from the beginning to the word "shall", in the first place where it occurs, there shall be substituted—

"A person who—

(a) puts to a chargeable use (within the meaning of section 6A above) any liquid which is not hydrocarbon oil; and

(b) knows or has reasonable cause to believe that there is duty charged under section 6A above on that liquid which has not been paid and is not lawfully deferred,

shall ".

(4) In section 1(1)(b) of the [M10]Excise Duties (Surcharges or Rebates) Act 1979 (surcharges or rebates in respect of excise duties on hydrocarbon oil etc.), for paragraph (b) there shall be substituted the following paragraph—

"(b) those chargeable by virtue of the Hydrocarbon Oil Duties Act 1979;".

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

Marginal Citations

M9 1979 c. 5.

M10 1979 c. 8.

VALID FROM 13/09/1993

12 Measurement of volume.

(1) In ascertaining for the purposes of the [M11]Hydrocarbon Oil Duties Act 1979—

(a) the amount of any duty of excise chargeable on any liquid by virtue of that Act; or

(b) the amount of any rebate allowable on any such liquid by virtue of that Act,

the volume of that liquid shall be taken (if it would not otherwise be so taken) to be what would be its volume, calculated in accordance with regulations under subsection (2) below, at a temperature of 15°C.

(2) The Commissioners of Customs and Excise may by regulations make such provision as they think fit as to the method by which, in ascertaining any amount mentioned in subsection (1) above—

(a) the volume of any liquid is to be measured; or

(b) the volume as at a temperature of 15°C of any amount of a liquid is to be determined;

and that provision may include provision made by reference to any internationally recognised conversion tables.

(3) Any reference in sections 15 and 17 to 19A of that Act (drawback and relief) to the amount of any duty of excise which has been paid in respect of any substance, or to the amount of any rebate that has been allowed in respect of any substance, shall be construed as a reference—

(a) to such amount as is shown to the satisfaction of the Commissioners of Customs and Excise to have been paid or, as the case may be, allowed in respect of that substance; or

(b) where regulations made by those Commissioners so provide, to such amount as is calculated on such assumptions as to the volume of the substance in question as may be determined in accordance with any such regulations.

(4) The power of the Commissioners of Customs and Excise to make regulations under this section shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament; and any such regulations—

(a) may make different provision for different cases and for different substances; and

(b) may contain such transitional, supplemental and incidental provision as those Commissioners think fit.

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(5) Provision made under this section by any regulations may provide for any determination or measurement under the regulations to be made, or any description of a case or substance to be framed, by reference to such circumstances or other factors, or to the opinion of such persons, as the Commissioners think fit.

(6) For the purposes of this section "liquid" does not include any substance which is gaseous at a temperature of 15°C and under a pressure of 1013.25 millibars.

(7) In consequence of this section—

(a) section 2(5) of that Act (measurement of heavy oil having a temperature exceeding 15°C) shall cease to have effect; and

(b) the words "shown to the satisfaction of the Commissioners to have been" in section 15(1) of that Act (drawback) shall be omitted.

(8) This section shall come into force on such day as the Commissioners of Customs and Excise may by order made by statutory instrument appoint, and different days may be appointed under this subsection for different provisions and for different purposes.

Subordinate Legislation Made

P1 S. 12(8) power partly exercised (9.9.1993): different dates appointed for specific provisions by S.I. 1993/2215.

Commencement Information

I5 S. 12 wholly in force; s. 12 not in force at Royal Assent, s. 12(2)(4)(5)(6)(8) in force at 13.9.1993, s. 12 in force at 15.10.1993 insofar as not already in force see s. 12(8) and S.I. 1993/2215, **arts. 2**,3

Marginal Citations

M11 1979 c. 5.

Tobacco products duty

13 Rates of duty.

(1) For the Table in Schedule 1 to the [M12]Tobacco Products Duty Act 1979 there shall be substituted—

" TABLE

1. Cigarettes	An amount equal to 20 per cent. of the retail price plus £48.75 per thousand cigarettes.
2. Cigars	£72.30 per kilogram.
3. Hand-rolling tobacco	£76.29 per kilogram.
4. Other smoking tobacco and chewing tobacco	£31.93 per kilogram."

(2) This section shall be deemed to have come into force at 6 o'clock in the evening of 16th March 1993.

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Commencement Information
I6 S. 13 in force at 6 p.m. on 16.3.1993: see s. 13(2)

Marginal Citations
M12 1979 c. 7.

14 Hand-rolling tobacco.

(1) In the Tobacco Products Duty Act 1979, section 1 (definition of tobacco products) shall be amended as follows.

(2) In subsection (2) (definition of hand-rolling tobacco) after paragraph (a) there shall be inserted—

"(aa) which is of a kind used for making into cigarettes; or".

(3) In paragraph (b) of subsection (2) (more than 25 per cent. by weight of the tobacco particles have a width of less than 0.6 mm) for "0.6" there shall be substituted " 1 ".

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

"(2A) For the purposes of subsection (2)(aa) above the use for making into cigarettes must amount to more than occasional use but need not amount to common use."

(5) In subsection (3) (power to amend definitions) after "(2)" there shall be inserted " or (2A) ".

Gaming machine licence duty

15 Rates of duty.

(1) The Tables set out in section 23(1) of the [M13]Betting and Gaming Duties Act 1981 shall be amended as follows—

(a) in Table A for "£375" there shall be substituted " £450 ";

(b) in Table B for "£375" there shall be substituted " £450 " and for "£960" there shall be substituted " £1,150 ".

(2) This section shall apply in relation to licences for any period beginning on or after 1st May 1993.

Marginal Citations
M13 1981 c. 63.

16 Small-prize machines.

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

(2) In section 21 (gaming machine licences) in subsection (1) (licence required for machine other than a two-penny machine) for "a two-penny machine" there shall be substituted " an excepted machine ".

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(3) In that section the following subsection shall be inserted after subsection (3)—

"(3A) For the purposes of this section an excepted machine is—

(a) a two-penny machine, or

(b) a five-penny machine which is a small-prize machine."

(4) In section 22 (charge to duty)—

(a) in subsection (1) for the words from "by reference" to the end of the subsection there shall be substituted " in accordance with section 23 below ";

(b) in subsection (5) after "gaming machine licence" there shall be inserted " falling within section 23(1B) below ".

(5) In section 23 (amount of duty) the following subsections shall be substituted for subsection (1) (as amended by section 15 above)—

"(1) The duty on a whole-year gaming machine licence shall be determined as mentioned in subsection (1A) or (1B) below (as the case may be).

(1A) In the case of a special licence, or an ordinary licence which authorises the provision only of small-prize machines, the duty shall be £450 per machine authorised by the licence.

(1B) In any other case the duty shall be determined in accordance with the following Table, by reference to the number of machines which the licence authorises and to whether the licence authorises the provision of machines chargeable at the lower or higher rate—

TABLE

Description of machines authorised by the licence	***Duty on whole-year licence***
Chargeable at the lower rate	£450 per machine
Chargeable at the higher rate	£1,150 per machine."

(6) For subsection (4) of section 25 (meaning of "gaming machine") there shall be substituted the following subsections—

"(4) Subject to subsection (5) below, for the purposes of determining whether a machine is a gaming machine it is immaterial whether it is capable of being played by only one person at a time, or is capable of being played by more than one person.

(5) For the purposes of sections 21 to 24 above a machine (the actual machine) which two or more persons can play simultaneously (whether or not participating with one another in the same game) shall, instead of being treated as one machine, be treated as if it were a number of machines (accountable machines) equal to the number of persons who can play the actual machine simultaneously.

(6) Subsection (5) above does not apply to a machine which is a two-penny machine, or is both a small-prize machine and a five-penny machine.

Status: *Point in time view as at 27/07/1993. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Finance Act 1993 is up to date with all changes known to be in force on or before 08 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(7) If the actual machine is a small-prize machine but not a five-penny machine, the accountable machines shall be taken to be small-prize machines which are not five-penny machines.

(8) If the actual machine is not a small-prize machine, the accountable machines shall be taken not to be small-prize machines, and in such a case—

(a) if the actual machine is a five-penny machine, the accountable machines shall be taken to be five-penny machines;

(b) if the actual machine is not a five-penny machine, the accountable machines shall be taken not to be five-penny machines.

(9) For the purposes of subsection (5) above the number of persons who can play a particular machine simultaneously shall be determined by reference to the number of individual playing positions provided on the machine."

(7) In section 26(2) (interpretation) the following definition shall be inserted after the definition of "two-penny machine"—

""five-penny machine" means a gaming machine which can only be played by the insertion into the machine of a coin or coins of a denomination, or aggregate denomination, not exceeding 5p;".

(8) In Schedule 4 (gaming machine licence duty: supplementary provisions) for paragraph 13 there shall be substituted the following paragraph—

"13 (1) Regulations may make provision with respect to the labelling or marking of—

(a) gaming machines provided on any premises in respect of which an ordinary licence is in force, and

(b) gaming machines in respect of which special licences are in force,

with a view to enabling any such machine to be identified as falling within one of the categories mentioned in sub-paragraph (2) below.

(2) The categories referred to in sub-paragraph (1) above are—

(a) two-penny machines;

(b) machines which are both small-prize machines and five-penny machines;

(c) machines which are small-prize machines but not five-penny machines;

(d) machines which are not small-prize machines but are five-penny machines;

(e) machines which are not small-prize machines and are not five-penny machines.

(3) The regulations may include provision as to the size and description of labels or marks to be applied to machines, as to the cases in which they are required to be, or are prohibited from being, applied and as to the manner of the application."

(9) This section shall apply in relation to licences for any period beginning on or after 1st November 1993.

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Vehicles excise duty

17 Rates of duty: general.

(1) The [M14]Vehicles (Excise) Act 1971 shall be amended as follows.

(2) In Schedule 1 (annual rate of duty on certain vehicles not exceeding 450 kilograms in weight unladen) in the Table set out in Part II—
- (a) in the second column of paragraph 2 (bicycles exceeding 150 cc but not exceeding 250 cc) for "30.00" there shall be substituted " 35.00 ";
- (b) in the second column of paragraph 3 (bicycles exceeding 250 cc) for "50.00" there shall be substituted " 55.00 ";
- (c) in the second column of paragraph 5 (tricycles exceeding 150 cc) for "50.00" there shall be substituted " 55.00 ".

(3) In Schedule 2 (annual rate of duty on hackney carriages) in the Table set out in Part II—
- (a) in the second column of the first entry (hackney carriages with seating capacity under nine) for "110" there shall be substituted " 125 ";
- (b) in the second column of the second entry (hackney carriages with seating capacity of nine to sixteen) for "130" there shall be substituted " 150 ".

(4) In Schedule 3 (annual rate of duty on tractors etc.) in the Table set out in Part II—
- (a) in the second column of paragraph 1 (special machines) for "30.00" there shall be substituted " 35.00 ";
- (b) in the second column of paragraph 2 (showmen's haulage vehicles) for "90.00" there shall be substituted " 100.00 ";
- (c) in the second column of paragraph 4 (recovery vehicles) for "75.00" there shall be substituted " 85.00 ".

(5) In Schedule 4 (annual rate of duty on goods vehicles) in paragraph 1(1) of Part I (vehicles chargeable at the basic rate of duty) for "£130" there shall be substituted " £150 ".

(6) In Schedule 4, in paragraph 6 of Part I (farmers' and showmen's goods vehicles)—
- (a) in sub-paragraph (1) for "£75" there shall be substituted " £85 ";
- (b) in sub-paragraphs (2)(a), (2)(b) and (4) for "£90" (in each place) there shall be substituted " £100 ".

(7) In Schedule 5 (annual rate of duty on vehicles not falling within Schedules 1 to 4) in the Table set out in Part II—
- (a) in the second column of paragraph 1 (vehicles constructed before 1947) for "60.00" there shall be substituted " 70.00 ";
- (b) in the second column of paragraph 2 (other vehicles) for "110.00" there shall be substituted " 125.00 ".

(8) This section shall apply in relation to licences taken out after 16th March 1993.

Marginal Citations

M14 1971 c. 10.

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18 Exceptional loads.

(1) The [M15]Vehicles (Excise) Act 1971 shall be amended as follows.

(2) In paragraph 2 of Schedule 4A (annual rates of duty on vehicles used for carrying or drawing exceptional loads) for "£3,250" there shall be substituted—

(a) " £4,250 " in relation to licences taken out after 16th March 1993 and before the appointed day;

(b) " £5,000 " in relation to licences taken out on or after the appointed day.

(3) In this section "the appointed day" means such day as the Secretary of State may appoint by order made by statutory instrument.

Subordinate Legislation Made

P2 S. 18(3) power fully exercised (7.10.1993): 30.11.1993 appointed day by S.I. 1993/2446, **art. 2**.

Marginal Citations

M15 1971 c. 10.

19 Trade licences.

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

(2) In subsection (5) of section 16 (rates of duty for trade licences) including that subsection as set out in paragraph 12 of Part I of Schedule 7—

(a) for "£100" there shall be substituted " the rate mentioned in subsection (5A) (a) below ", and

(b) for "£20" there shall be substituted " the rate mentioned in subsection (5A) (b) below ".

(3) In that section the following subsection shall be inserted after subsection (5)—

"(5A) The rates referred to in subsection (5) above are—

(a) the annual rate applicable to a vehicle falling within paragraph 2 of Part II of Schedule 5 to this Act in relation to a licence taken out when the trade licence is taken out;

(b) the annual rate applicable to a vehicle falling within paragraph 3 of Part II of Schedule 1 to this Act in relation to a licence taken out when the trade licence is taken out."

(4) This section shall apply in relation to licences taken out after 16th March 1993.

20 Old bicycles.

(1) The [M16]Vehicles (Excise) Act 1971 shall be amended as follows.

(2) In Schedule 1 (annual rate of duty on motor bicycles etc.) for paragraph 2 (concession for certain old bicycles) there shall be substituted—

"2 Where a bicycle the cylinder capacity of whose engine exceeds 150 cubic centimetres is one constructed before 1933 it shall be treated for the

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purposes of this Schedule as having an engine of cylinder capacity not exceeding 150 cubic centimetres."

(3) In paragraph 4(a) of that Schedule (substitution of 1935 for 1933 in Northern Ireland) for "2(a)" there shall be substituted " 2 ".

(4) This section shall apply in relation to licences taken out after 16th March 1993.

Marginal Citations

M16 1971 c. 10.

21 Simplification of duty on goods vehicles.

(1) The Secretary of State may by order make such modifications of Schedule 4 to the Vehicles (Excise) Act 1971 (annual rates of duty on goods vehicles) as he thinks fit for the purpose of securing—

(a) that the annual rates of duty applicable in accordance with that Schedule are expressed by reference to fewer tables; and

(b) that the tables which in pursuance of any order under this section are set out in that Schedule have effect in different cases subject to the operation of such multipliers as may be appropriate.

(2) An order under this section—

(a) shall be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament; and

(b) may contain such incidental and consequential provision (including provision modifying any enactment) as the Secretary of State thinks fit.

(3) Nothing in this section shall authorise any increase by order of the annual rate of duty chargeable in respect of any vehicle.

Miscellaneous

22 Mutual recovery and disclosure of information.

(1) In subsection (1) of section 17 of the [M17]Finance Act 1980 (extension of mutual recovery provisions to VAT), at the end there shall be inserted " and to excise duties by the Directive of the Council of the European Communities dated 14th December 1992 No. 92/108/EEC. "

(2) In subsection (2)(a) of that section (extension of mutual disclosure provisions to VAT), after "No. 79/1070/EEC" there shall be inserted " and to excise duties by the Directive of the Council of the European Communities dated 25th February 1992 No. 92/12/EEC. "

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

"(2A) The references in subsections (1) and (2) above to excise duties are references to any duty on mineral oils, on alcohol and alcoholic beverages or on manufactured tobacco."

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(4) Subsection (1) above shall have effect as respects a request for the recovery of a sum only if it is a sum becoming due on or after the day on which this Act is passed.

Marginal Citations
M17 1980 c. 48.

23 VAT and customs duty on vehicles subject to VED.

(1) Where an application is made for a licence under the [M18]Vehicles (Excise) Act 1971 for a vehicle which—
  (a) appears to the Secretary of State to have been removed into the United Kingdom from a place outside the United Kingdom; and
  (b) is not already registered under that Act,

he may refuse to issue the licence unless subsection (2) below applies to the vehicle.

(2) This subsection applies to a vehicle if the Secretary of State is satisfied in relation to the removal of that vehicle into the United Kingdom—
  (a) that any value added tax charged on the acquisition of that vehicle from another member State, or on any supply involving its removal into the United Kingdom, has been or will be paid or remitted;
  (b) that any value added tax or customs duty charged on the importation of the vehicle from a place outside the member States has been or will be paid or remitted; or
  (c) that no such tax or duty has been charged on the acquisition or importation of the vehicle or on any supply involving its removal into the United Kingdom.

(3) This section shall have effect in relation to any application made on or after the day on which this Act is passed.

Marginal Citations
M18 1971 c.10.

VALID FROM 01/12/1993

CHAPTER II

LOTTERY DUTY

The duty

24 Lottery duty.

(1) Subject to subsections (3) and (4) below, a duty of excise called “lottery duty” is chargeable—
  (a) on the taking in the United Kingdom of a ticket or chance in a lottery, and

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(b) in such cases as may be determined by regulations, on the taking outside the United Kingdom of a ticket or chance in a lottery promoted in the United Kingdom.

(2) Regulations may make provision for determining when and where the taking of a ticket or chance in a lottery is to be treated as occurring for the purposes of this Chapter.

(3) Lottery duty is not chargeable in respect of a lottery that constitutes a game of bingo (or any version of bingo, by whatever name called).

(4) Lottery duty is not chargeable in respect—

(a) of a lottery promoted as an incident of an exempt entertainment within the meaning of the [M19]Lotteries and Amusements Act 1976 or the [M20]Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985;

(b) of a private lottery within the meaning of that Act or Order;

(c) of a society's lottery within the meaning of that Act or Order in respect of which the conditions set out in section 5(3) of that Act or Article 135(1) of that Order are satisfied;

(d) of a local lottery within the meaning of that Act in respect of which the conditions set out in section 6(2) of that Act are satisfied;

(e) of a lottery promoted in accordance with the [M21]Art Unions Act 1846.

(5) The Treasury may by order amend subsection (4) above so as to add to the descriptions of lottery for the time being mentioned in that subsection, so as to omit any of them or so as to substitute a different description of lottery for any of them.

Commencement Information

I7 S. 24 wholly in force; s. 24 not in force at Royal Assent, s. 24(1)(b)-(5) in force at 1.12.1993, s. 24 in force at 1.2.1994 insofar as not already in force by S.I. 1993/2842, **art. 3**.

Marginal Citations

M19 1976 c. 32.
M20 S.I. 1985/1204 (N.I. 11).
M21 1846 c. 48.

25 Amount of duty.

(1) The amount of the lottery duty chargeable on the taking of a ticket or chance in a lottery is equal to 12 per cent. of the value of the consideration given for the ticket or chance.

(2) Subject to subsection (3) below, the aggregate of everything paid or given by (or debited to the account of) the person taking the ticket or chance for, on account of, or in connection with, the ticket or chance shall be taken to be the consideration given for it.

(3) If a price is shown on a lottery ticket or any other document providing evidence of the taking of a ticket or chance in a lottery and—

(a) the consideration given for the ticket or chance is of lesser value than the price shown (or is of no value), or

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(b) no consideration is given for the ticket or chance,

consideration to the value of the price shown shall be taken to be given for the ticket or chance.

26 Time for payment.

(1) The lottery duty chargeable on the taking of a ticket or chance in a lottery becomes due and (subject to any regulations under subsection (2) below) payable at the time the ticket or chance is taken.

(2) Regulations may provide for the payment of any lottery duty due in respect of a lottery of a description specified in the regulations to be deferred, subject to any conditions or requirements that may be imposed by or under the regulations.

(3) Regulations may require payments (of amounts determined by or under the regulations) to be made on account of any lottery duty that may become due in respect of a lottery of a description specified in the regulations that is being or is to be promoted.

27 Persons liable for duty.

(1) Any lottery duty or payment on account of lottery duty that under section 26 above or regulations under that section is payable in respect of a lottery shall be paid (subject to any regulations under subsection (2) below) by the promoter of the lottery.

(2) Regulations may require any lottery duty or payment on account of lottery duty that is payable in respect of a lottery of a description specified in the regulations to be paid by a person specified in the regulations (being a person who occupies or has occupied a position of responsibility in relation to the lottery) instead of by the promoter.

(3) Any lottery duty that is payable in respect of a lottery may be recovered jointly and severally from—

(a) the promoter of the lottery,

(b) any other person who occupies or has occupied a position of responsibility in relation to the lottery or who has or has had any degree of control over any of its proceeds, and

(c) where the promoter or a person within paragraph (b) above is a body corporate, any director of that body corporate.

(4) A person who does not make a payment that he is required to make by subsection (1) above or regulations under subsection (2) above at the time the payment becomes payable is guilty of an offence and liable on summary conviction to a penalty of level 5 on the standard scale or, if greater, treble the amount of the unpaid duty or payment on account of duty.

Administration and enforcement

28 General.

(1) Lottery duty shall be under the care and management of the Commissioners.

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(2) Regulations may provide for any matter for which provision appears to the Commissioners to be necessary or expedient for the administration or enforcement of lottery duty or for the protection of the revenue derived from lottery duty.

(3) A person who contravenes or does not comply with any regulations under subsection (2) above is guilty of an offence and liable on summary conviction to a penalty of level 5 on the standard scale.

29 Registration of promoters etc.

(1) A lottery in respect of which lottery duty is chargeable (or, on the taking of a ticket or chance, will be chargeable) shall not be promoted in the United Kingdom unless the chargeable person is registered with the Commissioners under this section.

(2) In this section "the chargeable person", in relation to a lottery, means—
- (a) subject to paragraph (b) below, the promoter of the lottery;
- (b) in the case of a lottery of a description specified in regulations under section 27(2) above, the other person referred to in that subsection.

(3) Regulations may make provision—
- (a) as to the time at which an application for registration is to be made, as to the form and manner of such an application and as to the information to be contained in or provided with it,
- (b) as to the requirements that must be satisfied as a condition of a person's registration or continued registration, and
- (c) as to other requirements that must be observed by a person while he remains registered.

(4) The requirements imposed by virtue of subsection (3)(b) above may include requirements as to the giving of security or further security (by means of a deposit or otherwise) for any lottery duty that may become due.

(5) Subject to regulations under subsection (3)(a) and (b) above, the Commissioners—
- (a) shall register any person applying to them for registration who satisfies them that he will be the chargeable person in relation to a lottery that is to be promoted, and
- (b) shall not remove any person from the register unless it appears to them that no lottery is being or is to be promoted in relation to which he is or will be the chargeable person.

(6) Where—
- (a) the Commissioners determine that a person should be removed from the register because any requirement imposed by regulations under subsection (3)(b) above is not (or is no longer) satisfied in relation to him, and
- (b) a lottery in relation to which he is the chargeable person is being promoted at the time they make that determination,

they shall not remove him from the register until the promotion of that lottery has come to an end.

(7) If subsection (1) above is contravened in relation to a lottery at any time during its promotion, the chargeable person is guilty of an offence and liable—

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(a) on summary conviction, to a penalty of the statutory maximum 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 two years, or to both.

(8) A person who contravenes or fails to comply with any requirements imposed by regulations under subsection (3)(c) above is guilty of an offence and liable on summary conviction to a penalty of level 5 on the standard scale.

Commencement Information

I8 S. 29 wholly in force; s. 29 not in force at Royal Assent, s. 29(2)-(8) in force at 1.12.1993, s. 29 in force at 1.2.1994 insofar as not already in force by S.I. 1993/2842, **art. 3**.

30 Application of revenue trade provisions of CEMA 1979.

(1) Section 1(1) of the [M22]Customs and Excise Management Act 1979 (interpretation) shall be amended in accordance with subsections (2) and (3) below.

(2) In the definition of "the revenue trade provisions of the customs and excise Acts"—

(a) the word "and" at the end of paragraph (b) shall be omitted, and

(b) at the end there shall be added "; and

(d) the provisions of Chapter II of Part I of the Finance Act 1993;".

(3) In paragraph (a) of the definition of "revenue trader"—

(a) the word "or" at the end of sub-paragraph (i) shall be omitted,

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

"(i) the buying, selling, importation, exportation, dealing in or handling of tickets or chances on the taking of which lottery duty is or will be chargeable; or", and

(c) in sub-paragraph (ii) after "activities" there shall be inserted " as are mentioned in sub-paragraph (i) or (ia) above ".

(4) In section 117 of the [M23]Customs and Excise Management Act 1979 (execution and distress against revenue traders) after subsection (1) there shall be inserted—

"(1A) In subsection (1) above as it applies in relation to a sum owing by a revenue trader in respect of lottery duty or of a relevant penalty—

(a) references to goods liable to any excise duty include lottery tickets on the taking of which lottery duty will be chargeable, and

(b) "the trade in respect of which the duty is imposed" includes any trade or business carried on by the revenue trader that consists of or includes the buying, selling, importation, exportation, dealing in or handling of tickets or chances on the taking of which lottery duty is or will be chargeable."

Marginal Citations

M22 1979 c. 2.

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M23 1979 c. 2.

31 General offences.

(1) A person who is knowingly concerned—
(a) in the fraudulent evasion (by him or another person) of lottery duty, or
(b) in taking steps with a view to such fraudulent evasion,
is guilty of an offence.

(2) A person guilty of an offence under subsection (1) above is liable—
(a) on summary conviction, to a penalty of the statutory maximum or, if greater, treble the amount of the duty evaded or sought to be evaded 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 seven years, or to both.

(3) A person who in connection with lottery duty—
(a) makes a statement that he knows to be false in a material particular or recklessly makes a statement that is false in a material particular, or
(b) with intent to deceive, produces or makes use of a book, account, return or other document that is false in a material particular,
is guilty of an offence.

(4) A person guilty of an offence under subsection (3) above is liable—
(a) on summary conviction, to a penalty of the statutory maximum 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 two years, or to both.

32 Offences by bodies corporate.

Where an offence under this Chapter is committed by a body corporate, every person who at the date of the commission of the offence is a director, manager, secretary or other similar officer of the body corporate (or is purporting to act in such a capacity) is also guilty of the offence unless—
(a) the offence is committed without his consent or connivance, and
(b) he has exercised all such diligence to prevent its commission as he ought to have exercised, having regard to the nature of his functions in that capacity and to all the circumstances.

33 Forfeiture.

(1) Where a person has committed an offence under section 31(1) or (3) above, any goods used in the promotion of, or in any other way related to, a relevant lottery are liable to forfeiture.

(2) In subsection (1) above "relevant lottery"—
(a) in relation to an offence under section 31(1) above, means a lottery in respect of which lottery duty was fraudulently evaded or (as the case may be) in respect of which the fraudulent evasion of lottery duty was sought, and

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(b) in relation to an offence under section 31(3) above, means a lottery to which the false statement or (as the case may be) false document related.

34 Protection of officers etc.

Where a person takes an action in pursuance of instructions of the Commissioners given in connection with the enforcement of this Chapter or of regulations under it and, apart from this section, the person would in taking that action be committing an offence under any enactment relating to lotteries, he shall not be guilty of that offence.

35 Evidence by certificate etc.

(1) A certificate of the Commissioners—

(a) that a person was or was not, at any date, registered under section 29 above,

(b) that any return required by regulations under this Chapter had not been made at any date, or

(c) that any lottery duty shown as due in a return made in pursuance of such regulations or in an estimate made under section 116A of the [M24]Customs and Excise Management Act 1979 had not been paid at any date,

is sufficient evidence of that fact until the contrary is proved.

(2) A photograph of any document furnished to the Commissioners for the purposes of this Chapter and certified by them to be such a photograph is admissible in any proceedings, whether civil or criminal, to the same extent as the document itself.

(3) Any document purporting to be a certificate under subsection (1) or (2) above shall be taken to be such a certificate until the contrary is proved.

Marginal Citations

M24 1979 c. 2.

36 Duty a preferential debt in insolvency.

(1) In section 386(1) of the [M25]Insolvency Act 1986 (preferential debts) after "beer duty" there shall be inserted " , lottery duty ".

(2) In Schedule 6 to that Act (categories of preferential debts) in Category 2 (debts due to Customs and Excise) after paragraph 5A there shall be inserted—

"5B Any amount which is due by way of lottery duty from the debtor at the relevant date and which became due within the period of 12 months next before that date."

(3) In Schedule 3 to the [M26]Bankruptcy (Scotland) Act 1985 (list of preferred debts) at the end of paragraph 2 (debts due to Customs and Excise) there shall be added—

"(5) Any amount which is due by way of lottery duty from the debtor at the relevant date and which became due within the period of 12 months next before that date."

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(4) In Article 346(1) of the [M27]Insolvency (Northern Ireland) Order 1989 (preferential debts) after "beer duty" there shall be inserted " , lottery duty ".

(5) In Schedule 4 to that Order (categories of preferential debts) in Category 2 (debts due to Customs and Excise) after paragraph 5A there shall be inserted—

"5B Any amount which is due by way of lottery duty from the debtor at the relevant date and which became due within the period of 12 months next before that date."

Marginal Citations

M25 1986 c. 45.
M26 1985 c. 66.
M27 S.I. 1989/2405 (N.I.19).

37 Disclosure of information.

(1) Notwithstanding any obligation not to disclose information that would otherwise apply, the Commissioners may disclose information—
(a) to the Secretary of State,
(b) to the Gaming Board for Great Britain, or
(c) to an authorised officer of the Secretary of State or Gaming Board,
for the purpose of assisting the Secretary of State or Gaming Board (as the case may be) in the performance of duties imposed by or under any enactment in relation to lotteries.

(2) Notwithstanding any such obligation as is mentioned in subsection (1) above—
(a) the Secretary of State,
(b) the Gaming Board for Great Britain, or
(c) an authorised officer of the Secretary of State or Gaming Board,
may disclose information to the Commissioners or to an authorised officer of the Commissioners for the purpose of assisting the Commissioners in the performance of duties in relation to lottery duty.

(3) Information that has been disclosed to a person by virtue of this section shall not be disclosed by him except—
(a) to another person to whom (instead of him) disclosure could by virtue of this section have been made, or
(b) for the purpose of any proceedings connected with the operation of any enactment in relation to lotteries or lottery duty.

(4) References above in this section to the Secretary of State include any person who has been designated by the Secretary of State as a person to and by whom information may be disclosed under this section.

(5) The Secretary of State shall notify the Commissioners in writing if he designates a person under subsection (4) above.

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Supplementary

38 Regulations and orders.

(1) Any regulations under this Chapter may make—
(a) different provision for different cases or circumstances, and
(b) incidental, supplemental or consequential provision.

(2) Any power to make regulations or orders under this Chapter is exercisable by statutory instrument.

(3) Subject to subsection (4) below, a statutory instrument containing such regulations or an order under section 24(5) above is subject to annulment in pursuance of a resolution of the House of Commons.

(4) An order under section 24(5) above that will result in lottery duty becoming chargeable in respect of any description of lottery shall not be made unless a draft of the statutory instrument containing it has been laid before, and approved by a resolution of, the House of Commons.

VALID FROM 01/02/1994

39 Disapplication of pool betting duty.

In section 6 of the [M28]Betting and Gaming Duties Act 1981 (pool betting duty)—
(a) for subsection (3)(b) there shall be substituted—
"(b) "bet" does not include the taking of a ticket or chance in a lottery.", and
(b) subsection (4) shall cease to have effect.

Marginal Citations
M28 1981 c. 63.

40 Interpretation etc.

(1) In this Chapter—
"the Commissioners" means the Commissioners of Customs and Excise,
"document" includes a document of any kind whatsoever and, in particular, a record kept by means of a computer,
"promotion", in relation to a lottery, includes the conduct of the lottery (and "promoted" is to be read accordingly), and
"regulations" means regulations made by the Commissioners.

(2) This Chapter applies in relation to lotteries promoted on behalf of the Crown in pursuance of any enactment as it applies in relation to lotteries not so promoted.

(3) The imposition by this Chapter of lottery duty does not make lawful anything that is unlawful apart from this Chapter.

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41 Commencement.

This Chapter shall come into force on such day as the Commissioners may by order appoint, and different days may be appointed for different provisions or for different purposes.

Subordinate Legislation Made

P3 S. 41 power fully exercised (18.11.1993): different dates appointed for specified provisions by S.I. 1993/2842, **art. 3**.

CHAPTER III

VALUE ADDED TAX

42 Fuel and power for domestic or charity use.

(1) The supplies of the descriptions specified in Group 7 of Schedule 5 to the [M29]Value Added Tax Act 1983 (supplies of fuel and power for domestic or charity use) shall cease to be zero-rated for the purposes of charging value added tax on any supply, acquisition or importation made or taking place on or after 1st April 1994.

(2) Section9 of the Value Added Tax Act 1983 (rate of tax) shall have effect—

(a) in relation to so much of any supply made on or after 1st April 1994 and before 1st April 1995 as (but for subsection (1) above) would be zero-rated by virtue of Group 7 of Schedule 5 to that Act; and

(b) in relation to any equivalent acquisition or importation taking place on or after 1st April 1994 and before 1st April 1995,

as if a rate of 8 per cent. were substituted for the rate specified in subsection (1) of that section.

(3) The reference in subsection (2) above to an equivalent acquisition or importation, in relation to any supply which would be zero-rated but for subsection (1) above, is a reference, as the case may be, to—

(a) any acquisition from another member State of goods the supply of which would be such a supply; or

(b) any importation from a place outside the member States of any such goods.

(4) This section shall be construed as one with the Value Added Tax Act 1983.

Marginal Citations

M29 1983 c. 55.

43 Vehicle fuel for private use.

(1) Paragraph 3 of Schedule 6 to the [M30]Finance Act 1986 and the Table B set out after that paragraph (consideration for fuel for private use where business use not less than specified amount) shall not have effect in relation to any case where the prescribed accounting period begins after 5th April 1993.

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(2) Accordingly, that Schedule shall have effect in relation to any such case with the following amendments, namely—

(a) in paragraph 5(1)(a), for the words from "cubic capacity" to "in question" there shall be substituted " vehicle specified in Table A above, that Table ";

(b) in paragraph 5(1)(b), for "cubic capacity specified in those Tables" and "the Table in question" there shall be substituted, respectively, " vehicle specified in that Table " and " that Table ";

(c) in paragraph 6(1), for the words from "Tables" onwards there shall be substituted " Table A above is the capacity of its engine as calculated for the purposes of the Vehicles (Excise) Act 1971 "; and

(d) in paragraph 6(2), for "Tables A and B" there shall be substituted " Table A ".

(3) Paragraph 4 of that Schedule (power of Treasury to substitute Tables) shall have effect for the purposes of the making of any order after 5th April 1993 with the substitution of " the Table A for the time being " for "either of the Tables".

Marginal Citations

M30 1986 c. 41.

44 Acquisitions from persons belonging in other member States.

(1) After section 8C of the [M31]Value Added Tax Act 1983 there shall be inserted the following section—

"8D Acquisitions from persons belonging in other member States.

(1) Subject to subsection (3) below, where—

(a) a person ("the original supplier") makes a supply of goods to a person who belongs in another member State ("the intermediate supplier");

(b) that supply involves the removal of the goods from another member State and their removal to the United Kingdom but does not involve the removal of the goods from the United Kingdom;

(c) both that supply and the removal of the goods to the United Kingdom are for the purposes of the making of a supply by the intermediate supplier to another person ("the customer") who is registered under this Act;

(d) neither of those supplies involves the removal of the goods from a member State in which the intermediate supplier is taxable at the time of the removal without also involving the previous removal of the goods to that member State; and

(e) there would be a taxable acquisition by the customer if the supply to him involved the removal of goods from another member State to the United Kingdom,

the supply by the original supplier to the intermediate supplier shall be disregarded for the purposes of this Act and the supply by the intermediate supplier to the customer shall be treated for the purposes of this Act, other than Schedule 1B, as if it did involve the removal of the goods from another member State to the United Kingdom.

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(2) Subject to subsection (3) below, where—

(a) a person belonging in another member State makes such a supply of goods to a person who is registered under this Act as involves their installation or assembly at a place in the United Kingdom to which they are removed; and

(b) there would be a taxable acquisition by the registered person if that supply were treated as not being a taxable supply but as involving the removal of the goods from another member State to the United Kingdom,

that supply shall be so treated except for the purposes of Schedule 1B to this Act.

(3) Neither subsection (1) nor subsection (2) above shall apply in relation to any supply unless the intermediate supplier or, as the case may be, the person making the supply complies with such requirements as to the furnishing (whether before or after the supply is made) of invoices and other documents, and of information, to—

(a) the Commissioners, and

(b) the person supplied,

as the Commissioners may by regulations prescribe; and regulations under this subsection may provide for the times at which, and the form and manner in which, any document or information is to be furnished and for the particulars which it is to contain.

(4) Where this section has the effect of treating a taxable acquisition as having been made, section 8B(1) above shall apply in relation to that acquisition with the omission of the words from "whichever" to "acquisition; and" at the end of paragraph (a).

(5) For the purposes of this section a person belongs in another member State if—

(a) he does not have any business establishment or other fixed establishment in the United Kingdom and does not have his usual place of residence in the United Kingdom;

(b) he is neither registered under this Act nor required to be so registered;

(c) he does not have a tax representative and is not for the time being required to appoint one; and

(d) he is taxable in another member State;

but, in determining for the purposes of paragraph (b) above whether a person is required to be registered under this Act, there shall be disregarded any supplies which, if he did belong in another member State and complied with the requirements prescribed under subsection (3) above, would fall to be disregarded by virtue of this section.

(6) Without prejudice to section 8C(4) above, where—

(a) any goods are acquired from another member State in a case which corresponds, in relation to another member State, to the case specified in relation to the United Kingdom in subsection (1) above; and

(b) the person who acquires the goods is registered under this Act and would be the intermediate supplier in relation to that corresponding case,

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the supply to him of those goods and the supply by him of those goods to the person who would be the customer in that corresponding case shall both be disregarded for the purposes of this Act, other than the purposes of the information provisions referred to in section 46A(7) below.

(7) References in this section to a person being taxable in another member State shall not include references to a person who is so taxable by virtue only of provisions of the law of another member State corresponding to the provisions of this Act by virtue of which a person who is not registered under this Act is a taxable person if he is required to be so registered."

(2) Section32B of that Act (overseas suppliers accounting through their customers) shall cease to have effect.

(3) As a consequence of the preceding provisions of this section—

(a) in section 6(1) of that Act (place of supply), for "section 35" there shall be substituted " sections 8D and 35 "; and

(b) in section 8C(1) of that Act (place of acquisition), for "sections 32B(5) and 35" there shall be substituted " section 35 ".

(4) This section shall have effect in relation to supplies of goods made on or after 1st August 1993 other than a supply of goods by an intermediate supplier to whom the goods were supplied before that date.

Marginal Citations

M31 1983 c. 55.

45 Customers to account for tax on supplies of gold etc.

(1) After section 37B of the [M32]Value Added Tax Act 1983 there shall be inserted the following section—

"37C Customers to account for tax on supplies of gold etc.

(1) Where any person makes a supply of gold to another person and that supply is a taxable supply but not a zero-rated supply, the supply shall be treated for the purposes of Schedule 1 to this Act—

(a) as a taxable supply of that other person (as well as a taxable supply of the person who makes it); and

(b) in so far as that other person is supplied in connection with the carrying on by him of any business, as a supply made by him in the course or furtherance of that business;

but nothing in paragraph (b) above shall require any supply to be disregarded for the purposes of that Schedule on the grounds that it is a supply of capital assets of that other person's business.

(2) Where a taxable person makes a supply of gold to a person who—

(a) is himself a taxable person at the time when the supply is made; and

(b) is supplied in connection with the carrying on by him of any business,

it shall be for the person supplied, on the supplier's behalf, to account for and pay tax on the supply, and not for the supplier.

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(3) So much of this Act and of any other enactment or any subordinate legislation as has effect for the purposes of, or in connection with, the enforcement of any obligation to account for and pay value added tax shall apply for the purposes of this section in relation to any person who is required under subsection (2) above to account for and pay any tax as if that tax were tax on a supply made by him.

(4) Section 5(1) to (5) above shall not apply for determining when any supply of gold is to be treated as taking place.

(5) References in this section to a supply of gold are references to—
- (a) any supply of goods consisting in gold, including gold coins, or
- (b) any supply of goods containing gold where the consideration for the supply (apart from any tax) is, or is equivalent to, an amount which does not exceed, or exceeds by no more than a negligible amount, the open market value of the gold contained in the goods.

(6) The Treasury may by order provide for this section to apply, as it applies to the supplies specified in subsection (5) above, to such other supplies of—
- (a) goods consisting in or containing any precious or semi-precious metal or stones; or
- (b) services relating to, or to anything containing, any precious or semi-precious metal or stones,

as may be specified or described in the order."

(2) In section 5(9) of that Act (power to modify time of supply)—
- (a) in the words before paragraph (a), after "4 above" there shall be inserted " or 37C(4) below "; and
- (b) in the words after paragraph (b), before "a supply of services" there shall be inserted " a supply to which section 37C below applies or there is ".

(3) Subsection (1) above, so far as it makes provision in relation to supplies of gold, shall have effect in relation to supplies made on or after 1st April 1993, but section 5 of that Act shall be disregarded in determining the time of any supply for the purposes of this subsection.

Marginal Citations
M32 1983 c. 55.

46 Appeals in respect of input tax.

(1) In section 40 of the [M33]Value Added Tax Act 1983 (appeals), after subsection (3) there shall be inserted the following subsection—

"(3ZA) Where—
- (a) there is an appeal against a decision of the Commissioners with respect to, or to so much of any assessment as concerns, the amount of input tax that may be credited to any person or the proportion of input tax allowable under section 15 above,
- (b) that appeal relates, in whole or in part, to any determination by the Commissioners—

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(i) as to the purposes for which any goods or services were or were to be used by any person, or

(ii) as to whether or to what extent the matters to which any input tax was attributable were or included matters other than the making of supplies within section 15(2) above, and

(c) tax for which, in pursuance of that determination, there is no entitlement to a credit is tax on the supply, acquisition or importation of something in the nature of a luxury, amusement or entertainment,

the tribunal shall not allow the appeal or, as the case may be, so much of it as relates to that determination unless it considers that the determination is one which it was unreasonable to make or which it would have been unreasonable to make if information brought to the attention of the tribunal that could not have been brought to the attention of the Commissioners had been available to be taken into account when the determination was made."

(2) This section shall apply in relation to any appeal relating to the input tax that may be credited to any person at the end of a prescribed accounting period beginning on or after the day on which this Act is passed.

Marginal Citations

M33 1983 c. 55.

47 Deemed supplies.

(1) Paragraph 5 of Schedule 2 to the [M34]Value Added Tax Act 1983 (matters to be treated as supplies) shall be amended as follows.

(2) In sub-paragraph (2) (gifts which are not to be treated as supplies), for paragraph (b) there shall be substituted the following paragraph—

"(b) subject to sub-paragraph (2A) below, a gift to any person of a sample of any goods."

(3) After that sub-paragraph there shall be inserted the following sub-paragraph—

"(2A) Where—

(a) a person is given a number of samples by the same person (whether all on one occasion or on different occasions), and

(b) those samples are identical or do not differ in any material respect from each other,

sub-paragraph (1) above shall apply to all except one of those samples or, as the case may be, to all except the first to be given."

(4) After sub-paragraph (3) there shall be inserted the following sub-paragraph—

"(3A) Neither sub-paragraph (1) nor sub-paragraph (3) above shall require anything which a person carrying on a business does otherwise than for a consideration in relation to any goods to be treated as a supply except in a case where that person is entitled under sections 14 and 15 of this Act to credit for the whole or any part of the tax on the supply, acquisition or importation of those goods or of anything comprised in them."

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Marginal Citations
M34 1983 c. 55.

48 Bad debts.

(1) In section 11 of the [M35]Finance Act 1990 (bad debts) in subsection (1)(c) (period of one year beginning with date of supply must elapse) for "one year" there shall be substituted " six months ".

(2) This section shall be deemed to have come into force on 1st April 1993 and shall apply in relation to supplies made on or after 1st April 1992.

Commencement Information
I9 S. 48 in force at 1.4.1993: see s. 48(2)

Marginal Citations
M35 1990 c. 29.

49 Penalties etc.

Schedule 2 to this Act (which contains amendments of the provisions of Chapter II of Part I of the [M36]Finance Act 1985 relating to penalties etc.) shall have effect.

Marginal Citations
M36 1985 c. 54.

50 Amendments in connection with abolition of car tax.

(1) The [M37]Value Added Tax Act 1983 shall be amended as follows.

(2) In Schedule 4 (valuation: special cases) in paragraph 3A(1)—
(a) the words "or with car tax", and
(b) the word "tax" in the second place where it occurs,
shall be omitted.

(3) In Schedule 4A (valuation of acquisitions from other member states: special cases) in paragraph 2(1)—
(a) the words " or with car tax", and
(b) the word "tax" in the second place where it occurs,
shall be omitted.

(4) In Schedule 7 (administration, collection and enforcement) in paragraph 2(3B)—
(a) the words "or of a chargeable vehicle within the meaning of the Car Tax Act 1983" shall be omitted,
(b) the words "or of such a vehicle" shall be omitted, and

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(c) for the words from "any duty" to "may allow" there shall be substituted the words " any duty or agricultural levy in the value of the supply or acquisition determined, by reference to the duty point or by reference to such later time as the Commissioners may allow. "

Marginal Citations
M37 1983 c. 55.

PART II

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

CHAPTER I

GENERAL

Income tax: charge, rates and allowances

51 Charge and rates of income tax for 1993-94.

(1) Income tax shall be charged for the year 1993-94, and for that year—
(a) the lower rate shall be 20 per cent.,
(b) the basic rate shall be 25 per cent., and
(c) the higher rate shall be 40 per cent.

(2) For the year 1993-94 section 1(2) of the Taxes Act 1988 shall apply as if—
(a) the amount specified in paragraph (aa) were £2,500 (the lower rate limit), and
(b) the amount specified in paragraph (b) were £23,700 (the basic rate limit);

and accordingly section 1(4) of that Act (indexation) shall not apply for the year 1993-94.

52 Personal and married couple's allowances.

Sections 257 and 257A of the Taxes Act 1988 (personal and married couple's allowances) shall apply for the year 1993-94 as if the amounts specified in them were the same as the amounts specified in them as they apply for the year 1992-93, and accordingly section 257C(1) of that Act (indexation) shall not apply for the year 1993-94.

Corporation tax charge and rate

53 Charge and rate of corporation tax for 1993.

Corporation tax shall be charged for the financial year 1993 at the rate of 33 per cent.

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54 Small companies.

For the financial year 1993—

(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.

Interest: general

55 Relief for interest.

For the year 1993-94 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.

56 Interest relief: substitution of security.

The following sections shall be inserted after section 357 of the Taxes Act 1988—

"**357A Substitution of security.**

(1) Subject to subsection (9) below, this section applies where—

(a) on or after 16th March 1993 a person purchases an estate or interest in land or the property in a caravan or house-boat (the new estate, interest or property), and

(b) a security substitution arrangement takes effect on or after that date in connection with the purchase.

(2) Subsection (3) below applies where—

(a) the arrangement mentioned in subsection (1) above relates to one existing loan only, and

(b) no other security substitution arrangement takes effect at the same time in connection with the purchase of the new estate, interest or property.

(3) As regards interest paid on the loan after the time the new estate, interest or property became security for the loan, the loan shall be treated for the purposes of sections 353 to 379 (other than this section and sections 357B and 357C) as if—

(a) it had been made at that time, and

(b) so much of it as was then outstanding and did not exceed the relevant amount had been used at that time to defray money applied in purchasing the new estate, interest or property.

(4) Subsection (5) below applies where either—

(a) the arrangement mentioned in subsection (1) above relates to two or more existing loans, or

(b) two or more security substitution arrangements take effect at the same time in connection with the purchase of the new estate, interest or property.

(5) As regards interest paid on the loans after the time the new estate, interest or property became security for the loans, the loans shall be treated for the

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purposes of sections 353 to 379 (other than this section and sections 357B and 357C) as if—

(a) they had been made at that time, and

(b) they had been used at that time to defray money applied in purchasing the new estate, interest or property;

but in any case where at that time the aggregate of the amounts of the loans outstanding exceeded the relevant amount, the loans shall be treated as mentioned in paragraph (b) above only to the extent that the aggregate did not exceed the relevant amount.

(6) For the purposes of this section the relevant amount is—

(a) where there is no loan falling within subsection (7) below, an amount equal to the purchase price of the new estate, interest or property;

(b) where there is one loan falling within that subsection, an amount equal to the difference between the purchase price of the new estate, interest or property and the amount of that loan;

(c) where there are two or more loans falling within that subsection, an amount equal to the difference between the purchase price of the new estate, interest or property and the total of the amounts of those loans.

(7) A loan falls within this subsection if—

(a) it is at the relevant time, or was before the relevant time, actually used to any extent to defray money applied in purchasing the new estate, interest or property, or

(b) by virtue of an earlier security substitution arrangement, it is treated to any extent as if before the relevant time it had been used to defray money so applied;

but a loan does not fall within this subsection unless interest on the loan is eligible for relief under section 353 by virtue of section 355(1)(a) or 356(1).

(8) For the purposes of subsection (7) above the relevant time is the time when under the arrangement mentioned in subsection (1) above the new estate, interest or property becomes security for the existing loan or loans.

(9) This section does not apply in relation to a security substitution arrangement if, as regards the new estate, interest or property—

(a) there is at least one loan falling within subsection (7) above, and

(b) the amount of that loan or (if there is more than one) the total of the amounts of those loans is the same as the purchase price of the new estate, interest or property.

(10) For the purposes of subsections (6) and (9) above the amount of a loan is its amount when made, except that where—

(a) a loan falls within subsection (7) above by virtue of the fact that it is or was partly used to defray money applied in purchasing the new estate, interest or property, or

(b) a loan falls within that subsection by virtue of the fact that it is treated as if it had been partly so used,

the amount of the loan shall be taken for the purposes of subsections (6) and (9) above to be the amount of the part so used or (as the case may be) treated as so used.

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357B Treatment of loans following security substitution.

(1) This section applies where—

(a) by virtue of section 357A a loan is treated to any extent as having been used at a particular time to defray money applied in purchasing the new estate, interest or property,

(b) after that time a loan (a new loan) is actually used to any extent to defray money applied in purchasing the new estate, interest or property, and

(c) interest on the new loan is (or would be apart from this section) eligible for relief under section 353 by virtue of section 355(1)(a) or 356(1).

(2) Subject to subsection (4) below, as regards interest paid on the new loan after the time it is used as mentioned in subsection (1)(b) above (the material time), such part of the loan as was actually used to defray money applied in purchasing the new estate, interest or property shall be treated for the purposes of sections 353 to 379 as having been so used only to the extent that the amount of that part does not exceed the applicable amount.

(3) Subsection (4) below applies in a case where—

(a) two or more new loans are simultaneously used to any extent as mentioned in subsection (1)(b) above, and

(b) interest on each of them is or would be eligible for relief as mentioned in subsection (1)(c) above.

(4) As regards interest paid on the new loans after the material time, such parts of the loans as were actually used to defray money applied in purchasing the new estate, interest or property shall be treated for the purposes of sections 353 to 379 as having been so used only to the extent that the aggregate of the amounts of those parts does not exceed the applicable amount.

(5) For the purposes of this section the applicable amount is the difference between—

(a) the purchase price of the new estate, interest or property, and

(b) the amount of any relevant loan or, if there is more than one, the total amounts of the relevant loans.

(6) For the purposes of subsection (5) above a relevant loan is a loan which—

(a) before the material time was actually used to any extent to defray money applied in purchasing the new estate, interest or property, or

(b) by virtue of section 357A, is treated to any extent as if before the material time it had been used to defray money so applied;

but a loan is not a relevant loan unless interest on it is eligible for relief under section 353 by virtue of section 355(1)(a) or 356(1).

(7) For the purposes of subsection (5) above the amount of a relevant loan is its amount when made, except that where—

(a) a loan is a relevant loan by virtue of the fact that it was partly used to defray money applied in purchasing the new estate, interest or property, or

(b) a loan is a relevant loan by virtue of the fact that it is treated as if it had been partly so used,

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the amount of the loan shall be taken for the purposes of that subsection to be the amount of the part so used or (as the case may be) treated as so used.

357C Substitution of security: supplemental.

(1) An arrangement is a security substitution arrangement for the purposes of section 357A if—

(a) under the arrangement the new estate, interest or property becomes security for an existing loan or existing loans,

(b) under the arrangement an estate or interest in land, or the property in a caravan or house-boat, ceases to be security for the loan or loans,

(c) the estate, interest or property mentioned in paragraph (b) above was not absorbed into, or given up to obtain, the new estate, interest or property,

(d) the loan or (as the case may be) at least one of the loans is a qualifying loan, and

(e) the circumstances are such that, had the loan or loans been used to defray money applied in purchasing the new estate, interest or property, interest on the loan or (as the case may be) on each of the loans would have been eligible for relief under section 353 by virtue of section 355(1)(a) or 356(1).

(2) For the purposes of subsection (1) above a loan is a qualifying loan if, immediately before the arrangement took effect, interest on the loan was eligible for relief under section 353 by virtue of section 355(1)(a) or section 356(1).

(3) In a case where—

(a) paragraphs (a) to (d) of subsection (1) above apply in relation to an arrangement,

(b) the arrangement relates to two or more loans, and

(c) one or more of the loans is not a qualifying loan for the purposes of subsection (1) above,

any loan which is not a qualifying loan shall be ignored in applying subsection (1)(e) above.

(4) Where a security substitution arrangement relates to two or more loans and one or more of them is not a qualifying loan for the purposes of subsection (1) above, any loan which is not a qualifying loan—

(a) shall be left out of account in determining for the purposes of section 357A the number of existing loans to which the arrangement relates;

(b) shall not be treated as mentioned in section 357A(3) or (5);

(c) shall be left out of account in calculating for the purposes of section 357A(5) the aggregate of the amounts of the loans outstanding at the time the new estate, interest or property became security for them.

(5) Subsection (6) below applies where—

(a) the purchase mentioned in subsection (1) of section 357A is made jointly by the person mentioned in that subsection (the relevant person) and another person or other persons, and

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(b) any of the money applied in the purchase is attributable to the relevant person and not to the other person or, as the case may be, attributable to the relevant person and not to all the other persons.

(6) In relation to the relevant person—

(a) the references in sections 357A and 357B to the new estate, interest or property shall be treated as references to his share of the new estate, interest or property, and

(b) the references in sections 357A and 357B to the purchase price of the new estate, interest or property shall be treated as references to so much of the money applied in purchasing the estate, interest or property as is attributable to him.

(7) In determining for the purposes of this section and sections 357A and 357B whether interest is, was or would have been eligible for relief under section 353, section 353(2) shall be disregarded."

57 Temporary relief for interest payments.

(1) In section 355 of the Taxes Act 1988 (conditions of relief on interest on loans to buy land), after subsection (1) there shall be inserted the following subsections—

"(1A) Where, in the case of any loan—

(a) the condition specified in subsection (1)(a) above would not (apart from this subsection) be fulfilled with respect to any land, caravan or house-boat by reason of its having ceased at any time to be used by a particular person as his only or main residence; and

(b) the borrower's intention at that time was to take steps, before the end of the period of 12 months after the day on which it ceased to be so used, with a view to the disposal of that land, caravan or house-boat,

that condition shall be treated in relation to interest on that loan as continuing to be fulfilled with respect to that land, caravan or house-boat (as well as with respect to any other land, caravan or house-boat with respect to which it is in fact fulfilled) from that time until the end of that period or (if sooner) the abandonment by the borrower of his intention to dispose of the land, caravan or house-boat in question.

(1B) Where—

(a) subsection (1A) above has effect in the case of any loan ("the first loan") so that the condition specified in subsection (1)(a) above is treated in relation to any person as fulfilled with respect to any land, caravan or house-boat, and

(b) there is another loan raised by the borrower to defray money to be applied as mentioned in section 354(1) with a view to the use of any other land, caravan or house-boat as the borrower's only or main residence,

interest on the other loan shall be treated as eligible for relief to the same extent (if any) as if no interest were payable on the first loan."

(2) In subsection (2) of that section (extension of 12 month period in subsection (1)), after "subsection (1)" there shall be inserted " or (1A) ".

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(3) In section 365 of that Act (relief on interest on loans to buy a life annuity), after subsection (1) there shall be inserted the following subsections—

"(1A) Where, in the case of any loan—

(a) the condition specified in subsection (1)(d) above would not (apart from this subsection) be fulfilled with respect to any land by reason of its having ceased at any time to be used by a particular person as his only or main residence; and

(b) the intention at that time of the person to whom the loan was made, or of each of the annuitants owning an estate or interest in that land, was to take steps, before the end of the period of 12 months after the day on which it ceased to be so used, with a view to the disposal of his estate or interest,

that condition shall be treated in relation to interest on that loan as continuing to be fulfilled with respect to the land from that time until the end of that period or (if sooner) the abandonment by that person or any of those annuitants of his intention to dispose of his estate or interest.

(1B) If it appears to the Board reasonable to do so, having regard to all the circumstances of a particular case, they may direct that in relation to that case subsection (1A) above shall have effect as if for the reference to 12 months there were substituted a reference to such longer period as meets the circumstances of that case."

(4) In consequence of subsections (1) to (3) above, that Act shall have effect with the following amendments—

(a) in section 354(1), for "to (6)" there shall be substituted " to (4) ";

(b) sections354(5) and (6), 356D(9), 357(4) and 371 (second loans) shall cease to have effect;

(c) in section 370(1), for "371" there shall be substituted " 372 ";

(d) in section 370(6), after paragraph (b) there shall be inserted— " and section 355(1A) shall have effect as if after the word "used" in paragraph (a) there were inserted the words "wholly or to a substantial extent". ";

(e) in section 370(7), after paragraph (a) there shall be inserted the following paragraph—

"(aa) subsections (1A) and (1B) of that section shall have effect as if—

(i) after the word "used" in paragraph (a) of subsection (1A) there were inserted the words "wholly or partly";

(ii) for the words "subsection (1)(a)", wherever they occur, there were substituted the words "subsection (1)";

(iii) for the words "land, caravan or house-boat", wherever they occur without being immediately preceded by the word "other", there were substituted the word "dwelling"; and

(iv) for the words "other land, caravan or house-boat", wherever they occur, there were substituted the words "land, caravan or house-boat"; and".

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(5) This section shall have effect in relation to payments of interest made on or after 16th March 1993 (whenever falling due).

(6) Where this section applies by virtue of subsection (5) above in a case where the condition specified in section 355(1)(a) or 365(1)(d) of the Taxes Act 1988 ceased to be fulfilled before 16th March 1993, the power of the Board by virtue of this section to extend the period specified in section 355(1A) or 365(1A) of that Act—

(a) shall be exercisable in any case in relation to that period irrespective of when that period began in that case; and

(b) in so far as it is exercisable in relation to the period specified in section 355(1A) of that Act where an equivalent period has been extended in any case under section 354(6) or 371(2) or (3) of that Act, shall be deemed to have been exercised so that (subject to any further extensions) the period in question ends when that equivalent period would have ended.

(7) In any case where—

(a) section 355(1A) of the Taxes Act 1988 has effect in the case of any loan so that the condition specified in section 355(1)(a) of that Act is treated in relation to any person as fulfilled with respect to any land, caravan or house-boat, and

(b) apart from the provisions of this section, section 27(3) or (4) of the [M38]Finance Act 1991 would have had effect in relation to any interest on that loan, or would have so had effect if any extension of the period which applies for the purposes of section 355(1A) of the Taxes Act 1988 were treated as an equivalent extension of the period which applied for the purposes of section 354(5) or 371(1) of that Act,

the amendments made by section27(1) and (2) of that Act of 1991 shall not apply in relation to that interest.

Marginal Citations

M38 1991 c. 31.

58 Overclaims in respect of deductions of mortgage interest.

(1) After subsection (6) of section 369 of the Taxes Act 1988 (recovery of amount treated as paid by recipient of interest paid subject to a deduction under that section) there shall be inserted the following subsection—

"(7) The following provisions of the Management Act, namely—

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

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

(c) section 88 (interest), and

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

shall apply in relation to an amount which is paid to any person by the Board as an amount recoverable in accordance with regulations made by virtue of subsection (6) above but to which that person is not entitled as if it were income tax which ought not to have been repaid and, where that amount was claimed by that person, as if it had been repaid as a relief which was not due."

(2) This section shall not apply in relation to any payment if the payment, or the claim on which it is made, was made before the day on which this Act is passed.

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59 Interest payments to persons not ordinarily resident in UK.

In section 349 of the Taxes Act 1988 (annual interest etc.) in subsection (3) (exceptions from requirement to deduct tax from interest payments) at the end of paragraph (g) there shall be inserted " or " and after that paragraph there shall be inserted the following paragraph—

"(h) to any payment in respect of which a liability to deduct income tax would, but for section 481(5)(k), be imposed by section 480A(1)."

60 Certain interest not allowed as a deduction.

(1) This section applies where—

(a) a qualifying company becomes subject to a qualifying debt, and

(b) the interest payable exceeds a commercial return on the capital repayable, expressing that capital in the settlement currency of the debt.

(2) In computing the corporation tax chargeable for an accounting period of the company, so much of the excess interest as is paid in the accounting period shall not be allowed as a deduction against the total profits for the period (if it would be allowed apart from this section).

(3) In this section—

"qualifying company" has the meaning given by section 152 below;

"qualifying debt" has the meaning given by section 153(10) below;

"settlement currency", in relation to a debt, shall be construed in accordance with section 161 below.

(4) This section applies where the company becomes subject to the debt (whether as the original debtor or otherwise) on or after the day which is its commencement day for the purposes of section 165 below.

Interest etc. on debts between associated companies

61 Qualifying debts for purposes of sections 63 to 66.

(1) A debt is a qualifying debt for the purposes of sections 63 to 66 below at any time if, at that time—

(a) the person entitled to the debt is a company which is resident in the United Kingdom ("the resident company");

(b) the person liable for the debt is either a qualifying company or a qualifying third party; and

(c) the debt is not an exempted debt for those purposes.

(2) A company is a qualifying company for the purposes of this section and section 62 below at any time if, at that time, the company—

(a) is an associated company of the resident company, and

(b) is resident outside the United Kingdom.

(3) For the purposes of subsection (2)(b) above, any company which, though resident in the United Kingdom, is regarded for the purposes of any double taxation arrangements as resident in a territory outside the United Kingdom shall be treated as if it were resident outside the United Kingdom.

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(4) A third party, that is to say, a person who is not an associated company of the resident company, is a qualifying third party for the purposes of this section and section 62 below at any time if, at that time, each of the two conditions mentioned below is fulfilled.

(5) The first condition is that, in pursuance of any arrangements made with the third party, that party has at any earlier time been put in funds (directly or indirectly)—
- (a) by the resident company or by a company which was at that earlier time an associated company of the resident company, or
- (b) by a person from whom the resident company has (directly or indirectly) acquired the debt or by a company which was at that earlier time an associated company of that person.

(6) The second condition is that, in pursuance of those arrangements, a company which is a qualifying company has at any earlier time been put in funds (directly or indirectly) by the third party or by a company which was at that earlier time an associated company of that party.

(7) In this section—

"associated company" shall be construed in accordance with section 416 of the Taxes Act 1988;

"double taxation arrangements" means double taxation arrangements having effect by virtue of section 788 of that Act.

62 Exempted debts for those purposes.

(1) A debt is an exempted debt for the purposes of sections 63 to 66 below at any time if each of the first, second and third conditions mentioned below—
- (a) is fulfilled at that time;
- (b) has been fulfilled throughout so much of the period of the debt as falls before that time; and
- (c) is likely to be fulfilled throughout so much of that period as falls after that time.

(2) The first condition is that the terms of the debt provide that any interest carried by it shall be at a rate which falls into one, and one only, of the following categories—
- (a) a fixed rate which is the same throughout the period of the debt;
- (b) a rate which bears to a standard published rate the same fixed relationship throughout that period; and
- (c) a rate which bears to a published index of prices the same fixed relationship throughout that period.

(3) The second condition is that those terms provide for any such interest to be payable as it accrues at intervals of 12 months or less.

(4) The third condition is that those terms are such that—
- (a) the amount payable on the debt's redemption cannot exceed the amount of the consideration given for it, or
- (b) the debt must be redeemed within 12 months of its creation.

(5) For the purposes of subsection (4) above the amount payable on a debt's redemption does not include any amount payable by way of interest.

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(6) A debt is an exempted debt for the purposes of sections 63 to 66 below at any time if the inspector is satisfied that the fourth condition mentioned below is fulfilled and either—

(a) he is also so satisfied with respect to the fifth condition so mentioned, or

(b) the sixth condition so mentioned is fulfilled.

(7) The fourth condition is that the possibility of returns on the debt being chargeable to tax as they arise rather than as they accrue was not the main reason, or one of the main reasons, why the resident company created the debt on the qualifying terms, acquired the debt on those terms or (as the case may be) agreed to the subsequent inclusion of those terms.

(8) The fifth condition is that, even if the person liable for the debt were none of the following, namely—

(a) a qualifying company;

(b) a qualifying third party; and

(c) a person who would be such a company or party if paragraph (b) of section 61(2) above were omitted,

the resident company would have still created the debt on the qualifying terms, acquired the debt on those terms or (as the case may be) agreed to the subsequent inclusion of those terms.

(9) Where it is not the resident company's business to make loans generally, that fact shall be disregarded in applying subsection (8) above.

(10) The sixth condition is that the terms of the debt—

(a) are such that the debt must be redeemed before the end of the relevant period, or

(b) provide for any interest accruing during that period to be payable no later than immediately after the end of that period and for any interest subsequently accruing to be payable as it accrues at intervals of 12 months or less.

(11) In subsection (10) above "the relevant period" means the period of 24 months beginning with the date when the resident company created the debt on the qualifying terms, acquired the debt on those terms or (as the case may be) agreed to the subsequent inclusion of those terms.

(12) A debt is an exempted debt for the purposes of sections 63 to 66 below at any time if the inspector is satisfied that, at that time, the seventh condition mentioned below was fulfilled.

(13) The seventh condition is that, by reason of its inability to pay its debts, the principal debtor—

(a) has been, is in the course of being or is likely to be wound up, or

(b) has been or is likely to be dissolved,

under or by virtue of the laws of the territory in which it is or was incorporated.

(14) Any reference in subsection (13) above to the principal debtor having been or being likely to be dissolved includes a reference to its otherwise having ceased or being likely to cease to exist as a company.

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(15) Where there is an appeal arising under subsection (6) or (12) above, that subsection shall be construed as if the reference to the inspector being satisfied were a reference to the Commissioners concerned being satisfied.

(16) In this section—

"the principal debtor" means the qualifying company liable for the debt or, as the case may be, the qualifying company mentioned in section 61(6) above;

"published index of prices" means the retail prices index or any similar general index of prices which is published by, or by an agent of, the government of any territory outside the United Kingdom;

"qualifying terms", in relation to a debt, means such of the terms of the debt as preclude it from being an exempted debt by virtue of subsection (1) above.

[F1 62A Application of sections 63 to 66: supplementary.

In sections 63 to 66 below as they apply by virtue of section 61 above—

(a) "the creditor company" means the company identified in subsection (1) of that section as the person entitled to the debt (referred to there as "the resident company"); and

(b) "the commencement date" means 1st April 1993.**]**

Textual Amendments

F1 S. 62A inserted (retrospectively) by 1995 c. 4, **s. 88(2)(4)**

63 Accrued income securities.

(1) Subsection (2) below applies where the debt on an accrued income security—

(a) is a qualifying debt at the end of the day immediately preceding the commencement date;

(b) becomes such a debt on any day after that date;

(c) ceases to be such a debt on any such day; or

(d) is such a debt at the end of the last day of any accounting period of **[**F2 the creditor company**]** ending after that date;

and in that subsection "the relevant day" means the day mentioned in whichever of paragraphs (a) to (d) above is applicable.

(2) For the purposes of sections 710 to 728 of the Taxes Act 1988 (accrued income scheme) the security—

(a) except in a case falling within paragraph (b) of subsection (1) above, shall be treated as transferred by **[**F2 the creditor company**]** with accrued interest on the relevant day;

(b) in a case falling within that paragraph where **[**F2 the creditor company**]** was the holder of the security on the day immediately preceding the relevant day, shall be treated as transferred by that company with accrued interest on that preceding day; and

(c) in a case falling within paragraph (c) of that subsection where the security is not a variable interest rate security, shall cease to be treated as such a security as from the end of the relevant day;

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and, in relation to such a transfer, the settlement day is the day of the transfer (notwithstanding section 712).

(3) Subsection (4) below applies where the debt on an accrued income security—

(a) is a qualifying debt at the beginning of the commencement date;

(b) becomes such a debt on any day after that date;

(c) ceases to be such a debt on any such day; or

(d) is such a debt at the beginning of the first day of any accounting period of **[**[F2]the creditor company**]** beginning after that date;

and in that subsection "the relevant day" means the day mentioned in whichever of paragraphs (a) to (d) above is applicable.

(4) For the purposes of sections 710 to 728 the security—

(a) except in a case falling within paragraph (c) of subsection (3) above, shall be treated as transferred **[**[F2]the creditor company**]**to with accrued interest on the relevant day;

(b) in a case falling within that paragraph where **[**[F2]the creditor company**]** is the holder of the security on the day immediately following the relevant day, shall be treated as transferred to that company with accrued interest on that following day; and

(c) in a case falling within paragraph (a) or (b) of that subsection where the security is not a variable interest rate security, shall be treated as such a security as from the beginning of the relevant day;

and, in relation to such a transfer, the settlement day is the day of the transfer (notwithstanding section 712).

(5) Any income which, apart from this subsection, would be treated as arising on any day by virtue of subsection (1)(a) or (b) above shall be treated as not arising until whichever of the following is the earliest, namely—

(a) the earliest day on which, under the terms on which the security is issued, **[**[F2]the creditor company**]** is entitled to require it to be redeemed;

(b) the day on which the security is redeemed; and

(c) the day (if any) on which it is transferred by **[**[F2]the creditor company**]**.

(6) Subsection (7) below applies where, in the case of a debt which is not a debt on a security, the terms of the debt are such that, if it were such a debt, the security would be an accrued income security.

(7) For the purposes of this section and sections 710 to 728, at any time when the debt is a qualifying debt—

(a) an accrued income security incorporating the terms of the debt shall be deemed to be held by **[**[F2]the creditor company**]**, and

(b) the debt shall be deemed to be a debt on that security.

(8) Subsections (9) and (10) below shall apply where an accrued income security (including one deemed to be held by virtue of subsection (7) above) is treated by virtue of subsection (1)(c) or (d) above as transferred on any day by **[**[F2]the creditor company**]**.

(9) In subsection (10) below "straddling period" means a period which would (by virtue of section 711(3) and (4) and apart from subsection (10) below) be in relation to the security an interest period beginning on or before and ending after the day of the transfer.

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(10) For the purposes of sections 710 to 728 a straddling period is not an interest period but—

(a) the period beginning with the day on which the straddling period begins and ending with the day of the transfer is an interest period; and

(b) the period beginning with the day immediately following the day of the transfer and ending with the day on which the straddling period ends is an interest period.

(11) In this section—

"accrued income security" has the same meaning as "security" has for the purposes of sections 710 to 728;

"variable interest rate security" means a security to which section 717 (variable interest rate) applies;

and other expressions to which meanings are assigned for the purposes of those sections have the same meanings as in sections 710 to 728.

[F3](12) . . . . . .

Textual Amendments

F2 Words in s. 63 substituted (retrospectively) by 1995 c. 4, **s. 88(1)(4)**

F3 S. 63(12) repealed (retrospectively with effect in accordance with s. 88(4)(5))) by 1995 c. 4, s. 89(3)(4), 162, **Sch. 29 Pt. VIII(13)**, Note

Modifications etc. (not altering text)

C1 S. 63 amended (1.5.1995) by 1995 c. 4, **s. 89(1)**
S. 63 modified (1.5.1995) by 1995 c. 4, **s. 89(8)(9)**

63 Accrued income securities. U.K.

(1) Subsection (2) below applies where the debt on an accrued income security—

(a) is a qualifying debt at the end of the day immediately preceding the commencement date;

(b) becomes such a debt on any day after that date;

(c) ceases to be such a debt on any such day; or

(d) is such a debt at the end of the last day of any accounting period of the resident company ending after that date;

and in that subsection "the relevant day" means the day mentioned in whichever of paragraphs (a) to (d) above is applicable.

(2) For the purposes of sections 710 to 728 of the Taxes Act 1988 (accrued income scheme) the security—

(a) except in a case falling within paragraph (b) of subsection (1) above, shall be treated as transferred by the resident company with accrued interest on the relevant day;

(b) in a case falling within that paragraph where the resident company was the holder of the security on the day immediately preceding the relevant day, shall be treated as transferred by that company with accrued interest on that preceding day; and

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(c) in a case falling within paragraph (c) of that subsection where the security is not a variable interest rate security, shall cease to be treated as such a security as from the end of the relevant day;

and, in relation to such a transfer, the settlement day is the day of the transfer (notwithstanding section 712).

(3) Subsection (4) below applies where the debt on an accrued income security—

(a) is a qualifying debt at the beginning of the commencement date;

(b) becomes such a debt on any day after that date;

(c) ceases to be such a debt on any such day; or

(d) is such a debt at the beginning of the first day of any accounting period of the resident company beginning after that date;

and in that subsection "the relevant day" means the day mentioned in whichever of paragraphs (a) to (d) above is applicable.

(4) For the purposes of sections 710 to 728 the security—

(a) except in a case falling within paragraph (c) of subsection (3) above, shall be treated as transferred to the resident company with accrued interest on the relevant day;

(b) in a case falling within that paragraph where the resident company is the holder of the security on the day immediately following the relevant day, shall be treated as transferred to that company with accrued interest on that following day; and

(c) in a case falling within paragraph (a) or (b) of that subsection where the security is not a variable interest rate security, shall be treated as such a security as from the beginning of the relevant day;

and, in relation to such a transfer, the settlement day is the day of the transfer (notwithstanding section 712).

(5) Any income which, apart from this subsection, would be treated as arising on any day by virtue of subsection (1)(a) or (b) above shall be treated as not arising until whichever of the following is the earliest, namely—

(a) the earliest day on which, under the terms on which the security is issued, the resident company is entitled to require it to be redeemed;

(b) the day on which the security is redeemed; and

(c) the day (if any) on which it is transferred by the resident company.

(6) Subsection (7) below applies where, in the case of a debt which is not a debt on a security, the terms of the debt are such that, if it were such a debt, the security would be an accrued income security.

(7) For the purposes of this section and sections 710 to 728, at any time when the debt is a qualifying debt—

(a) an accrued income security incorporating the terms of the debt shall be deemed to be held by the resident company, and

(b) the debt shall be deemed to be a debt on that security.

(8) Subsections (9) and (10) below shall apply where an accrued income security (including one deemed to be held by virtue of subsection (7) above) is treated by virtue of subsection (1)(c) or (d) above as transferred on any day by the resident company.

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(9) In subsection (10) below "straddling period" means a period which would (by virtue of section 711(3) and (4) and apart from subsection (10) below) be in relation to the security an interest period beginning on or before and ending after the day of the transfer.

(10) For the purposes of sections 710 to 728 a straddling period is not an interest period but—

(a) the period beginning with the day on which the straddling period begins and ending with the day of the transfer is an interest period; and

(b) the period beginning with the day immediately following the day of the transfer and ending with the day on which the straddling period ends is an interest period.

(11) In this section—

"accrued income security" has the same meaning as "security" has for the purposes of sections 710 to 728;

"variable interest rate security" means a security to which section 717 (variable interest rate) applies;

and other expressions to which meanings are assigned for the purposes of those sections have the same meanings as in sections 710 to 728.

(12) In this section and sections 64 and 65 below "the commencement date" means 1st April 1993.

64 Deep discount securities.

(1) Subsection (2) below applies where the debt on a deep discount security—

(a) is a qualifying debt at the end of the day immediately preceding the commencement date;

(b) becomes such a debt at any time after that date;

(c) ceases to be such a debt at any such time; or

(d) is such a debt at the end of the last day of any accounting period of **[**[F4]the creditor company**]** ending after that date;

and in that subsection "the relevant time" means the time mentioned in whichever of paragraphs (a) to (d) above is applicable.

(2) For the purposes of Schedule 4 to the Taxes Act 1988 (deep discount securities) **[**[F4]the creditor company**]** shall be deemed—

(a) except in a case falling within paragraph (b) of subsection (1) above, to dispose of the security at the relevant time; and

(b) in a case falling within that paragraph where that company was the holder of the security at a time immediately preceding the relevant time, to dispose of the security at that preceding time.

(3) Subsection (4) below applies where the debt on a deep discount security—

(a) is a qualifying debt at the beginning of the commencement date;

(b) becomes such a debt at any time after that date;

(c) ceases to be such a debt at any such time; or

(d) is such a debt at the beginning of the first day of any accounting period of **[**[F4]the creditor company**]** beginning after that date;

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and in that subsection "the relevant time" means the time mentioned in whichever of paragraphs (a) to (d) above is applicable.

(4) For the purposes of Schedule 4 **[**[F4]the creditor company**]** shall be deemed—

(a) except in a case falling within paragraph (c) of subsection (3) above, to acquire the security at the relevant time; and

(b) in a case falling within that paragraph where that company is the holder of the security at a time immediately following the relevant time, to acquire the security at that following time.

(5) Any income which, apart from this subsection, would be treated as arising at any time by virtue of subsection (1)(a) or (b) above shall be treated as not arising until whichever of the following is the earliest, namely—

(a) the earliest time at which, under the terms on which the security is issued, **[**[F4]the creditor company**]** is entitled to require it to be redeemed;

(b) the time at which the security is redeemed; and

(c) the time (if any) at which it is transferred by **[**[F4]the creditor company**]**.

(6) Subsection (7) below applies where, in the case of a debt which is not a debt on a security, the terms of the debt are such that, if it were such a debt, the security would be a deep discount security.

(7) For the purposes of this section and Schedule 4, at any time when the debt is a qualifying debt—

(a) a deep discount security incorporating the terms of the debt shall be deemed to be held by **[**[F4]the creditor company**]**, and

(b) the debt shall be deemed to be a debt on that security.

(8) In this section expressions to which meanings are assigned for the purposes of Schedule 4 have the same meanings as in that Schedule.

Textual Amendments

F4 Words in s. 64 substituted (retrospectively) by 1995 c. 4, **s. 88(1)(4)**

Modifications etc. (not altering text)

C2 S. 64 amended (1.5.1995) by 1995 c. 4, **s. 89(1)**
S. 64 modified (1.5.1995) by 1995 c. 4, **s. 89(8)(9)**

64 Deep discount securities. U.K.

(1) Subsection (2) below applies where the debt on a deep discount security—

(a) is a qualifying debt at the end of the day immediately preceding the commencement date;

(b) becomes such a debt at any time after that date;

(c) ceases to be such a debt at any such time; or

(d) is such a debt at the end of the last day of any accounting period of the resident company ending after that date;

and in that subsection "the relevant time" means the time mentioned in whichever of paragraphs (a) to (d) above is applicable.

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(2) For the purposes of Schedule 4 to the Taxes Act 1988 (deep discount securities) the resident company shall be deemed—
  (a) except in a case falling within paragraph (b) of subsection (1) above, to dispose of the security at the relevant time; and
  (b) in a case falling within that paragraph where that company was the holder of the security at a time immediately preceding the relevant time, to dispose of the security at that preceding time.

(3) Subsection (4) below applies where the debt on a deep discount security—
  (a) is a qualifying debt at the beginning of the commencement date;
  (b) becomes such a debt at any time after that date;
  (c) ceases to be such a debt at any such time; or
  (d) is such a debt at the beginning of the first day of any accounting period of the resident company beginning after that date;

and in that subsection "the relevant time" means the time mentioned in whichever of paragraphs (a) to (d) above is applicable.

(4) For the purposes of Schedule 4 the resident company shall be deemed—
  (a) except in a case falling within paragraph (c) of subsection (3) above, to acquire the security at the relevant time; and
  (b) in a case falling within that paragraph where that company is the holder of the security at a time immediately following the relevant time, to acquire the security at that following time.

(5) Any income which, apart from this subsection, would be treated as arising at any time by virtue of subsection (1)(a) or (b) above shall be treated as not arising until whichever of the following is the earliest, namely—
  (a) the earliest time at which, under the terms on which the security is issued, the resident company is entitled to require it to be redeemed;
  (b) the time at which the security is redeemed; and
  (c) the time (if any) at which it is transferred by the resident company.

(6) Subsection (7) below applies where, in the case of a debt which is not a debt on a security, the terms of the debt are such that, if it were such a debt, the security would be a deep discount security.

(7) For the purposes of this section and Schedule 4, at any time when the debt is a qualifying debt—
  (a) a deep discount security incorporating the terms of the debt shall be deemed to be held by the resident company, and
  (b) the debt shall be deemed to be a debt on that security.

(8) In this section expressions to which meanings are assigned for the purposes of Schedule 4 have the same meanings as in that Schedule.

65 Deep gain securities.

(1) Subsection (2) below applies where the debt on a deep gain security—
  (a) is a qualifying debt at the end of the day immediately preceding the commencement date;
  (b) becomes such a debt on any day after that date;

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(c) ceases to be such a debt on any such day; or

(d) is such a debt at the end of the last day of any accounting period of the resident company ending after that date;

and in that subsection "the relevant day" means the day mentioned in whichever of paragraphs (a) to (d) above is applicable.

(2) For the purposes of Schedule 11 to the [M39]Finance Act 1989 (deep gain securities) the resident company shall be treated—

(a) except in a case falling within paragraph (b) of subsection (1) above, as transferring the security on the relevant day;

(b) in a case falling within that paragraph where the resident company was the holder of the security on the day immediately preceding the relevant day, as transferring the security on that preceding day; and

(c) (in either case) as obtaining in respect of the transfer an amount equal to the market value of the security at the time of the transfer.

(3) Subsection (4) below applies where the debt on a deep gain security—

(a) is a qualifying debt at the beginning of the commencement date;

(b) becomes such a debt on any day after that date;

(c) ceases to be such a debt on any such day; or

(d) is such a debt at the beginning of the first day of any accounting period of the resident company beginning after that date;

and in that subsection "the relevant day" means the day mentioned in whichever of paragraphs (a) to (d) above is applicable.

(4) For the purposes of Schedule 11 the resident company shall be treated—

(a) except in a case falling within paragraph (c) of subsection (3) above, as acquiring the security on the relevant day;

(b) in a case falling within that paragraph where the resident company is the holder of the security on the day immediately following the relevant day, as acquiring the security on that following day; and

(c) (in either case) as paying in respect of the acquisition an amount equal to the market value of the security at the time of the acquisition.

(5) Any income which, apart from this subsection, would be treated as arising on any day by virtue of subsection (1)(a) or (b) above shall be treated as not arising until whichever of the following is the earliest, namely—

(a) the earliest day on which, under the terms on which the security is issued, the resident company is entitled to require it to be redeemed;

(b) the day on which the security is redeemed; and

(c) the day (if any) on which it is transferred by the resident company.

(6) Subsection (7) below applies where, in the case of a debt which is not a debt on a security, the terms of the debt are such that, if it were such a debt, the security would be a deep gain security.

(7) For the purposes of this section and Schedule 11, at any time when the debt is a qualifying debt—

(a) a deep gain security incorporating the terms of the debt shall be deemed to be held by the resident company, and

(b) the debt shall be deemed to be a debt on that security.

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(8) Any reference in this section to Schedule 11 is a reference to that Schedule as it would have effect if paragraphs 1(4)(c) and 22 (exclusion of qualifying indexed securities and special rules for such securities) were omitted; but no income accruing before the commencement date in respect of the debt on a qualifying indexed security shall be chargeable to tax by virtue of this section.

(9) In this section expressions to which meanings are assigned for the purposes of Schedule 11 have the same meanings as in that Schedule.

Marginal Citations
M39 1989 c. 26.

65 Deep gain securities. U.K.

(1) Subsection (2) below applies where the debt on a deep gain security—
- (a) is a qualifying debt at the end of the day immediately preceding the commencement date;
- (b) becomes such a debt on any day after that date;
- (c) ceases to be such a debt on any such day; or
- (d) is such a debt at the end of the last day of any accounting period of **[**[F25]the creditor company**]** ending after that date;

and in that subsection "the relevant day" means the day mentioned in whichever of paragraphs (a) to (d) above is applicable.

(2) For the purposes of Schedule 11 to the [M119]Finance Act 1989 (deep gain securities) **[**[F25]the creditor company**]** shall be treated—
- (a) except in a case falling within paragraph (b) of subsection (1) above, as transferring the security on the relevant day;
- (b) in a case falling within that paragraph where **[**[F25]the creditor company**]** was the holder of the security on the day immediately preceding the relevant day, as transferring the security on that preceding day; and
- (c) (in either case) as obtaining in respect of the transfer an amount equal to the market value of the security at the time of the transfer.

(3) Subsection (4) below applies where the debt on a deep gain security—
- (a) is a qualifying debt at the beginning of the commencement date;
- (b) becomes such a debt on any day after that date;
- (c) ceases to be such a debt on any such day; or
- (d) is such a debt at the beginning of the first day of any accounting period of **[**[F25]the creditor company**]** beginning after that date;

and in that subsection "the relevant day" means the day mentioned in whichever of paragraphs (a) to (d) above is applicable.

(4) For the purposes of Schedule 11 **[**[F25]the creditor company**]** shall be treated—
- (a) except in a case falling within paragraph (c) of subsection (3) above, as acquiring the security on the relevant day;
- (b) in a case falling within that paragraph where **[**[F25]the creditor company**]** is the holder of the security on the day immediately following the relevant day, as acquiring the security on that following day; and

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(c) (in either case) as paying in respect of the acquisition an amount equal to the market value of the security at the time of the acquisition.

(5) Any income which, apart from this subsection, would be treated as arising on any day by virtue of subsection (1)(a) or (b) above shall be treated as not arising until whichever of the following is the earliest, namely—

(a) the earliest day on which, under the terms on which the security is issued, **[**[F25]the creditor company**]** is entitled to require it to be redeemed;

(b) the day on which the security is redeemed; and

(c) the day (if any) on which it is transferred by **[**[F25]the creditor company**]**.

(6) Subsection (7) below applies where, in the case of a debt which is not a debt on a security, the terms of the debt are such that, if it were such a debt, the security would be a deep gain security.

(7) For the purposes of this section and Schedule 11, at any time when the debt is a qualifying debt—

(a) a deep gain security incorporating the terms of the debt shall be deemed to be held by **[**[F25]the creditor company**]**, and

(b) the debt shall be deemed to be a debt on that security.

(8) Any reference in this section to Schedule 11 is a reference to that Schedule as it would have effect if paragraphs 1(4)(c) and 22 (exclusion of qualifying indexed securities and special rules for such securities) were omitted; but no income accruing before the commencement date in respect of the debt on a qualifying indexed security shall be chargeable to tax by virtue of this section.

(9) In this section expressions to which meanings are assigned for the purposes of Schedule 11 have the same meanings as in that Schedule.

Textual Amendments

F25 Words in s. 65 substituted (retrospectively) by 1995 c. 4, **s. 88(1)(4)**

Modifications etc. (not altering text)

C48 S. 65 amended (1.5.1995) by 1995 c. 4, **s. 89(1)**
S. 65 modified (1.5.1995) by 1995 c. 4, **s. 89(8)(9)**

Marginal Citations

M119 1989 c. 26.

66 Avoidance of double charging.

(1) In any case where—

(a) by virtue of sections 63(2) and 65(2) above, a single security is treated as transferred both for the purposes of sections 710 to 728 of the Taxes Act 1988 and for the purposes of Schedule 11 to the [M40]Finance Act 1989; and

(b) the transfer for the purposes of that Schedule is one to which paragraph 5 of that Schedule applies,

[[F5]the creditor company**]** shall not be chargeable to tax in respect of any income treated as arising by virtue of the transfer for the purposes of sections 710 to 728.

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(2) In any case where, by virtue of sections 63(7) and 65(7) above, the same qualifying debt is deemed to be a debt on two separate securities, those securities shall be treated as a single security for the purposes of subsection (1) above.

(3) In any case where, by virtue of subsection (7) of section 63, 64 or 65 above, a qualifying debt is deemed to be a debt on a security, any income which is chargeable to tax as income treated as arising to **[**[F5]the creditor company**]** by virtue of that section shall not also be chargeable to tax as income actually arising.

Textual Amendments

F5 Words in s. 66 substituted (retrospectively) by 1995 c. 4, **s. 88(1)(4)**

Modifications etc. (not altering text)

C3 S. 66 amended (1.5.1995) by 1995 c. 4, **s. 89(1)**
S. 66 modified (1.5.1995) by 1995 c. 4, **s. 89(8)(9)**

Marginal Citations

M40 1989 c. 26.

66 Avoidance of double charging. U.K.

(1) In any case where—

(a) by virtue of sections 63(2) and 65(2) above, a single security is treated as transferred both for the purposes of sections 710 to 728 of the Taxes Act 1988 and for the purposes of Schedule 11 to the [M120]Finance Act 1989; and

(b) the transfer for the purposes of that Schedule is one to which paragraph 5 of that Schedule applies,

the resident company shall not be chargeable to tax in respect of any income treated as arising by virtue of the transfer for the purposes of sections 710 to 728.

(2) In any case where, by virtue of sections 63(7) and 65(7) above, the same qualifying debt is deemed to be a debt on two separate securities, those securities shall be treated as a single security for the purposes of subsection (1) above.

(3) In any case where, by virtue of subsection (7) of section 63, 64 or 65 above, a qualifying debt is deemed to be a debt on a security, any income which is chargeable to tax as income treated as arising to the resident company by virtue of that section shall not also be chargeable to tax as income actually arising.

Marginal Citations

M120 1989 c. 26.

Status: *Point in time view as at 27/07/1993. This version of this Act contains provisions that are not valid for this point in time.*
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Charitable donations

67 Donations from companies and individuals.

(1) In section 339 of the Taxes Act 1988 (charges on income: donations to charity) in subsection (3A) (payment by close company not a qualifying donation if less than £400 after deducting income tax) for "£400" there shall be substituted " £250 ".

(2) In section 25 of the [M41]Finance Act 1990 (donations to charity by individuals) in subsection (2)(g) (gift must be not less than £400 to be a qualifying donation) for "£400" there shall be substituted " £250 ".

(3) Subsection (1) above shall apply in relation to payments made on or after 16th March 1993.

(4) Subsection (2) above shall apply in relation to gifts made on or after 16th March 1993.

Marginal Citations
M41 1990 c. 29.

68 Payroll deduction schemes.

(1) In section 202(7) of the Taxes Act 1988 (which limits to £600 the deductions attracting relief) for "£600" there shall be substituted " £900 ".

(2) This section shall have effect for the year 1993-94 and subsequent years of assessment.

69 Contributions to agent's expenses.

The following section shall be inserted after section 86 of the Taxes Act 1988—

"**86A Charitable donations: contributions to agent's expenses.**

(1) This section applies where—
(a) a person (the employer) is liable to make to any individual payments from which income tax falls to be deducted by virtue of section 203 and regulations under that section, and
(b) the employer withholds sums from those payments in accordance with a scheme falling within subsection (3) of section 202 and pays the sums to an agent (within the meaning of subsection (4)(a) of that section).

(2) Any relevant expenditure incurred by the employer on or after 16th March 1993—
(a) shall be deducted in computing for the purposes of Schedule D the profits or gains of a trade, profession or vocation carried on by the employer, or
(b) if the employer 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.

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(3) Relevant expenditure is expenditure incurred in making to the agent any payment in respect of expenses which have been or are to be incurred by the agent in connection with his functions under the scheme."

Benefits in kind

70 Car benefits: 1993-94.

(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
1,400 or less	£2,310	£1,580
More than 1,400 but not more than 2,000	£2,990	£2,030
More than 2,000	£4,800	£3,220

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	£2,310	£1,580
£6,000 or more but less than £8,500	£2,990	£2,030
£8,500 or more but not more than £19,250	£4,800	£3,220

Status: *Point in time view as at 27/07/1993. This version of this Act contains provisions that are not valid for this point in time.*
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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	£6,210	£4,180
More than £29,000	£10,040	£6,660”

(2) This section shall have effect for the year 1993-94.

71 Car fuel: 1993-94.

(1) In section 158 of the Taxes Act 1988 (car fuel) for the Tables in subsection (2) (tables of cash equivalents) there shall be substituted—

“TABLE A

Cylinder capacity of car in cubic centimetres	***Cash equivalent***
1,400 or less	£600
More than 1,400 but not more than 2,000	£760
More than 2,000	£1,130

TABLE AB

Cylinder capacity of car in cubic centimetres	***Cash equivalent***
2,000 or less	£550
More than 2,000	£710

TABLE B

Original market value of car	***Cash equivalent***
Less than £6,000	£600
£6,000 or more but less than £8,500	£760
£8,500 or more	£1,130”

(2) In subsection (5) of that section (reductions in cash equivalents) the words “or 3” shall be omitted.

(3) This section shall have effect for the year 1993-94.

Status: *Point in time view as at 27/07/1993. This version of this Act contains provisions that are not valid for this point in time.*
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72 Car and car fuel benefits: 1994-95 onwards.

Schedule 3 to this Act (which contains provisions, having effect for the year 1994-95 and subsequent years of assessment, about cars available for private use and car fuel) shall have effect.

73 Vans.

Schedule 4 to this Act (which contains provisions about vans available for private use) shall have effect.

74 Heavier commercial vehicles.

(1) In the Taxes Act 1988, after section 159AB (inserted by Schedule 4 to this Act) there shall be inserted the following section—

"**159AC Heavier commercial vehicles available for private use.**

(1) This section applies where in any year—
- (a) a heavier commercial vehicle is made available to an employee in circumstances such that, had that vehicle been a van, the benefit so provided would have been chargeable to tax under section 159AA, and
- (b) the employee's use of the vehicle is not wholly or mainly private use.

(2) Section 154 shall not apply to—
- (a) the benefit so provided, or
- (b) any benefit in connection with the vehicle other than a benefit in connection with the provision of a driver for the vehicle.

(3) The employee shall not be taxable—
- (a) under Schedule E in respect of the discharge of any liability of his in connection with the vehicle;
- (b) under section 141 or 142 in respect of any non-cash voucher or credit-token to the extent that it is used by him—
  - (i) for obtaining money which is spent on goods or services in connection with the vehicle, or
  - (ii) for obtaining such goods or services;
- (c) under section 153 in respect of any payment made to him in respect of expenses incurred by him in connection with the vehicle.

(4) In this section "heavier commercial vehicle" means a mechanically propelled road vehicle which is—
- (a) of a construction primarily suited for the conveyance of goods or burden of any description, and
- (b) of a design weight exceeding 3,500 kilograms;

and "design weight" here means the weight which the vehicle is designed or adapted not to exceed when in normal use and travelling on a road laden.

(5) In this section—
- (a) "private use", in relation to a vehicle made available to an employee, means any use other than for his business travel, and

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(b) "business travel" means travelling which the employee is necessarily obliged to do in the performance of the duties of his employment."

(2) In section 159A of that Act (mobile telephones) in subsection (8)(a) (meaning of "mobile telephone"), as amended by Schedule 4 to this Act—

(a) the word "but" at the end of sub-paragraph (i) shall be omitted,

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

"(i) includes any such apparatus provided in connection with a heavier commercial vehicle (within the meaning given by section 159AC) notwithstanding that the vehicle is made available as mentioned in that section;", and

(c) at the end of sub-paragraph (ii) there shall be inserted " or heavier commercial vehicle ".

(3) This section shall have effect for the year 1993-94 and subsequent years of assessment.

75 Sporting and recreational facilities.

(1) After section 197F of the Taxes Act 1988 there shall be inserted the following section—

" Sporting and recreational facilities

197G Sporting and recreational facilities.

(1) No charge to tax under Schedule E shall arise in respect of the provision to any person in employment with any employer, or to any member of the family or household of such a person, of—

(a) any benefit to which this section applies; or

(b) any non-cash voucher which is capable of being exchanged only for a benefit to which this section applies.

(2) This section applies, subject to subsections (3) to (5) below, to any benefit consisting in, or in a right or opportunity to make use of, any sporting or other recreational facilities provided so as to be available generally to, or for use by, the employees of the employer in question.

(3) Except in such cases as may be prescribed, this section does not apply to any benefit consisting in—

(a) an interest in, or the use of, any mechanically propelled vehicle;

(b) an interest in, or the use of, any holiday or other overnight accommodation or any facilities which include, or are provided in association with, a right or opportunity to make use of any such accommodation;

(c) a facility provided on domestic premises;

(d) a facility provided so as to be available to, or for use by, members of the public generally;

(e) a facility which is used neither wholly nor mainly by persons whose right or opportunity to use it derives from employment (whether with the same employer or with different employers); or

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(f) a right or opportunity to make use of any facility falling within any of the preceding paragraphs.

(4) For the purposes of subsection (3)(e) above a person's right or opportunity to use any facility shall be taken to derive from employment if, and only if—

(a) it derives from his being or having been an employee of a particular employer or a member of the family or household of a person who is or has been such an employee; and

(b) the facility is one which is provided so as to be available generally to the employees of that employer.

(5) The Treasury may by regulations provide—

(a) that such benefits as may be prescribed shall not be benefits to which this section applies; and

(b) that such other benefits as may be prescribed shall be benefits to which this section applies only where such conditions as may be prescribed are satisfied in relation to the terms on which, and the persons to whom, they are provided.

(6) In this section—

"domestic premises" means any premises used wholly or mainly as a private dwelling or any land or other premises belonging to, or enjoyed with, any premises so used;

"non-cash voucher" has the same meaning as in section 141;

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

"vehicle" includes any ship, boat or other vessel, any aircraft and any hovercraft;

and section 168(2) and (4) shall apply for the purposes of this section as it applies for the purposes of Chapter II of this Part."

(2) This section shall apply for the year 1993-94 and subsequent years of assessment.

76 Removal expenses and benefits.

Schedule 5 to this Act (which relates to the payment of expenses, and the provision of benefits, in respect of removals) shall have effect.

Taxation of distributions etc.

77 Application of lower rate.

(1) In Chapter I of Part VI of the Taxes Act 1988 (taxation of company distributions), before section 208 there shall be inserted the following section—

"**207A Application of lower rate to company distributions.**

(1) Subject to section 686, so much of any person's total income in any year of assessment as—

(a) comprises income which is chargeable under Schedule F; and

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(b) in the case of an individual, is not income falling within section 1(2)(b),

shall by virtue of this section be charged for that year at the lower rate, instead of at the rate otherwise applicable to it in accordance with section 1(2)(aa) and (a).

(2) So much of any person's income as comprises income chargeable under Schedule F shall be treated for the purposes of subsection (1)(b) above and any other provisions of the Income Tax Acts as the highest part of his income.

(3) Subsection (2) above shall have effect subject to section 833(3) but shall otherwise have effect notwithstanding any provision requiring income of any description to be treated for the purposes of the Income Tax Acts (other than section 550) as the highest part of a person's income."

(2) The section 207A inserted in the Taxes Act 1988 by subsection (1) above shall apply, as it applies to income chargeable under Schedule F, to any income which—

(a) is chargeable to income tax under Case V of Schedule D;

(b) is such that, being a dividend or other distribution of a company not resident in the United Kingdom, it would be chargeable under Schedule F if the company were so resident; and

(c) is not such that tax is chargeable by virtue of section 65(5)(b) of that Act on the full amount of the actual sums received in the United Kingdom.

(3) In section 249 of that Act (issues of share capital treated as income)—

(a) in subsection (4)—

(i) for the words "basic rate", in each place where they occur, there shall be substituted " lower rate "; and

(ii) in paragraph (c), for "which is not chargeable at the lower rate and" there shall be substituted " to which (without prejudice to paragraph (a) above) section 207A shall be taken to apply as it applies to income chargeable under Schedule F, but shall be treated ";

and

(b) in subsection (6)(b), for "basic rate" there shall be substituted " lower rate ".

(4) In section 421(1) of that Act (taxation of borrower where loan under section 419 released)—

(a) in paragraph (a), after "tax" there shall be inserted " at the lower rate ";

(b) in paragraph (b), for "basic rate" there shall be substituted " lower rate "; and

(c) in paragraph (c), for the words from "which is not" to "that paragraph" there shall be substituted " to which (without prejudice to paragraph (b) above) section 207A shall be taken to apply as it applies to income chargeable under Schedule F, but, notwithstanding the preceding provisions of this subsection ".

(5) This section shall apply in relation to the year 1993-94 and subsequent years of assessment.

78 Rate of advance corporation tax and tax credits.

(1) In subsection (3) of section 14 of the Taxes Act 1988 (fraction for the purposes of advance corporation tax), in the words after the formula, for "is the percentage at which income tax at the basic rate" there shall be substituted " for the financial year

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1993 is 22.5 and for any subsequent financial year is the percentage at which income tax at the lower rate ".

(2) Subsection (1) above shall have effect, subject to section 246(6) of that Act and the following provisions of this section, in relation to the financial year 1993 and subsequent financial years.

(3) Subject to the following provisions of this section, the Tax Acts shall have effect in the case of any distribution in relation to which the rate of advance corporation tax is calculated by reference to the figure fixed by virtue of subsection (1) above for the financial year 1993 as if the amount of the tax credit to which the recipient of the distribution is entitled were to be calculated under section 231(1) of the Taxes Act 1988 on the basis of a rate of advance corporation tax calculated for that financial year by reference to the lower rate for the year 1993-94, rather than by reference to the figure fixed by virtue of subsection (1) above.

(4) Subject to the following provisions of this section—
   (a) subsection (3) above shall not apply in relation to the determination of the amount of any tax credit which under section 238(1) of the Taxes Act 1988 is to be aggregated with the amount or value of any distribution for the purpose of calculating the amount of any franked investment income; but
   (b) references in any enactment to the payment of a tax credit comprised in any franked investment income, or to the payment of a tax credit in respect of any such income, shall have effect, in relation to any franked investment income the amount of which is calculated in accordance with paragraph (a) above, as references to the payment of the amount of that credit as determined in accordance with subsection (3) above.

(5) Subsections (6) to (11) below shall have effect for the purposes of references in the Tax Acts to franked investment income so far as those references relate to income consisting of distributions in the case of which there is a difference by virtue of subsections (3) and (4) above between—
   (a) the amount of the tax credits determined in respect of the distributions in accordance with subsection (3) above; and
   (b) the amount of those tax credits so far as they are comprised for the purposes of section 238(1) of the Taxes Act 1988 in that franked investment income.

(6) Subject to the following provisions of this section, in sections 13(7), 236(5), 434, 438, 458, 490 and 802 of, and paragraph 1(8) of Schedule 19AB to, the Taxes Act 1988 (references to the profits of small companies, exempt funds, mutual businesses and certain insurance businesses), and in section 89 of the [M42]Finance Act 1989 (policyholders' share of profits), references to franked investment income shall be construed as references to franked investment income calculated using tax credits of amounts determined in accordance with subsection (3) above, instead of as references to franked investment income calculated in accordance with subsection (4)(a) above.

(7) Sections 241(5), 438(5) and 441A(8) of the Taxes Act 1988 (use of franked investment income) and section 89(8) of the Finance Act 1989 (definition of "unrelieved" franked investment income) shall have effect as if the amounts specified in paragraphs (a) and (b) of subsection (5) above were the same so that, if—
   (a) tax credits determined in respect of any distributions in accordance with subsection (3) above have been paid, or
   (b) in the case of section 441A(8), tax credits so determined are payable,

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there shall be no further amount of tax credits comprised in the franked investment income consisting of those distributions which is available for use for franking distributions or, as the case may be, which is unrelieved.

(8) Where—

(a) a claim is made under section 242(1) or 243(1) of the Taxes Act 1988 (set-off against franked investment income) for any accounting period in relation to any surplus of franked investment income; and

(b) the surplus to which the claim relates is or contains an amount of franked investment income ("the relevant amount") which represents distributions the tax credits in respect of which are of amounts that would, apart from subsection (4)(a) above, be determined in accordance with subsection (3) above,

that claim shall be treated as confined to what would have been the amount of the surplus if the tax credits comprised in the relevant amount (but no other tax credits comprised in the franked investment income in question) had been of amounts so determined.

(9) Where—

(a) for any accounting period there is a claim under section 242(1) or 243(1) of the Taxes Act 1988 to which subsection (8) above applies, and

(b) apart from this subsection there would, after any reduction in pursuance of the claim, be an amount falling under section 241(3) of that Act to be carried forward as a surplus of franked investment income to any subsequent accounting period,

the amount to be so carried forward shall be further reduced by the amount representing the difference between an amount of franked investment income equal to the reduction in pursuance of the claim and calculated with subsection (3) above applying for determining the amount of tax credits comprised in it and the equivalent amount of franked investment income calculated without regard to that subsection.

(10) Without prejudice to subsection (8) above, the reference in section 243(1) of the Taxes Act 1988 to the amount up to which a surplus of franked investment income may be taken into account under section 393(1) of that Act shall have effect as if franked investment income taken into account by virtue of section 393(8) of that Act were to be calculated using tax credits of amounts determined in accordance with subsection (3) above.

(11) Subsection (6) above shall not apply to the references to franked investment income in section 434(3) of the Taxes Act 1988 (policy-holder's share not to be used for franking); but this subsection shall be without prejudice to the effect of subsections (8) and (9) above in relation to a case in which a surplus of franked investment income for any accounting period is determined in accordance with section 434(3) of that Act.

(12) In section 246 of the Taxes Act 1988 (charge of ACT at previous rate), in subsections (1), (2) and (4), for the words "basic rate", wherever they occur, there shall be substituted " lower rate ".

(13) Subsection (12) above shall have effect in relation to the financial year 1994 and subsequent financial years.

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Marginal Citations
M42 1989 c. 26.

79 Provisions supplemental to sections 77 and 78.

(1) Schedule 6 to this Act (which makes further provision for the purposes of and in connection with the provisions of sections 77 and 78 above) shall have effect.

(2) Subject to that Schedule, subsection (3) of section 687 of the Taxes Act 1988 (definition of pool for the purposes of payments under discretionary trusts) shall have effect, and be deemed always to have had effect, as if—

(a) the repeal of paragraph (b) which was made by Part V of Schedule 17 to the [M43]Finance Act 1989 in relation to accounting periods beginning after 31st March 1989 had been confined to the following words in that paragraph, that is to say, "under section 462(2) as applied by section 686(4) or"; and

(b) that subsection included the following paragraph—

"(j) the amount of any tax on an amount which is treated as income of the trustees by virtue of paragraph 12 of Schedule 10 to the [M44]Finance Act 1990 and is charged to tax at a rate equal to the sum of the basic rate and the additional rate by virtue of paragraph 19 of that Schedule;".

(3) Subject to section 686(2A) of the Taxes Act 1988 but notwithstanding anything in section 207A(2) and (3) of that Act, the expenses of any trustees in any year of assessment, so far as they are properly chargeable to income (or would be so chargeable but for any express provisions of the trust), shall be treated as set against so much (if any) of any income as is chargeable to tax in accordance with section 207A of that Act before being set against any other income.

Marginal Citations
M43 1989 c. 26.
M44 1990 c. 29.

80 Transitional relief for charities etc.

(1) In any case where—

(a) a qualifying distribution is made on or after 6th April 1993 and before 6th April 1997 by a company resident in the United Kingdom;

(b) the recipient of the distribution is a section 505 body; and

(c) the section 505 body is entitled to the payment of a tax credit in respect of the distribution,

the section 505 body, on a claim made under this section to the Board, shall (in addition to its entitlement to payment of the tax credit) be entitled to be paid by the Board out of money provided by Parliament an amount determined in accordance with subsection (2) below.

(2) The amount referred to in subsection (1) above is an amount equal to—

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(a) one-fifteenth of the amount or value of the distribution if the distribution is made on or after 6th April 1993 and before 6th April 1994;

(b) one-twentieth of that amount or value if the distribution is made on or after 6th April 1994 and before 6th April 1995;

(c) one-thirtieth of that amount or value if the distribution is made on or after 6th April 1995 and before 6th April 1996;

(d) one-sixtieth of that amount or value if the distribution is made on or after 6th April 1996 and before 6th April 1997.

(3) For the purposes of this section each of the following is a section 505 body—

(a) any charity (as defined in section 506(1) of the Taxes Act 1988);

(b) each of the bodies mentioned in section 507 of that Act (heritage bodies);

(c) any Association of a description specified in section 508 of that Act (scientific research organisations).

(4) Any entitlement of a section 505 body to a payment under the preceding provisions of this section shall be subject to a power of the Board to determine (whether before or after any payment is made) that, having regard to the operation in relation to the qualifying distribution in question of section 235, 237 or 703 of the Taxes Act 1988 (distributions of exempt funds, bonus issues and tax avoidance provisions), that body is to be treated as if it had had no entitlement to that payment or to so much of it as they may determine.

(5) No claim may be made under this section later than two years after the end of the chargeable period of the section 505 body in which the distribution is made.

(6) An appeal may be brought against any decision of the Board under this section by giving written notice to the Board within thirty days of receipt of written notice of the decision.

(7) An appeal under this section shall lie to the Special Commissioners, and the provisions of the [M45]Taxes Management Act 1970 relating to appeals under the Tax Acts shall apply to an appeal under this section as they apply to those appeals.

(8) Any payment of an amount under this section shall be treated for the purposes of section 252 of the Taxes Act 1988 (rectification of excessive set-off etc. of ACT or tax credit) as a payment of tax credit.

Marginal Citations

M45 1970 c. 9.

81 Restriction of set-off of ACT.

In section 245 of the Taxes Act 1988 (calculation etc. of ACT on change of ownership of company) after subsection (3) there shall be inserted the following subsections—

"(3A) No advance corporation tax paid by the company in respect of distributions made in an accounting period ending after the change of ownership shall be treated under section 239(3) as paid by it in respect of distributions made in an accounting period beginning before the change of ownership; and this subsection shall apply to an accounting period in which the change of

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ownership occurs as if the part ending with the change of ownership, and the part after, were two separate accounting periods.

(3B) Subsection (3A) above applies in relation to changes in ownership occuring on or after 16th March 1993."

Chargeable gains

82 Annual exempt amount for 1993-94.

For the year 1993-94 section 3 of the [M46]Taxation of Chargeable Gains Act 1992 (annual exempt amount) shall have effect as if the amount specified in subsection (2) were £5,800, and accordingly subsection (3) of that section (indexation) shall not apply for that year.

Marginal Citations
M46 1992 c. 12.

83 Annual exempt amount: indexation for 1994-95 onwards.

(1) In section 3(3) of the [M47]Taxation of Chargeable Gains Act 1992 (indexation of annual exempt amount) for "December" (in each place) there shall be substituted " September ".

(2) This section shall have effect for the year 1994-95 and subsequent years of assessment.

Marginal Citations
M47 1992 c. 12.

84 Re-organisations etc. involving debentures.

(1) In section 117 of the Taxation of Chargeable Gains Act 1992 (meaning of qualifying corporate bond), after subsection (6) there shall be inserted the following subsection—

"(6A) For the purposes of this section "corporate bond" also includes, except in relation to a person who acquires it on or after a disposal in relation to which section 115 has or has had effect in accordance with section 116(10)(c), any debenture issued on or after 16th March 1993 which is not a security (as defined in section 132) but—

(a) is issued in circumstances such that it would fall by virtue of section 251(6) to be treated for the purposes of section 251 as such a security; and

(b) would be a corporate bond if it were a security as so defined."

(2) In section 251 of that Act (general provisions in relation to debts), after subsection (5) there shall be inserted the following subsection—

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"(6) For the purposes of this section a debenture issued by any company on or after 16th March 1993 shall be deemed to be a security (as defined in section 132) if—

(a) it is issued on a reorganisation (as defined in section 126(1)) or in pursuance of its allotment on any such reorganisation;

(b) it is issued in exchange for shares in or debentures of another company and in a case unaffected by section 137 where one or more of the conditions mentioned in paragraphs (a) to (c) of section 135(1) is satisfied in relation to the exchange;

(c) it is issued under any such arrangements as are mentioned in subsection (1)(a) of section 136 and in a case unaffected by section 137 where section 136 requires shares or debentures in another company to be treated as exchanged for, or for anything that includes, that debenture; or

(d) it is issued in pursuance of rights attached to any debenture issued on or after 16th March 1993 and falling within paragraph (a), (b) or (c) above."

(3) This section shall have effect in relation to any chargeable period ending on or after 16th March 1993 but, in relation to any accounting period of a company which began before 6th April 1992, this section shall have effect as if the references in this section, and in the amendments made by this section, to provisions of the Taxation of Chargeable Gains Act 1992 were references to such of the provisions of the [M48]Capital Gains Tax Act 1979 and the [M49]Finance Act 1984 as correspond to those provisions and have effect in relation to that accounting period.

Marginal Citations

M48 1979 c. 14.

M49 1984 c. 43.

85 Personal equity plans.

After subsection (3) of section 151 of the Taxation of Chargeable Gains Act 1992 (personal equity plans) there shall be inserted the following subsection—

"(4) Regulations under this section may include provision which, for cases where a person subscribes to a plan by transferring or renouncing shares or rights to shares—

(a) modifies the effect of this Act in relation to their acquisition and their transfer or renunciation; and

(b) makes consequential modifications of the effect of this Act in relation to anything which (apart from the regulations) would have been regarded on or after their acquisition as an indistinguishable part of the same asset."

86 Roll-over relief.

(1) In section 155 of the [M50]Taxation of Chargeable Gains Act 1992 (classes of assets for the purposes of roll-over relief), after Class 5 there shall be inserted—

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"**CLASS 6**

Ewe and suckler cow premium quotas (that is, rights in respect of any ewes or suckler cows to receive payments by way of any subsidy entitlement to which is determined by reference to limits contained in a Community instrument)."

(2) The Treasury may by order made by statutory instrument amend that section so as to add one or more further classes of assets to the classes specified in that section.

(3) A statutory instrument containing an order under subsection (2) above shall be subject to annulment in pursuance of a resolution of the House of Commons.

(4) Subsection (1) above shall apply where the disposal of the old assets (or an interest in them) or the acquisition of the new assets (or an interest in them) is on or after 1st January 1993; but, in relation to any accounting period of a company which began before 6th April 1992, subsection (1) above shall have effect as if the inserted class were numbered 5 and were inserted after Class 4 in section 118 of the [M51]Capital Gains Tax Act 1979.

Marginal Citations

M50 1992 c. 12.

M51 1979 c. 14.

87 Relief on retirement or re-investment.

(1) Schedule 7 to this Act (which amends the provisions of the Taxation of Chargeable Gains Act 1992 with respect to retirement relief and makes new provision in relation to relief on the re-investment of certain gains) shall have effect.

(2) This section and that Schedule shall have effect in relation to any disposal made on or after 16th March 1993.

88 Restriction on set-off of pre-entry losses.

(1) After section 177 of the Taxation of Chargeable Gains Act 1992 there shall be inserted the following section—

"**177A Restriction on set-off of pre-entry losses.**

Schedule 7A to this Act (which makes provision in relation to losses accruing to a company before the time when it becomes a member of a group of companies and losses accruing on assets held by any company at such a time) shall have effect."

(2) The Schedule set out in Schedule 8 to this Act shall be inserted after Schedule 7 to that Act.

(3) This section and that Schedule—

(a) shall apply for the calculation of the amount to be included in respect of chargeable gains in a company's total profits for any accounting period ending on or after 16th March 1993; but

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(b) shall so apply only in relation to the deduction from chargeable gains accruing on or after 16th March 1993 of amounts in respect of, or of amounts carried forward in respect of—

(i) pre-entry losses accruing before it became a member of the relevant group to a company whose membership of that group began or begins at a time on or after 1st April 1987; and

(ii) losses accruing on the disposal of any assets so far as it is by reference to such a company that the assets fall to be treated as being or having been pre-entry assets or assets incorporating a part referable to pre-entry assets.

(4) In relation to accounting periods beginning before 6th April 1992 this section and that Schedule shall have effect as if—

(a) the section and Schedule inserted by subsections (1) and (2) above were inserted in the [M52]Capital Gains Tax Act 1979; and

(b) references in the Schedule so inserted to provisions of the [M53]Taxation of Chargeable Gains Act 1992 were references to such of the provisions of that Act of 1979 or of any other enactment as correspond to the provisions referred to and have effect in relation to that accounting period.

Marginal Citations

M52 1979 c. 14.

M53 1992 c. 12.

89 De-grouping charges.

(1) In section 179(4) of the Taxation of Chargeable Gains Act 1992 (time at which de-grouping charges accrue), for the words from "as follows" onwards there shall be substituted "at whichever is the later of the following, that is to say—

(a) the time immediately after the beginning of the accounting period of that company in which or, as the case may be, at the end of which the company ceases to be a member of the group; and

(b) the time when under subsection (3) above it is treated as having reacquired the asset;

and subsection (2) of section 409 of the Taxes Act (group relief) shall require any apportionment under that subsection to be made accordingly but shall not require any reference in this subsection to an accounting period to have effect for any of the purposes specified in subsection (3) of that section as a reference to any accounting period other than a true accounting period. "

(2) This section shall have effect in relation to accounting periods ending after the day appointed for the purposes of section 180(1)(b) of that Act.

90 Insurance: transfers of business.

(1) In section 211 of the Taxation of Chargeable Gains Act 1992 (insurance: transfers of business) in subsection (2)(b) for "(c)" there shall be substituted " (b) ".

(2) This section shall apply in relation to transfers made on or after 17th July 1992.

Status: *Point in time view as at 27/07/1993. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Finance Act 1993 is up to date with all changes known to be in force on or before 08 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

91 Deemed disposals of unit trusts by insurance companies.

(1) Section 212 of the Taxation of Chargeable Gains Act 1992 (annual deemed disposal by insurance companies of unit trusts) shall have effect in relation to accounting periods beginning on or after 1st January 1993; and neither that section nor section 46 of the [M54]Finance Act 1990 (which is consolidated in that section) shall have effect in relation to any earlier accounting period in relation to which either of them would have applied apart from this subsection.

(2) In relation to any accounting period beginning on or after 1st January 1993—

(a) section 432A of the Taxes Act 1988 shall have effect with the omission of subsection (10) (which disapplies the apportionment rules in that section in the case of a deemed disposal under section 212 of that Act of 1992); and

(b) that section 212 shall have effect with the omission, in subsection (2), of the words from "and in relation to" onwards and of subsections (3), (4) and (6) (which provide for a different apportionment rule in the case of the deemed disposal).

(3) In subsection (7) of that section 212, in the words after paragraph (b) (application of definitions in the Taxes Act 1988), for "and 214" there shall be substituted " to 214A ".

(4) After section 213(1) of that Act of 1992 (spreading of gains and losses), there shall be inserted the following subsection—

"(1A) Subsection (1) above shall not apply to chargeable gains or allowable losses except so far as they are gains or losses which—

(a) are referable to basic life assurance and general annuity business; or

(b) would (apart from that subsection) be taken into account in computing the profits of any business treated as a separate business under section 458 of the Taxes Act;

and that subsection shall apply separately in relation to the gains and losses falling within paragraph (a) above and those falling within paragraph (b) above for the purpose of determining what chargeable gains or allowable losses so referable are to be treated as accruing under that subsection and what chargeable gains or allowable losses to be so taken into account are to be treated as so accruing."

(5) Section 214 of that Act of 1992 shall have effect with the omission of subsections (3) to (5) (run-off relief), and after that section there shall be inserted the following section—

"**214A Further transitional provisions.**

(1) This section applies where within two years after the end of an accounting period beginning on or after 1st January 1993 ("the relevant period")—

(a) an insurance company makes a claim for the purposes of this section in relation to that period; and

(b) that period is one of the company's first eight accounting periods after the end of 1992.

(2) Where this section applies, section 213 shall have effect as if—

(a) the amount of the chargeable gains which—

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(i) apart from that section and this section, would be treated as accruing on disposals deemed by virtue of section 212 to have been made at the end of the relevant period, and

(ii) satisfy the condition specified in paragraph (a) of section 213(1A),

were reduced by the protected proportion of that amount; and

(b) an amount equal to the appropriate part of that reduction were (subject to section 213) a chargeable gain satisfying that condition and accruing at the end of each of the accounting periods in which the reduction is to be taken into account.

(3) For the purposes of subsection (2) above the protected proportion, in relation to the relevant period, of the amount mentioned in paragraph (a) of that subsection shall be an amount equal to the amount calculated in accordance with the following formula—

$$\left(A + \frac{\mathrm{B}x C}{D}\right) x \frac{E}{F} x \frac{G}{8}$$

(4) In subsection (3) above—

A is so much of the amount mentioned in subsection (2)(a) above as represents chargeable gains on section 212 assets which at the end of the relevant period were linked solely to the basic life assurance and general annuity business of the company in question;

B is so much of the amount so mentioned as represents chargeable gains on linked section 212 assets which at the end of that period were partially linked to that business;

C is the amount of such of the closing liabilities at the end of that period of the company's basic life assurance and general annuity business as were liabilities in respect of benefits to be determined by reference to the value of linked section 212 assets which were then partially linked to that business;

D is the amount of all the closing liabilities of the company at the end of that period which were long term business liabilities in respect of benefits to be so determined;

E is the amount of such of the closing liabilities of the company on the relevant date as were relevant linked liabilities in respect of benefits determined by reference to linked section 212 assets;

F is the amount of all the closing liabilities on the relevant date of the company's basic life assurance and general annuity business which were liabilities in respect of such benefits; and

G is the number of accounting periods in the first nine accounting periods of the company after the end of 1992 which remain after the end of the relevant period or, as the case may be, which would so remain apart from any cessation of the carrying on of any business of the company;

and for the purposes of this subsection the relevant date is, subject to subsection (7) below, the time of the first disposal which is deemed to have been made by the company in question under section 212.

(5) For the purposes of this section and subject to subsection (6) below—

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(a) a reduction made under subsection (2) above in relation to the accounting period of any company shall be taken into account in every succeeding accounting period of that company which is included in the first nine accounting periods of that company after the end of 1992; and

(b) in relation to any accounting period in which a reduction is to be taken into account, the appropriate part of the reduction is—

(i) if that is the only accounting period in which it falls to be taken into account, the whole of the reduction; and

(ii) in any other case, the amount of the reduction divided by the number of the accounting periods after the period in which the reduction is made in which the reduction falls to be taken into account or, as the case may be, would so fall apart from any cessation of the carrying on of any business of the company.

(6) Subject to subsection (7) below, where a company ceases to carry on long term business before the end of the first nine accounting periods after the end of 1992, the appropriate part of any reduction in relation to the accounting period ending with the cessation shall be such as to secure that the whole of the reduction has been taken into account under subsection (2)(b) above.

(7) Where at any time on or after 1st January 1993 there is a transfer of the whole or part of the long term business of an insurance company ("the transferor") to another company ("the transferee") in accordance with a scheme sanctioned by a court under section 49 of the [M55]Insurance Companies Act 1982, this section shall have effect so that—

(a) the relevant date for the purposes of subsection (4) above shall be determined in relation to any disposal deemed to have been made after the transfer—

(i) by the transferee, or

(ii) in a case where the transfer is of part of the transferor's long term business, by the transferee or the transferor,

as if there had been no deemed disposals under section 212 before the transfer; and

(b) any reduction which (on the assumption that the transferor had continued to carry on the transferred business) would have fallen to be taken into account under subsection (2)(b) above shall be taken into account instead in relation to the transferee.

(8) Where the transfer is of part only of the transferor's long term business, subsection (7)(b) above shall apply only to such part of any reduction to which it would otherwise apply as is appropriate.

(9) Any question arising as to the operation of subsection (8) above shall be determined by the Special Commissioners who shall determine the question in the same manner as they determine appeals; but both the transferor and transferee shall be entitled to appear and be heard or to make representations in writing.

(10) This section shall have effect in relation to any cases in which there is such a transfer as is mentioned in subsection (7) above as if the accounting periods to be taken into account in any calculation for the purposes of this section of

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the number of accounting periods of the transferee after the end of 1992, and the only accounting periods in relation to which any reduction is to be taken into account under paragraph (b) of that subsection, were—

(a) the accounting periods of the transferor which began on or after 1st January 1993 and ended on or before the day of the transfer (including any which, by reference to a transfer in relation to which the transferor is a transferee, are taken into account in accordance with this subsection as accounting periods of the transferor); and

(b) the accounting periods of the transferee ending after the day of the transfer,

and this section shall have effect in relation to such a reduction as if the first accounting period of the transferee to end after the day of the transfer began with the day after the transfer.

(11) For the purposes of this section assets shall be taken to be partially linked to a company's basic life assurance and general annuity business if they are not linked solely to that business and are neither—

(a) linked solely to any pension business or long term business of that company other than life assurance business; nor

(b) assets of the company's overseas life assurance fund;

and subsection (1) of section 214 shall apply for the purposes of this section as it applies for the purposes of that section.

(12) Subject to subsection (10) above, the references in this section, in relation to any company, to the first eight accounting periods of a company after the end of 1992 are references to the first accounting period of that company to begin on or after 1st January 1993 and to the succeeding seven accounting periods of that company, and references to the first nine accounting periods of a company after the end of 1992 shall be construed accordingly."

(6) In section 214(6)(a) of that Act of 1992 (replacement relief), after "1989" there shall be inserted " and before the time when it is first deemed under section 212 to have made a disposal of any assets ".

Marginal Citations

M54 1990 c. 29.

M55 1982 c. 50.

Corporation tax: currency

92 The basic rule: sterling to be used.

Where a company carries on a trade, the profits or losses of the trade for an accounting period shall for the purposes of corporation tax be computed and expressed in sterling; but this is subject to any regulations under section 93 or 94 below.

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Modifications etc. (not altering text)

C4 S. 92 excluded (3.5.1994 with effect as mentioned in s. 230(3) of the amending Act) by 1994 c. 9, **ss. 226(1)**, 230(3)

93 Currency other than sterling for trades.

(1) Regulations may provide that where a company carries on a trade the basic profits or losses of the trade for an accounting period shall for the purposes of corporation tax be computed and expressed in such currency (other than sterling) as is found in accordance with prescribed rules, in a case where—

(a) prescribed conditions are fulfilled, and

(b) an election is made by the company in accordance with the regulations and has effect for the accounting period concerned by virtue of the regulations.

(2) For the purposes of this section the basic profits or losses of a trade for an accounting period are all the profits or losses of the trade for the period, but leaving out of account—

(a) any trading receipt of the trade in the period, and any trading expense of the trade in the period, that arises by virtue of section 144(2) of the [M56]Capital Allowances Act 1990 (which makes provision about giving effect to allowances and charges);

(b) any amount mentioned in section 142(4) below and treated as received in respect of the trade and in respect of the period.

(3) Subsections (4) and (5) below apply where the basic profits or losses of a trade for an accounting period are for the purposes of corporation tax to be computed and expressed in a currency other than sterling.

(4) The amount of the basic profits or losses shall be treated for the purposes of corporation tax as the sterling equivalent of their amount expressed in the other currency.

(5) The profits or losses of the trade for the period shall for the purposes of corporation tax be found by taking the amount of the basic profits or losses found in sterling under subsection (4) above and then—

(a) taking account of any trading receipt of the trade in the period, and any trading expense of the trade in the period, that arises by virtue of section 144(2) of the [M57]Capital Allowances Act 1990, and

(b) taking account (as provided by section 142 below) of any amount mentioned in section 142(4) and treated as received in respect of the trade and in respect of the period.

(6) For the purposes of subsection (4) above the sterling equivalent of an amount is the sterling equivalent calculated by reference to—

(a) such rate of exchange as is found under prescribed rules, or

(b) if no such rules apply in the case concerned, the London closing exchange rate for the last day of the accounting period concerned.

Modifications etc. (not altering text)

C5 S. 93 excluded (3.5.1994 with effect as mentioned in s. 230(3) of the amending Act) by 1994 c. 9, **ss. 226(1)**, 230(3)

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Marginal Citations

M56 1990 c. 1.

M57 1990 c. 1.

VALID FROM 24/07/2002

[F6 93A Use of other currency: accounts partly from statements in foreign currency

(1) This section applies where in an accounting period a company carries on a business and either the first condition or the second condition is fulfilled.

(2) The first condition is that—

(a) the accounts of the company as a whole are prepared in sterling but, so far as relating to part of the business, they are prepared, using the closing rate/ net investment method, from financial statements and records prepared in a currency other than sterling; or

(b) in the case of a company which is not resident in the United Kingdom, the company makes a return of accounts for its branch in the United Kingdom prepared in sterling but, so far as relating to part of the business, it is prepared, using that method, from financial statements and records prepared in a currency other than sterling.

(3) The second condition is that—

(a) the accounts of the company as a whole are prepared in a currency other than sterling ("the first currency") in accordance with generally accepted accounting practice but, so far as relating to part of the business, they are prepared, using the closing rate/net investment method, from financial statements and records prepared in a currency ("the second currency") which is neither sterling nor the first currency; or

(b) in the case of a company which is not resident in the United Kingdom, the company makes a return of accounts for its branch in the United Kingdom prepared in a currency other than sterling ("the first currency") in accordance with generally accepted accounting practice, but, so far as relating to part of the business, it is prepared, using the closing rate/ net investment method, from financial statements and records prepared in a currency ("the second currency") which is neither sterling nor the first currency.

(4) The profits or losses of the part of the business for an accounting period shall for the purposes of corporation tax be found by—

(a) taking the amount of all the profits and losses of the part of the business for the period computed and expressed in the relevant foreign currency; and

(b) taking—

(i) in a case where the first condition is fulfilled, the sterling equivalent, or

(ii) in a case where the second condition is fulfilled, the equivalent in the first currency,

of the amount found by applying paragraph (a) above.

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(5) In a case where the second condition is fulfilled, effect shall be given to subsection (4) above before effectis given to section 93(4) above.

(6) In the application for the purposes of subsection (4)(a) above of—

(a) section 578A(2) or (3) of the Taxes Act 1988, or

(b) section 43(3), 74(2), 75(1), 76(2), (3) or (4), 99(1), (2) or (3) or 208(1) of the Capital Allowances Act,

it shall be assumed that any sterling amount mentioned in any of those sections is its equivalent expressed in the relevant foreign currency.

(7) Where for any accounting period—

(a) the accounts of the company, so far as relating to a part of its business, are prepared, using the closing rate/net investment method, from financial statements and records prepared in a currency which is not sterling and, where the second condition is fulfilled, is not the first currency, or

(b) in the case of a company which is not resident in the United Kingdom, its return of accounts for its branch in the United Kingdom, so far as relating to a part of the company's business, is prepared, using that method, from such financial statements and records,

then, if different such financial statements and records are prepared in different currencies, the company shall be treated for the purposes of this section as having a separate part of a separate business for each such different currency (and this section shall accordingly apply separately in relation to each such part).

(8) In this section, "part of a business" includes any collection of assets and liabilities.

(9) In this section, unless the context otherwise requires—

"accounts" has the same meaning as in section 93 above;

"the closing rate/net investment method" means the method so called as described under the title "Foreign currency translation" in the Statement of Standard Accounting Practice issued in April 1983 by the Institute of Chartered Accountants in England and Wales;

"losses" has the same meaning as in section 92 above, except that it does not include allowable losses within the meaning of the Taxation of Chargeable Gains Act 1992;

"profits" has the same meaning as in section 92 above, except that it does not include chargeable gains within the meaning of that Act;

"the relevant foreign currency" means the currency in which the financial statements and records mentioned in subsection (2) or, as the case may be, (3) above are prepared;

"return of accounts" has the same meaning as in section 93 above.**]**

Textual Amendments

F6 S. 93A inserted (24.7.2002 with effect as mentioned in s. 80(2) of the amending Act) by 2002 c. 23, s. 80, **Sch. 24 para. 4** (with Sch. 23 para. 25)

Modifications etc. (not altering text)

C6 Ss. 92-94AB applied (24.7.2002 with effect as mentioned in s. 80(2) of the amending Act) by 2002 c. 23, s. 80, **Sch. 24 para. 7(2)** (with Sch. 23 para. 25)

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VALID FROM 24/07/2002

[F7 94AA Rules for ascertaining currency equivalents: general

(1) Where any receipt or expense, or the value of any asset, liability or derivative contract, of a company—
   (a) is to be taken into account in making a computation under subsection (1) of section 92 above for an accounting period, and
   (b) is denominated in a currency other than sterling,

   it shall be translated into its sterling equivalent by reference to a rate determined in accordance with subsection (4) below.

(2) Where the amount of any receipt or expense, or the value of any asset, liability or derivative contract, of a company—
   (a) falls to be brought into account for the purposes of the accounts mentioned in paragraph (a), or the return of accounts mentioned in paragraph (b), of subsection (2) of section 93 above,
   (b) is denominated in a currency other than the relevant foreign currency, within the meaning of that section, and
   (c) accordingly falls to be translated into the relevant foreign currency,

   the amount or value shall for the purposes of that section be translated from the currency mentioned in paragraph (b) above into the relevant foreign currency by reference to a rate determined in accordance with subsection (4) below.

(3) Where, for any purpose of any provision of section 93A(4) or (6) above, any profit or loss denominated in one currency falls to be translated into its equivalent expressed in another currency, the translation shall be made by reference to a rate determined in accordance with subsection (4) below.

(4) The rate is—
   (a) the rate used in the preparation of the accounts of the company for the accounting period in question, if that rate is an arm's length exchange rate for the relevant day, or
   (b) in any other case, the London closing exchange rate for the relevant day.

(5) The reference in subsection (4)(a) above to the exchange rate used in the preparation of the accounts of the company includes a reference to any exchange rate implied by a derivative contract whose underlying subject matter is currency.

(6) Nothing in this section affects the operation of Chapter 4 of Part 17 of the Taxes Act 1988 (controlled foreign companies).

(7) Nothing in paragraph 88 of Schedule 18 to the Finance Act 1998 (company tax returns, assessments and related matters) shall be taken to prevent an amount being translated under this section for an accounting period by reference to an exchange rate which was not the exchange rate used to translate that amount for the purposes of the Corporation Tax Acts for another accounting period (whether of the same or a different company).

(8) In this section—

   "accounts" has the same meaning as in section 93 above;

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"arm's length exchange rate" means such exchange rate as might reasonably be expected to be agreed between persons dealing at arm's length;

"derivative contract" shall be construed in accordance with Schedule 26 to the Finance Act 2002;

"the relevant day"—

(a) where the rate used in the preparation of the accounts is an exchange rate for a particular day, means that day; and

(b) where the rate used in the preparation of the accounts is an average rate for a number of days, means each of those days;

"underlying subject matter", in relation to a derivative contract, shall be construed in accordance with Schedule 26 to the Finance Act 2002.**]**

Textual Amendments

F7 S. 94AA substituted (24.7.2002 with effect as mentioned in s. 80(2) of the amending Act) for s. 94 by 2002 c. 23, s. 80, **Sch. 24 para. 5** (with Sch. 23 para. 25)

Modifications etc. (not altering text)

C7 Ss. 92-94AB applied (24.7.2002 with effect as mentioned in s. 80(2) of the amending Act) by 2002 c. 23, s. 80, **Sch. 24 para. 7(2)** (with Sch. 23 para. 25)

VALID FROM 24/07/2002

[F8 94AB Rules for ascertaining sterling equivalent for section 93(4) or (5)

(1) Where the amount of any receipt or expense, or the value of any asset, liability or derivative contract, of a company falls to be translated into its sterling equivalent for the purposes of section 93(4) or (5) above, the translation shall be made by reference to a rate which is an arm's length exchange rate for the appropriate day.

(2) For the purposes of subsection (1) above, the "appropriate day" is the day the rate for which would have been used if the accounts, or return of accounts, of the company were translated into sterling in accordance with generally accepted accounting practice in relation to foreign currency translation.

(3) Nothing in this section affects the operation of Chapter 4 of Part 17 of the Taxes Act 1988 (controlled foreign companies).

(4) Nothing in paragraph 88 of Schedule 18 to the Finance Act 1998 (company tax returns, assessments and related matters) shall be taken to prevent an amount being translated under this section for an accounting period by reference to an exchange rate which was not the exchange rate used to translate that amount for the purposes of the Corporation Tax Acts for another accounting period (whether of the same or a different company).

(5) In this section—

"accounts" has the same meaning as in section 93 above;

"arm's length exchange rate" has the same meaning as in section 94AA;

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"derivative contract" shall be construed in accordance with Schedule 26 to the Finance Act 2002.]

Textual Amendments

F8 S. 94AB inserted (24.7.2002 with effect as mentioned in s. 80(2) of the amending Act) by 2002 c. 23, s. 80, **Sch. 24 para. 6** (with Sch. 23 para. 25)

Modifications etc. (not altering text)

C8 Ss. 92-94AB applied (24.7.2002 with effect as mentioned in s. 80(2) of the amending Act) by 2002 c. 23, s. 80, **Sch. 24 para. 7(2)**

94 Parts of trades.

(1) Regulations may make provision under this section as regards a case where in an accounting period—

(a) a company carries on part of a trade in the United Kingdom, and carries on a different part of the trade through an overseas branch or different parts through different overseas branches, or

(b) a company carries on different parts of a trade through different overseas branches;

and "overseas branch" means a branch outside the United Kingdom.

(2) Regulations may provide that the basic profits or losses of different parts of the trade for an accounting period shall for the purposes of corporation tax be computed and expressed in such different currencies as are found in accordance with prescribed rules, in a case where—

(a) prescribed conditions are fulfilled, and

(b) an election is made by the company in accordance with the regulations and has effect for the accounting period concerned by virtue of the regulations.

(3) The regulations must be so framed that—

(a) one currency is used for each part;

(b) at least two currencies are used;

(c) subject to paragraph (b) above, the same currency may be used for more than one part;

(d) if no election is made as regards a particular part, sterling is to be used for that part.

(4) For the purposes of this section the basic profits or losses of part of a trade for an accounting period are all the profits or losses of the part for the period; but this is subject to subsections (5) and (6) below.

(5) No account shall be taken of any trading receipt of the trade in the period, and any trading expense of the trade in the period, that arises by virtue of section 144(2) of the [M58]Capital Allowances Act 1990 (which makes provision about giving effect to allowances and charges).

(6) Where the basic profits or losses of the part of the trade for the period are for the purposes of corporation tax to be computed and expressed in a currency other than

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sterling, no account shall be taken of any amount mentioned in section 142(4) below and treated as received in respect of the part of the trade and in respect of the period.

(7) Where the basic profits or losses of different parts of a trade for an accounting period are for the purposes of corporation tax to be computed and expressed in two or more different currencies, subsections (8) to (10) below have effect for finding the profits or losses of the trade for the period for the purposes of corporation tax.

(8) Where the basic profits or losses of any part are for the purposes of corporation tax to be computed and expressed in a currency other than sterling—
- (a) find the sterling equivalent of their amount expressed in the other currency, then
- (b) take account (as provided by section 142 below) of any amount mentioned in section 142(4) and treated as received in respect of the part and in respect of the period, then
- (c) call the result the accountable profits or losses of the part for the period.

(9) Where the basic profits or losses of any part are for the purposes of corporation tax to be computed and expressed in sterling, take those profits or losses and call them the accountable profits or losses of the part for the period.

(10) The profits or losses of the trade for the period for the purposes of corporation tax shall then be found by—
- (a) taking account of the accountable profits or losses of the different parts for the period, and
- (b) then taking account of any trading receipt of the trade in the period, and any trading expense of the trade in the period, that arises by virtue of section 144(2) of the Capital Allowances Act 1990.

(11) For the purposes of subsection (8) above the sterling equivalent of an amount is the sterling equivalent calculated by reference to—
- (a) such rate of exchange as is found under prescribed rules, or
- (b) if no such rules apply in the case concerned, the London closing exchange rate for the last day of the accounting period concerned.

Modifications etc. (not altering text)

C9 S. 94 excluded (3.5.1994 with effect as mentioned in s. 230(3) of the amending Act) by 1994 c. 9, **ss. 226(1)**, 230(3)

Marginal Citations

M58 1990 c. 1.

VALID FROM 03/05/1994

[F9 94A Parts of trades: petroleum extraction companies.

(1) If a trade carried on by a petroleum extraction company is a ring fence trade—
- (a) subsection (1) of section 94 above shall not apply as regards the trade, but

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(b) regulations may make provision under that section as regards a case where in an accounting period the company carries on the trade and the condition mentioned in subsection (2) below is fulfilled.

(2) The condition is that—

(a) part of the trade consists of activities which relate to oil and are carried on under the authority of a petroleum licence in the United Kingdom or a designated area, and

(b) part of the trade consists of activities which relate to gas and are carried on under the authority of a petroleum licence in the United Kingdom or a designated area.

(3) For the purposes of this section—

(a) a petroleum licence is a licence granted under the Petroleum (Production) Act 1934 or the Petroleum (Production) Act (Northern Ireland) 1964;

(b) a petroleum extraction company is a company which carries on activities under the authority of such a licence;

(c) a designated area is an area designated by Order in Council under section 1(7) of the Continental Shelf Act 1964.

(4) For the purposes of this section "ring fence trade" means activities which—

(a) fall within any of paragraphs (a) to (c) of subsection (1) of section 492 of the Taxes Act 1988 (oil extraction etc.), and

(b) constitute a separate trade (whether by virtue of that subsection or otherwise).

(5) For the purposes of this section—

(a) "oil" means such substance as falls within the meaning of oil contained in section 502(1) of the Taxes Act 1988 and is not gas;

(b) "gas" means such substance as falls within the meaning of oil contained in section 502(1) of the Taxes Act 1988 and is gas of which the largest component by volume, measured at a temperature of 15 degrees centigrade and a pressure of one atmosphere, is methane or ethane or a combination of those gases.**]**

Textual Amendments

F9 S. 94A inserted (3.5.1994) by 1994 c. 9, **s. 136(1)**

Modifications etc. (not altering text)

C10 S. 94A excluded (3.5.1994 with effect as mentioned in s. 230(3) of the amending Act) by 1994 c. 9, **ss. 226(1)**, 230(3)

95 Currency to be used: supplementary.

(1) Regulations under section 93 or 94 above may include—

(a) provision that an election may in prescribed circumstances have effect from a time before it is made;

(b) provision that prescribed conditions shall be treated as fulfilled in prescribed circumstances (subject to any provision under paragraph (c) below);

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(c) provision that prescribed conditions shall be treated as not having been fulfilled if the inspector notifies the company that he is not satisfied that they are fulfilled;

(d) provision for an appeal from the inspector's notification;

and any provision under paragraph (c) above may allow a notification to be made after the accounting period ends.

(2) The power to make regulations under section 93 or 94 above shall be exercisable by the Treasury by statutory instrument subject to annulment in pursuance of a resolution of the House of Commons.

(3) In sections 93 and 94 above "prescribed" means prescribed by regulations made under the section concerned.

(4) Where as regards a trade and for an accounting period—

(a) an election is made under regulations made under section 93 above, or

(b) an election is made under regulations made under section 94 above,

no election may be made as regards the trade for the period under regulations made under the other section.

(5) For the purposes of sections 93 and 94 above the ecu shall be regarded as a currency other than sterling; and the reference here to the ecu is to the European currency unit as defined for the time being in Council Regulation No. 3180/78/EEC or in any Community instrument replacing it.

(6) Sections 92 to 94 above apply in relation to any accounting period beginning on or after the day appointed under section 165(7)(b) below.

[[F10]96 Foreign companies: trading currency.

(1) In Schedule 24 to the Taxes Act 1988 (assumptions for calculating chargeable profits, creditable tax and corresponding United Kingdom tax of foreign companies) the following paragraph shall be inserted after paragraph 4—

"4A (1) Sub-paragraph (2) below applies where—

(a) the company carries on a trade, and

(b) the currency used in the accounts of the company for an accounting period is a currency other than sterling.

(2) It shall be assumed that by virtue of regulations under section 93 of the Finance Act 1993 (corporation tax: currency to be used) the basic profits or losses of the trade for the accounting period are to be computed and expressed for the purposes of corporation tax in the currency used in the accounts of the company for the period.

(3) References in this paragraph to the accounts of a company—

(a) are to the accounts which the company is required by the law of its home State to keep, or

(b) if the company is not required by the law of its home State to keep accounts, are to the accounts of the company which most closely correspond to the individual accounts which companies formed

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and registered under the [M59]Companies Act 1985 are required by that Act to keep;

and for the purposes of this paragraph the home State of a company is the country or territory under whose law the company is incorporated.

(4) The reference in sub-paragraph (2) above to the basic profits or losses of the trade for the accounting period shall be construed in accordance with section 93 of the Finance Act 1993."

(2) This section applies in relation to any accounting period beginning on or after the day appointed under section 165(7)(b) below.**]**

Textual Amendments

F10 S. 96 repealed (*retrospectively*) by 1995 c. 4, s. 162, **Sch. 29 Pt. VIII(18)**, Note

Marginal Citations

M59 1985 c. 6.

Overseas life insurance companies

97 Modification of Taxes Act 1988.

(1) The following shall be inserted after section 444A of the Taxes Act 1988—

" Provisions applying in relation to overseas life insurance companies

444B Modification of Act in relation to overseas life insurance companies.

Schedule 19AC (which makes modifications of this Act in relation to overseas life insurance companies) shall have effect."

(2) Schedule 9 to this Act (which inserts Schedule 19AC into that Act and makes further provision) shall have effect.

98 Modification of section 440 of Taxes Act 1988.

(1) The following section shall be inserted after section 444B of the Taxes Act 1988—

"**444C Modification of section 440.**

(1) Where the company mentioned in section 440(1) is an overseas life insurance company, section 440 shall have effect with the modifications in subsections (2) and (3) below.

(2) Subsection (4) shall be treated as if—

(a) paragraph (c) were omitted;

(b) in paragraphs (a), (b), (d) and (e), the words "UK assets" were substituted for the word "assets"; and

(c) at the end there were inserted the following paragraphs—

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(f) section 11C assets;
(g) non-UK assets."

(3) The following subsection shall be treated as inserted at the end of the section—

(6) For the purposes of this section—
(a) UK assets are—
(i) section 11(2)(b) assets;
(ii) section 11(2)(c) assets; or
(iii) assets which by virtue of section 11B are attributed to the branch or agency in the United Kingdom through which the company carries on life assurance business;
(b) section 11C assets are assets—
(i) (in a case where section 11C (other than subsection (9)) applies) of the relevant fund, other than UK assets; or
(ii) (in a case where that section including that subsection applies) of the relevant funds, other than UK assets;
(c) non-UK assets are assets which are not UK assets or section 11C assets;

and any expression used in this subsection to which a meaning is given by section 11A has that meaning."

(4) Where one or each of the companies mentioned in section 440(2) is an overseas life insurance company, section 440(2)(b) and (4) shall have effect as if for "categories", in each place where the word occurs, there were substituted "paragraphs".

(5) Where the transferor company mentioned in section 440(2) is an overseas life insurance company, section 440 shall have effect, as regards the time immediately before the acquisition, with the modifications in subsections (2) and (3) above.

(6) Where the acquiring company mentioned in section 440(2) is an overseas life insurance company, section 440 shall have effect, as regards the time immediately after the acquisition, with the modifications in subsections (2) and (3) above."

(2) This section shall apply—
(a) so far as section 440(1) is concerned, as regards events falling on or after the first day of the relevant accounting period of the company concerned;
(b) so far as section 440(2) is concerned, as regards events falling on or after the first day of the relevant accounting period of the transferor company or on or after the first day of the relevant accounting period of the acquiring company (whichever of those days falls later).

(3) For the purposes of subsection (2) above a company's relevant accounting period is its first accounting period to begin after 31st December 1992.

99 Qualifying distributions, tax credits, etc.

(1) The following section shall be inserted after section 444C of the Taxes Act 1988—

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"444D Qualifying distributions, tax credits, etc.

(1) Subsection (2) below applies where—

(a) an overseas life insurance company receives a qualifying distribution made by a company resident in the United Kingdom; and

(b) the distribution (or part of the distribution)—

(i) would fall within paragraph (a), (aa) or (ab) of section 11(2) (as section 11(2) has effect by virtue of Schedule 19AC) but for the exclusion contained in that paragraph; and

(ii) is referable to life assurance business.

(2) Where this subsection applies the recipient shall be treated for the purposes of the Corporation Tax Acts as entitled to such a tax credit in respect of the distribution (or part of the distribution) as it would be entitled to under section 231 if it were resident in the United Kingdom.

(3) Where part only of a qualifying distribution would fall within paragraph (ab) of section 11(2) (as section 11(2) has effect by virtue of Schedule 19AC) but for the exclusion contained in that paragraph, the tax credit to which the recipient shall be treated as entitled by virtue of subsection (2) above is the proportionate part of the tax credit to which the recipient would be so treated as entitled in respect of the whole of the distribution.

(4) In this section "UK distribution income" means income of an overseas life insurance company which consists of a distribution (or part of a distribution) in respect of which the company is entitled to a tax credit (and which accordingly represents income equal to the aggregate of the amount or value of the distribution (or part) and the amount of that credit).

(5) An overseas life insurance company may, on making a claim for the purpose, require that any UK distribution income for an accounting period shall for all or any of the purposes mentioned in subsection (6) below be treated as if it were a like amount of profits chargeable to corporation tax; and where it does so—

(a) the provisions mentioned in subsection (6) below shall apply to reduce the amount of the UK distribution income; and

(b) the company shall be entitled to have paid to it the amount of the tax credits comprised in the amount of UK distribution income which is so reduced.

(6) The purposes for which a claim may be made under subsection (5) above are those of—

(a) the setting of trading losses against total profits under section 393A(1);

(b) the deduction of charges on income under section 338 or paragraph 5 of Schedule 4;

(c) the deduction of expenses of management under section 76;

(d) the setting of certain capital allowances against total profits under section 145(3) of the 1990 Act.

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(7) Subsections (3), (4) and (8) of section 242 shall apply for the purposes of a claim under subsection (5) above as they apply for the purposes of a claim under that section."

(2) In section 431(2) of that Act (definitions), the following definition shall be inserted after the definition of "periodical return"—

" "UK distribution income" has the meaning given by section 444D(4);".

(3) This section shall apply in relation to accounting periods beginning after 31st December 1992.

100 Income from investments attributable to BLAGAB, etc.

(1) The following section shall be inserted after section 444D of the Taxes Act 1988—

"**444E Income from investments attributable to BLAGAB, etc.**

(1) In computing the income from the investments of an overseas life insurance company attributable to the basic life assurance and general annuity business of the branch or agency in the United Kingdom through which the company carries on life assurance business, any interest, dividends and other payments whatsoever to which section 48 or 123(4) extends shall be included notwithstanding the exemption from tax conferred by those sections.

(2) Where in computing the income referred to in subsection (1) above any interest on any securities issued by the Treasury is excluded by virtue of a condition of the issue of those securities regulating the treatment of the interest on them for tax purposes, the relief under section 76 shall be reduced so that it bears to the amount of relief which would be granted apart from this subsection the same proportion as the amount of that income excluding that interest bears to the amount of that income including that interest."

(2) In section 475 of that Act (tax-free Treasury securities: exclusion of interest on borrowed money), in subsection (6)—

(a) for "445(8)(b)", in each place where it occurs, there shall be substituted " 444E(2) ";

(b) for the words "of the life assurance fund", in each place where they occur, there shall be substituted the words " attributable to basic life assurance and general annuity business ".

(3) This section shall apply in relation to accounting periods beginning after 31st December 1992.

101 Modification of Finance Act 1989.

(1) The following section shall be inserted after section 89 of the [M60]Finance Act 1989—

"**89A Modification of sections 83 and 89 in relation to overseas life insurance companies.**

Schedule 8A to this Act (which makes modifications of sections 83 and 89 in relation to overseas life insurance companies) shall have effect."

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(2) Schedule 10 to this Act (which inserts Schedule 8A into that Act) shall have effect.

Marginal Citations
M60 1989 c. 26.

102 Modification of Taxation of Chargeable Gains Act 1992.

(1) The following section shall be inserted after section 214A of the [M61]Taxation of Chargeable Gains Act 1992—

"**214B Modification of Act in relation to overseas life insurance companies.**

Schedule 7B (which makes modifications of this Act in relation to overseas life insurance companies) shall have effect."

(2) Schedule 11 to this Act (which inserts Schedule 7B into that Act) shall have effect.

Marginal Citations
M61 1992 c. 12.

103 Amendment of definition and repeals.

(1) In section 431(2) of the Taxes Act 1988 (definitions), in the definition of "overseas life insurance company" for the words "having its head office outside" there shall be substituted the words " not resident in ".

(2) The following provisions of that Act shall cease to have effect—
- (a) section 445 (charge to tax on investment income of overseas life insurance company);
- (b) section 446(1) (qualifying distributions part of profits of pension business of overseas life insurance company);
- (c) section 447(1), (2) and (4) (set-off of income tax and tax credits against corporation tax assessed under section 445);
- (d) section 448 (qualifying distributions and tax credits);
- (e) section 449 (double taxation agreements);
- (f) section 724(5) to (8) (special provisions of accrued income scheme for overseas life insurance companies);
- (g) section 811(2)(c) (provision about deduction of foreign tax not to affect overseas life insurance company charged under section 445);
- (h) paragraph 1(9) of Schedule 19AB (payments on account of tax credits in case of pension business: special provision for overseas life insurance companies).

(3) Subject to subsection (4) below, this section shall apply in relation to accounting periods beginning after 31st December 1992.

(4) Where in the accounting period of an overseas life insurance company ending immediately before its first accounting period to begin after 31st December 1992 there

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is such an excess as is mentioned in subsection (7) of section 724 of the Taxes Act 1988, then, notwithstanding the preceding provisions of this section, that subsection shall continue to apply to the company but only—

(a) in relation to that excess; and

(b) if it would have so applied apart from this section.

Approved share option schemes

104 Calculation of consideration.

After section 149 of the [M62]Taxation of Chargeable Gains Act 1992 there shall be inserted the following section—

"**149A Approved share option schemes.**

(1) This section applies where—

(a) an option is granted on or after 16th March 1993,

(b) the option consists of a right to acquire shares in a body corporate and is obtained as mentioned in section 185(1) of the Taxes Act (approved share option schemes), and

(c) section 17(1) would (apart from this section) apply for the purposes of calculating the consideration for the grant of the option.

(2) The grantor of the option shall be treated for the purposes of this Act as if section 17(1) did not apply for the purposes of calculating the consideration and, accordingly, as if the amount or value of the consideration was its actual amount or value.

(3) Where the option is granted wholly or partly in recognition of services or past services in any office or employment, the value of those services shall not be taken into account in calculating the actual amount or value of the consideration.

(4) The preceding provisions of this section shall not affect the treatment for the purposes of this Act of the person to whom the option is granted."

Marginal Citations

M62 1992 c. 12.

105 Expenditure on shares.

(1) In section 120(6) of the Taxation of Chargeable Gains Act 1992 (increase in expenditure by reference to tax charged in relation to shares)—

(a) for the words "section 185(6)" there shall be substituted the words " the applicable provision ", and

(b) at the end there shall be inserted "; and in this subsection "the applicable provision" means—

(a) subsection (6) of section 185 of the Taxes Act (as that subsection had effect before the coming into force of section 39(5) of the [M63]Finance Act 1991), or

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(b) subsection (6A) of that section."

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

(3) In section 32A(5) of the [M64]Capital Gains Tax Act 1979 (expenditure: amounts to be included as consideration)—

(a) for the words "section 185(6)" there shall be substituted the words " the applicable provision ", and

(b) at the end there shall be inserted "; and in this subsection "the applicable provision" means—

(a) subsection (6) of section 185 of the Taxes Act (as that subsection had effect before the coming into force of section 39(5) of the [M65]Finance Act 1991), or

(b) subsection (6A) of that section."

(4) The [M66]amendments made by subsection (3) above shall be deemed to have come into force on 1st January 1992 (but shall have effect subject to the repeals made by the Taxation of Chargeable Gains Act 1992).

Commencement Information

I10 S. 105 in force at Royal Assent. the amendments made by s. 105(1) are deemed always to have had effect, see s. 105(2); the amendments made by S. 105(3) are deemed to have come into force on 1.1.1992, see s. 105(4)

Marginal Citations

M63 1991 c. 31.
M64 1979 c. 14.
M65 1991 c. 31.
M66 1992 c. 12.

Indexation: miscellaneous

106 Earnings cap etc: no indexation in 1993-94.

The figure £75,000 shall be deemed to be the figure found for the year 1993-94, for the purposes of section 590C of the Taxes Act 1988, by virtue of section 590C(4) and (5) (indexation of earnings cap for retirement benefits schemes and certain other figures).

107 Indexation of allowances etc. for 1994-95 onwards.

(1) The Taxes Act 1988 shall be amended as mentioned in subsections (2) to (6) below.

(2) In section 1—

(a) in subsection (4) (indexation of income tax bands) for "December" (in each place) there shall be substituted " September ";

(b) subsection (5) (no change required for PAYE before 18th May) shall be omitted.

(3) In section 257C—

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(a) in subsection (1) (indexation of personal allowance and married couple's allowance) for "December" (in each place) there shall be substituted " September ";

(b) subsection (2) (no change required for PAYE before 18th May) shall be omitted.

(4) In section 590C (earnings cap for retirement benefits schemes) in subsection (5) (indexation) for "December" (in each place) there shall be substituted " September ".

(5) In section 590C the following subsection shall be inserted after subsection (5)—

"(5A) If the retail prices index for the month of September preceding a year of assessment falling within subsection (4) above is not higher than it was for the previous September, the figure for that year shall be the same as the figure for the previous year of assessment."; and accordingly, in subsection (4) of that section for "subsection (5)" there shall be substituted " subsections (5) and (5A) ".

(6) In each of the provisions to which this subsection applies (provisions which refer to section 590C(4) and (5)) for "and (5)" there shall be substituted " to (5A) "; and this subsection applies to sections 590B(11), 592(8E), 594(7), 599(12) and 640A(4).

(7) In Schedule 6 to the [M67]Finance Act 1989 (retirement benefits schemes) in paragraphs 20(6) and 22(5) (which refer to section 590C(4) and (5) of the Taxes Act 1988) for "and (5)" there shall be substituted " to (5A) ".

(8) This section shall have effect for the year 1994-95 and subsequent years of assessment.

Marginal Citations

M67 1989 c. 26.

Miscellaneous provisions about reliefs

108 Counselling services for employees.

In Chapter VI of Part XIII of the Taxes Act 1988, after section 589 there shall be inserted the following sections—

"589A Counselling services for employees.

(1) This section applies where—

(a) qualifying counselling services are provided to a person (the employee) in connection with the termination of the holding by him of any office or employment, and

(b) the termination takes place on or after 16th March 1993.

(2) This section also applies where—

(a) subsection (1)(a) above applies, and

(b) the termination takes place before 16th March 1993 but relevant expenditure is incurred on or after that date.

(3) Relevant expenditure is expenditure incurred in—

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(a) providing the qualifying counselling services to the employee,
(b) paying or reimbursing fees for the provision to the employee of the qualifying counselling services, or
(c) paying or reimbursing any allowable travelling expenses incurred in connection with the provision of the qualifying counselling services to the employee.

(4) No charge to tax under Schedule E shall arise in respect of—
(a) the provision of the qualifying counselling services to the employee,
(b) the payment or reimbursement of fees for the provision to the employee of the qualifying counselling services, or
(c) the payment or reimbursement of any allowable travelling expenses incurred in connection with the provision of the qualifying counselling services to the employee.

(5) Where this section applies by virtue of subsection (2) above, subsection (4) above shall apply only to the extent that the expenditure incurred in providing the services or paying or reimbursing the fees or expenses is incurred on or after 16th March 1993.

(6) Subsection (4) above shall apply whether or not the person who provides the services or pays or reimburses the fees or expenses is the person under whom the employee holds or held the office or employment mentioned in subsection (1) above.

(7) Subsections (8) to (10) below apply where any relevant expenditure is incurred by the person under whom the employee holds or held the office or employment mentioned in subsection (1) above (the employer).

(8) If and so far as the expenditure would not, apart from this subsection, be so deductible, it shall be deductible in computing for the purposes of Schedule D the profits or gains of the trade, profession or vocation of the employer for the purposes of which the employee is or was employed.

(9) If the employer carries on a business and the expenses of management of the business are eligible for relief under section 75, subsection (8) above shall have effect as if for the words from "in computing" onwards there were substituted "as expenses of management for the purposes of section 75".

(10) Where this section applies by virtue of subsection (2) above, subsections (8) and (9) above shall apply only to the extent that the expenditure is incurred on or after 16th March 1993.

589B Qualifying counselling services etc.

(1) Subsections (2) to (4) below apply for the purposes of section 589A.

(2) Subject to subsection (3) below, services are qualifying counselling services if—
(a) the purpose, or main purpose, of their provision is to enable the employee to adjust to the termination of his holding of the office or employment mentioned in section 589A(1) or is to enable him to find other gainful employment (including self-employment) or is to enable him to do both,

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(b) the services consist wholly of any or all of the following, namely, giving advice and guidance, imparting or improving skills, and providing or making available the use of office equipment or similar facilities,

(c) the employee has been employed by the employer full-time throughout the period of two years ending at the time when the services begin to be provided to him or, if it is earlier, at the time he ceases to be employed by the employer,

(d) the opportunity to receive the services, on similar terms as to payment or reimbursement of any expenses incurred in connection with their provision, is available either generally to holders or past holders of offices or employment under the employer or to a particular class or classes of such holders or past holders, and

(e) the services are provided in the United Kingdom.

(3) Where paragraphs (a) to (d) of subsection (2) above are satisfied in relation to particular services but the services are provided partly in and partly outside the United Kingdom, the extent to which the services are qualifying counselling services shall be determined on a just and reasonable basis.

(4) In relation to services, allowable travelling expenses are those which would be deductible under section 198—

(a) on the assumption that receipt of the services is one of the duties of the employee's office or employment, and

(b) if the employee has in fact ceased to be employed by the employer, on the assumption that he continues to be employed by him.

(5) Any reference in this section or section 589A to an employee being employed by an employer is a reference to the employee holding office or employment under the employer."

109 Pre-trading expenditure.

(1) In subsection (1) of section 401 of the Taxes Act 1988 (which gives relief for expenditure incurred within the five years before the beginning of any trade, profession or vocation), for "five" there shall be substituted " seven ".

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

"(1A) Where—

(a) a company pays any charge on income at a time before it begins to carry on any trade, and

(b) the payment is made wholly and exclusively for the purposes of that trade,

that payment, to the extent that it is not deducted otherwise than by virtue of this section from any profits, shall be treated for the purposes of corporation tax as paid on the day on which the trade is first carried on by the company."

(3) In section 338(5)(b) of that Act (payments not to be treated as charges on income), after "trade" there shall be inserted " which is or is to be ".

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(4) Subsections (1) and (2) above shall have effect where the time when the person begins to carry on the trade, profession or vocation falls after 31st March 1993, and subsection (3) above shall have effect in relation to payments made after that date.

110 Waste disposal expenditure.

(1) In section 91A(6) of the Taxes Act 1988 (relevant licence for the purposes of restoration payments), after paragraph (b) there shall be inserted "or

(c) any authorisation under the [M68]Radioactive Substances Act 1960 or the [M69]Radioactive Substances Act 1993 for the disposal of radioactive waste or any nuclear site licence under the [M70]Nuclear Installations Act 1965."

(2) In section 91B of that Act (preparation expenditure for waste disposal), after subsection (10) there shall be inserted the following subsection—

"(10A) For the purposes of this section any expenditure incurred for the purposes of a trade by a person about to carry it on shall be treated as if it had been incurred by that person on the first day on which he does carry it on and in the course of doing so."

(3) This section shall have effect in relation to any case where the trade in question is begun after 31st March 1993.

Marginal Citations

M68 1960 c. 34.
M69 1993 c. 12.
M70 1965 c. 57.

111 Business expansion scheme: loan linked investments.

(1) After section 299 of the Taxes Act 1988 there shall be inserted the following section—

"**299A Loan linked investments.**

(1) An individual shall not be entitled to relief in respect of any shares in a company issued on or after 16th March 1993 if—

(a) there is a loan made by any person, at any time in the relevant period, to that individual or any associate of his; and

(b) the loan is one which would not have been made, or would not have been made on the same terms, if that individual had not subscribed for those shares or had not been proposing to do so.

(2) References in this section to the making by any person of a loan to any individual or an associate of his include references—

(a) to the giving by that person of any credit to that individual or any associate of his; and

(b) to the assignment or assignation to that person of any debt due from that individual or any associate of his;

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and the references in section 307(6)(ca) to the making of a loan shall be construed accordingly."

(2) In sections 289(12)(a) and 310(1) and (10)(a) of that Act (definition of "the relevant period" and information provisions), after "299,", in each case, there shall be inserted " 299A, ".

(3) In section 307(6) of that Act (reckonable date for the purposes of interest on relief that is withdrawn), after paragraph (c) there shall be inserted the following paragraph—

"(ca) in the case of relief withdrawn by virtue of section 299A in consequence of the making of any loan after the grant of the relief, the date of the making of the loan;".

(4) This section shall apply in relation to any case in which the claim for relief is made on or after 16th March 1993.

112 Employers' pension contributions.

(1) In section 592(4) of the Taxes Act 1988 (employers' contributions to exempt approved schemes), at the end there shall be inserted " but no other sum shall for those purposes be allowed to be deducted as an expense, or expense of management, in respect of the making, or any provision for the making, of any contributions under the scheme. "

(2) Subsection (1) above shall have effect in the case of any employer in relation to, as the case may be—

(a) any accounting period of that employer ending with a day after 5th April 1993; or

(b) any year of assessment the employer's basis period for which ends with a day after that date.

(3) Where—

(a) there is after 5th April 1993 an actual payment by an employer of a contribution under an exempt approved scheme,

(b) that payment would, apart from this subsection, be allowed to be deducted as an expense, or expense of management, of the employer in relation to any chargeable period in relation to which subsection (1) above has effect, and

(c) the total of previously allowed deductions exceeds the relevant maximum,

the amount allowed to be so deducted in respect of the payment mentioned in paragraph (a) above and of any other actual payments of contributions under the scheme which, having been made after 5th April 1993, fall within paragraph (b) above in relation to the same chargeable period shall be reduced by whichever is the smaller of the excess and the amount which reduces the deduction to nil.

(4) In relation to any such actual payment by an employer of a contribution under an exempt approved scheme as would be allowed to be deducted as mentioned in subsection (3) above in relation to any chargeable period-

(a) the reference in that subsection to the total of previously allowed deductions is a reference to the aggregate of every amount in respect of the making, or any provision for the making, of that or any other contributions under the scheme, which has been allowed to be deducted as an expense, or expense of management, of that person in relation to a previous chargeable period; and

(b) the reference to the relevant maximum is a reference to the amount which would have been that aggregate if the restriction on deductions imposed by

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virtue of subsection (1) above had been applied in relation to every previous chargeable period;

and for the purposes of this subsection an amount the deduction of the whole or any part of which falls to be taken into account as allowed in relation to more than one chargeable period shall be treated as if the amount allowed were a different amount in the case of each of those periods.

(5) For the purposes of this section any payment which is treated under subsection (6) of section 592 of the Taxes Act 1988 as spread over a period of years shall be treated as actually paid at the time when it is treated as paid in accordance with that subsection.

(6) After subsection (6) of section 592 of the Taxes Act 1988 there shall be inserted the following subsection—

"(6A) Where any sum is paid to the trustees of the scheme in or towards the discharge of any liability of an employer under section 58B of the [M71]Social Security Pensions Act 1975 or section 144 of the Pension Schemes Act 1993 (deficiencies in the assets of a scheme) or under Article 68B of the [M72]Social Security Pensions (Northern Ireland) Order 1975 or section 140 of the Pension Schemes (Northern Ireland) Act 1993 (which contain corresponding provision for Northern Ireland), the payment of that sum—

(a) shall be treated for the purposes of this section as an employer's contribution under the scheme; and

(b) notwithstanding (where it is the case) that the employer's trade, profession, vocation or business is permanently discontinued before the making of the payment, shall be allowed, in accordance with subsection (4) above, to be deducted as such a contribution to the same extent as it would have been allowed but for the discontinuance and as if it had been made on the last day on which the trade, profession, vocation or business was carried on."; and this subsection shall have effect in relation to any payment made on or after the day on which this Act is passed.

(7) In this section—

"basis period", in relation to any person, means a period on the profits or gains of which income tax for any year of assessment falls to be finally computed under Case I or II of Schedule D in respect of the trade, profession or vocation of that person (being the later period in any case where the profits and gains of an earlier period are taken to be the profits and gains of a later period); and

"exempt approved scheme" has the meaning given by section 592(1) of the Taxes Act 1988.

Marginal Citations

M71 1975 c. 60.

M72 S.I. 1975/1503 (N.I. 15).

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Capital allowances

113 Initial allowances: industrial buildings and structures.

(1) In Chapter I of Part I of the [M73]Capital Allowances Act 1990, after section 2 there shall be inserted the following section—

"**2A Initial allowances: contracts entered into between October 1992 and November 1993.**

(1) In relation to expenditure to which this section applies, section 1 shall have effect with the following modifications, that is to say—
- (a) so much of that section as relates to the requirement that the site in question is at a material time in an enterprise zone, namely—
  - (i) paragraph (b) of subsection (1) and the reference to that paragraph in subsection (1A);
  - (ii) paragraph (b) of subsection (1A); and
  - (iii) subsection (11),

  shall be omitted;
- (b) for the reference in subsection (1) to 100 per cent. there shall be substituted a reference to 20 per cent.; and
- (c) subsection (2) shall have effect with the omission of the words "and to a commercial building or structure".

(2) No initial allowance shall be made under this section in respect of any expenditure on the construction of a building or structure unless it is or is to be first used on or before 31st December 1994; and in a case where—
- (a) an initial allowance is granted under this section in respect of any expenditure on the construction of a building or structure; and
- (b) by the end of that day that building or structure has not come to be used,

that allowance shall be withdrawn and all such assessments and adjustments of assessments to tax shall be made as may be necessary in consequence of its being withdrawn.

(3) Subject to subsection (5) below, this section applies to any capital expenditure incurred under a contract which—
- (a) is entered into either—
  - (i) in the period beginning with 1st November 1992 and ending with 31st October 1993; or
  - (ii) for the purpose of securing that obligations under a contract entered into in that period are complied with;

  but
- (b) is not entered into for the purpose of securing that obligations under a contract entered into before the beginning of that period are complied with.

(4) Subject to subsection (5) below, this section also applies to any additional VAT liability incurred in respect of expenditure falling within subsection (3) above.

(5) This section does not apply to—

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(a) any expenditure incurred, or incurred under a contract entered into, at a time when the site of the building or structure is in an enterprise zone, being a time not more than 10 years after the site was first included in the zone;

(b) expenditure falling in relation to expenditure so incurred within section 1(1A); or

(c) expenditure to which section 2 applies.

(6) Subsection (5) above shall have effect subject to sections 10C and 17A."

(2) In section 4(9) of that Act, in the definition of "capital expenditure", for "or 10B" there shall be substituted " 10B or 10C ".

(3) In section 10(3A) of that Act (provisions not to apply in cases falling within section 10A)—

(a) after "apply" there shall be inserted " for the purpose of determining whether any expenditure is expenditure to which section 2A applies or "; and

(b) after "10A" there shall be inserted " or 10C ".

(4) After section 10B of that Act there shall be inserted the following section—

"**10C Purchases of buildings and structures: allowances under section 2A.**

(1) This section shall apply (subject to subsection (2) below) where—

(a) expenditure is incurred on the construction of a building or structure ("actual expenditure");

(b) some or all of that expenditure is expenditure to which section 2A applies or would be such expenditure if it were capital expenditure; and

(c) before the building or structure is used, the relevant interest in it is sold.

(2) In relation to any case in which the relevant interest is sold in pursuance of a contract entered into in the period beginning with 1st November 1992 and ending with 31st October 1993 by a person who—

(a) carries on a trade which consists, in whole or in part, in the construction of buildings or structures with a view to their sale; and

(b) has been entitled to that interest since before 1st November 1992,

section 2A(3) above shall have effect for the purposes of subsection (1)(b) above and subsections (6) and (11) below as if for the words from "capital expenditure" onwards there were substituted "capital expenditure incurred under a contract entered into either before 1st November 1993 or for the purpose of securing that obligations under a contract entered into before that date are complied with."

(3) Where this section applies—

(a) the actual expenditure shall be left out of account for the purposes of sections 1 to 8; but

(b) subject to subsections (9) to (11) below, the person who buys the relevant interest shall be deemed for those purposes to have incurred, on the date when the purchase price becomes payable, expenditure on

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the construction of the building or structure ("deemed expenditure") equal to the actual expenditure or to the net price paid by him for that interest, whichever is the less.

(4) The deemed expenditure shall be regarded as comprising a section 2A element and a residual element.

(5) The section 2A element of the deemed expenditure shall be calculated in accordance with the formula—

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

(6) In subsection (5) above—

A is the deemed expenditure;

B is so much of the actual expenditure as is expenditure to which section 2A applies or expenditure that would be such expenditure if it were capital expenditure; and

C is the actual expenditure.

(7) The residual element of the deemed expenditure shall be so much (if any) of the deemed expenditure as does not comprise the section 2A element.

(8) Notwithstanding the provisions of subsection (3)(b) above—

(a) the section 2A element of the deemed expenditure shall be treated for the purpose only of determining entitlement to allowances as expenditure to which that section applies; and

(b) the residual element of the deemed expenditure shall be treated for that purpose as expenditure which is not expenditure to which that section applies.

(9) Where the relevant interest in the building or structure is sold more than once before the building or structure is used, subsections (2) and (3)(b) above shall have effect only in relation to the last of those sales.

(10) Where the actual expenditure was incurred by a person carrying on a trade which consists, in whole or in part, in the construction of buildings or structures with a view to their sale and, before the building or structure is used, he sells the relevant interest in it in the course of that trade or, as the case may be, of that part of that trade, then—

(a) if that sale is the only sale of the relevant interest before the building or structure is used, paragraph (b) of subsection (3) above shall have effect as if the words "the actual expenditure or to" and "whichever is the less" were omitted; and

(b) in any other case, that paragraph shall have effect as if the reference to the actual expenditure were a reference to the price paid on that sale.

(11) Where some of the actual expenditure is expenditure falling within subsection (1)(b) of section 10A and some or all of the remainder is expenditure to which section 2A applies or to which section 2A would apply if it were capital expenditure, section 10A and this section shall both have effect but as if—

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(a) subsections (3), (9) and (10) of this section were omitted;

(b) references in this section to the deemed expenditure were references to the expenditure which, in accordance with subsections (2), (8) and (9) of section 10A, is the deemed expenditure for the purposes of that section; and

(c) the section 2A element of the deemed expenditure were comprised in the non-enterprise zone element of that expenditure."

(5) In section 17A of that Act (exclusion of expenditure incurred more than 20 years after a site is included in an enterprise zone), after "sections 1(1)(b)" there shall be inserted " 2A(5)(a) ".

(6) In section 18(14) of that Act (application of section 18(13) to certain buildings), for "qualifying hotels to which this Part applies by virtue of section 7" there shall be substituted " any qualifying hotel ".

(7) This section shall have effect in relation to every chargeable period which, or the basis period for which, ends after 31st October 1992.

Marginal Citations

M73 1990 c. 1.

114 Initial allowances: agricultural buildings etc.

(1) Schedule 12 to this Act (which makes provision, which broadly corresponds to that made in relation to industrial buildings and structures by section 113 above, for the making of initial allowances in respect of expenditure on the construction of agricultural buildings, fences and other works) shall have effect.

(2) This section and the amendments made by Schedule 12 to this Act shall have effect in relation to every chargeable period which, or the basis period for which, ends after 31st October 1992.

115 First year allowances: machinery and plant.

(1) In subsection (1) of section 22 of the [M74]Capital Allowances Act 1990 (first-year allowances), in the words after paragraph (b), after "which" there shall be inserted " , in the case of expenditure to which this section applies by virtue only of subsection (3B) below, shall be of an amount equal to 40 per cent. of that expenditure and, in any other case, ".

(2) After subsection (3A) of that section there shall be inserted the following subsection—

"(3B) This section applies to—

(a) any expenditure which, disregarding any effect of section 83(2) on the time at which it is to be treated as incurred, is incurred by any person in the period beginning with 1st November 1992 and ending with 31st October 1993; and

(b) any additional VAT liability incurred in respect of expenditure to which this section applies by virtue of paragraph (a) above."

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(3) In subsection (4)(c) of that section (no first-year allowance on the provision of machinery or plant for leasing), after "(6)" there shall be inserted " (6A) "; and after subsection (6) of that section there shall be inserted the following subsection—

"(6A) Paragraph (c) of subsection (4) above does not apply to expenditure to which this section applies by virtue only of subsection (3B) above; but (subject to section 43) no first-year allowance shall be made by virtue of subsection (3B) above in respect of any expenditure on the provision of machinery or plant for leasing if—

(a) it appears that the expenditure is such that section 42 would have effect with respect to it; or

(b) each of the following conditions is satisfied, that is to say—

(i) the expenditure is incurred on or after 14th April 1993;

(ii) the expenditure is expenditure in respect of which paragraph (c) of subsection (4) above would, if it applied, prevent the making of any first year allowance; and

(iii) the person to whom the machinery or plant is to be or is leased, or a person who (within the meaning of section 839 of the principal Act) is connected with that person, used the machinery or plant for any purpose at any time before its provision for leasing."

(4) Schedule 13 to this Act (which makes further amendments of that Act of 1990 in connection with the first-year allowances for which provision is made by this section) shall have effect.

(5) This section and the amendments made by Schedule 13 to this Act shall have effect (subject to paragraph 12(3) of that Schedule) in relation to every chargeable period which, or the basis period for which, ends after 31st October 1992.

Marginal Citations

M74 1990 c. 1.

116 Leasing.

(1) In the second sentence in section 40(4) of the [M75]Capital Allowances Act 1990 (shortening of "requisite period" while assets used for qualifying purpose), after "effect" there shall be inserted " for the purposes of sections 31(2) and 37(6) ".

(2) In section 42(1) of that Act (assets leased to non-residents), for paragraph (b) there shall be substituted the following paragraph—

"(b) does not use the machinery or plant exclusively for earning such profits or gains as are chargeable to tax (whether as profits or gains arising from a trade carried on in the United Kingdom or by virtue of section 830(4) of the principal Act),".

(3) In section 50 of that Act (interpretation of Chapter V), after subsection (3) there shall be inserted the following subsection—

"(3A) References in this Chapter to profits or gains chargeable to tax shall not include any of those arising to a person who, under arrangements specified

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in an Order in Council making any such provisions as are referred to in section 788 of the principal Act (double taxation arrangements), is afforded, or is entitled to claim, any relief from the tax chargeable thereon."

(4) This section shall have effect in relation to the use of machinery or plant for leasing under leases entered into on or after 16th March 1993.

Marginal Citations
M75 1990 c. 1.

117 Transactions between connected persons etc.

(1) Section 158 of the [M76]Capital Allowances Act 1990 (election exercisable in the case of transactions between connected persons etc.) shall be amended as follows.

(2) In paragraph (a) of subsection (2) (sum at which industrial building or structure is treated as sold)—

(a) after the word "structure,", in the first place where it occurs, there shall be inserted " a qualifying hotel or a commercial building or structure, "; and

(b) for the words "or structure", in the second place where they occur, there shall be substituted " structure or hotel ".

(3) After paragraph (c) of that subsection there shall be inserted the following paragraph—

"(d) in the case of an asset representing allowable scientific research expenditure of a capital nature—

(i) if the expenditure is expenditure in respect of which an allowance is made under section 137, nil; and

(ii) in any other case, the amount of the expenditure."

(4) In subsection (3) (cases where election may not be made), for paragraph (a) there shall be substituted the following paragraph—

"(a) if the circumstances of the sale (including those of the parties to it) are such that an allowance or charge under Part I, III, IV, VI or VII which (apart from those circumstances) would or might fall, in consequence of the sale, to be made to or on any of those parties will not be capable of so falling;".

(5) This section shall have effect in relation to sales and other transfers on or after 16th March 1993 other than one which is in pursuance of—

(a) a contract entered into before that date; or

(b) a contract entered into for the purpose of securing that obligations under a contract entered into before that date are complied with.

Marginal Citations
M76 1990 c. 1.

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Miscellaneous

118 Scottish trusts.

(1) Where—

(a) any of the income of a trust having effect under the law of Scotland is income to which a beneficiary of the trust would have an equitable right in possession if that trust had effect under the law of England and Wales, and

(b) the trustees of that trust are resident in the United Kingdom,

the rights of that beneficiary shall be deemed for the purposes of the Income Tax Acts to include such a right to that income notwithstanding that no such right is conferred according to the law of Scotland.

(2) This section shall have effect in relation to the income of any trust for the year 1993–94 or any subsequent year of assessment.

119 Controlled foreign companies.

(1) In section 750(1) of the Taxes Act 1988 (meaning of lower level of taxation for purposes of provisions relating to controlled foreign companies) for "one-half" there shall be substituted " three-quarters ".

(2) Subsection (1) above shall apply in relation to accounting periods beginning on or after 16th March 1993.

(3) Where a company is by virtue of section 749(1) or (2) of the Taxes Act 1988 regarded as resident in a territory outside the United Kingdom and (apart from this section)—

(a) an accounting period of the company would begin before 16th March 1993 and end on or after that date, and

(b) the company would not be considered to be subject, by virtue of section 750(1) of that Act, to a lower level of taxation in that accounting period in the territory in which it is regarded as resident,

for the purposes of Chapter IV of Part XVII of that Act that accounting period shall be treated as ending on 15th March 1993.

120 Pay and file: miscellaneous amendments.

Schedule 14 to this Act (which makes various amendments of the [M77]Taxes Management Act 1970, the Taxes Act 1988 and the [M78]Finance Act 1989 with a view to, or in connection with, the introduction of "pay and file") shall have effect.

Marginal Citations

M77 1970 c. 9.

M78 1989 c. 26.

121 Repayments and payments to friendly societies.

(1) The Treasury may by regulations provide, in relation to accounting periods beginning on or after 1st January 1994, for Schedule 19AB of the Taxes Act 1988 (payments on account of exempt pension business) to have effect, with such modifications and

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exceptions as may be specified in the regulations, in relation to any business to which this section applies as it has effect in relation to the pension business of an insurance company.

(2) This section applies to any business of a friendly society the profits arising from which are exempt from income tax and corporation tax under section 460(1), 461(1) or 461B(1) of the Taxes Act 1988 (life or endowment and other business), not being a business carried on by a friendly society all of whose profits are so exempt.

(3) Regulations under this section may make different provision for different cases.

(4) This section shall be without prejudice to section 463(1) of the Taxes Act 1988 (application of the Corporation Tax Acts to life or endowment business carried on by friendly societies).

Modifications etc. (not altering text)
C11 S. 121 modified (31.7.1997) by 1997 c. 58, s. 23, **Sch. 3 para. 12** (with s. 3(3))

122 Application of Income Tax Acts etc. to public departments.

(1) In subsection (2) of section 829 of the Taxes Act 1988 (restriction on application of Income Tax Acts to public departments), at the end there shall be inserted " unless it is tax which would not have been so borne but for a failure by a public office or department of the Crown to make a deduction required by virtue of subsection (1) above. "

(2) The provisions of Parts IX and X of the Taxes Management Act 1970 (interest and penalties) shall apply in relation to public offices and departments of the Crown for the purposes, so far as they so apply, of the other provisions of that Act and of the provisions of the Income Tax Acts mentioned in section 829(1) of the Taxes Act 1988.

(3) This section shall have effect in relation to the year 1993-94 and subsequent years of assessment.

123 Expenditure involving crime.

(1) The following section shall be inserted after section 577 of the Taxes Act 1988—

"**577A Expenditure involving crime.**

(1) In computing profits or gains chargeable to tax under Schedule A or Schedule D, no deduction shall be made for any expenditure incurred in making a payment the making of which constitutes the commission of a criminal offence.

(2) Such expenditure shall not be included in computing any expenses of management in respect of which relief may be given under the Tax Acts."

(2) This section shall apply in relation to expenditure incurred on or after 11th June 1993.

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124 Expenses of Members of Parliament.

(1) Section 200 of the Taxes Act 1988 (expenses of Members of Parliament) shall become subsection (1) of that section and the following subsection shall be inserted after that subsection—

"(2) A sum which is paid to a Member of the House of Commons in accordance with any resolution of that House providing for Members of that House to be reimbursed in respect of the cost of, and any additional expenses incurred in, travelling between the United Kingdom and any European Community institution in Brussels, Luxembourg or Strasbourg shall not be regarded as income for any purpose of the Income Tax Acts."

(2) This section shall apply in relation to sums paid on or after 1st January 1992.

(3) 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.

CHAPTER II

EXCHANGE GAINS AND LOSSES

Modifications etc. (not altering text)

C12 Pt. II Chapter II (ss. 125-170) modified (1.5.1995) by 1988 c. 1, **Sch. 24 para. 19(2)** (as inserted (1.5.1995) by 1995 c. 4, s. 133, Sch. 25 paras. 1, **6(5)**)
Pt. II Chapter II (ss. 125-170) restricted (31.7.1998) by 1988 c. 1, **Sch. 28AA para. 8** (as inserted (31.7.1998) by 1998 c. 36, s. 108, **Sch. 16 para. 8(1)(a)**)
Pt. II Chapter II (ss. 125-170): power to amend conferred (3.5.1994) by 1994 c. 9, **s. 177(6)(b)**
Pt. II Chapter II (ss. 125-170) excluded (3.5.1994) by 1994 c. 9, **ss. 226(2)**, 230
Pt. II Chapter II (ss. 125-170) modified (19.9.1994) by 1994 c. 21, s. 21, **Sch. 4 Pt. I para. 23(2)** (with s. 40(7)); S.I. 1994/2189, art. 2, **Sch.**
Pt. II Chapter II (ss. 125-170) modified (23.3.1995) by S.I. 1994/3226, **reg. 3(2)**
Pt. II Chapter II (ss. 125-170) applied (23.3.1995) by S.I. 1994/3231, **reg. 2(1)**
Pt. II Chapter II (ss. 125-170) modified (29.4.1996) by 1996 c. 8, s. 105, **Sch. 15 Pt. I para. 22(1)** (with ss. 80-105)

C13 Pt. II Chapter II to be construed with 1994 c. 31, **Sch. 4 Pt. I para. 23** (19.9.1994) by 1994 c. 21, s. 21, **Sch. 4 Pt. I para. 23(5)**; S.I. 1994/2189, art. 2, **Sch.**

Accrual of gains and losses

125 Accrual on qualifying assets and liabilities.

(1) Subsection (2) below applies where a qualifying company holds a qualifying asset and there is a difference between—

(a) the local currency equivalent, at the translation time with which an accrual period as regards the asset begins, of the basic valuation of the asset, and

(b) the local currency equivalent, at the translation time with which the accrual period ends, of the basic valuation of the asset.

(2) There is as regards the asset an exchange difference for the accrual period, and—

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(a) if the difference represents an increase over the period, an initial exchange gain of an amount equal to the difference accrues to the company as regards the asset for the period;

(b) if the difference represents a decrease over the period, an initial exchange loss of an amount equal to the difference accrues to the company as regards the asset for the period.

(3) Subsection (4) below applies where a qualifying company owes a qualifying liability and there is a difference between—

(a) the local currency equivalent, at the translation time with which an accrual period as regards the liability begins, of the basic valuation of the liability, and

(b) the local currency equivalent, at the translation time with which the accrual period ends, of the basic valuation of the liability.

(4) There is as regards the liability an exchange difference for the accrual period, and—

(a) if the difference represents a decrease over the period, an initial exchange gain of an amount equal to the difference accrues to the company as regards the liability for the period;

(b) if the difference represents an increase over the period, an initial exchange loss of an amount equal to the difference accrues to the company as regards the liability for the period.

Modifications etc. (not altering text)

C14 Ss. 125-127 modified (1.5.1995) by 1988 c. 1, **Sch. 24 para. 14** (as inserted (1.5.1995) by 1995 c. 4, s. 133, Sch. 25 paras. 1, **6(5)**)

126 Accrual on currency contracts.

(1) This section applies where a qualifying company enters into a contract (a currency contract) under which—

(a) it becomes entitled to a right and subject to a duty to receive payment at a specified time of a specified amount of one currency (the first currency), and

(b) it becomes entitled to a right and subject to a duty to pay in exchange and at the same time a specified amount of another currency (the second currency).

(2) Subsection (3) below applies if there is a difference between—

(a) the local currency equivalent, at the translation time with which an accrual period as regards the contract begins, of the amount of the first currency, and

(b) the local currency equivalent, at the translation time with which the accrual period ends, of the amount of the first currency.

(3) There is as regards the contract an exchange difference for the accrual period, and—

(a) if the difference represents an increase over the period, an initial exchange gain of an amount equal to the difference accrues to the company as regards the contract for the period;

(b) if the difference represents a decrease over the period, an initial exchange loss of an amount equal to the difference accrues to the company as regards the contract for the period.

(4) Subsection (5) below applies if there is a difference between—

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(a) the local currency equivalent, at the translation time with which an accrual period as regards the contract begins, of the amount of the second currency, and

(b) the local currency equivalent, at the translation time with which the accrual period ends, of the amount of the second currency.

(5) There is as regards the contract an exchange difference for the accrual period, and—

(a) if the difference represents a decrease over the period, an initial exchange gain of an amount equal to the difference accrues to the company as regards the contract for the period;

(b) if the difference represents an increase over the period, an initial exchange loss of an amount equal to the difference accrues to the company as regards the contract for the period.

127 Accrual on debts whose amounts vary.

(1) In a case where—

(a) a qualifying company holds an asset consisting of a right to settlement under a qualifying debt or owes a liability consisting of a duty to settle under such a debt, and

(b) the nominal amount of the debt outstanding varies during an accrual period (whether because of an increase or a decrease or both),

the following provisions of this section shall apply for the period and section 125 above shall not.

(2) In such a case—

(a) take the local currency equivalent, at the translation time with which the accrual period begins, of the nominal amount of the debt then outstanding;

(b) take the local currency equivalent, at each time (if any) immediately after the nominal amount of the debt outstanding increases in the accrual period, of the amount by which it then increases;

(c) take the local currency equivalent, at each time (if any) immediately after the nominal amount of the debt outstanding decreases in the accrual period, of the amount by which it then decreases;

(d) take the figure found under paragraph (a) above, add each figure found under paragraph (b) above, subtract each figure found under paragraph (c) above, and call the resulting figure the first amount;

(e) take the local currency equivalent, at the translation time with which the accrual period ends, of the nominal amount of the debt then outstanding, and call the figure so found the second amount.

(3) Where the qualifying company has a right to settlement under the debt the following provisions apply in relation to the asset consisting of the right—

(a) if the second amount exceeds the first an initial exchange gain of an amount equal to the difference between them accrues to the company as regards the asset for the accrual period;

(b) if the second amount is less than the first an initial exchange loss of an amount equal to the difference between them accrues to the company as regards the asset for the accrual period.

(4) Where the qualifying company has a duty to settle under the debt the following provisions apply in relation to the liability consisting of the duty—

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(a) if the second amount is less than the first an initial exchange gain of an amount equal to the difference between them accrues to the company as regards the liability for the accrual period;

(b) if the second amount exceeds the first an initial exchange loss of an amount equal to the difference between them accrues to the company as regards the liability for the accrual period.

(5) If the first amount has a negative value, for the purposes of this section the second amount (however small its value) shall be taken to exceed the first amount (however large its value).

(6) Subsection (7) below modifies the preceding provisions of this section in their application to an asset or liability where there is a difference between—

(a) the basic valuation of the asset or liability, and

(b) the nominal amount of the debt outstanding at the translation time with which the accrual period begins.

(7) In such a case—

(a) the reference in subsection (2)(a) above to the nominal amount of the debt outstanding shall be taken to be a reference to the basic valuation of the asset or liability;

(b) the reference in subsection (2)(c) above to the amount by which the nominal amount of the debt outstanding decreases shall be taken to be a reference to the amount found under subsection (8) below;

(c) the reference in subsection (2)(e) above to the nominal amount of the debt outstanding shall be taken to be a reference to the amount found under subsection (10) below.

(8) The amount referred to in subsection (7)(b) above is the amount given by the formula—

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

(9) For the purposes of subsection (8) above—

A is the basic valuation of the asset or liability;

B is the amount by which, at the time of the decrease mentioned in subsection (2)(c) above, the nominal amount of the debt outstanding then decreases;

C is the nominal amount of the debt outstanding at the translation time with which the accrual period begins.

(10) The amount referred to in subsection (7)(c) above is the amount given by the formula—

$$D + E - F$$

(11) For the purposes of subsection (10) above—

D is the basic valuation of the asset or liability;

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E is the amount (if any) by which the nominal amount of the debt outstanding has at any time increased in the accrual period or, if it has increased more than once, the aggregate of such amounts;

F is the amount (if any) found under subsection (8) above or, if the nominal amount of the debt outstanding has decreased more than once in the accrual period, the aggregate of the amounts so found.

Modifications etc. (not altering text)

C15 Ss. 125-127 modified (1.5.1995) by 1988 c. 1, **Sch. 24 para. 14** (as inserted (1.5.1995) by 1995 c. 4, s. 133, Sch. 25 paras. 1, **6(5)**)
S. 127 modified (19.9.1994) by 1994 c. 21, s. 21, **Sch. 4 Pt. I para. 23(3)** (with s. 40(7)); S.I. 1994/2189, art. 2, **Sch.**

Trading gains and losses

128 Trading gains and losses.

(1) Subsections (2) to (4) below apply where—

(a) as regards an asset, liability or contract an initial exchange gain accrues to a qualifying company for an accrual period, and

(b) at any time in the period the asset or contract was held, or the liability was owed, by the company for the purposes of a trade or part of a trade carried on by it.

(2) If throughout the accrual period the asset or contract was held, or the liability was owed, by the company solely for the purposes of the trade or part the whole of the gain is an exchange gain of the trade or part for the period.

(3) In any other case the gain shall be apportioned on a just and reasonable basis and so much as is attributable to the trade or part is an exchange gain of the trade or part for the period.

(4) The company shall be treated for the purposes of the Tax Acts as—

(a) receiving in respect of the trade or part an amount equal to the exchange gain of the trade or part for the accrual period, and

(b) receiving the amount in respect of the accounting period which constitutes the accrual period or in which the accrual period falls.

(5) Subsections (6) to (8) below apply where—

(a) as regards an asset, liability or contract an initial exchange loss accrues to a qualifying company for an accrual period, and

(b) at any time in the period the asset or contract was held, or the liability was owed, by the company for the purposes of a trade or part of a trade carried on by it.

(6) If throughout the accrual period the asset or contract was held, or the liability was owed, by the company solely for the purposes of the trade or part the whole of the loss is an exchange loss of the trade or part for the period.

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(7) In any other case the loss shall be apportioned on a just and reasonable basis and so much as is attributable to the trade or part is an exchange loss of the trade or part for the period.

(8) The company shall be treated for the purposes of the Tax Acts as—
- (a) incurring in the trade or part a loss of an amount equal to the exchange loss of the trade or part for the accrual period, and
- (b) incurring the loss in respect of the accounting period which constitutes the accrual period or in which the accrual period falls.

(9) For the purposes of this section a part of a trade is any part of a trade whose basic profits or losses for the relevant accounting period are by virtue of regulations under section 94 above to be computed and expressed in a particular currency for the purposes of corporation tax; and the relevant accounting period is the accounting period which constitutes the accrual period concerned or in which that accrual period falls.

(10) The preceding provisions of this section apply—
- (a) whether the asset or contract is at any time held, or the liability is at any time owed, on revenue account or capital account, and
- (b) notwithstanding anything in section 74 of the Taxes Act 1988 (general rules as to deductions not allowable).

(11) In a case where—
- (a) an accounting period of a qualifying company begins on or after its commencement day, and
- (b) but for this subsection, a gain or loss falling within subsection (12) below would be taken into account in calculating for the purposes of corporation tax the profits or losses for the period of a trade carried on by the company,

the gain or loss shall be left out of account in calculating the profits or losses.

(12) A gain or loss falls within this subsection if it—
- (a) accrues to the company, otherwise than by virtue of this Chapter, as regards a qualifying asset or liability or a currency contract, and
- (b) is attributable to fluctuations in currency exchange rates;

and it is immaterial whether the gain or loss is realised.

Non-trading gains and losses

129 Non-trading gains and losses: general.

(1) In a case where—
- (a) as regards an asset, liability or contract an initial exchange gain accrues to a qualifying company for an accrual period, and
- (b) the whole or part of the gain is not an exchange gain of a trade or part of a trade for the period,

the whole or part (as the case may be) is a non-trading exchange gain for the period.

(2) The company shall be treated as—
- (a) receiving in respect of the asset, liability or contract an amount equal to the non-trading exchange gain for the accrual period, and

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(b) receiving the amount in the accounting period which constitutes the accrual period or in which the accrual period falls;

and (subject to subsection (6) below) the rules in sections 130 to 133 below shall apply.

(3) In a case where—

(a) as regards an asset, liability or contract an initial exchange loss accrues to a qualifying company for an accrual period, and

(b) the whole or part of the loss is not an exchange loss of a trade or part of a trade for the period,

the whole or part (as the case may be) is a non-trading exchange loss for the period.

(4) The company shall be treated as—

(a) incurring in respect of the asset, liability or contract a loss of an amount equal to the non-trading exchange loss for the accrual period, and

(b) incurring the loss in the accounting period which constitutes the accrual period or in which the accrual period falls;

and (subject to subsection (6) below) the rules in sections 130 to 133 below shall apply.

(5) For the purposes of subsection (6) below and sections 130 to 133 below, in relation to an accounting period—

(a) amount A is the amount a company is treated as receiving in the accounting period by virtue of this section or (if it is treated as so receiving two or more amounts) the aggregate of those amounts;

(b) amount B is the amount of the loss a company is treated as incurring in the accounting period by virtue of this section or (if it is treated as so incurring two or more losses) the aggregate of the amounts of those losses.

(6) In a case where—

(a) a company is treated as receiving in an accounting period an amount or amounts by virtue of this section,

(b) it is treated as incurring in the accounting period a loss or losses by virtue of this section, and

(c) amount A is equal to amount B,

the rules in sections 130 to 133 below shall not apply.

(7) In a case where—

(a) a non-trading exchange gain or loss would (apart from this subsection) accrue as regards an asset consisting of a right to settlement under a qualifying debt, and

(b) the right is a right to receive income (whether interest, dividend or otherwise),

the non-trading exchange gain or loss shall be treated as not accruing.

(8) In a case where—

(a) a non-trading exchange gain or loss would (apart from this subsection) accrue to a company as regards a liability consisting of a duty to settle under a qualifying debt, and

(b) a charge is allowed to the company in respect of the debt under section 338 of the Taxes Act 1988 (allowance of charges on income and capital) [F11]. . .,

the non-trading exchange gain or loss shall be treated as not accruing.

[[F12](8A) A charge shall be treated as allowed as mentioned in subsection (8) above if—

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(a) it would be so allowed if the company's total profits were sufficient,

(b) it would be so allowed if the duty mentioned in that subsection were settled, and if in settling it payment were made out of the company's profits brought into charge to corporation tax, or

(c) it would be so allowed if the facts were as mentioned in both paragraph (a) and paragraph (b) above.**]**

(9) Section 396 of the Taxes Act 1988 (Case VI losses) shall not be taken to apply to a loss which a company is treated as incurring by virtue of this section; and an amount which a company is treated as receiving by virtue of this section shall not be regarded, for the purposes of subsection (1) of section 396, as income arising as mentioned in that subsection.

Textual Amendments

F11 Words in s. 129(8)(b) repealed (retrospectively) by 1995 c. 4, ss. 130, 162, Sch. 24 Pt. I paras. 1, 3, **Sch. 29 Pt. VIII(17)**

F12 S. 129(8A) inserted (retrospectively) by 1995 c. 4, s. 130, Sch. 24 Pt. I paras. 1, **3(3)**

Modifications etc. (not altering text)

C16 S. 129 modified (23.3.1995) by S.I. 1994/3226, **reg. 15(5)**

C17 S. 129 applied (23.3.1995) by S.I. 1994/3229, **reg. 3(2)(b)**

C18 S. 129(5)(6)(9) modified (3.5.1994) by 1994 c. 9, ss. 160(2)(3), 169, Sch. 18 paras. 1(3)(4)(7), **3(3)**,

129 Non-trading gains and losses: general. U.K.

(1) In a case where—

(a) as regards an asset, liability or contract an initial exchange gain accrues to a qualifying company for an accrual period, and

(b) the whole or part of the gain is not an exchange gain of a trade or part of a trade for the period,

the whole or part (as the case may be) is a non-trading exchange gain for the period.

(2) The company shall be treated as—

(a) receiving in respect of the asset, liability or contract an amount equal to the non-trading exchange gain for the accrual period, and

(b) receiving the amount in the accounting period which constitutes the accrual period or in which the accrual period falls;

and (subject to subsection (6) below) the rules in sections 130 to 133 below shall apply.

(3) In a case where—

(a) as regards an asset, liability or contract an initial exchange loss accrues to a qualifying company for an accrual period, and

(b) the whole or part of the loss is not an exchange loss of a trade or part of a trade for the period,

the whole or part (as the case may be) is a non-trading exchange loss for the period.

(4) The company shall be treated as—

(a) incurring in respect of the asset, liability or contract a loss of an amount equal to the non-trading exchange loss for the accrual period, and

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(b) incurring the loss in the accounting period which constitutes the accrual period or in which the accrual period falls;

and (subject to subsection (6) below) the rules in sections 130 to 133 below shall apply.

(5) For the purposes of subsection (6) below and sections 130 to 133 below, in relation to an accounting period—

(a) amount A is the amount a company is treated as receiving in the accounting period by virtue of this section or (if it is treated as so receiving two or more amounts) the aggregate of those amounts;

(b) amount B is the amount of the loss a company is treated as incurring in the accounting period by virtue of this section or (if it is treated as so incurring two or more losses) the aggregate of the amounts of those losses.

(6) In a case where—

(a) a company is treated as receiving in an accounting period an amount or amounts by virtue of this section,

(b) it is treated as incurring in the accounting period a loss or losses by virtue of this section, and

(c) amount A is equal to amount B,

the rules in sections 130 to 133 below shall not apply.

(7) In a case where—

(a) a non-trading exchange gain or loss would (apart from this subsection) accrue as regards an asset consisting of a right to settlement under a qualifying debt, and

(b) the right is a right to receive income (whether interest, dividend or otherwise),

the non-trading exchange gain or loss shall be treated as not accruing.

(8) In a case where—

(a) a non-trading exchange gain or loss would (apart from this subsection) accrue to a company as regards a liability consisting of a duty to settle under a qualifying debt, and

(b) a charge is allowed to the company in respect of the debt under section 338 of the Taxes Act 1988 (allowance of charges on income and capital) or the circumstances are such that a charge would be so allowed if the duty were settled,

the non-trading exchange gain or loss shall be treated as not accruing.

(9) Section 396 of the Taxes Act 1988 (Case VI losses) shall not be taken to apply to a loss which a company is treated as incurring by virtue of this section; and an amount which a company is treated as receiving by virtue of this section shall not be regarded, for the purposes of subsection (1) of section 396, as income arising as mentioned in that subsection.

130 Non-trading gains and losses: charge to tax.

(1) Subsection (2) below applies where—

(a) a company is treated as receiving in an accounting period an amount or amounts by virtue of section 129 above, and

(b) it is not treated as incurring in the accounting period any loss by virtue of that section.

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(2) The company shall be treated as receiving in the accounting period annual profits or gains of an amount equal to amount A, and the profits or gains shall be chargeable to tax under Case VI of Schedule D for the accounting period.

(3) Subsection (4) below applies where—

(a) a company is treated as receiving in an accounting period an amount or amounts by virtue of section 129 above,

(b) it is treated as incurring in the accounting period a loss or losses by virtue of that section, and

(c) amount A exceeds amount B.

(4) The company shall be treated as receiving in the accounting period annual profits or gains of an amount equal to amount A minus amount B, and the profits or gains shall be chargeable to tax under Case VI of Schedule D for the accounting period.

Modifications etc. (not altering text)

C19 S. 130 modified (3.5.1994) by 1994 c. 9, ss. 160(2)(3), 169, Sch. 18 paras. 1(3)(4)(7), **3(3)**

[F13]131 Non-trading gains and losses: relief.

(1) This section applies where—

(a) a company is treated as incurring in an accounting period a loss or losses by virtue of section 129 above, and

(b) it is not treated as receiving in the accounting period any amount by virtue of that section;

and where this section applies by virtue of this subsection references to the relievable amount for the accounting period are to an amount equal to amount B.

(2) This section also applies where—

(a) a company is treated as incurring in an accounting period a loss or losses by virtue of section 129 above,

(b) it is treated as receiving in the accounting period an amount or amounts by virtue of that section, and

(c) amount B exceeds amount A;

and where this section applies by virtue of this subsection references to the relievable amount for the accounting period are to an amount equal to amount B minus amount A.

(3) The company may claim under this subsection that the whole or part of the relievable amount for an accounting period shall be treated for the purposes of section 403(1) of the Taxes Act 1988 (group relief) as if it were a loss incurred by the company in the period in carrying on a trade, and in such a case section 403(2) (exclusions) shall not apply.

(4) The company may claim under this subsection that the whole or part of the relievable amount for an accounting period shall be set off for the purposes of corporation tax against profits (of whatever description) of that accounting period; and in such a case, subject to any relief for a loss incurred in a trade in an earlier accounting period, those profits shall then be treated as reduced accordingly.

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(5) Where a company has made no claim under subsection (3) or (4) above as regards the relievable amount for an accounting period, the company may claim under this subsection that—

(a) the whole of the relievable amount, or

(b) where the relievable amount exceeds the relevant exchange profits, so much of the relievable amount as is equal to those profits,

shall be treated as mentioned in subsection (7) below.

(6) Where a company has made a claim under subsection (3) or (4) above as regards the relievable amount for an accounting period, the company may claim under this subsection that—

(a) such part of the relievable amount as is not the subject of any such claim, or

(b) where that part exceeds the relevant exchange profits, so much of that part as is equal to those profits,

shall be treated as mentioned in subsection (7) below.

(7) Where a company claims under subsection (5) or (6) above as regards the whole or part of the relievable amount for an accounting period, the whole or part concerned shall be set off for the purposes of corporation tax against the exchange profits of preceding accounting periods falling wholly or partly within the permitted period; and (subject to any relief for an earlier loss) the exchange profits of any of those accounting periods shall then be treated as reduced by the whole or part concerned or by so much of it as cannot be set off under this subsection against the exchange profits of a later accounting period.

(8) For the purposes of subsections (5) and (6) above "the relevant exchange profits" means the total of the following—

(a) the exchange profits, as reduced by any reliefs for earlier losses and any reliefs falling within subsection (9) below, of all those accounting periods falling wholly within the permitted period, and

(b) such part of the exchange profits, as so reduced, of any accounting period falling partly before the beginning of the permitted period as is proportionate to the part of the accounting period falling within the permitted period.

(9) The reliefs falling within this subsection are—

(a) any relief under section 338 of the Taxes Act 1988 (charges on income) in respect of payments made wholly and exclusively for the purposes of a trade;

(b) where the company is an investment company for the purposes of Part IV of the Taxes Act 1988, any relief under that section in respect of payments made wholly and exclusively for the purposes of its business.

(10) For the purposes of subsections (7) and (8) above—

(a) the exchange profits of an accounting period are the annual profits or gains the company is treated as receiving in that period under section 130 above,

(b) the permitted period is the period of three years immediately preceding the accounting period first mentioned in subsection (7) above, and

(c) an earlier loss is a loss incurred, or treated as incurred, in an accounting period earlier than that first mentioned in subsection (7) above.

(11) The amount of the reduction that may be made under subsection (7) above in the exchange profits of an accounting period falling partly before the beginning of the

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permitted period shall not exceed a part of those profits proportionate to the part of the accounting period falling within the permitted period.

(12) If the whole or part of the relievable amount for an accounting period is not dealt with under a claim under this section—

(a) the company shall be treated as incurring by virtue of section 129 above a loss of an amount equal to the whole or part (as the case may be),

(b) the company shall be treated as incurring the loss in the next succeeding accounting period, and

(c) in relation to that accounting period references to amount B shall be construed accordingly.

(13) A company—

(a) may not claim under more than one of subsections (3) and (4) above as regards the same part of a relievable amount, and

(b) where it has claimed under subsection (5)(b) or (6) above as regards part of a relievable amount, may not later claim under subsection (3) or (4) above as regards any part of the relievable amount.

(14) A claim under any of subsections (3) to (6) above must be made within the period of two years immediately following the accounting period to which the relievable amount relates or within such further period as the Board may allow.

Textual Amendments

F13 S. 130 substituted (29.4.1996) for ss. 130-133 by 1996 c. 8, s. 104, **Sch. 14 para. 69** (with ss. 80-105)

Modifications etc. (not altering text)

C20 S. 131 modified (3.5.1994) by 1994 c. 9, ss. 160(2)(3), 169, Sch. 18 paras. 1(3)(4)(7), **3(3)**

C21 S. 131(4)(7) excluded (23.3.1995) by S.I. 1994/3231, **reg. 6(1)**

[F14]132 Modifications where loss carried forward.

(1) This section applies where section 131(12) above treats a company as incurring a loss in an accounting period by virtue of section 129 above.

(2) In this section references to amount C are to so much of amount B as the company is treated as incurring in the accounting period otherwise than by virtue of section 131(12).

(3) Where section 131 above applies by virtue of section 131(1) and this section applies, then, as regards the accounting period—

(a) if amount C is nil section 131(3) to (6) shall not apply;

(b) if amount C exceeds nil the references to the relievable amount in section 131(3) to (7), (13) and (14) shall be construed as references to so much of that amount as equals amount C.

(4) Where section 131 above applies by virtue of section 131(2) and this section applies, then, as regards the accounting period—

(a) if amount C does not exceed amount A section 131(3) to (6) shall not apply;

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Changes to legislation: *Finance Act 1993 is up to date with all changes known to be in force on or before 08 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(b) if amount C exceeds amount A the references to the relievable amount in section 131(3) to (7), (13) and (14) shall be construed as references to so much of that amount as equals amount C minus amount A.

Textual Amendments

F14 S. 130 substituted (29.4.1996) for ss. 130-133 by 1996 c. 8, s. 104, **Sch. 14 para. 69** (with ss. 80-105)

Modifications etc. (not altering text)

C22 S. 132 modified (3.5.1994) by 1994 c. 9, ss. 160(2)(3), 169, Sch. 18 paras. 1(3)(4), **3(3)**

[F15]133 Interaction with ICTA.

(1) Section 131(4) above shall apply before section 393A(1) of the Taxes Act 1988 in relation to profits of the accounting period first mentioned in section 131(4) above.

(2) Relief shall not be given under section 131(4) above against any ring fence profits of the company; and in this subsection "ring fence profits" has the same meaning as in Chapter V of Part XII of the Taxes Act 1988.

(3) Where the company incurs a loss in a trade in the accounting period first mentioned in subsection (7) of section 131 above, that subsection shall apply after section 393A(1) of the Taxes Act 1988 in relation to exchange profits of a particular accounting period.

(4) Relief shall not be given by virtue of section 131(7) above so as to interfere with—

(a) any relief under section 338 of the Taxes Act 1988 (charges on income) in respect of payments made wholly and exclusively for the purposes of a trade, or

(b) where the company is an investment company for the purposes of Part IV of the Taxes Act 1988, any relief under that section in respect of payments made wholly and exclusively for the purposes of its business.

(5) The reference in subsection (3) above to exchange profits of an accounting period shall be construed in accordance with section 131(10) above.

Textual Amendments

F15 S. 130 substituted (29.4.1996) for ss. 130-133 by 1996 c. 8, s. 104, **Sch. 14 para. 69** (with ss. 80-105)

Modifications etc. (not altering text)

C23 S. 133 modified (3.5.1994) by 1994 c. 9, ss. 160(2)(3), 169, Sch. 18 paras. 1(3)(4), **3(3)**

Alternative calculation

134 Alternative calculation.

Schedule 15 to this Act (which provides for the amount of an initial exchange gain or loss to be found in accordance with an alternative method of calculation in certain cases) shall have effect.

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Main benefit test

135 Loss disregarded if the main benefit.

(1) In a case where—

(a) an exchange loss would (apart from this section) accrue to a company for an accrual period,

(b) the loss would accrue as regards an asset or liability falling within section 153(1)(a) or (2)(a) below,

(c) the nominal currency of the asset or liability is such that the main benefit or one of the main benefits that might be expected to arise from the company's holding the asset or owing the liability is the accrual of the loss, and

(d) the Board direct that this subsection shall apply,

the loss shall be treated as not accruing.

(2) References in subsection (1) above to an exchange loss are to an exchange loss of a trade or an exchange loss of part of a trade or a non-trading exchange loss.

VALID FROM 28/07/2000

[F16 135A Sterling used if avoidance of gain is the main benefit.

(1) This section applies where, as regards qualifying assets and liabilities of a company—

(a) a currency other than sterling would (apart from this section) be the local currency for the purposes of sections 125 to 129 above; and

(b) the main benefit that might be expected to accrue from that currency being the local currency is that no net exchange gain would accrue to the company for those purposes.

(2) If a net exchange gain would accrue to the company if sterling were the local currency for the purposes of sections 125 to 129 above, then, as regards the assets and liabilities concerned, sterling shall be the local currency for those purposes.

(3) For the purposes of this section a net exchange gain accrues to a company if its initial exchange gains (as determined in accordance with this Chapter) exceed its initial exchange losses (as so determined).**]**

Textual Amendments

F16 S. 135A inserted (28.7.2000 with effect as mentioned in s. 106(17) of the amending Act) by 2000 c. 17, **s. 106(7)**

Arm's length test

136 Arm's length test: assets and liabilities.

(1) Subject to the following provisions of this section, subsection (2) below applies where—

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(a) a qualifying company becomes entitled to a qualifying asset falling within section 153(1)(a) below or subject to a qualifying liability falling within section 153(2)(a) below,

(b) the transaction as a result of which the company becomes entitled or subject to the asset or liability would not have been entered into at all if the parties to the transaction had been dealing at arm's length, or the transaction's terms would have been different if they had been so dealing,

(c) as regards the asset or liability an exchange loss accrues to the company for an accrual period (or would so accrue apart from this section), and

(d) the Board direct that subsection (2) below shall apply;

and any reference in this section to an exchange loss is to an exchange loss of a trade or an exchange loss of part of a trade or a non-trading exchange loss.

(2) The exchange loss shall be treated as not accruing to the company for the accrual period.

(3) Where subsection (2) above applies and the accrual period is not the last to occur as regards the asset or liability while it is held or owed by the company—

(a) an amount equal to the amount of the loss shall be set off against appropriate exchange gains accruing to the company as regards the asset or liability for subsequent accrual periods, and

(b) any such gain shall then be treated as reduced by that amount or by so much of it as cannot be set off under this subsection against any such gain accruing for an earlier accrual period;

and an appropriate exchange gain is an exchange gain of the trade concerned (if the exchange loss is an exchange loss of a trade) or an exchange gain of the part of the trade concerned (if the exchange loss is an exchange loss of part of a trade) or a non-trading exchange gain (if the exchange loss is a non-trading exchange loss).

(4) Subsection (5) below applies where the circumstances are such that, had the parties to the transaction been dealing at arm's length, its terms would have been the same except that the amount of the debt would have been an amount (the adjusted amount) greater than nil but less than its actual amount.

(5) In such a case—

(a) subsection (2) above shall not apply, and

(b) the exchange loss accruing to the company for the accrual period shall be treated as reduced to the amount it would have been if the amount of the debt had been the adjusted amount;

but paragraph (b) above shall only apply if the Board so direct.

(6) Where subsection (5)(b) above applies and the accrual period is not the last to occur as regards the asset or liability while it is held or owed by the company—

(a) an amount equal to the amount by which the loss is treated as reduced shall be set off against appropriate exchange gains accruing to the company as regards the asset or liability for subsequent accrual periods, and

(b) any such gain shall then be treated as reduced by that amount or by so much of it as cannot be set off under this subsection against any such gain accruing for an earlier accrual period;

and an appropriate exchange gain is an exchange gain of the trade concerned (if the exchange loss is an exchange loss of a trade) or an exchange gain of the part of the

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trade concerned (if the exchange loss is an exchange loss of part of a trade) or a non-trading exchange gain (if the exchange loss is a non-trading exchange loss).

(7) Subsection (2) above shall not apply in a case where—

(a) the right constituting the asset mentioned in subsection (1) above arises under a loan made by the company,

(b) the circumstances are such that, had the parties to the transaction been dealing at arm's length, its terms would have been the same except that interest would have been charged on the loan or, as the case may be, charged at a higher rate, and

(c) in computing for tax purposes the profits or losses of the company for the accounting period which constitutes the accrual period or in which the accrual period falls the whole of the loan has been treated under section 770 of the Taxes Act 1988 (undervalue or overvalue) as if interest had been charged on it or, as the case may be, charged at a higher rate.

(8) Subsection (9) below applies where—

(a) paragraphs (a) and (b) of subsection (7) above apply, and

(b) in computing for tax purposes the profits or losses of the company for the accounting period which constitutes the accrual period or in which the accrual period falls part of the loan has been treated under section 770 of the Taxes Act 1988 as if interest had been charged on it or, as the case may be, charged at a higher rate;

and in subsection (9) below the reference to the adjusted amount is to an amount equal to the part of the loan that has been so treated.

(9) In such a case—

(a) subsection (2) above shall not apply, and

(b) the exchange loss accruing to the company for the accrual period shall be treated as reduced to the amount it would have been if the amount of the loan had been the adjusted amount;

but paragraph (b) above shall only apply if the Board so direct.

(10) Where subsection (9)(b) above applies and the accrual period is not the last to occur as regards the asset while it is held by the company—

(a) an amount equal to the amount by which the loss is treated as reduced shall be set off against appropriate exchange gains accruing to the company as regards the asset for subsequent accrual periods, and

(b) any such gain shall then be treated as reduced by that amount or by so much of it as cannot be set off under this subsection against any such gain accruing for an earlier accrual period;

and an appropriate exchange gain is an exchange gain of the trade concerned (if the exchange loss is an exchange loss of a trade) or an exchange gain of the part of the trade concerned (if the exchange loss is an exchange loss of part of a trade) or a non-trading exchange gain (if the exchange loss is a non-trading exchange loss).

(11) Subsections (2) to (10) above shall not apply where—

(a) the transaction is entered into by the company mentioned in subsection (1) above (company A) and another company (company B),

(b) the companies are members of the same group when the transaction is entered into and throughout the accounting period which constitutes the accrual period mentioned in subsection (1) above or in which the accrual period falls,

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(c) as a result of the transaction, not only does company A become entitled or subject to the asset or liability falling within section 153(1)(a) or (2)(a) below but company B also becomes subject or entitled to the corresponding liability or asset (as the case may be) falling within section 153(2)(a) or (1)(a) below,

(d) as regards that liability or asset an appropriate exchange gain accrues to company B for an accrual period coterminous with that mentioned in subsection (1) above,

(e) throughout the accrual period concerned company A holds or owes the asset or liability either for the purposes of one trade or for non-trading purposes,

(f) throughout the accrual period concerned company B owes or holds the liability or asset either for the purposes of one trade or for non-trading purposes, and

(g) amount X is the same as amount Y.

(12) For the purposes of subsection (11) above—

(a) an appropriate exchange gain is an exchange gain of a trade or a non-trading exchange gain found (in either case) in the currency in which the exchange loss mentioned in subsection (1) above is found;

(b) amount X is the amount of the exchange loss mentioned in subsection (1) above;

(c) amount Y is the amount of the exchange gain mentioned in subsection (11)(d) above, found without regard to section 139 below;

(d) companies are members of the same group if by virtue of section 170 of the [M79]Taxation of Chargeable Gains Act 1992 they are members of the same group for the purposes of sections 171 to 181 of that Act.

(13) Where the exchange loss mentioned in subsection (1) above represents the whole or part of an initial exchange loss accruing under section 127 above, this section shall have effect as if subsections (4) to (12) were omitted.

(14) Regulations may make provision designed to supplement this section in its application to a case where the exchange loss mentioned in subsection (1) above represents the whole or part of an initial exchange loss accruing under section 127 above; and the regulations may in particular contain provision based on subsections (4) to (12) above but differing from those subsections to such extent as the Treasury think fit.

(15) In applying subsections (1)(b), (4) and (7)(b) above all factors shall be taken into account including any interest or other sums that would have been payable, any currency that would have been involved, and the amount that any loan would have been.

Modifications etc. (not altering text)

C24 S. 136 modified (23.3.1995) by S.I. 1994/3226, **reg. 2(2)**

C25 S. 136(11) modified (23.3.1995) by S.I. 1994/3227, **reg. 12(1)**

Marginal Citations

M79 1992 c.12.

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VALID FROM 23/03/1995

[F17 136A Arm's length test: debts of varying amounts.

(1) The provisions of this section shall have effect in relation to any exchange loss mentioned in section 136(1) above which represents the whole or part of an initial exchange loss accruing under section 127 above.

(2) Subsection (3) below applies where the circumstances are such that, had the parties to the transaction referred to in section 136(1)(b) above been dealing at arm's length, the terms of the transaction would have been the same except that the amount of the debt at any time during the accrual period referred to in section 136(1)(c) would have been an amount (in subsection (3) below referred to as "the adjusted amount") less than its actual amount at that time.

(3) Where this subsection applies in relation to a debt—

(a) section 136(2) above shall not apply, and

(b) the exchange loss accruing to the company for the accrual period shall be treated as reduced to the amount it would have been if the amount of the debt had, at any time in the accrual period when the actual amount of the debt exceeded the adjusted amount, been equal to the adjusted amount;

but paragraph (b) above shall only apply if the Board so direct.

(4) Where subsection (3)(b) above applies and the accrual period is not the last to occur as regards the asset or liability while it is held or owed by the company—

(a) an amount equal to the amount by which the loss is treated as reduced shall be set off against appropriate exchange gains accruing to the company as regards the asset or liability for subsequent accrual periods, and

(b) any such gain shall then be treated as reduced by that amount or by so much of it as cannot be set off under this subsection against any such gain accruing for an earlier accrual period;

and an appropriate exchange gain is an exchange gain of the trade concerned (if the exchange loss is an exchange loss of a trade) or an exchange gain of the part of the trade concerned (if the exchange loss is an exchange loss of part of a trade) or a non-trading exchange gain (if the exchange loss is a non-trading exchange loss).

(5) Section 136(2) above shall not apply in a case where—

(a) the right constituting the asset mentioned in section 136(1)(a) above arises under a loan made by the company,

(b) the circumstances are such that, had the parties to the transaction been dealing at arm's length, its terms would have been the same except that interest would have been charged on the loan or, as the case may be, charged at a higher rate, and

(c) in computing for tax purposes the profits or losses of the company for the accounting period which constitutes the accrual period or in which the accrual period falls the whole of the loan has been treated under section 770 of the Taxes Act 1988 (transactions at an undervalue or overvalue) as if interest had been charged on it or, as the case may be, charged at a higher rate.

(6) Subsection (7) below applies where—

(a) paragraphs (a) and (b) of subsection (5) above apply, and

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(b) in computing for tax purposes the profits or losses of the company for the accounting period which constitutes the accrual period or in which the accrual period falls, part of the loan has at any time in that accrual period been treated under section 770 of the Taxes Act 1988 as if interest had been charged on it or, as the case may be, charged at a higher rate;

and in subsection (7) any reference to the adjusted amount is to an amount equal to the part of the loan that has been so treated.

(7) In any case where subsection (6) applies—

(a) section 136(2) above shall not apply, and

(b) the exchange loss accruing to the company for the accrual period shall be treated as reduced to the amount it would have been if the amount of the debt had, at any time in the accrual period when the actual amount of the debt exceeded the adjusted amount at that time, been equal to that adjusted amount (and if there is no adjusted amount at any time, the actual amount of the debt at that time shall be taken to be zero);

but paragraph (b) above shall only apply if the Board so direct.

(8) Where subsection (7)(b) above applies and the accrual period is not the last to occur as regards the asset while it is held by the company—

(a) an amount equal to the amount by which the loss is treated as reduced shall be set off against appropriate exchange gains accruing to the company as regards the asset for subsequent accrual periods, and

(b) any such gain shall then be treated as reduced by that amount or by so much of it as cannot be set off under this subsection against any such gain accruing for an earlier accrual period;

and an appropriate exchange gain is an exchange gain of the trade concerned (if the exchange loss is an exchange loss of a trade) or an exchange gain of the part of the trade concerned (if the exchange loss is an exchange loss of part of a trade) or a non-trading exchange gain (if the exchange loss is a non-trading exchange loss).

(9) Section 136(2) and subsections (2) to (8) above shall not apply where—

(a) the transaction is entered into by the company mentioned in section 136(1) above (company A) and another company (company B),

(b) the companies are members of the same group when the transaction is entered into and throughout the accounting period which constitutes the accrual period mentioned in section 136(1) above or in which the accrual period falls,

(c) as a result of the transaction, not only does company A become entitled or subject to the asset or liability falling within section 153(1)(a) or (2)(a) below but company B also becomes subject or entitled to the corresponding liability or asset (as the case may be) falling within section 153(2)(a) or (1)(a) below,

(d) as regards that liability or asset an appropriate exchange gain accrues to company B for an accrual period coterminous with that mentioned in section 136(1) above,

(e) throughout the accrual period concerned company A holds or owes the asset or liability either for the purposes of one trade or for non-trading purposes,

(f) throughout the accrual period concerned company B owes or holds the liability or asset either for the purposes of one trade or for non-trading purposes, and

(g) amount X is the same as amount Y.

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(10) For the purposes of subsection (9) above—

(a) an appropriate exchange gain is an exchange gain of a trade or a non-trading exchange gain found (in either case) in the currency in which the exchange loss mentioned in section 136(1) above is found;

(b) amount X is the amount of the exchange loss mentioned in section 136(1) above;

(c) amount Y is the amount of the exchange gain mentioned in subsection (9)(d) above, found without regard to section 139 below; and

(d) companies are members of the same group if by virtue of section 170 of the Taxation of Chargeable Gains Act 1992 [F18] they are members of the same group for the purposes of sections 171 to 181 of that Act.

(11) In applying subsections (2) and (5)(b) above all factors shall be taken into account including any interest or other sums that would have been payable, any currency that would have been involved, and the amount that any loan would have been.**]**

Textual Amendments

F17 S. 136A inserted (23.3.1995) by S.I. 1994/3232, **reg. 2**

F18 1992 c.12. Section 170 was amended by paragraph 5 of Schedule 6 to the Finance (No. 2) Act 1992 (c.48).

Modifications etc. (not altering text)

C26 S. 136A(9) modified (23.3.1995) by S.I. 1994/3227, **reg. 12(2)**

137 Arm's length test: currency contracts.

(1) Subsection (2) below applies where—

(a) a qualifying company enters into a currency contract,

(b) the contract would not have been entered into at all if the parties to it had been dealing at arm's length, or the contract's terms would have been different if they had been so dealing,

(c) as regards the contract an exchange loss accrues to the company for an accrual period (or would so accrue apart from this section), and

(d) the Board direct that subsection (2) below shall apply;

and any reference in this section to an exchange loss is to an exchange loss of a trade or an exchange loss of part of a trade or a non-trading exchange loss.

(2) The exchange loss shall be treated as not accruing to the company for the accrual period.

(3) Where subsection (2) above applies and the accrual period is not the last to occur as regards the contract while it is held by the company—

(a) an amount equal to the amount of the loss shall be set off against appropriate exchange gains accruing to the company as regards the contract for subsequent accrual periods, and

(b) any such gain shall then be treated as reduced by that amount or by so much of it as cannot be set off under this subsection against any such gain accruing for an earlier accrual period;

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and an appropriate exchange gain is an exchange gain of the trade concerned (if the exchange loss is an exchange loss of a trade) or an exchange gain of the part of the trade concerned (if the exchange loss is an exchange loss of part of a trade) or a non-trading exchange gain (if the exchange loss is a non-trading exchange loss).

(4) In applying subsection (1)(b) above all factors shall be taken into account including any currency that would have been involved and any amounts that would have been involved.

Modifications etc. (not altering text)
C27 S. 137 modified (23.3.1995) by S.I. 1994/3226, **reg. 2(2)**

138 Arm's length test: non-sterling trades.

(1) Subsection (2) below applies where—
  (a) an exchange gain of a trade, or of part of a trade, accruing to a company for an accrual period falls to be reduced by virtue of section 136(3), (6) or (10) or 137(3) above, and
  (b) the amount falling to be set off is expressed in a currency (the first currency) different from the currency in which the gain is expressed (the second currency).

(2) For the purposes of section 136(3), (6) or (10) or 137(3) the amount falling to be set off shall be treated as the equivalent, expressed in the second currency, of the amount expressed in the first currency.

(3) The translation required by subsection (2) above shall be made by reference to the London closing exchange rate for the two currencies concerned for the first day of the accounting period which constitutes the relevant accrual period or in which that accrual period falls; and the relevant accrual period is the accrual period mentioned in subsection (1)(a) above.

(4) Subsection (2) above shall have effect subject to the application for succeeding accrual periods of this section as regards an amount falling to be set off.

(5) References in subsections (1) and (2) above to the amount falling to be set off include references to so much of that amount as remains after any application of section 136(3), (6) or (10) or 137(3) for earlier accrual periods.

Deferral of unrealised gains

139 Claim to defer unrealised gains.

(1) This section applies where (apart from a claim under this section as regards an accounting period) an unrealised exchange gain would accrue to a company—
  (a) for an accrual period constituting or falling within the accounting period, and
  (b) as regards a long-term capital asset or a long-term capital liability;

and the reference here to an exchange gain is to an exchange gain of a trade or an exchange gain of part of a trade or a non-trading exchange gain.

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(2) This section does not apply unless an amount is available for relief under this section for the accounting period.

(3) The company may claim that—

(a) the gain, or part of it, shall be treated in accordance with section 140(3) below, and

(b) an amount shall be treated in accordance with section 140(4) to (10) below as regards the asset or liability.

(4) The claim must—

(a) stipulate the amount of the gain or part to be treated as mentioned in subsection (3)(a) above;

(b) stipulate the amount to be treated as mentioned in subsection (3)(b) above;

(c) identify the asset or liability concerned.

(5) The following rules apply to a claim—

(a) only one claim may be made as regards an accounting period, but where this section applies in relation to two or more gains which would accrue to a company for an accrual period or accrual periods constituting or falling within the accounting period the claim may be made in relation to more than one of the gains;

(b) the amount stipulated under subsection (4)(b) above as regards an asset or liability must be the same as, and must be expressed in the same currency as, the amount of the gain or part stipulated under subsection (4)(a) above as regards the asset or liability;

(c) the amount (or total of the amounts) stipulated under subsection (4)(a) above as regards an accounting period must not exceed the amount available for relief under this section for the accounting period.

(6) A claim may not be made or withdrawn as regards an accounting period if—

(a) the company has been assessed to corporation tax for the period, and

(b) the assessment has become final and conclusive;

but the preceding provisions of this subsection do not apply if the claim or withdrawal is made before the expiry of the period of two years beginning with the end of the accounting period.

(7) In a case where—

(a) the period of six years beginning with the end of an accounting period expires, and

(b) no assessment of the company to corporation tax for the accounting period has become final and conclusive,

a claim may not be made or withdrawn as regards that accounting period.

(8) In a case where—

(a) subsection (6) or (7) above would otherwise prevent a claim being made in a particular case, and

(b) the Board make a determination under this subsection,

a claim may be made on or before such day as the Board allow.

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Changes to legislation: *Finance Act 1993 is up to date with all changes known to be in force on or before 08 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Modifications etc. (not altering text)

C28 S. 139 modified (23.3.1995) by S.I. 1994/3226, **reg. 2(2)**
S. 139 modified (23.3.1995) by S.I. 1994/3228, **regs. 2(2)(6)**, 4(2)
S. 139 modified (1.1.1999) by S.I. 1998/3177, **reg. 7**

140 Deferral of unrealised gains.

(1) This section applies where a claim is made under section 139 above as regards an asset or liability.

(2) For the purposes of this section—
- (a) the first accrual period is the accrual period mentioned in section 139(1) above, and
- (b) the second accrual period is the accrual period next occurring as regards the asset or liability while it is held or owed by the company.

(3) Any gain or part whose amount is stipulated under section 139(4)(a) above as regards the asset or liability shall be treated as not accruing as regards the asset or liability for the first accrual period.

(4) If throughout the second accrual period the asset is held, or the liability is owed, by the company solely for the purposes of a trade or part of a trade—
- (a) an exchange gain of the trade or part for the accrual period shall be treated as accruing to the company as regards the asset or liability,
- (b) the amount of the gain shall be the amount stipulated under section 139(4)(b) above as regards the asset or liability, and
- (c) section 128(4) above shall apply.

(5) If throughout the second accrual period the asset is held, or the liability is owed, by the company solely for purposes other than trading purposes—
- (a) a non-trading exchange gain for the accrual period shall be treated as accruing to the company as regards the asset or liability,
- (b) the amount of the gain shall be the amount stipulated under section 139(4)(b) above as regards the asset or liability, and
- (c) section 129(2) above shall apply.

(6) Where as regards the second accrual period neither subsection (4) nor subsection (5) above applies—
- (a) the amount stipulated under section 139(4)(b) above as regards the asset or liability shall be apportioned for the period on a just and reasonable basis, and
- (b) subsections (7) and (8) below shall apply.

(7) Where for the second accrual period part of an amount is attributed to a trade or part of a trade under subsection (6) above—
- (a) an exchange gain of the trade or part for the accrual period shall be treated as accruing to the company as regards the asset or liability,
- (b) the amount of the gain shall be the amount of the part so attributed, and
- (c) section 128(4) above shall apply.

(8) Where for the second accrual period part of an amount is attributed to purposes other than trading purposes under subsection (6) above—

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(a) a non-trading exchange gain for the accrual period shall be treated as accruing to the company as regards the asset or liability,

(b) the amount of the gain shall be the amount of the part so attributed, and

(c) section 129(2) above shall apply.

(9) In a case where—

(a) an exchange gain of a trade or of part of a trade for the second accrual period is treated as accruing to a company by virtue of the preceding provisions of this section (or would be so treated apart from this subsection), and

(b) in that period the asset or liability is to any extent held or owed by the company in exempt circumstances,

to that extent the gain shall be treated as a non-trading exchange gain (and not as a gain of the trade or part) and section 129(2) above shall apply.

(10) Any apportionment required by subsection (9) above shall be made on a just and reasonable basis.

(11) Subsections (4) to (10) above shall have effect subject to any further application of section 139 above as regards the asset or liability.

(12) For the purposes of this section a part of a trade is any part of a trade whose basic profits or losses for the relevant accounting period are by virtue of regulations under section 94 above to be computed and expressed in a particular currency for the purposes of corporation tax; and the relevant accounting period is the accounting period which constitutes the second accrual period or in which that accrual period falls.

Modifications etc. (not altering text)

C29 S. 140 modified (23.3.1995) by S.I. 1994/3226, **reg. 2(2)**
S. 140 modified (1.1.1999) by S.I. 1998/3177, **reg. 7**
S. 140 modified (23.3.1995) by S.I. 1994/3228, **reg. 2(2)(6)**

141 Deferral: amount available for relief.

(1) An amount is available for relief under section 139 above for an accounting period if amount A is exceeded by amount B or (if amount C is lower than amount B) amount A is exceeded by amount C; and the amount available for relief for the period is the amount of the difference between amount A and amount B or (as the case may be) between amount A and amount C.

(2) Amount A is one tenth of the amount falling within subsection (3) below.

(3) The amount falling within this subsection is an amount equal to the amount of the company's profits for the accounting period on which corporation tax would fall finally to be borne apart from—

(a) a claim under section 139 above as regards the accounting period, and

(b) section 402 of the Taxes Act 1988 (group relief);

and section 238(4) of the Taxes Act 1988 (amount of profits on which corporation tax falls finally to be borne) shall apply for the purposes of this subsection.

(4) Amount B is the amount found by deducting amount B(2) from amount B(1) where—

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(a) amount B(1) is the total amount of unrealised exchange gains which accrue or would (apart from a claim under section 139 above as regards the accounting period) accrue to the company, in an accrual period or accrual periods constituting or falling within the accounting period, as regards long-term capital assets or long-term capital liabilities or both;

(b) amount B(2) is the total amount of unrealised exchange losses accruing to the company in such an accrual period or accrual periods as regards such assets or liabilities or both.

(5) Amount C is the amount found by deducting amount C(2) from amount C(1) where—

(a) amount C(1) is the total amount of exchange gains which accrue or would (apart from a claim under section 139 above as regards the accounting period) accrue to the company, in an accrual period or accrual periods falling within the accounting period, as regards relevant items;

(b) amount C(2) is the total amount of exchange losses accruing to the company in such an accrual period or periods as regards relevant items.

(6) In subsections (4) and (5) above the references to exchange gains and losses are to exchange gains and losses of a trade and exchange gains and losses of part of a trade and non-trading exchange gains and losses.

(7) For the purposes of subsection (5) above relevant items are—

(a) assets falling within section 153(1)(a) below;

(b) liabilities falling within section 153(2)(a) below;

(c) currency contracts.

Modifications etc. (not altering text)

C30 S. 141 modified (23.3.1995) by S.I. 1994/3226, **reg. 2(2)**
S. 141 modified (23.3.1995) by S.I. 1994/3228, **regs. 2(2)(6)**, 4(3)-(8)
S. 141 modified (1.1.1999) by S.I. 1998/3177, **reg. 7**

142 Deferral: non-sterling trades.

(1) Where apart from this subsection—

(a) a gain falling within section 139(1) above would be expressed in a currency other than sterling, or

(b) a gain or loss falling within section 141(4) or (5) above would be expressed in a currency other than sterling,

the amount of the gain or loss shall be treated for the purposes of sections 139 to 141 above as the sterling equivalent of its amount expressed in the other currency.

(2) For the purposes of subsection (1) above the sterling equivalent of an amount is—

(a) the sterling equivalent calculated by reference to such rate of exchange as applies by virtue of section 93(6) above in the case of the basic profits or losses for the accounting period concerned of the trade of which the gain or loss is a gain or loss (or would be apart from section 139 above), or

(b) the sterling equivalent calculated by reference to such rate of exchange as applies by virtue of section 94(11) above in the case of the basic profits or losses for the accounting period concerned of the part of the trade of which the gain or loss is a gain or loss (or would be apart from section 139 above).

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(3) Subsection (4) below applies where—

(a) part of an exchange gain of a trade, or part of an exchange gain of part of a trade, is treated as not accruing to a company for an accrual period by virtue of section 140(3) above, and

(b) the local currency of the trade or part for the accounting period which constitutes the accrual period or in which it falls is a currency other than sterling.

(4) The amount the company is treated as receiving under section 128(4) above in respect of the accounting period and by virtue of the gain (as reduced) shall be taken into account after the basic profits or losses of the trade or part for the accounting period are found in sterling for the purposes of corporation tax.

(5) In a case where—

(a) an exchange gain of a trade, or of part of a trade, for an accrual period is treated as accruing to a company under section 140 above, and

(b) the local currency of the trade or part for the accounting period which constitutes the accrual period or in which it falls is a currency other than sterling,

the amount of the gain shall be treated as the local currency equivalent of its amount expressed in sterling.

(6) The translation required by subsection (5) above shall be made by reference to the London closing exchange rate for the two currencies concerned—

(a) for the last day of the accrual period mentioned in subsection (5) above, or

(b) if that accrual period does not end with the end of a day, for the day on which that accrual period ends.

Modifications etc. (not altering text)

C31 S. 142 modified (1.1.1999) by S.I. 1998/3177, **reg. 7**
S. 142 modified (23.3.1995) by S.I. 1994/3228, **reg. 2(2)(6)**

C32 S. 142(1)-(4) excluded (1.5.1995) by 1988 c. 1, **Sch. 24 para. 15** (as inserted (1.5.1995) by 1995 c. 4, s. 133, Sch. 25 paras. 1, **6(5)**)

[F19]143 Deferral: supplementary.

(1) For the purposes of sections 139 and 141 above and this section an exchange gain or loss is unrealised if the accrual period concerned is one which ends solely by virtue of an accounting period of the company coming to an end.

(2) In a case where—

(a) an unrealised exchange gain would accrue as mentioned in section 139(1) above,

(b) the gain represents the whole or part of an initial exchange gain accruing under section 127 above, and

(c) the whole or part of the unrealised exchange gain is attributable to any part by which the nominal amount of the debt has decreased,

the company may not claim under section 139 above as regards so much of the unrealised exchange gain as is so attributable.

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(3) In applying subsection (2)(c) above the gain shall be apportioned on a just and reasonable basis.

(4) For the purposes of sections 139 and 141 above an asset or liability is a long-term capital asset or liability if the following conditions are fulfilled—

(a) the asset or liability falls within section 153(1)(a) or (2)(a) below,

(b) the debt under which it subsists is such that, under the terms as originally entered into, the time for settlement is not less than one year from the time when the debt was created, and

(c) the asset or liability represents capital throughout the accounting period mentioned in section 139(1) above;

and the time for settlement is the earliest time at which the creditor can require settlement if he exercises all available options and rights.

(5) For the purposes of section 140 above an asset is held, or a liability is owed, in exempt circumstances at a given time if it is then held or owed—

(a) for the purposes of long term insurance business;

(b) for the purposes of mutual insurance business;

(c) for the purposes of the occupation of commercial woodlands;

(d) by a housing association approved at that time for the purposes of section 488 of the Taxes Act 1988;

(e) by a self-build society approved at that time for the purposes of section 489 of that Act.

(6) In subsection (5) above—

"long term insurance business" means insurance business of any of the classes specified in Schedule 1 to the [M80]Insurance Companies Act 1982;

"commercial woodlands" means woodlands in the United Kingdom which are managed on a commercial basis and with a view to the realisation of profits.

(7) Regulations may—

(a) make provision modifying the effect of sections 139 to 142 above and the preceding provisions of this section in a case where the debt under which a long-term capital asset or liability subsists is settled and replaced to any extent by another debt under which (or other debts under each of which) such an asset or liability subsists;

(b) make provision modifying the effect of sections 139 to 142 above and the preceding provisions of this section in a case where a group of companies is involved;

(c) provide that the amount falling within section 141(3) above shall be treated as reduced in accordance with prescribed rules;

and any provision under paragraph (a) above may include provision that realised gains or losses are to be treated as wholly or partly unrealised.

Textual Amendments

F19 S. 143(1)-(6) modified (1.1.1999) by 1998/3177, reg. 7
S. 143(1)-(6) modified (23.3.1995) by S.I. 1994/3228, **reg. 2(2)(6)**

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Modifications etc. (not altering text)
C33 S. 143(2) excluded (23.3.1995) by S.I. 1994/3228, **reg. 2(2)(c)(6)(b)(ii)**

Marginal Citations
M80 1982 c. 50.

Irrecoverable debts

144 Irrecoverable debts.

(1) In a case where—

(a) a qualifying company holds an asset consisting of a right to settlement under a qualifying debt or owes a liability consisting of a duty to settle under such a debt, and

(b) the inspector is satisfied, as regards any accounting period of the company, that all of the debt outstanding immediately before the end of the period could at that time reasonably have been regarded as irrecoverable,

the company shall be treated for the purposes of this Chapter as if immediately before the end of that accounting period it ceased to be entitled to the asset or subject to the liability.

(2) Subsection (3) below applies in a case where—

(a) paragraph (a) of subsection (1) above applies, and

(b) the inspector is satisfied, as regards any accounting period of the company, that part of the debt outstanding immediately before the end of the period could at that time reasonably have been regarded as irrecoverable.

(3) The company shall be treated for the purposes of this Chapter as if—

(a) immediately after the beginning of the accounting period next following the accounting period mentioned in subsection (2) above there were a decrease in the nominal amount of the debt outstanding, and

(b) the decrease were of an amount equal to so much of the debt, expressed in its settlement currency, as was outstanding immediately before the end of the accounting period mentioned in subsection (2) above and in the opinion of the inspector could at that time reasonably have been regarded as irrecoverable.

(4) Where there is an appeal, this section shall be construed as if—

(a) "inspector is satisfied" (in each place) read " Commissioners concerned are satisfied ", and

(b) "opinion of the inspector" read " opinion of the Commissioners concerned ".

Modifications etc. (not altering text)
C34 S. 144(1) modified (23.3.1995) by S.I. 1994/3226, **reg. 4(1)** (subject to reg. 4(2))

145 Irrecoverable debts that become recoverable.

(1) Subsection (2) below applies where—

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(a) a company has been treated as mentioned in section 144(1) above as regards a debt,

(b) at a time (the later time) falling after the end of the accounting period mentioned in section 144(1)(b) above all or part of the debt is actually outstanding, and

(c) the inspector is satisfied that all or part of the amount actually outstanding at the later time could at that time reasonably have been regarded as recoverable.

(2) The company shall be treated for the purposes of this Chapter as if—

(a) immediately after the later time it had become entitled to an asset consisting of a right to settlement under the debt or (as the case may be) subject to a liability consisting of a duty to settle under the debt, and

(b) the nominal amount of the debt outstanding, at the time the company became entitled or subject to the asset or liability, were an amount equal to so much of the debt, expressed in its settlement currency, as was actually outstanding at the later time and in the opinion of the inspector could at that time reasonably have been regarded as recoverable.

(3) Subsections (4) and (5) below apply where—

(a) a company has been treated as mentioned in section 144(3) above as regards a debt, or

(b) a company has been treated as mentioned in subsection (2) above as regards a debt by virtue of the fact that in the opinion of the inspector part of the debt could, at the later time, reasonably have been regarded as recoverable.

(4) In a case where—

(a) at a time (the relevant time) falling after the end of the accounting period mentioned in section 144(2)(b) above or (as the case may be) falling after the later time all or part of the debt is actually outstanding,

(b) the inspector is satisfied that all or part of the amount actually outstanding at the relevant time could at that time reasonably have been regarded as recoverable, and

(c) the recoverable amount exceeds the amount which (taking into account section 144(3) above, subsection (2) above and any previous application of this subsection) is the nominal amount of the debt outstanding at the relevant time,

the company shall be treated for the purposes of this Chapter as if, immediately after the relevant time, there were an increase in the nominal amount of the debt outstanding and the increase were of an amount equal to the excess mentioned in paragraph (c) above.

(5) For the purposes of subsection (4) above the recoverable amount is an amount equal to so much of the debt, expressed in its settlement currency, as was actually outstanding at the relevant time and in the opinion of the inspector could at that time reasonably have been regarded as recoverable.

(6) Where there is an appeal, this section shall be construed as if—

(a) "inspector is satisfied" (in each place) read " Commissioners concerned are satisfied ", and

(b) "opinion of the inspector" (in each place) read " opinion of the Commissioners concerned ".

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Currency contracts: special cases

146 Early termination of currency contract.

(1) This section applies where—

(a) a qualifying company ceases to be entitled to rights and subject to duties under a currency contract, and

(b) at the time it so ceases it has neither received nor made payment of any currency in pursuance of the contract.

(2) If the company has a net contractual gain of a trade it shall be treated for the purposes of the Tax Acts as—

(a) incurring in the trade a loss of an amount equal to that gain, and

(b) incurring the loss in respect of the last relevant accounting period.

(3) If the company has a net contractual loss of a trade it shall be treated for the purposes of the Tax Acts as—

(a) receiving in respect of the trade an amount equal to that loss, and

(b) receiving the amount in respect of the last relevant accounting period.

(4) If the company has a net contractual non-trading gain—

(a) it shall be treated as incurring by virtue of section 129 above a loss of an amount equal to the amount of that gain,

(b) it shall be treated as incurring the loss in the last relevant accounting period, and

(c) in relation to that accounting period references to amount B shall be construed accordingly.

(5) If the company has a net contractual non-trading loss—

(a) it shall be treated as receiving by virtue of section 129 above an amount equal to the amount of that loss,

(b) it shall be treated as receiving the amount in the last relevant accounting period, and

(c) in relation to that accounting period references to amount A shall be construed accordingly.

(6) For the purposes of this section—

(a) the termination time is the time mentioned in subsection (1)(b) above;

(b) the last relevant accounting period is the company's accounting period in which the termination time falls;

(c) the relevant accounting periods are that accounting period and the company's accounting periods preceding it.

(7) This is how to find out whether the company has a net contractual gain or loss of a trade and (if it has) its amount—

(a) take the aggregate of the amounts (if any) the company is treated as receiving under section 128(4) above in respect of the trade and the contract and the relevant accounting periods;

(b) take the aggregate of the amounts (if any) of the losses the company is treated as incurring under section 128(8) above in the trade and in respect of the contract and the relevant accounting periods;

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(c) if the amount found under paragraph (a) above exceeds that found under paragraph (b) above the company has a net contractual gain of the trade of an amount equal to the excess;

(d) if the amount found under paragraph (b) above exceeds that found under paragraph (a) above the company has a net contractual loss of the trade of an amount equal to the excess;

and in applying paragraphs (a) and (b) above ignore the effect of subsections (2) and (3) above.

(8) This is how to find out whether the company has a net contractual non-trading gain or loss and (if it has) its amount—

(a) take the aggregate of the amounts (if any) the company is treated as receiving under section 129(2) above in respect of the contract in the relevant accounting periods;

(b) take the aggregate of the amounts (if any) of the losses the company is treated as incurring under section 129(4) above in respect of the contract in the relevant accounting periods;

(c) if the amount found under paragraph (a) above exceeds that found under paragraph (b) above the company has a net contractual non-trading gain of an amount equal to the excess;

(d) if the amount found under paragraph (b) above exceeds that found under paragraph (a) above the company has a net contractual non-trading loss of an amount equal to the excess;

and in applying paragraphs (a) and (b) above ignore the effect of subsections (4) and (5) above.

(9) For the purposes of subsection (7) above—

(a) an amount the company is treated as receiving under section 128(4) above in respect of part of the trade concerned shall be treated as received in respect of the trade;

(b) a loss the company is treated as incurring under section 128(8) above in part of the trade shall be treated as incurred in the trade.

(10) Where any amount or loss the company is treated as receiving or incurring as mentioned in subsection (7)(a) or (b) above would (apart from this subsection) be expressed in a currency other than the local currency of the trade for the last relevant accounting period, it shall be treated for the purposes of this section as being the local currency equivalent of the amount or loss expressed in that other currency.

(11) For the purposes of subsection (10) above the local currency equivalent of an amount is the equivalent—

(a) expressed in the local currency of the trade for the last relevant accounting period, and

(b) calculated by reference to the London closing exchange rate for the day in which the termination time falls.

(12) Subsection (13) below applies where the company has (apart from that subsection) a net contractual gain or loss of a trade and—

(a) the trade concerned has ceased before the termination time, or

(b) the company carries on exempt activities immediately before the termination time.

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(13) In such a case the company shall be treated for the purposes of this section as if—
- (a) it did not have the net contractual gain or loss of the trade, and
- (b) it had a net contractual non-trading gain or loss (as the case may be) equal to the amount which would have been the amount of the net contractual gain or loss of the trade apart from paragraph (a) above.

(14) Where any amount found under subsection (13)(b) above would (apart from this subsection) be expressed in a currency other than sterling, it shall be treated for the purposes of this section as being the sterling equivalent of the amount expressed in that other currency; and any translation required by this subsection shall be made by reference to the London closing exchange rate for the currencies concerned for the day in which the termination time falls.

(15) For the purposes of this section a company carries on exempt activities at a given time if—
- (a) the activities it then carries on are or include any of the activities mentioned in subsection (16) below,
- (b) it is a housing association approved at that time for the purposes of section 488 of the Taxes Act 1988, or
- (c) it is a self-build society approved at that time for the purposes of section 489 of that Act.

(16) The activities referred to in subsection (15)(a) above are—
- (a) the activity of long term insurance business;
- (b) the activity of mutual insurance business;
- (c) the activity of the occupation of commercial woodlands;

and section 143(6) above applies for the purposes of this subsection.

147 Reciprocal currency contracts.

(1) This section applies where—
- (a) a qualifying company enters into a currency contract (the first contract), and
- (b) the company closes out that contract by entering into another currency contract (the second contract) with rights and duties which are reciprocal to those under the first contract.

(2) For the purposes of this Chapter the company shall be treated as ceasing, at the time it enters into the second contract, to be entitled to rights and subject to duties under the first contract without having received or made payment of any currency in pursuance of the first contract.

(3) For the purposes of this Chapter the second contract shall be ignored (except in applying the preceding provisions of this section).

Excess gains or losses

148 Excess gains or losses.

(1) Regulations may provide that where prescribed conditions are fulfilled as regards an asset or liability relief from tax shall be afforded in respect of it; and subsections (2) to (4) below shall apply for the purposes of the regulations.

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(2) The prescribed conditions must be or include ones that are met where it can reasonably be said that—

(a) a loss other than an exchange loss has accrued to a qualifying company as regards the asset or liability and no relief from tax is available under the Tax Acts in respect of the loss, and

(b) exchange gains have accrued to the company as regards the asset or liability without being matched (or fully matched) by exchange losses accruing to the company as regards the asset or liability.

(3) The relief shall take such form as is prescribed and shall be such that the amount relieved does not exceed the amount of the unmatched gains.

(4) The regulations may provide that if the loss mentioned in subsection (2)(a) above is made good to any extent the relief afforded by the regulations shall be cancelled (to the extent prescribed) by an assessment to tax.

(5) Regulations may provide that where prescribed conditions are fulfilled as regards an asset or liability a charge to tax shall be imposed in respect of it; and subsections (6) and (7) below shall apply for the purposes of the regulations.

(6) The prescribed conditions must be or include ones that are met where it can reasonably be said that—

(a) a gain other than an exchange gain has accrued to a qualifying company as regards the asset or liability and no charge to tax is imposed under the Tax Acts in respect of the gain, and

(b) exchange losses have accrued to the company as regards the asset or liability without being matched (or fully matched) by exchange gains accruing to the company as regards the asset or liability.

(7) The charge shall take such form as is prescribed and shall be such that the amount charged does not exceed the amount of the unmatched losses.

(8) Regulations under this section may include provision that the relief—

(a) is subject to a claim being made;

(b) is not available in prescribed circumstances.

(9) Where (apart from this subsection) an exchange gain or loss would be expressed in a currency other than sterling, the amount of the gain or loss shall be treated for the purposes of this section as the sterling equivalent of its amount expressed in the other currency.

(10) The translation required by subsection (9) above shall be made by reference to the London closing exchange rate for the two currencies concerned—

(a) for the last day of the accrual period for which the gain or loss accrues, or

(b) if that accrual period does not end with the end of a day, for the day on which that accrual period ends.

(11) In this section—

(a) references to an exchange gain are to an exchange gain of a trade or an exchange gain of part of a trade or a non-trading exchange gain;

(b) references to an exchange loss are to an exchange loss of a trade or an exchange loss of part of a trade or a non-trading exchange loss.

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Modifications etc. (not altering text)

C35 S. 148(9) modified (1.5.1995) by 1988 c. 1, **Sch. 24 para. 17** (as inserted (1.5.1995) by 1995 c. 4, s. 133, Sch. 25 paras. 1, **6(5)**)

Local currency to be used

149 Local currency to be used.

(1) Subject to the following provisions of this section, the local currency for the purposes of sections 125 to 127 above is sterling.

(2) Subsections (4) to (6) below apply where—

(a) at any time in an accrual period an asset or contract was held, or a liability was owed, by a qualifying company for the purposes of a trade or trades carried on by it or of part or parts of a trade or trades carried on by it, and

(b) the local currency of any such trade or part for the relevant accounting period is a currency other than sterling.

(3) References in this section to the relevant accounting period are to the accounting period which constitutes the accrual period or in which the accrual period falls.

(4) If throughout the accrual period the asset or contract was held, or the liability was owed, by the company solely for trading purposes and only one local currency is involved, sections 125 to 128 above shall be applied by reference to that currency.

(5) If throughout the accrual period the asset or contract was held, or the liability was owed, by the company solely for trading purposes and more than one local currency is involved, sections 125 to 128 above shall be applied separately by reference to each local currency involved and any exchange gain or loss of a trade or part shall be ignored unless found in the currency which is the local currency of the trade or part for the relevant accounting period.

(6) In any other case—

(a) sections 125 to 128 above shall be applied by reference to sterling and sections 129 to 133 above shall be applied to any non-trading exchange gain or loss;

(b) sections 125 to 128 above shall then be applied separately by reference to each local currency involved (other than sterling);

(c) any exchange gain or loss of a trade or part shall be ignored unless found in the currency which is the local currency of the trade or part for the relevant accounting period (whether sterling or otherwise).

(7) For the purposes of this section a part of a trade is any part of a trade whose basic profits or losses for the relevant accounting period are by virtue of regulations under section 94 above to be computed and expressed in a particular currency for the purposes of corporation tax.

Modifications etc. (not altering text)

C36 S. 149 excluded (1.5.1995) by 1988 c. 1, **Sch. 24 para. 14(2)(b)** (as inserted (1.5.1995) by 1995 c. 4, s. 133, Sch. 25 paras. 1, **6(5)**)

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Exchange rate to be used

150 Exchange rate at translation times.

(1) This section has effect to determine the exchange rate to be used in finding for the purposes of this Chapter the local currency equivalent at a translation time of—
- (a) the basic valuation of an asset or liability,
- (b) the nominal amount of a debt outstanding, or
- (c) an amount of currency.

(2) References in this section to the two currencies are to—
- (a) the local currency and the nominal currency of the asset or liability concerned (where this section applies by virtue of subsection (1)(a) or (1)(b) above), or
- (b) the local currency and the currency mentioned in subsection (1)(c) above (where this section applies by virtue of subsection (1)(c) above).

(3) References in this section to an arm's length rate are to such exchange rate for the two currencies as might reasonably be expected to be agreed between persons dealing at arm's length.

(4) Subsections (5) to (7) below apply where the translation time is a translation time solely by virtue of an accounting period of the company coming to an end.

(5) In a case where—
- (a) an exchange rate for the two currencies is used (as regards the asset, liability or currency contract concerned) in the accounts of the company for the last day of the accounting period, and
- (b) the rate is an arm's length rate,

that is the exchange rate to be used as regards the asset, liability or contract.

(6) In a case where—
- (a) the provision for whose purposes the local currency equivalent falls to be found is section 126 above,
- (b) an exchange rate for the two currencies is not used (as regards the currency contract concerned) in the accounts of the company for the last day of the accounting period,
- (c) the fact that such an exchange rate is not so used conforms with normal accountancy practice, and
- (d) the exchange rate for the two currencies that is implied by the currency contract concerned is an arm's length rate,

the exchange rate mentioned in paragraph (d) above is the exchange rate to be used as regards the contract.

(7) In a case where neither subsection (5) nor subsection (6) above applies, the London closing exchange rate for the two currencies for the last day of the accounting period is the exchange rate to be used.

(8) Subsections (9) to (14) below apply where the translation time is a translation time otherwise than solely by virtue of an accounting period of the company coming to an end.

(9) In a case where—

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(a) an exchange rate for the two currencies is used (as regards the asset, liability or currency contract concerned) in the accounts of the company at the translation time,

(b) the rate represents the average of arm's length rates for all the days falling within a period, and

(c) the arm's length rate for any given day (other than the first) falling within the period is not significantly different from the arm's length rate for the day preceding the given day,

that is the exchange rate to be used as regards the asset, liability or contract.

(10) In a case where—

(a) subsection (9) above does not apply,

(b) an exchange rate for the two currencies is used (as regards the asset, liability or currency contract concerned) in the accounts of the company at the translation time, and

(c) the rate is an arm's length rate,

that is the exchange rate to be used as regards the asset, liability or contract.

(11) In a case where—

(a) the provision for whose purposes the local currency equivalent falls to be found is section 126 above,

(b) an exchange rate for the two currencies is not used (as regards the currency contract concerned) in the accounts of the company at the translation time,

(c) the fact that such an exchange rate is not so used conforms with normal accountancy practice, and

(d) the exchange rate for the two currencies that is implied by the currency contract concerned is an arm's length rate,

the exchange rate mentioned in paragraph (d) above is the exchange rate to be used as regards the contract.

(12) In a case where—

(a) none of subsections (9) to (11) above applies,

(b) it is the company's normal practice, when using an exchange rate in its accounts, to use a rate which represents an average of exchange rates obtaining for a period, and

(c) the London closing exchange rate for the two currencies for any given day (other than the first) falling within the relevant period is not significantly different from the London closing exchange rate for the two currencies for the day preceding the given day,

the rate which represents the average of the London closing exchange rates for the currencies for all the days falling within the relevant period is the exchange rate to be used.

(13) In a case where none of subsections (9) to (12) above applies, the London closing exchange rate for the day in which the translation time falls is the exchange rate to be used.

(14) References in subsection (12) above to the relevant period are to the period which—

(a) begins when the relevant accounting period begins, and

(b) ends at the end of the day in which the translation time falls;

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and the relevant accounting period is the accounting period in which the translation time falls.

Modifications etc. (not altering text)
C37 S. 150 modified (23.3.1995) by S.I. 1994/3226, **reg. 5**

151 Exchange rate for debts whose amounts vary.

(1) Subsection (2) below has effect to determine the exchange rate to be used in finding for the purposes of this Chapter the local currency equivalent, at a time immediately after the nominal amount of a debt outstanding increases or decreases, of any amount.

(2) Subsections (9) to (14) of section 150 above (ignoring subsection (11)) shall apply for that purpose, but in so applying them—
- (a) references to the translation time shall be construed as references to the time mentioned in subsection (1) above;
- (b) references to the two currencies shall be construed as references to the local currency and the settlement currency of the debt.

Interpretation: companies

152 Qualifying companies.

(1) Subject to the following provisions of this section, any company is a qualifying company.

(2) A company established for charitable purposes only is not a qualifying company.

(3) Where a unit trust scheme is an authorised unit trust as respects an accounting period the trustees (who are deemed to be a company for certain purposes by section 468(1) of the Taxes Act 1988) are not a qualifying company as regards that period.

(4) A company which is approved for the purposes of section 842 of the Taxes Act 1988 (investment trusts) for an accounting period is not a qualifying company as regards that period.

(5) In this section —

"unit trust scheme" has the same meaning as in section 469 of the Taxes Act 1988;

"authorised unit trust" has the same meaning as in section 468 of that Act.

Interpretation: assets, liabilities and contracts

153 Qualifying assets and liabilities.

(1) As regards a qualifying company, each of the following is a qualifying asset—
- (a) a right to settlement under a qualifying debt (whether or not the debt is a debt on a security);
- (b) a unit of currency;
- (c) a share held in qualifying circumstances;

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but paragraph (a) above shall have effect subject to subsections (3) and (4) below.

(2) As regards a qualifying company, each of the following is a qualifying liability—

(a) a duty to settle under a qualifying debt (whether or not the debt is a debt on a security);

(b) a liability that takes the form of a provision made by the company in respect of a duty to which it may become subject and which (if it were to become subject to it) would be a duty to settle under a qualifying debt;

(c) a duty to transfer a right to settlement under a qualifying debt on a security, where the duty subsists under a contract and the company is not entitled to the right;

(d) a duty to transfer a share or shares, where the duty subsists under a contract and the company is not entitled to the share or shares;

but paragraphs (a) to (d) above shall have effect subject to subsections (5) to (9) below.

(3) A right to settlement under a qualifying debt is not a qualifying asset if it is a right under a currency contract.

(4) A right to settlement under a qualifying debt is not a qualifying asset if the debt is a debt on a security **[**[F20]and did not represent a normal commercial loan when it was created**]**; but the preceding provisions of this subsection do not apply if the security is a deep gain security or the right is held in qualifying circumstances.

(5) A duty to settle under a qualifying debt is not a qualifying liability if it is a duty under a currency contract.

(6) A duty to settle under a qualifying debt is not a qualifying liability if the debt is a debt on a security **[**[F21]and did not represent a normal commercial loan when it was created**]**; but the preceding provisions of this subsection do not apply if the security is a deep gain security.

(7) A liability falling within subsection (2)(b) above is not a qualifying liability unless—

(a) the duty to settle would (if the company were to become subject to it) be owed for the purposes of a trade, and

(b) the provision falls to be taken into account (apart from this Chapter) in computing the profits or losses of the trade for corporation tax purposes.

(8) A duty falling within subsection (2)(c) above is not a qualifying liability unless the right would be a qualifying asset if the company were entitled to it.

(9) A duty falling within subsection (2)(d) above is not a qualifying liability unless the share (or each of the shares) would be a qualifying asset if the company were entitled to it.

(10) For the purposes of this section each of the following is a qualifying debt—

(a) a debt falling to be settled by the payment of money;

(b) a debt falling to be settled by the transfer of a right to settlement under another debt, itself falling to be settled by the payment of money;

and for the purposes of this subsection an ecu shall be regarded as money.

(11) For the purposes of subsections (1)(c) and (4) above qualifying circumstances, in relation to an asset consisting of a share or a right to settlement, are circumstances where the qualifying company carries on a trade and—

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(a) if the company were to transfer the asset, the transfer would fall to be taken into account (apart from this Chapter) in computing the profits or losses of the trade for corporation tax purposes, and

(b) if the asset were held by the company at the end of an accounting period, the valuation of the asset to be shown in the company's accounts for that time would fall to be found by taking the local currency equivalent at that time of the valuation put on the asset by the company (whether at that time or earlier) expressed in the nominal currency of the asset;

and the reference here to the local currency is to the local currency of the trade for the accounting period.

[[F22](11A) In subsections (4) and (6) 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—

(a) for paragraph (a)(i) to (iii) of that sub-paragraph there were substituted the words "corporate bonds (within the meaning of section 117 of the Taxation of Chargeable Gains Act 1992)", and

(b) paragraphs (b) and (c) of that sub-paragraph were omitted.**]**

(12) Interest accrued in respect of a debt shall not be treated as part of the debt.

Textual Amendments

F20 Words in s. 153(4) substituted (retrospectively) by 1995 c. 4, s. 130, Sch. 24 Pt. I paras. 1, **4(2)**

F21 Words s. 153(6) substituted (retrospectively) by 1995 c. 4, s. 130, Sch. 24 Pt. I paras. 1, **4(3)**

F22 S. 153(11A) inserted (retrospectively) by 1995 c. 4, s. 130, Sch. 24 Pt. I paras. 1, **4(4)**

Modifications etc. (not altering text)

C38 S. 153(11) modified (1.5.1995) by 1988 c. 1, **Sch. 24 para. 18** (as inserted (1.5.1995) by 1995 c. 4, s. 133, Sch. 25 paras. 1, **6(5)**)

153 Qualifying assets and liabilities. U.K.

(1) As regards a qualifying company, each of the following is a qualifying asset—

(a) a right to settlement under a qualifying debt (whether or not the debt is a debt on a security);

(b) a unit of currency;

(c) a share held in qualifying circumstances;

but paragraph (a) above shall have effect subject to subsections (3) and (4) below.

(2) As regards a qualifying company, each of the following is a qualifying liability—

(a) a duty to settle under a qualifying debt (whether or not the debt is a debt on a security);

(b) a liability that takes the form of a provision made by the company in respect of a duty to which it may become subject and which (if it were to become subject to it) would be a duty to settle under a qualifying debt;

(c) a duty to transfer a right to settlement under a qualifying debt on a security, where the duty subsists under a contract and the company is not entitled to the right;

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(d) a duty to transfer a share or shares, where the duty subsists under a contract and the company is not entitled to the share or shares;

but paragraphs (a) to (d) above shall have effect subject to subsections (5) to (9) below.

(3) A right to settlement under a qualifying debt is not a qualifying asset if it is a right under a currency contract.

(4) A right to settlement under a qualifying debt is not a qualifying asset if the debt is a debt on a security which under the terms of issue can be converted into or exchanged for a share or shares; but the preceding provisions of this subsection do not apply if the security is a deep gain security or the right is held in qualifying circumstances.

(5) A duty to settle under a qualifying debt is not a qualifying liability if it is a duty under a currency contract.

(6) A duty to settle under a qualifying debt is not a qualifying liability if the debt is a debt on a security which under the terms of issue can be converted into or exchanged for a share or shares; but the preceding provisions of this subsection do not apply if the security is a deep gain security.

(7) A liability falling within subsection (2)(b) above is not a qualifying liability unless—

(a) the duty to settle would (if the company were to become subject to it) be owed for the purposes of a trade, and

(b) the provision falls to be taken into account (apart from this Chapter) in computing the profits or losses of the trade for corporation tax purposes.

(8) A duty falling within subsection (2)(c) above is not a qualifying liability unless the right would be a qualifying asset if the company were entitled to it.

(9) A duty falling within subsection (2)(d) above is not a qualifying liability unless the share (or each of the shares) would be a qualifying asset if the company were entitled to it.

(10) For the purposes of this section each of the following is a qualifying debt—

(a) a debt falling to be settled by the payment of money;

(b) a debt falling to be settled by the transfer of a right to settlement under another debt, itself falling to be settled by the payment of money;

and for the purposes of this subsection an ecu shall be regarded as money.

(11) For the purposes of subsections (1)(c) and (4) above qualifying circumstances, in relation to an asset consisting of a share or a right to settlement, are circumstances where the qualifying company carries on a trade and—

(a) if the company were to transfer the asset, the transfer would fall to be taken into account (apart from this Chapter) in computing the profits or losses of the trade for corporation tax purposes, and

(b) if the asset were held by the company at the end of an accounting period, the valuation of the asset to be shown in the company's accounts for that time would fall to be found by taking the local currency equivalent at that time of the valuation put on the asset by the company (whether at that time or earlier) expressed in the nominal currency of the asset;

and the reference here to the local currency is to the local currency of the trade for the accounting period.

(12) Interest accrued in respect of a debt shall not be treated as part of the debt.

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154 Definitions connected with assets.

(1) Subject to the following provisions of this section, a company becomes entitled to an asset when it becomes unconditionally entitled to it.

(2) In determining whether or not a company is unconditionally entitled to an asset, any transfer by way of security of the asset or of any interest or right in or over the asset shall be ignored.

(3) Where a company agrees to acquire an asset by transfer it becomes entitled to it when the contract is made and not on a later transfer made pursuant to the contract; but the preceding provisions of this subsection do not apply where the agreement is by way of a currency contract.

(4) Where a company agrees to dispose of an asset by transfer it ceases to be entitled to it when the contract is made and not on a later transfer made pursuant to the contract.

(5) If a contract is conditional (whether on the exercise of an option or otherwise) for the purposes of subsections (3) and (4) above it is made when the condition is satisfied.

(6) Where a company ceases to be entitled to an asset and at a later time becomes entitled to the same asset, with effect from the later time the asset shall be treated as if it were a different asset.

(7) In a case where—

(a) at different times a company becomes entitled to rights to settlement under debts on securities, and

(b) the rights are of the same kind,

the rights shall be treated as different assets and not part of the same asset.

(8) Whether a transaction involves a company becoming entitled to—

(a) one asset consisting of a right to settlement under a debt on a security, or

(b) a number of such assets,

shall be determined according to the facts of the case concerned.

(9) For the purpose of deciding whether rights to settlement under debts on securities of a particular kind are held by a company, rights of that kind acquired earlier shall be treated as disposed of before rights of that kind acquired later; and references here to acquisition and disposal are references to becoming entitled and ceasing to be entitled.

(10) For the purpose of deciding whether shares of a particular kind are held by a company, shares of that kind acquired earlier shall be treated as disposed of before shares of that kind acquired later; and references here to acquisition and disposal are references to becoming entitled and ceasing to be entitled.

(11) In a case where—

(a) a rule is used for the purpose mentioned in subsection (9) or (10) above when the company's accounts are prepared,

(b) the rule differs from that contained in the subsection, and

(c) the accounts are prepared in accordance with normal accountancy practice,

the rule used when the accounts are prepared (and not the rule in the subsection) shall be used for the purpose.

(12) In a case where—

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(a) a company would (apart from this subsection) become entitled to an asset at a particular time (the later time) by virtue of the preceding provisions of this section,

(b) the asset falls within section 153(1)(a) above,

(c) the time at which the company, in drawing up its accounts, regards itself as becoming entitled to the asset is a time (the earlier time) earlier than the later time, and

(d) the accounts are drawn up in accordance with normal accountancy practice,

the company shall be taken to have become entitled to the asset at the earlier time and not at the later time.

(13) Where subsection (12) above applies, as regards any time beginning with the earlier time and ending immediately before the later time the nominal amount of the debt shall be taken to be—

(a) such amount as the company treats as the nominal amount in its accounts, or

(b) such amount as it would so treat in accordance with normal accountancy practice (if that amount is different from the amount found under paragraph (a) above).

(14) A company holds an asset at a particular time if it is entitled to it at that time.

155 Definitions connected with liabilities.

(1) Subject to the following provisions of this section, a company becomes subject to a liability falling within section 153(2)(a) above when it becomes unconditionally subject to it.

(2) Where a company agrees to acquire a liability falling within section 153(2)(a) above by transfer it becomes subject to it when the contract is made and not on a later transfer made pursuant to the contract.

(3) Where a company agrees to dispose of a liability falling within section 153(2)(a) above by transfer it ceases to be subject to it when the contract is made and not on a later transfer made pursuant to the contract.

(4) If a contract is conditional (whether on the exercise of an option or otherwise) for the purposes of subsections (2) and (3) above it is made when the condition is satisfied.

(5) Where a company ceases to be subject to a liability falling within section 153(2)(a) above and at a later time becomes subject to the same liability, with effect from the later time the liability shall be treated as if it were a different liability.

(6) A company becomes subject to a liability falling within section 153(2)(b) above at the time with effect from which it makes the provision.

(7) A company ceases to be subject to a liability falling within section 153(2)(b) above at the time with effect from which it deletes the provision or (if different) the time with effect from which it would delete the provision under normal accountancy practice.

(8) Where a company makes a provision falling within section 153(2)(b) above and later changes the amount, the company shall be treated as—

(a) deleting (with effect from the time when the change becomes effective) the provision representing the amount before the change, and

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(b) making (with effect from that time) a new provision representing the amount as changed;

and so on for further changes.

(9) A company ceases to be subject to a liability falling within section 153(2)(c) above when it becomes entitled to the right concerned, unless it ceases to be subject to the liability earlier apart from this subsection.

(10) A company ceases to be subject to a liability falling within section 153(2)(d) above when it becomes entitled to the share or shares, unless it ceases to be subject to the liability earlier apart from this subsection.

(11) In a case where—

(a) a company would (apart from this subsection) become subject to a liability at a particular time (the later time) by virtue of the preceding provisions of this section,

(b) the liability falls within section 153(2)(a) above,

(c) the time at which the company, in drawing up its accounts, regards itself as becoming subject to the liability is a time (the earlier time) earlier than the later time, and

(d) the accounts are drawn up in accordance with normal accountancy practice,

the company shall be taken to have become subject to the liability at the earlier time and not at the later time.

(12) Where subsection (11) above applies, as regards any time beginning with the earlier time and ending immediately before the later time the nominal amount of the debt shall be taken to be—

(a) such amount as the company treats as the nominal amount in its accounts, or

(b) such amount as it would so treat in accordance with normal accountancy practice (if that amount is different from the amount found under paragraph (a) above).

(13) A company owes a liability at a particular time if it is subject to it at that time.

156 Assets and liabilities: other matters.

(1) Each of the following questions shall be determined according to the facts of the case concerned—

(a) whether a transaction (or series of transactions) involves the creation of one asset consisting of a right to settlement under a debt or a number of assets consisting of a number of such rights;

(b) whether a transaction (or series of transactions) involves the creation of one liability consisting of a duty to settle under a debt or a number of liabilities consisting of a number of such duties;

(c) whether a transaction (or series of transactions) involves the creation of both an asset (or assets) held and a liability (or liabilities) owed by the same company.

(2) Subsection (3) below applies where—

(a) a company, in drawing up its accounts, regards itself as becoming entitled or subject to an asset or liability at a particular time,

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(b) the company, in drawing up its accounts, regards itself as ceasing to be entitled or subject to the asset or liability at a later time,

(c) at the time mentioned in paragraph (a) above it could reasonably be expected that the company would become entitled or subject to such an asset or liability,

(d) the asset or liability does not in fact come into existence before the later time but (if it did) it would fall within section 153(1)(a) or (2)(a) above, and

(e) the accounts are drawn up in accordance with normal accountancy practice.

(3) The company shall be taken to—

(a) become entitled or subject to such an asset or liability at the time it regards itself as becoming so entitled or subject, and

(b) cease to be entitled or subject to such an asset or liability at the time it regards itself as ceasing to be so entitled or subject.

(4) Where subsection (3) above applies, as regards any time beginning with the time mentioned in subsection (3)(a) and ending with the time mentioned in subsection (3)(b) the nominal amount of the debt shall be taken to be—

(a) such amount as the company treats as the nominal amount in its accounts, or

(b) such amount as it would so treat in accordance with normal accountancy practice (if that amount is different from the amount found under paragraph (a) above).

157 Definitions connected with currency contracts.

(1) A company becomes entitled to rights and subject to duties under a currency contract when it enters into the contract.

(2) A company holds a currency contract at a particular time if it is then entitled to rights and subject to duties under the contract; and it is immaterial when the rights and duties fall to be exercised and performed.

Interpretation: other provisions

158 Translation times and accrual periods.

(1) Where a qualifying company holds a qualifying asset the following are translation times as regards the asset—

(a) the time immediately after the company becomes entitled to the asset;

(b) the time immediately before the company ceases to be entitled to the asset;

(c) any time which is a time when an accounting period of the company ends and which falls after the time mentioned in paragraph (a) above and before the time mentioned in paragraph (b) above.

(2) Where a qualifying company owes a qualifying liability the following are translation times as regards the liability—

(a) the time immediately after the company becomes subject to the liability;

(b) the time immediately before the company ceases to be subject to the liability;

(c) any time which is a time when an accounting period of the company ends and which falls after the time mentioned in paragraph (a) above and before the time mentioned in paragraph (b) above.

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(3) Where a qualifying company enters into a currency contract the following are translation times as regards the contract—
  (a) the time immediately after the company becomes entitled to rights and subject to duties under the contract;
  (b) the time immediately before the company ceases to be entitled to those rights and subject to those duties;
  (c) any time which is a time when an accounting period of the company ends and which falls after the time mentioned in paragraph (a) above and before the time mentioned in paragraph (b) above.

(4) As regards a qualifying asset, a qualifying liability or a currency contract an accrual period is a period which—
  (a) begins with a time which is a translation time (other than the last to fall) as regards the asset, liability or contract, and
  (b) ends with the time which is the next translation time to fall as regards the asset, liability or contract.

159 Basic valuation.

(1) Subject to the following provisions of this section, the basic valuation of an asset or liability is—
  (a) such valuation as the company puts on it with regard to the time immediately after the company becomes entitled or subject to it, or
  (b) such valuation as the company would put on it with regard to that time under normal accountancy practice, if that valuation is different from that found under paragraph (a) above.

(2) Where (apart from this subsection) the valuation under subsection (1) above would be in a currency (the actual currency) other than the nominal currency, it shall be taken to be the equivalent, expressed in terms of the nominal currency, of the valuation in the actual currency; and the translation required by this subsection shall be made by reference to the London closing exchange rate for the two currencies concerned for the day in which the time mentioned in subsection (1) above falls.

(3) The basic valuation of a liability falling within section 153(2)(c) or (d) above is the consideration for the company becoming subject to the liability; and any consideration or part that is not pecuniary shall be taken to be equal to its open market value—
  (a) found at the time when the company becomes subject to the liability, and
  (b) if part of the consideration is pecuniary, expressed in the same currency as that part.

(4) Where (apart from this subsection) the valuation under subsection (3) above would be in a currency (the actual currency) other than the nominal currency, it shall be taken to be the equivalent, expressed in terms of the nominal currency, of the valuation in the actual currency; and the translation required by this subsection shall be made by reference to the London closing exchange rate for the two currencies concerned for the day on which the company becomes subject to the liability.

(5) Subsections (6) to (9) below apply where—
  (a) the company becomes entitled to a right to settlement under a qualifying debt on a security, and

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(b) the circumstances are such that section 713(2)(b) or (3)(b) of the Taxes Act 1988 applies (transferee treated as entitled under accrued income scheme to relief or a sum found in sterling).

(6) In such a case the basic valuation of the right shall be found by taking the consideration for the company becoming entitled to the right and—

(a) subtracting such of the amount found under section 713(2)(b) as is attributable to the right, or

(b) adding such of the amount found under section 713(3)(b) as is attributable to the right;

and any apportionment of consideration or of the amount found under section 713(2)(b) or (3)(b) shall be made on a just and reasonable basis.

(7) The following rules apply for the purposes of subsection (6) above—

(a) any consideration or part that is pecuniary shall be expressed in sterling (if not otherwise so expressed);

(b) any consideration or part that is not pecuniary shall be taken to be equal to its open market value, found at the time when the company becomes entitled to the right and expressed in sterling.

(8) Where the nominal currency of the right mentioned in subsection (5) above is not sterling, the valuation found in sterling under subsection (6) above shall be taken to be its equivalent expressed in terms of the nominal currency.

(9) Any translation required by subsection (7) or (8) above shall be made by reference to the London closing exchange rate for the currencies concerned for the day on which the company becomes entitled to the right.

(10) Subsections (11) and (12) below apply where—

(a) section 127 above applies as regards an asset or liability for an accrual period (the earlier period), and

(b) section 125 or 127 above applies as regards the asset or liability for the next accrual period (the later period).

(11) As regards the later period the basic valuation of the asset or liability shall be taken to be—

(a) the nominal amount of the debt outstanding immediately before the beginning of the later period, or

(b) if section 127(7) above also applies as regards the earlier period, the amount found under section 127(10) for that period.

(12) As regards an accrual period which falls after the later period the basic valuation of the asset or liability shall be the amount found under subsection (11) above, subject to any subsequent application of that subsection.

Modifications etc. (not altering text)

C39 S. 159 modified (23.3.1995) by S.I. 1994/3226, **regs. 6(1)(6)**, 8(5)
S. 159 excluded (23.3.1995) by S.I. 1994/3226, **reg. 6(3)**

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160 Nominal currency of assets and liabilities.

(1) As regards an asset mentioned in section 153(1)(a) above, or a liability mentioned in section 153(2)(a) or (b) or (c) above, the nominal currency is the settlement currency of the debt mentioned in the paragraph concerned.

(2) As regards an asset mentioned in section 153(1)(b) above, the nominal currency is the currency concerned.

(3) As regards an asset mentioned in section 153(1)(c) above, the nominal currency is the currency in which the share is denominated.

(4) As regards a liability mentioned in section 153(2)(d) above, the nominal currency is the currency in which the share is (or shares are) denominated.

161 Settlement currency of a debt.

(1) Subject to the following provisions of this section, the settlement currency of a debt is the currency in which ultimate settlement of the debt falls to be made.

(2) In a case where—

(a) ultimate settlement of a debt falls to be made in a particular currency, but

(b) the amount of the currency falls to be determined by reference to the value at any time of an asset consisting of or denominated in another currency,

the settlement currency of the debt is the other currency.

(3) As regards a debt mentioned in section 153(2)(b) above, and as regards a case where section 156(3) above applies, in subsections (1) and (2) above "falls" (in each place) shall be read as " would fall ".

(4) Where the settlement currency of a debt cannot be determined under subsections (1) to (3) above, the settlement currency of the debt is the currency that can reasonably be regarded as the most appropriate—

(a) deeming the state of affairs at settlement to be the same as the state of affairs at the material time, and

(b) having regard to subsections (1) to (3) above;

and the material time is the time immediately after the company becomes entitled to the asset mentioned in section 153(1)(a) above or subject to the liability mentioned in section 153(2)(a) or (b) or (c) above.

(5) For the purposes of this section the ecu shall be regarded as a currency.

162 Nominal amount of a debt.

(1) The nominal amount of a debt outstanding at any time is the amount of the debt outstanding at that time, expressed in terms of the settlement currency of the debt.

(2) In a case where—

(a) a payment or repayment is made at any time in a currency other than the settlement currency of a debt, and

(b) it falls to be decided whether there is in consequence an increase or decrease in the nominal amount of the debt outstanding,

the amount of the payment or repayment shall be taken to be its equivalent expressed in terms of the settlement currency of the debt.

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(3) Any translation required by this section shall be made by reference to the London closing exchange rate for the currencies concerned for the day in which the time concerned falls.

163 Local currency of a trade.

(1) Subject to subsection (2) below, the local currency of a trade for an accounting period is sterling.

(2) Where by virtue of regulations under section 93 above the basic profits or losses of a trade for an accounting period are to be computed and expressed in a currency other than sterling for the purposes of corporation tax, that other currency is the local currency of the trade for the period.

(3) Where by virtue of regulations under section 94 above the basic profits or losses of part of a trade for an accounting period are to be computed and expressed in a particular currency for the purposes of corporation tax, that currency is the local currency of the part for the period.

(4) For the purposes of this section the ecu shall be regarded as a currency other than sterling; and references in this Chapter to a currency other than sterling shall be construed accordingly.

164 Interpretation: miscellaneous.

(1) References to—
  (a) initial exchange gains and losses,
  (b) exchange gains and losses of a trade or of part of a trade,
  (c) non-trading exchange gains and losses, and
  (d) the accrual of gains and losses mentioned in paragraphs (a) to (c) above,

shall be construed in accordance with sections 125 to 129 above and Schedule 15 to this Act.

(2) References to a currency contract shall be construed in accordance with section 126(1) above.

(3) References to a qualifying debt shall be construed in accordance with section 153(10) above.

(4) References to a company's commencement day shall be construed in accordance with section 165(7) below.

(5) The local currency equivalent of a valuation of an asset or liability, or of an amount, is that valuation or amount expressed in terms of the local currency (a process sometimes known as translation).

(6) References to the basic profits or losses of a trade for an accounting period shall be construed in accordance with section 93(2) above.

(7) References to the basic profits or losses of part of a trade for an accounting period shall be construed in accordance with section 94(4) above.

(8) References to a share are to a share in a company (whether or not the qualifying company).

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(9) Shares 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.

(10) Rights to settlement under debts on securities are of the same kind if the securities 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.

(11) "Security", in the expression "debt on a security", has the meaning given by section 132 of the [M81]Taxation of Chargeable Gains Act 1992.

(12) References to deep gain securities shall be construed in accordance with Schedule 11 to the [M82]Finance Act 1989.

(13) References to the ecu are to the European currency unit as defined for the time being in Council Regulation No. 3180/78/EEC or in any Community instrument replacing it.

(14) "Prescribed" means prescribed by regulations made under this Chapter.

(15) A reference to this Chapter includes a reference to regulations made under it and a reference to a provision of this Chapter includes a reference to regulations made under the provision, unless otherwise required by the context or regulations.

(16) Sections 152 to 163 above, and the preceding provisions of this section, apply for the purposes of this Chapter.

Marginal Citations

M81 1992 c. 12.

M82 1989 c. 26.

Miscellaneous

165 Commencement and transitionals.

(1) This Chapter applies where—

(a) a qualifying asset is one to which the company becomes entitled on or after the company's commencement day;

(b) a qualifying liability is one to which the company becomes subject on or after that day;

(c) the rights and duties under a currency contract are ones to which the company becomes entitled and subject on or after that day.

(2) Where a qualifying asset or liability is held or owed by a qualifying company both immediately before and at the beginning of its commencement day, for the purposes of this Chapter the company shall be treated as becoming entitled or subject to the asset or liability at the beginning of its commencement day.

(3) Where both immediately before and at the beginning of its commencement day a qualifying company is entitled to rights and subject to duties under a currency contract, for the purposes of this Chapter the company shall be treated as becoming entitled and subject to them at the beginning of its commencement day.

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(4) Regulations may provide that where—

(a) a qualifying asset or liability is held or owed by a qualifying company both immediately before and at the beginning of its commencement day, and

(b) the asset or liability is of a prescribed description,

subsection (2) above shall not apply and for the purposes of this Chapter the company shall be treated as becoming entitled or subject to the asset or liability at such time (falling after its commencement day) as is found in accordance with prescribed rules.

(5) Regulations may provide that any rule made under subsection (4) above shall not apply, and that subsection (2) above shall accordingly apply, in a case where the company so elects in accordance with prescribed rules.

(6) Schedule 16 to this Act (which contains transitional provisions) shall have effect.

(7) For the purposes of this section—

(a) a company's commencement day is the first day of its first accounting period to begin after the day preceding the appointed day;

(b) the appointed day is such day as may be appointed by order.

(8) Subsections (1) to (6) above do not apply for the purposes of construing Schedule 17 to this Act (which contains its own commencement provisions).

Subordinate Legislation Made

P4 S. 165(7)(b) power exercised: 23.3.1995 appointed by S.I. 1994/3224, **art. 2**

Modifications etc. (not altering text)

C40 S. 165(2) excluded (23.3.1995) by S.I. 1994/3226, **regs. 3(2)**, 6(2)

166 Anti-avoidance: change of accounting period.

(1) This section applies where—

(a) a company changes the date on which any accounting period is to begin,

(b) if the change had not been made an exchange gain or gains not accruing to the company would have accrued or an exchange loss or losses accruing to the company would not have accrued or an exchange gain or gains accruing would have been bigger or an exchange loss or losses accruing would have been smaller, and

(c) the change mentioned in paragraph (a) above was made for the purpose, or for purposes which include the purpose, of securing the non-accrual or reduction of the gain or gains or the accrual or increase of the loss or losses.

(2) In such a case the inspector or on appeal the Commissioners concerned—

(a) may in arriving at the exchange gains and losses accruing to the company assume that there had been no such change as is mentioned in subsection (1)(a) above, and

(b) may accordingly make, with regard to the accounting period mentioned in subsection (1)(a) above, such adjustment to the company's corporation tax liability as is just and reasonable.

(3) For the purposes of this section—

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(a) an exchange gain is an exchange gain of a trade or an exchange gain of part of a trade or a non-trading exchange gain;

(b) an exchange loss is an exchange loss of a trade or an exchange loss of part of a trade or a non-trading exchange loss.

167 Orders and regulations.

(1) Any power to make an order or regulations under this Chapter shall be exercisable by the Treasury.

(2) Any power to make an order under this Chapter shall be exercisable by statutory instrument.

(3) Any power to make regulations under this Chapter shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of the House of Commons.

(4) Any power to make regulations under this Chapter—

(a) may be exercised as regards prescribed cases or descriptions of case;

(b) may be exercised differently in relation to different cases or descriptions of case.

(5) Regulations under this Chapter may make provision in such way as the Treasury think fit, and in particular may amend or modify the effect of any enactment (whether or not contained in this Chapter).

(6) Regulations under this Chapter may include such supplementary, incidental, consequential or transitional provisions as appear to the Treasury to be necessary or expedient.

(7) No specific provision of this Chapter about regulations shall prejudice the generality of subsections (4) to (6) above.

168 Insurance companies.

(1) Subject to the following provisions of this section, this Chapter shall apply in relation to insurance companies as it applies in relation to other qualifying companies.

(2) Regulations may make provision about the treatment for corporation tax purposes of exchange differences arising as regards assets and liabilities held or owed by insurance companies.

(3) Any such provision may be made—

(a) about exchange differences arising as regards assets or liabilities (or both) generally or about a proportion of such differences;

(b) about exchange differences arising as regards prescribed descriptions of assets or liabilities (or both) or about a proportion of such differences;

(c) about exchange differences arising as regards individual assets or liabilities.

(4) Any such provision may be made about assets or liabilities that are qualifying assets or liabilities, or about those that are not, or about both.

(5) Regulations under this section may—

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(a) contain exceptions (whether by reference to categories of insurance business or otherwise);

(b) contain provision about the circumstances in which a charge or relief is to arise, its amount, and other matters relating to it;

(c) provide for consequential adjustments in a company's corporation tax liability;

(d) exclude or modify the effect of any of the provisions of this Chapter.

(6) References in this section to exchange differences are to gains and losses attributable to fluctuations in currency exchange rates.

(7) For the purposes of this section an insurance company is a company to which Part II of the [M83]Insurance Companies Act 1982 applies.

Marginal Citations

M83 1982 c.50.

VALID FROM 01/05/1995

[[F23]168A Application of Chapter to certain companies becoming resident in the United Kingdom.

(1) In a case where—

(a) by virtue of section 751 of the Taxes Act 1988, an exchange gain or an exchange loss accrues to a company for an accrual period constituting or falling within an accounting period during which the company is resident outside the United Kingdom, and

(b) the company subsequently becomes resident in the United Kingdom,

the company shall be treated, for the purposes of applying this Chapter to accounting periods beginning on or after the date when the company becomes resident in the United Kingdom, as if the exchange gain or loss mentioned in paragraph (a) above never existed.

(2) In this section—

(a) references to an exchange gain are to an exchange gain of a trade or an exchange gain of part of a trade or a non-trading exchange gain;

(b) references to an exchange loss are to an exchange loss of a trade or an exchange loss of part of a trade or a non-trading exchange loss;

(c) the reference in paragraph (a) of subsection (1) above to an exchange gain or an exchange loss accruing is to the gain or loss accruing before the application of any of sections 131, 136, 137 and 140 above in relation to the accounting period mentioned in that paragraph.**]**

Textual Amendments

F23 S. 168A inserted (1.5.1995) by 1995 c. 4, s. 133, **Sch. 25 para. 7**

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169 Chargeable gains.

Schedule 17 to this Act (provisions which relate to the taxation of chargeable gains and are connected with other provisions of this Chapter) shall have effect.

170 Amendments.

Schedule 18 to this Act (which contains amendments) shall have effect.

CHAPTER III

LLOYD'S UNDERWRITERS ETC.

Modifications etc. (not altering text)

C41 Pt. II Chapter III applied (1.5.1995 with application as mentioned in s. 127(19) of the amending Act) by 1995 c. 4, **s. 127(16)(a)(19)**

C42 Pt. II Chapter III modified (1.12.1997 with effect with respect to accounting periods of Lloyd's Scottish limited partnerships ending on or after that date) by S.I. 1997/2681, **reg. 3(1)(a)**

Main provisions

171 Taxation of profits and allowance of losses.

(1) Income tax for any year of assessment on the profits arising from a member's underwriting business shall be computed on the profits of that year of assessment.

(2) As respects the profits arising to a member from his underwriting business for any year of assessment—

(a) the aggregate of those profits shall be chargeable to tax under Case I of Schedule D; and

(b) accordingly, no part of those profits shall be chargeable to tax under any other Schedule or any other Case of Schedule D;

but nothing in this subsection shall affect the manner in which the amount of any profits arising from assets forming part of an ancillary trust fund is to be computed.

(3) Relief under section 380 of the Taxes Act 1988 (set-off against general income) in respect of a loss sustained by a member in his underwriting business in any year of assessment—

(a) shall not be given under subsection (2) of that section; but

(b) may, if the member so claims and he was a member in the preceding year of assessment, be given against his income for that preceding year, so far as it cannot be given against the income for the year in which the loss was sustained and can be given after any relief for a loss sustained in that preceding year.

(4) Subsection (2) above does not apply in relation to any profits arising before 6th April 1993 from assets forming part of an ancillary trust fund.

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172 Year of assessment in which profits or losses arise.

(1) Subject to the provisions of this Chapter, for the purposes of section 171 above and all other purposes of the Income Tax Acts the profits or losses in any year of assessment of a member's underwriting business shall be taken to be—

(a) in the case of profits or losses arising directly from his membership of one or more syndicates, those arising in respect of the corresponding underwriting year;

(b) in the case of profits or losses arising from assets forming part of a premiums trust fund, those allocated under the rules or practice of Lloyd's to the corresponding underwriting year; and

(c) in the case of other profits or losses, those derived from payments received or made in the corresponding underwriting year.

(2) Subsection (1)(c) above does not apply in relation to payments received or made before 6th April 1993.

173 Assessment and collection of tax.

(1) Schedule 19 to this Act (assessment and collection of tax) shall have effect.

(2) Schedule 19A to the Taxes Act 1988 (which is superseded by Schedule 19 to this Act for the year 1992-93 and subsequent years of assessment) shall have effect as if for sub-paragraph (3) of paragraph 1 there were substituted the following sub-paragraph—

"(3) Regulations under this paragraph may make provision with respect to any year or years of assessment; and the year (or any of the years) may be the year next but one preceding the year in which the regulations are made or any year following that earlier year."

(3) Subsection (2) above applies in relation to regulations made after the passing of this Act.

Members' trust funds

174 Premiums trust funds.

(1) A member shall be treated for the purposes of the Income Tax Acts and the Gains Tax Acts as absolutely entitled as against the trustees to the assets forming part of a premiums trust fund of his.

(2) Where an asset forms part of a premiums trust fund at the beginning of any underwriting year, for the purposes of the Income Tax Acts—

(a) the trustees of the fund shall be treated as acquiring it on that day, and

(b) they shall be treated as paying in respect of the acquisition an amount equal to the value of the asset at the time of the acquisition.

(3) Where an asset forms part of a premiums trust fund at the end of any underwriting year, for the purposes of the Income Tax Acts—

(a) the trustees of the fund shall be treated as disposing of it on that day, and

(b) they shall be treated as obtaining in respect of the disposal an amount equal to the value of the asset at the time of the disposal.

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(4) Subsection (5) below applies where the following state of affairs exists at the beginning of any underwriting year or the end of any such year—
  (a) securities have been transferred by the trustees of a premiums trust fund in pursuance of an arrangement mentioned in section 129(1), (2) or (2A) of the Taxes Act 1988,
  (b) the transfer was made to enable another person to fulfil a contract or to make a transfer,
  (c) securities have not been transferred in return, and
  (d) section 129(3) of that Act applies to the transfer made by the trustees.

(5) The securities transferred by the trustees shall be treated for the purposes of subsections (2) and (3) above as if they formed part of the premiums trust fund at the beginning or (as the case may be) the end of the underwriting year concerned.

(6) Subsections (2) to (5) above do not apply to FOTRA securities forming part of a member's premiums trust fund at the beginning or end of any underwriting year if—
  (a) the member is not domiciled in the United Kingdom at any time in the year, and
  (b) he is either not ordinarily resident in the United Kingdom during the year or a non-resident United Kingdom trader in the year.

(7) In this section—

"FOTRA securities" has the same meaning as in section 715 of the Taxes Act 1988 (exceptions from accrued income scheme);

"non-resident United Kingdom trader" shall be construed in accordance with subsection (5) of that section;

"underwriting year" does not include the year 1993 or any earlier underwriting year.

175 Special reserve funds.

(1) If arrangements are made by the Council of Lloyd's which—
  (a) enable such a special reserve fund as is referred to in Part I of Schedule 20 to this Act to be set up in relation to each member; and
  (b) comply with the requirements of that Part and are approved by the Board,

the provisions of that Part relating to taxation shall have effect in relation to any special reserve fund of a member set up under the arrangements.

(2) The arrangements may from time to time be varied with the consent of the Board.

(3) If, after giving notice of their intention to do so to the Council of Lloyd's, the Board cancel the approval which they have given with respect to the arrangements, paragraph 3 of Schedule 20 to this Act shall not apply, in the case of any member, to any year of assessment after the year of assessment in which the approval is cancelled.

(4) The provisions of Part II of Schedule 20 to this Act shall have effect as respects the winding up of any special reserve fund which—
  (a) was set up under the arrangements mentioned in section 452(1) of the Taxes Act 1988; and
  (b) belongs to a member for whom a special reserve fund may be set up under the arrangements mentioned in subsection (1) above.

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Modifications etc. (not altering text)

C43 S. 175 excluded (1.12.1997 with effect with respect to accounting periods of Lloyd's Scottish limited partnerships ending on or after that date) by S.I. 1997/2681, **reg. 7**

C44 S. 175(4) applied (with modifications) (9.3.1995 with application as mentioned in reg. 1 of the amending S.I.) by S.I. 1995/351, **regs. 1**, 15(1)

176 Ancillary trust funds.

(1) A member shall be treated for the purposes of the Income Tax Acts and the Gains Tax Acts as absolutely entitled as against the trustees to the assets forming part of an ancillary trust fund of his.

(2) The cost of acquisition and the consideration for the disposal of assets forming part of an ancillary trust fund—

(a) shall be left out of account in computing for the purposes of income tax the profits or losses of the member's underwriting business; and

(b) accordingly, shall not be excluded for the purposes of capital gains tax under section 37 or 39 of the Gains Tax Act.

(3) None of the following provisions (which apply where an individual entitled to securities dies), namely—

(a) subsections (1) to (4) of section 721 of the Taxes Act 1988 (accrued income scheme);

(b) paragraph 7(2) of Schedule 4 to that Act (deep discount securities);

(c) paragraph 7(1) of Schedule 11 to the [M84]Finance Act 1989 (deep gain securities); and

(d) paragraph 16(1) of Schedule 10 to the [M85]Finance Act 1990 (convertible securities),

shall apply where the individual concerned is a member and the security concerned forms part of an ancillary trust fund of his.

(4) In a case where subsection (3)(a) above applies, the deceased's personal representatives shall be treated for the purposes of sections 710 to 728 of the Taxes Act 1988 as the transferor or transferee in relation to transfers of securities as to which the deceased was the transferor or transferee (as the case may be) in the interest period in which he died.

Marginal Citations

M84 1989 c. 26.

M85 1990 c. 29.

Other special cases

177 Reinsurance to close.

(1) This section applies where—

(a) in accordance with the rules or practice of Lloyd's and in consideration of the payment of a premium, one member agrees with another to meet liabilities

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arising from the latter's underwriting business for an underwriting year so that the accounts of the business for that year may be closed; and

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

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

(3) In computing for those purposes the profits of the continuing member's underwriting business as a member of the reinsurer syndicate, those profits shall be reduced by an amount equal to any part of a premium which, by virtue of subsection (2) above, is not deductible as an expense of his as a member of the reinsured syndicate.

(4) The assessment referred to in subsection (2) above shall be taken to be fair and reasonable only if it is arrived at with a view to producing the result that a profit does not accrue to the member to whom the premium is payable but that he does not suffer a loss.

178 Stop-loss and quota share insurance.

(1) In computing for the purposes of income tax the profits of a member's underwriting business, each of the following shall be deductible as an expense, namely—

(a) any premium payable by him under a stop-loss insurance, and any repayment of insurance money paid to him under such an insurance;

(b) any amount payable by him into the High Level Stop Loss Fund, and any repayment of an amount paid to him out of that Fund; and

(c) any amount payable by him under a quota share contract, irrespective of the purpose for which the contract was entered into.

(2) Subject to subsection (3) below, each of the following, namely—

(a) any insurance money payable to him under a stop-loss insurance in respect of a loss in his underwriting business; and

(b) any amount payable to a member out of the High Level Stop Loss Fund in respect of such a loss,

shall be treated as a trading receipt in computing the profits arising from that business for the year of assessment which corresponds to the underwriting year in which the loss arose.

(3) Where, as respects the payment of any such insurance money or amount as is mentioned in subsection (2) above—

(a) the inspector is not notified of the payment at least 30 days before the time after which any assessment or further assessment of profits for the year of assessment is precluded by section 34 of the Management Act (ordinary time limit of six years), and

(b) the inspector is not entitled, after that time, to make any such assessment or further assessment by virtue of section 36 (fraudulent or negligent conduct) or 40(2) (assessment on personal representatives) of that Act,

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that subsection shall have effect in relation to that insurance money or amount as if it referred instead to the year of assessment which corresponds to the underwriting year in which the payment is made.

(4) In this section "quota share contract" means any contract between a member and another person which—

(a) is made in accordance with the rules or practice of Lloyd's; and

(b) provides for that other person to take over any rights and liabilities of the member under any of the syndicates of which he is a member.

Miscellaneous

179 Cessation: final year of assessment.

(1) Subject to subsection (5) below, this section applies where a member ceases to carry on his underwriting business, whether by reason of death or otherwise.

(2) Subject to subsection (3) below and to the provisions of any regulations made by the Board, the member's final year of assessment shall be that which corresponds to the underwriting year in which his deposit at Lloyd's is paid over to him or his personal representatives or assigns.

(3) In any case where the member dies not later than the end of the underwriting year mentioned in subsection (2) above, his final year of assessment shall be that in which he dies.

(4) For the purposes of section 171 above and all other purposes of the Income Tax Acts, any profits or losses arising to the member from his underwriting business which are not taken (by virtue of the provisions of this Chapter) to be profits or losses of an earlier year of assessment shall be taken to be profits or losses of his final year of assessment.

(5) This section does not apply in any case where the member's deposit at Lloyd's is paid over to him or his personal representatives or assigns before 1st January 1993.

VALID FROM 03/05/1994

[F24 179A Death of member.

(1) This section applies where a member ceases to carry on his underwriting business by reason of death.

(2) For the purposes of assessing the profits of the member's underwriting business, the member shall be treated as having died at the end of the year of assessment which corresponds to the underwriting year immediately preceding that in which he actually died.

(3) For the purposes of the Income Tax Acts—

(a) the carrying on of the member's underwriting business by his personal representatives shall not be treated as a change in the persons engaged in the carrying on of that business; and

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(b) subject to the provisions of any regulations made by the Board, the business shall be treated as continuing until the member's deposit at Lloyd's is paid over to his personal representatives.**]**

Textual Amendments

F24 S. 179A inserted (3.5.1994 with effect in any case where the member dies after the end of the year 1993-94) by 1994 c. 9, s. 228, **Sch. 21 para. 6(2)(3)**

Modifications etc. (not altering text)

C45 Ss. 179, 179A excluded (9.3.1995 with application as mentioned in reg. 1 of the amending S.I.) by S.I. 1995/351, **regs. 1**, 14(2)
Ss. 179, 179A excluded (1.12.1997 with effect with respect to accounting periods of Lloyd's Scottish limited partnerships ending on or after that date) by S.I. 1997/2681, **reg. 4(1)**

180 Underwriting profits to be earned income.

(1) In relation to any member, all profits arising to him from his underwriting business—
(a) shall be treated for the purposes of the Income Tax Acts as immediately derived from the carrying on by him of that business, and
(b) accordingly, shall constitute earned income for those purposes.

(2) This section does not apply in relation to profits of the year 1992-93 or earlier years of assessment.

Modifications etc. (not altering text)

C46 S. 180 excluded (1.12.1997 with effect with respect to accounting periods of Lloyd's Scottish limited partnerships ending on or after that date) by S.I. 1997/2681, **reg. 8**

181 Lloyd's underwriting agents.

In section 43 of the [M86]Finance Act 1989 (Schedule D: computation), subsections (6) and (7) (which extend certain time limits for persons permitted by the Council of Lloyd's to act as underwriting agents at Lloyd's) shall cease to have effect in relation to periods of account ending on or after 30th June 1993.

Marginal Citations

M86 1989 c. 26.

Supplemental

182 Regulations.

(1) The Board may by regulations provide—
(a) for the assessment and collection of tax charged in accordance with section 171 above (so far as not provided for by Schedule 19 to this Act);

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

(c) for modifying the application of this Chapter in cases where a syndicate continues after the end of its closing year or a member dies or otherwise ceases to carry on his underwriting business;

(d) for giving credit for foreign tax.

(2) Subsection (3) below applies in the case of any provision of the Tax Acts, the Gains Tax Acts or the Management Act which imposes a time limit for making a claim or an election or an application.

(3) The Board may by regulations provide that where the claim or election or application falls to be made by a member or his spouse (or both) the provision shall have effect as if it imposed such longer time limit as is specified in the regulations; and regulations under this subsection may make different provision for different provisions or different purposes.

(4) Regulations under this Chapter may make provision with respect to any year or years of assessment; and the year (or any of the years) may be the year next but one preceding the year in which the regulations are made or any year following that earlier year.

(5) Regulations made, or deemed to have been made, under any of the following enactments (regulations about Lloyd's underwriters), namely—

(a) section 451(1) or (1A) of the Taxes Act 1988,

(b) section 92(5) of the [M87]Finance Act 1989, or

(c) section 209(4) of the Gains Tax Act,

which were in force immediately before 6th April 1992 shall continue in force for the year 1992-93 and subsequent years of assessment notwithstanding the repeal of that enactment by this Act, and shall be deemed to have been made under this section.

Marginal Citations

M87 1989 c. 26.

183 Consequential amendments.

(1) In section 20(2) of the Taxes Act 1988 (Schedule F), for the words "section 450" there shall be substituted the words " section 171 of the Finance Act 1993 ".

(2) In section 481(5)(f) of that Act (meaning of "relevant deposit"), for the words "section 457) of an underwriting member" there shall be substituted the words " section 184 of the Finance Act 1993) of an underwriting or former underwriting member ".

(3) In section 627(5) (retirement annuities: Lloyd's underwriters) and section 641(2) (carry-back of contributions) of that Act, for the words "underwriting member" there shall be substituted the words " underwriting or former underwriting member. "

(4) In section 710(14) of that Act (meaning of "business" and "premiums trust fund"), for the words "section 457" there shall be substituted the words " section 184 of the Finance Act 1993 ".

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(5) In the following provisions (which relate to nominees, trustees etc.), namely—

Section 720(3) of the Taxes Act 1988,
paragraph 18(1) of Schedule 4 to that Act,
paragraph 10(1) of Schedule 11 to the Finance Act 1989, and
paragraph 18(1) of Schedule 10 to the [M88]Finance Act 1990,

the words from "his special reserve fund" to the end shall be omitted.

(6) In the following provisions (which relate to the death of a member), namely—

section 721(5) of the Taxes Act 1988,
paragraph 18(8) of Schedule 4 to that Act,
paragraph 10(6) of Schedule 11 to the Finance Act 1989, and
paragraph 18(6) of Schedule 10 to the [M89]Finance Act 1990,

the words from "a special reserve fund" to the end shall be omitted.

(7) In section 206(2) of the Gains Tax Act (Lloyd's underwriters), after the words "subsection (1) above" there shall be inserted the words " and section 174(1) of the Finance Act 1993. "

(8) In section 209 of that Act (interpretation, regulations about underwriters etc.)—

(a) in subsection (1), for the words "sections 450 to 456 of the Taxes Act" there shall be substituted the words " Chapter III of Part II of the Finance Act 1993 " and for the words "sections 450 to 456", in the second place where they occur, there shall be substituted the words " that Chapter "; and

(b) in subsection (6), the words "or (4)" shall be omitted.

Marginal Citations

M88 1990 c. 29.

M89 1990 c. 29.

184 Interpretation and commencement.

(1) In this Chapter, unless the context otherwise requires—

"ancillary trust fund", in relation to a member, does not include a premiums trust fund of his or his special reserve fund (if any) but, subject to that, means any trust fund required or authorised by the rules of Lloyd's, or required by a members' agent of his or the managing agent of a syndicate of which he is a member;

"closing year"—

(a) in relation to a year of assessment, means the year of assessment next but one following that year;

(b) in relation to an underwriting year, means the underwriting year next but one following that year; and

(c) in relation to a syndicate, means the closing year of the underwriting year for which it was formed;

"the Gains Tax Act" means the [M90]Taxation of Chargeable Gains Act 1992 and

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"the Gains Tax Acts" means that Act and any other enactments relating to capital gains tax;

"the High Level Stop Loss Fund" means the fund of that name which, under the rules of Lloyd's, has been established for the year 1993 and subsequent underwriting years;

"inspector" includes any officer of the Board;

"the Management Act" means the [M91]Taxes Management Act 1970;

"managing agent", in relation to a syndicate and a year of assessment, means—

(a) the person registered as a managing agent at Lloyd's who was acting as such an agent for the syndicate at the end of the corresponding underwriting year, or

(b) such other person as may be determined in accordance with regulations made by the Board;

"member" means a member of Lloyd's who is or has been an underwriting member;

"members' agent", in relation to a member of a syndicate and a year of assessment, means—

(a) the person registered as a members' agent at Lloyd's who was acting as such an agent for the member at the end of the corresponding underwriting year, or

(b) if two or more such persons were so acting and one of them was appointed by the member to be responsible for complying with the requirements of Part II of Schedule 19 to this Act in relation to all of the syndicates of which he is a member, that person, or

(c) if two or more such persons were so acting and none of them was so appointed, the person who was so acting for the member in his capacity as a member of the syndicate, or

(d) such other person as may be determined in accordance with regulations made by the Board;

"premiums trust fund" means such a trust fund as is referred to in section 83 of the [M92]Insurance Companies Act 1982;

"prescribed" means prescribed by regulations made by the Board;

"profits" includes gains;

"special reserve fund", unless the contrary intention appears, means a special reserve fund set up under the arrangements mentioned in section 175(1) above;

"stop-loss insurance" means any insurance taken out by a member against losses in his underwriting business;

"syndicate" means a syndicate of underwriting members of Lloyd's formed for an underwriting year;

"underwriting business", in relation to a member, means his underwriting business as a member of Lloyd's, whether carried on personally or through an underwriting agent, and does not include any other business carried on by him, and in particular, where he is himself an underwriting agent, does not include his business as such an agent;

"underwriting year" means the calendar year.

(2) For the purposes of this Chapter—

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(a) an underwriting year and a year of assessment shall be deemed to correspond to each other if the underwriting year ends in the year of assessment;

(b) the profits or losses of a member's underwriting business include profits or losses arising to him from assets forming part of a premiums trust fund or an ancillary trust fund; and

(c) any charge made on a member by the agent of a syndicate of which he is a member, and any expense incurred on his behalf by the agent of such a syndicate, shall be treated as expenses arising directly from his membership of that syndicate.

(3) Subject to any provision to the contrary, the provisions of this Chapter have effect for the year 1992-93 and subsequent years of assessment.

Marginal Citations

M90 1992 c. 12.
M91 1970 c. 9.
M92 1982 c. 50.

PART III

OIL TAXATION

185 Abolition of PRT for oil fields with development consents on or after 16th March 1993.

(1) In this Part of this Act a "non-taxable field" means an oil field—

(a) for no part of which consent for development was granted to a licensee by the Secretary of State before 16th March 1993; and

(b) for no part of which a programme of development was served on a licensee or approved by the Secretary of State before that date;

and in this Part of this Act "taxable field" means an oil field which is not a non-taxable field.

(2) For the purposes of subsection (1) above, no account shall be taken, in relation to an oil field, of a consent for development granted before 16th March 1993 or a programme of development served on a licensee or approved by the Secretary of State before that date if—

(a) in whole or in part that consent or programme related to another oil field for which a determination under Schedule 1 to the principal Act was made before the determination under that Schedule for the field in question; and

(b) on or after 16th March 1993, a consent for development is or was granted or a programme of development is or was served on a licensee or approved by the Secretary of State and that consent or programme relates, in whole or in part, to the field in question.

(3) Petroleum revenue tax shall not be charged in accordance with the Oil Taxation Acts in respect of—

(a) profits from oil won from a non-taxable field under the authority of such a licence as is referred to in section 1(1) of the principal Act; or

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(b) any receipts accruing to a participator in a non-taxable field which, in the case of a taxable field, would be tariff receipts or disposal receipts attributable to the field for any period.

(4) Without prejudice to the generality of subsection (3) above—

(a) in section 1(2) of the principal Act (the charge to tax) after the words "oil field" there shall be inserted " which is a taxable field ";

(b) in section 3(1D) of the principal Act (apportionment of expenditure between oil field and non-oil field use) for the words "an oil field", in both places where they occur, there shall be substituted " a taxable field ";

(c) in section 5B of the principal Act (allowance of research expenditure) in subsection (6) after the words "this Act" there shall be inserted " or for purposes relating to non-taxable fields ";

(d) no computation shall be made under the Oil Taxation Acts of the assessable profit or allowable loss accruing to a participator in any period from a non-taxable field; and

(e) no expenditure shall be regarded as allowable (or allowed) for a non-taxable field under the Oil Taxation Acts.

(5) In section 12(1) of the principal Act (interpretation) at the end of the definition of "oil field" there shall be added the words " and "taxable field" and "non-taxable field" have the same meaning as in Part III of the Finance Act 1993 ".

(6) Subject to paragraphs (b) and (c) of subsection (4) above, where, apart from this section, expenditure incurred on or after 16th March 1993 would fall to be apportioned (as being allowable expenditure) between two or more oil fields, at least one of which is a non-taxable field, the apportionment shall be made as if all the fields were taxable fields, but subsection (4)(e) above shall then apply to any amount of expenditure apportioned to a non-taxable field.

(7) In subsections (1) and (2) above "development", in relation to an oil field, means—

(a) the erection or carrying out of permanent works for the purpose of getting oil from the field or for the purpose of conveying oil won from the field to a place on land; or

(b) winning oil from the field otherwise than in the course of searching for oil or drilling wells;

and consent for development does not include consent which is limited to the purpose of testing the characteristics of an oil-bearing area and does not relate to the erection or carrying out of permanent works.

(8) In subsection (7) above "permanent works" means any structures or other works whatsoever which are intended by the licensee to be permanent and are neither designed to be moved from place to place without major dismantling nor intended by the licensee to be used only for searching for oil.

186 Reduction of rates of PRT and interest repayments for taxable oil fields.

(1) With respect to chargeable periods ending after 30th June 1993 the rate of petroleum revenue tax (relevant only to taxable fields) shall be 50 per cent. and, accordingly, with respect to such periods, in section 1(2) of the principal Act for "75" there shall be substituted " 50 ".

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(2) In paragraph 17 of Schedule 2 to the principal Act (limit on interest in the case of relief for losses carried back) at the end of sub-paragraph (2) there shall be added the words " and, in relation to the appropriate repayment, the chargeable period for which the relevant assessment or amendment is made is referred to as "the repayment period" ".

(3) In sub-paragraph (4) of that paragraph—

(a) at the beginning there shall be inserted the words " Subject to sub-paragraph (6) below "; and

(b) in paragraph (a) for the words "85 per cent." there shall be substituted " the relevant percentage of the amount " and after the word "above" there shall be inserted " which is treated as reducing the assessable profit of the repayment period ".

(4) At the end of that paragraph there shall be added the following sub-paragraphs—

"(5) For the purposes of sub-paragraph (4)(a) above—

(a) where the repayment period ends on or before 30th June 1993, the relevant percentage, in relation to the amount of the loss or losses which is treated as reducing the assessable profit accruing to the participator for that period is 85 per cent.; and

(b) in relation to the amount of the loss or losses which is treated as reducing the assessable profit accruing to the participator for any later repayment period, the relevant percentage is 60 per cent.

(6) If, in order to give effect to the relief for losses carried back, a repayment of APRT falls, or will on the making of a claim fall, to be made with respect to a chargeable period which is the repayment period in relation to the appropriate repayment, the reference in sub-paragraph (4)(b) above to the appropriate repayment shall be construed as a reference to the aggregate of that repayment and the repayment of APRT.

(7) In sub-paragraph (6) above "APRT" means advance petroleum revenue tax paid under Chapter II of Part VI of the [M93]Finance Act 1982."

Marginal Citations

M93 1982 c. 39.

187 Returns and information.

(1) In Schedule 2 to the principal Act (management and collection of petroleum revenue tax), other than the Table in paragraph 1 (modifications of the [M94]Taxes Management Act 1970),—

(a) for the words "an oil field", in each place where they occur, there shall be substituted " a taxable field "; and

(b) for the words "the oil field", in each place where they occur, there shall be substituted " the taxable field ";

andparagraph 7 (which is superseded by the following provisions of this section) shall be omitted.

(2) The Board may by notice in writing require a person—

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(a) to deliver to a named officer of the Board such documents as are in the person's possession or power and as (in the Board's reasonable opinion) contain, or may contain, information relevant to—

(i) any tax liability to which that person is or may be subject, or

(ii) the amount of any such liability; or

(b) to furnish to a named officer of the Board such particulars as the Board may reasonably require as being relevant to, or to the amount of, any such liability.

(3) The Board may, for the purpose of enquiring into the tax liability of any person ("the taxpayer"), by notice in writing require any other person to deliver to or, if the person to whom the notice is given so elects, to make available for inspection by, a named officer of the Board, such documents—

(a) as are in his possession or power; and

(b) as (in the Board's reasonable opinion) contain, or may contain, information relevant to—

(i) any tax liability to which the taxpayer is or may be or may have been subject; or

(ii) the amount of any such liability.

(4) Subject to subsection (5) below, a notice under subsection (3) above shall name the taxpayer with whose liability the Board is concerned; and (for the avoidance of doubt) a company which has ceased to exist may be so named.

(5) If, on an application made by the Board, a Special Commissioner gives his consent, the Board may give such a notice as is mentioned in subsection (3) above but without naming the taxpayer to whom the notice relates; but such a consent shall not be given unless the Special Commissioner is satisfied—

(a) that the notice relates to a taxpayer whose identity is not known to the Board or to a class of taxpayers whose individual identities are not so known;

(b) that there are reasonable grounds for believing that the taxpayer or any of the class of taxpayers to whom the notice relates may have failed or may fail to comply with any provision of the Oil Taxation Acts;

(c) that any such failure is likely to have led or to lead to serious prejudice to the proper assessment or collection of tax; and

(d) that the information which is likely to be contained in any documents to which the notice relates is not readily available from another source.

(6) A person to whom a notice is given under subsection (5) above may, by notice in writing given to the Board within thirty days after the date of the notice under that subsection, object to that notice on the ground that it would be onerous for him to comply with it; and, if the matter is not resolved by agreement, it shall be referred to the Special Commissioners who may confirm, vary or cancel that notice.

(7) Subsections (2) to (6) above (which, in relation to petroleum revenue tax, contain provisions similar to those of section 20 of the [M95]Taxes Management Act 1970) shall have effect subject to Part I of Schedule 21 to this Act (which contains provisions similar to those of section 20B of that Act); and the provisions of Part II of that Schedule relating to the meaning of "documents" (which are derived from provisions of sections 20 and 20D of that Act) shall have effect.

(8) Section 98 of the Taxes Management Act 1970 (penalties, etc. in relation to special returns) shall have effect as if, in the first column of the Table in that section, there were included a reference to subsections (2) to (6) above.

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Marginal Citations

M94 1970 c. 9.

M95 1970 c. 9.

188 Exploration and appraisal expenditure.

(1) In section 5A of the principal Act (allowance of exploration and appraisal expenditure), in subsection (1) (conditions for expenditure to be allowable) after paragraph (a) there shall be inserted the following paragraph—

"(aa) either is incurred before 16th March 1993 or is incurred within the period of two years beginning on that date and is expenditure to which that person or, if that person is a company, that company or a company associated with it in respect of the expenditure, is committed immediately before that date; and".

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

"(1A) For the purposes of subsection (1)(aa) above, in respect of expenditure incurred on or after 16th March 1993, a person is to be regarded as committed to that expenditure immediately before that date if—

(a) he has an obligation under an exploration and appraisal contract entered into before that date to incur the expenditure; or

(b) the expenditure is incurred wholly and exclusively for the same purpose as that for which the contract referred to in paragraph (a) above was entered into and is so incurred pursuant to an obligation under an exploration and appraisal contract entered into on or after 16th March 1993 and before 16th June 1993.

(1B) In considering whether a person has at any time such a contractual obligation as is referred to in paragraph (a) or paragraph (b) of subsection (1A) above in respect of any expenditure,

(a) if the contract contains a power (however exercisable) by virtue of which the person concerned, or a company associated with him in respect of the expenditure, is able to bring any contractual obligations to an end, he shall not be regarded as committed to any expenditure which, if the power were to be exercised, would not be incurred; and

(b) if the person concerned (or a company associated with him in respect of the expenditure) has an option (however described) which was not exercised before 16th March 1993 but the exercise of which would increase his expenditure under the contract, he shall not be regarded as committed to any expenditure which would be incurred only as a result of the exercise of the option.

(1C) For the purposes of subsection (1A) above a contract is an exploration and appraisal contract if it is a contract for the provision of any services or other business facilities or assets for any of the purposes specified in subsection (2) below."

(3) In subsection (2) of that section for the words "subsection (1)" there shall be substituted " subsections (1) to (1C) ".

Status: *Point in time view as at 27/07/1993. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Finance Act 1993 is up to date with all changes known to be in force on or before 08 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

189 Transitional relief for certain exploration and appraisal expenditure.

(1) This section applies in any case where—

(a) a participator in an oil field or an associate incurs expenditure on or after 16th March 1993 and before 1st January 1995; and

(b) apart from this section, that expenditure would not be allowable under section 5A of the principal Act (as amended by section 188 above); and

(c) if section 188 above had not been enacted, the expenditure would be allowable in the case of the participator under section 5A of the principal Act; and

(d) on 16th March 1993 the participator or the associate was a licensee in respect of the area to which the expenditure related.

(2) In the following provisions of this section—

(a) expenditure falling within subsection (1) above is referred to as "transitional E and A expenditure"; and

(b) the participator in whose case that expenditure would be allowable as mentioned in paragraph (c) of that subsection is referred to as "the claimant".

(3) Subject to the following provisions of this section, so much of the transitional E and A expenditure incurred by the claimant or an associate as does not in the aggregate exceed £10 million shall be allowable in the case of the claimant under section 5A of the principal Act (as exploration and appraisal expenditure).

(4) In subsections (1) to (3) above any reference to an associate of a participator applies only where the participator is a company and is a reference to another company—

(a) which on 16th March 1993 was a member of the same group of companies as the participator; and

(b) with which the participator is associated in respect of expenditure incurred by the other company;

and subsections (7) and (8) of section 5 of the principal Act (companies and associates etc.) apply for the purposes of this section as they apply for the purposes of that section.

(5) Where—

(a) the claimant is a company, and

(b) on 16th March 1993 the claimant was a member of a group of companies, and

(c) at least one other company which was a member of the group on that date was then a participator in an oil field, and

(d) that other company is also the claimant in relation to an amount of transitional E and A expenditure,

subsection (3) above shall have effect as if references therein to the claimant were references to the aggregate of all those companies which on that date were members of the group and are the claimants in relation to any transitional E and A expenditure.

(6) In this section, a group of companies means a company which is not a 51 per cent. subsidiary of any other company, together with each company which is its 51 per cent. subsidiary; and section 838 of the Taxes Act 1988 (subsidiaries) applies for the purposes of this section as it applies for the purposes of the Tax Acts (within the meaning of that Act).

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190 Allowance of expenditure on certain assets limited by reference to taxable field use.

(1) Where, in the case of expenditure incurred as mentioned in section 1(1) of the 1983 Act (expenditure incurred on non-dedicated mobile assets),—

(a) the expenditure would, apart from this subsection, be allowable under section 4 of the principal Act for a claim period of a taxable field, and

(b) during that claim period, the asset becomes dedicated to a non-taxable field,

that proportion of the expenditure which is equal to the proportion of the claim period during which the asset is dedicated to a non-taxable field shall not be allowable as mentioned in paragraph (a) above.

(2) For the purpose of determining whether an asset becomes at any time dedicated to a non-taxable field, it shall be assumed that, in relation to a non-taxable field, any reference in section 2 of the 1983 Act (dedicated mobile assets) to a claim period is a reference to—

(a) the period ending at the end of December following the determination of the field; or

(b) the period of twelve months ending at the end of December in any later year.

(3) In paragraph 7 of Schedule 1 to the 1983 Act (brought-in assets) in sub-paragraph (1)(c) (which requires that during the initial period the asset should have been used otherwise than in connection with an oil field) for the words "an oil field" there shall be substituted " a taxable field ".

(4) In paragraph 8 of that Schedule (subsequent use of new asset otherwise than in connection with an oil field) in the heading and in sub-paragraphs (1) to (3) and (6) for the words "an oil field" there shall be substituted " a taxable field ".

(5) In paragraph 5 of Schedule 2 to the 1983 Act (acquisition otherwise than at arm's length: limit on tariff and disposal receipts)—

(a) in paragraphs (a) and (c) of sub-paragraph (1) for the words "an oil field" there shall be substituted " a taxable field ";

(b) at the end of sub-paragraph (1)(c) there shall be added "and

(d) the asset is to be used wholly in connection with a taxable field";

(c) in sub-paragraph (3)(a) for the words "an oil field" there shall be substituted " a taxable field "; and

(d) in sub-paragraph (3)(b) for the words "an oil field" there shall be substituted " a taxable field or, if it is to a participator in a taxable field, the asset is to be used wholly or partly in connection with a non-taxable field ".

191 Time when expenditure is incurred.

(1) Subject to the following provisions of this section, where a claim is made under the principal Act for the allowance of any expenditure and the claim is received by the Board after 16th March 1993, an amount of expenditure is to be taken to be incurred for the purposes of the Oil Taxation Acts on the date on which the obligation to pay that amount becomes unconditional (whether or not there is a later date on or before which the whole or any part of that amount is required to be paid).

(2) Subject to subsection (3) below, where the amount of any expenditure incurred by any person at any time after 16th March 1993 under a contract—

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(a) for the acquisition from any other person of, or of an interest in, an asset, or

(b) for the provision by any other person of services or other business facilities of whatever kind (whether in connection with the use of an asset or not), or

(c) for the grant or transfer to that person by any other person of any right, licence or interest (other than an interest in an asset)

is disproportionate to the extent to which that other person has, at or before that time, performed his obligations under the contract then, for the purposes of the Oil Taxation Acts, only so much of the expenditure shall be taken to have been incurred at that time as is proportionate to those obligations which have been so performed.

(3) If, in the case of a contract entered into after 16th March 1993 and falling within paragraph (a) or paragraph (b) of subsection (2) above—

(a) the expenditure referred to in that subsection is incurred before 1st July 1993, and

(b) the other person referred to in paragraph (a) or paragraph (b) ("the contractor") has performed his obligations by entering into one or more further contracts,

the contractor shall be treated for the purposes of subsection (2) above as having at any time performed his obligations under the contract only to the extent that, at that time, the asset or interest in question has been acquired by, or, as the case may be, the services or other business facilities have been provided to, the person incurring the expenditure.

(4) In paragraph 2 of Schedule 4 to the principal Act (limitation of allowable expenditure on transactions between connected persons or otherwise than at arm's length) for sub-paragraph (1) there shall be substituted the following sub-paragraphs—

"(1) Where, in a transaction to which this paragraph applies, a person has incurred expenditure in acquiring, bringing into existence or enhancing the value of an asset, he shall at any time be treated for the purposes of—

(a) sections 3 and 4 of this Act, and

(b) sections 3 and 4 of and Schedule 1 to the [M96]Oil Taxation Act 1983,

as having incurred that expenditure only to the extent that it does not exceed expenditure (other than loan expenditure) incurred up to that time in a transaction to which this paragraph does not apply (or, if there has been more than one such transaction, the later or latest of them) in acquiring, bringing into existence or enhancing the value of, that asset.

(1A) Subsections (1) to (3) of section 191 of the Finance Act 1993 apply to determine for the purposes of this paragraph what expenditure has at any time been incurred under a transaction to which this paragraph does not apply, as they apply in relation to expenditure for the allowance of which a claim is received by the Board after 16th March 1993.

(1B) In sub-paragraph (1) above "loan expenditure" means expenditure in respect of interest or any other pecuniary obligation incurred in obtaining a loan or any other form of credit."

(5) For sub-paragraph (3) of paragraph 2 of Schedule 4 to the principal Act there shall be substituted the following sub-paragraphs—

"(3) The preceding provisions of this section shall, with any necessary modification, apply in relation to expenditure incurred by any person in acquiring an interest in an asset or in bringing into existence an asset in

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which he is to have an interest, or in enhancing the value of an asset in which he has an interest, as those provisions apply in relation to expenditure incurred by a person in acquiring, bringing into existence, or enhancing the value of an asset, as the case may be.

(4) The provisions of sub-paragraphs (1) to (2) above shall, with any necessary modification, apply in relation to expenditure incurred by any person in respect of—

(a) the use of an asset (including expenditure on renting or hiring), or

(b) the provision of services or other business facilities of whatever kind in connection with the use, otherwise than by that person, of an asset,

as they have effect in relation to expenditure incurred in the acquisition of, or of an interest in, an asset."

(6) The amendments made by subsections (4) and (5) above have effect where the transaction to which paragraph 2 of Schedule 4 to the principal Act applies takes place on or after 16th March 1993.

Modifications etc. (not altering text)

C47 S. 191(2) modified (3.5.1994 with application as mentioned in s. 231(1) of the amending Act) by 1994 c. 9, ss. 231, 234, **Sch. 22 Pt. II para. 13(2)**

Marginal Citations

M96 1983 c. 56.

192 Chargeable periods in which expenditure may be brought into account.

(1) Where a claim which—

(a) is made under Schedule 5 or Schedule 6 to the principal Act for the allowance of any expenditure, and

(b) is received by the Board after 16th March 1993,

has been allowed, the expenditure shall not be brought into account in determining the assessable profit or allowable loss of any chargeable period which ends earlier than the last day of the claim period in which the expenditure was incurred.

(2) Where a claim has been made under Schedule 7 to the principal Act for the allowance of any expenditure incurred after 31st March 1993 and that claim has been allowed, the expenditure shall not be brought into account in determining the assessable profit or allowable loss of any chargeable period which ends before the date on which the expenditure was incurred.

(3) The preceding provisions of this section have effect notwithstanding anything in subsection (9) of section 2 of the principal Act (under which expenditure which had been allowed might in certain cases be taken into account in earlier chargeable periods) and, accordingly, at the beginning of that subsection there shall be inserted " Subject to section 192 of the Finance Act 1993 ".

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193 Tariff receipts etc.

(1) In section 9 of the 1983 Act (tariff receipts allowance) in subsection (5) (definition of "user field") in paragraph (a) after the words "other than the principal field" there shall be inserted " or a non-taxable field ", and at the end of that subsection there shall be inserted the following subsection—

"(5A) No order may be made under subsection (5)(b) above on or after 1st July 1993."

(2) Where a participator in a taxable field incurs any expenditure and,—

(a) apart from this subsection, the expenditure would be taken into account in determining the assessable profit or allowable loss accruing to that participator from the taxable field in any chargeable period, and

(b) in the hands of the recipient, the expenditure would, on the relevant assumptions, constitute tariff receipts or disposal receipts of a participator in a non-taxable field attributable to that field for any period, and

(c) at the time the expenditure is incurred, the participator referred to in paragraph (a) above is or is connected with a participator in the non-taxable field referred to in paragraph (b) above,

the expenditure shall be disregarded in determining the assessable profit or allowable loss referred to in paragraph (a) above.

(3) For the purposes of subsection (2) above, the relevant assumptions are—

(a) that the non-taxable field is a taxable field; and

(b) that the asset which gives rise to the expenditure (by virtue of its use, the provision of services or other business facilities in connection with its use or its disposal) is a qualifying asset in relation to the participator in question.

(4) In section 12 of the 1983 Act (charge of receipts attributable to United Kingdom use of foreign field asset), in subsection (3) after the words "oil field", in the first place where they occur, there shall be inserted " which is a taxable field and ".

(5) After subsection (3) of section 12 of the 1983 Act there shall be inserted the following subsection—

"(3A) No order may be made under subsection (2)(a) above on or after 1st July 1993."

(6) In this section "disposal receipts", "qualifying asset" and "tariff receipts" have the same meaning as in the 1983 Act; and section 839 of the Taxes Act 1988 (connected persons) applies for the purposes of subsection (2)(c) above.

194 Double taxation relief in relation to petroleum revenue tax.

(1) For the purpose of giving relief from double taxation in relation to petroleum revenue tax in respect of the amount or value of consideration which is brought into charge to tax under section 12 of the 1983 Act (charge of receipts attributable to United Kingdom use of foreign field assets), section 788 of the Taxes Act 1988 (relief by agreement with other countries) shall have effect as if—

(a) references therein to income tax included references to petroleum revenue tax; and

(b) references therein to income included references to any such consideration.

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(2) Section 788 of the Taxes Act 1988, as it has effect in accordance with subsection (1) above, shall apply with respect to any arrangements which—
  (a) are set out in an Order in Council made, or having effect as if made, under that section before as well as after the passing of this Act; and
  (b) include petroleum revenue tax as a tax to which the arrangements apply.

(3) In the application of section 788 of the Taxes Act 1988 in accordance with the preceding provisions of this section—
  (a) paragraphs (b) to (d) of subsection (3),
  (b) subsections (4), (5) and (7), and
  (c) in subsection (6) the words from "Except" to "this Part",

  shall be omitted.

(4) In relation to a claim for relief under section 788 of the Taxes Act 1988 which is made by virtue of this section, sections 42 and 43 of the [M97]Taxes Management Act 1970 shall have effect with the following modifications—
  (a) for any reference to income tax there shall be substituted a reference to petroleum revenue tax;
  (b) any reference to income shall be construed as a reference to such consideration as is referred to in subsection (1) above;
  (c) for any reference to a year of assessment there shall be substituted a reference to a chargeable period within the meaning of the principal Act; and
  (d) any reference to a chargeable period shall be construed as a reference to a chargeable period within the meaning of the principal Act.

(5) Section 816 of the Taxes Act 1988 (disclosure of information) shall apply in relation to petroleum revenue tax as it applies in relation to income tax.

Marginal Citations
M97 1970 c. 9.

195 Interpretation of Part III and consequential amendments of assessments etc.

(1) In this Part—
  (a) "the principal Act" means the [M98]Oil Taxation Act 1975 ;
  (b) "the 1983 Act" means the [M99]Oil Taxation Act 1983 ;
  (c) "the Oil Taxation Acts" means Parts I and III of the principal Act, the 1983 Act and any other enactment relating to petroleum revenue tax; and
  (d) "taxable field" and "non-taxable field" shall be construed in accordance with section 185 above.

(2) The Board may make all such amendments of assessments or determinations or of decisions on claims as may be necessary in consequence of the provisions of this Part.

(3) This Part, other than section 194, shall be construed as one with Part I of the principal Act.

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Marginal Citations

M98 1975 c. 22.

M99 1983 c. 56.

PART IV

INHERITANCE TAX

196 Rate bands: no indexation in 1993.

The Table substituted by section 72(1) of the [M100]Finance (No.2) Act 1992 shall apply to chargeable transfers made in the year beginning 6th April 1993, and accordingly section 8(1) of the [M101]Inheritance Tax Act 1984 (indexation of rate bands)shall not apply to such transfers.

Marginal Citations

M100 1992 c. 48.

M101 1984 c. 51.

197 Rate bands: indexation for 1994 onwards.

(1) In section 8 of the Inheritance Tax Act 1984 (indexation of rate bands)—

(a) in subsection (1) for "December in 1984" there shall be substituted " September in 1993 " and for "previous December" there shall be substituted " previous September ";

(b) in subsection (3) for "December" there shall be substituted " September ";

(c) in subsection (4) for "1985" there shall be substituted " 1994 ".

(2) This section shall apply in relation to chargeable transfers made on or after 6th April 1994.

198 Fall in value relief: qualifying investments.

(1) In the [M102]Inheritance Tax Act 1984, in Part VI (valuation) in Chapter III (sale of shares etc. from deceased's estate) there shall be inserted after section 186—

"**186A Cancelled investments.**

(1) Where any qualifying investments comprised in a person's estate immediately before his death are—

(a) cancelled within the period of twelve months immediately following the date of the death without being replaced by other shares or securities, and

(b) held, immediately before cancellation, by the appropriate person,

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they shall be treated for the purposes of this Chapter as having been sold by the appropriate person for a nominal consideration (one pound) immediately before cancellation.

(2) Where any qualifying investments are included in the calculation under section 179(1) above by virtue of this section, paragraph (b) of that subsection shall have effect, so far as relating to those investments, with the omission of the words from "or" to the end.

186B Suspended investments.

(1) This section applies to any qualifying investments comprised in a person's estate immediately before his death in respect of which quotation on a recognised stock exchange or dealing on the Unlisted Securities Market is suspended at the end of the period of twelve months immediately following the date of the death ("the relevant period").

(2) Where—

(a) any qualifying investments to which this section applies are, at the end of the relevant period, held by the appropriate person, and

(b) the value on death of those investments exceeds their value at the end of that period,

they shall be treated for the purposes of this Chapter as having been sold by the appropriate person immediately before the end of that period for a price equal to their value at that time.

(3) Where any qualifying investments are included in the calculation under section 179(1) above by virtue of this section, paragraph (b) of that subsection shall have effect, so far as relating to those investments, with the omission of the words from "or" to the end."

(2) This section shall have effect in relation to deaths occurring on or after 16th March 1992.

Marginal Citations

M102 1984 c. 51.

199 Fall in value relief: interests in land.

(1) In the [M103]Inheritance Tax Act 1984, in Part VI, in Chapter IV (sale of land from deceased's estate) after section 197 there shall be inserted—

"**197A Sales in fourth year after death.**

(1) Where an interest in land—

(a) is comprised in a person's estate immediately before his death, and

(b) is sold by the appropriate person in the fourth year immediately following the date of the death, otherwise than in circumstances in which section 197(1) above has effect,

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the interest shall be treated, for the purposes of section 191(1) above, as having been sold within the period of three years immediately following the date of the death.

(2) Subsection (1) above shall not have effect in relation to an interest if its sale value would exceed its value on death.

(3) In determining the period referred to in section 192(1) above, no account shall be taken of the sale of an interest in relation to which subsection (1) above has effect; and if the claim relates only to such interests, section 192 shall not apply in relation to the claim.

(4) In applying section 196(1) above, no account shall be taken, for the purposes of paragraph (a) of that subsection, of an interest in relation to which subsection (1) above has effect."

(2) This section shall have effect in relation to deaths occurring on or after 16th March 1990.

Marginal Citations
M103 1984 c. 51.

200 Appeals: questions as to value of land.

(1) In section 222 of the Inheritance Tax Act 1984 (appeals against determinations) for subsection (4) there shall be substituted the following subsections—

"(4) An appeal on any question as to the value of land in the United Kingdom may be to the appropriate tribunal.

(4A) If and so far as the question in dispute on any appeal under this section to the Special Commissioners or the High Court is a question as to the value of land in the United Kingdom, the question shall be determined on a reference to the appropriate tribunal.

(4B) In this section "the appropriate tribunal" means—

(a) where the land is in England or Wales, the Lands Tribunal;

(b) where the land is in Scotland, the Lands Tribunal for Scotland;

(c) where the land is in Northern Ireland, the Lands Tribunal for Northern Ireland."

(2) In section 242 of that Act (recovery of tax) in subsection (3) for the words "subsection (4)" there shall be substituted the words " subsections (4) to (4B) ".

(3) This section shall apply in relation to any appeal which—

(a) is made on or after the day on which this Act is passed, or

(b) is made, but has not begun to be heard, before that day.

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PART V

STAMP DUTY

201 Increase in stamp duty threshold.

(1) Section 55 of the [M104]Finance Act 1963 (stamp duty under or by reference to conveyance or transfer on sale heading) and section 4 of the [M105]Finance Act (Northern Ireland) 1963 (equivalent provision for Northern Ireland) shall be amended as follows—

(a) in subsection (1) of each section for "£30,000" (in each place) there shall be substituted " £60,000 ";

(b) in subsection (2) of each section for "£300" there shall be substituted " £600 ".

(2) This section applies to—

(a) instruments executed on or after 16th March 1993 and before 23rd March 1993 and not stamped before 23rd March 1993;

(b) instruments executed on or after 23rd March 1993.

(3) For the purposes of section 14(4) of the [M106]Stamp Act 1891 (instruments not to be given in evidence etc. unless stamped in accordance with the law in force at the time of first execution) the law in force at the time of execution of an instrument falling within subsection (2)(a) above shall be deemed to be that as varied in accordance with subsection (1) above.

(4) This section shall be deemed to have come into force on 23rd March 1993.

Commencement Information

I11 S. 201 deemed to have come into force on 23.3.1993: see s. 201(4)

Marginal Citations

M104 1963 c. 25.
M105 1963 c. 22 (N.I.).
M106 1891 c. 39.

VALID FROM 28/07/1993

202 Rent to mortgage: England and Wales.

(1) Subsection (2) below applies where—

(a) a person exercises the right to acquire on rent to mortgage terms under Part V of the [M107]Housing Act 1985, and

(b) in pursuance of the exercise of that right a conveyance of the freehold is executed in his favour as regards the dwelling-house concerned.

(2) For the purposes of the enactments relating to stamp duty chargeable under the heading "Conveyance or Transfer on Sale" in Schedule 1 to the Stamp Act 1891, the consideration for the sale shall be taken to be equal to the price which, by virtue of section 126 of the Housing Act 1985, would be payable for the dwelling-house on a conveyance if the person were exercising the right to buy under Part V of that Act.

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(3) Subsection (4) below applies where—

(a) a person exercises the right to acquire on rent to mortgage terms under Part V of the Housing Act 1985, and

(b) in pursuance of the exercise of that right a lease is executed in his favour as regards the dwelling-house concerned.

(4) In such a case—

(a) the lease shall not be chargeable with stamp duty under the heading "Lease or Tack" in Schedule 1 to the [M108]Stamp Act 1891 but shall be chargeable with stamp duty under the heading "Conveyance or Transfer on Sale" in that Schedule as if it were a conveyance on sale;

(b) for the purposes of the enactments relating to stamp duty chargeable under the heading "Conveyance or Transfer on Sale" the consideration for the sale mentioned in paragraph (a) above shall be taken to be equal to the price which, by virtue of section 126 of the [M109]Housing Act 1985, would be payable for the dwelling-house on a grant if the person were exercising the right to buy under Part V of that Act.

(5) This section shall apply where the conveyance or lease is executed after the day on which this Act is passed.

Marginal Citations

M107 1985 c. 68.
M108 1891 c. 39.
M109 1985 c. 68.

VALID FROM 28/07/1993

203 Rent to loan: Scotland.

(1) Subsection (2) below applies where—

(a) a person exercises the right to purchase a house by way of the rent to loan scheme under Part III of the [M110]Housing (Scotland) Act 1987, and

(b) in pursuance of the exercise of that right a heritable disposition of the house is executed in favour of him.

(2) For the purposes of the enactments relating to stamp duty chargeable under the heading "Conveyance or Transfer on Sale" in Schedule 1 to the Stamp Act 1891, the consideration for the sale shall be taken to be equal to the price which, by virtue of section 62 of the Housing (Scotland) Act 1987, would be payable for the house if the person were exercising the right to purchase under section 61 of that Act.

(3) This section shall apply where the disposition is executed after the day on which this Act is passed.

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Marginal Citations
M110 1987 c. 26.

204 Method of denoting stamp duty.

(1) The Treasury may make regulations as to the method by which stamp duty is to be denoted.

(2) In particular, regulations under this section may—
- (a) provide for duty to be denoted by impressed stamps or adhesive stamps or by a record printed or made by a machine or implement or by such other method as may be prescribed;
- (b) provide for one method only to be used, whether generally or in prescribed cases;
- (c) provide for alternative methods to be available, whether generally or in prescribed cases;
- (d) make different provision for different cases;

and cases may be designated by reference to the type of instrument concerned, the geographical area involved, or such other factors as the Treasury think fit.

(3) Regulations under this section may provide that where stamp duty is denoted by a method which (in the case of the instrument concerned) is required or permitted by the law in force at the time it is stamped, for the purposes of section 14(4) of the Stamp Act 1891 (instruments not to be given in evidence etc. unless stamped in accordance with the law in force at the time of first execution) the method shall be treated as being in accordance with the law in force at the time when the instrument was first executed.

(4) Regulations under this section may include such supplementary, incidental, consequential or transitional provisions as appear to the Treasury to be necessary or expedient.

(5) Regulations under this section may make provision in such way as the Treasury think fit, and in particular may amend or repeal or modify the effect of any provision of any Act.

(6) In this section "prescribed" means prescribed by regulations under this section.

(7) The power to make regulations under this section shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of the House of Commons.

PART VI

MISCELLANEOUS AND GENERAL

Statutory effect of resolutions etc.

205 The 1968 Act.

(1) The [M111]Provisional Collection of Taxes Act 1968 shall be amended as follows.

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(2) In section 1(1) (taxes to which section 1 applies)—

(a) after "income tax," there shall be inserted " corporation tax (including advance corporation tax) ";

(b) the words "car tax" shall be omitted.

(3) Section 1(1A) (reference to income tax to include reference to amounts representing income tax) shall be omitted.

(4) In section 1(3)(a) (resolution passed in March or April to have statutory effect for period expiring with 5th August) for "March or April" there shall be substituted " November or December " and for "5th August in the same calendar year" there shall be substituted " 5th May in the next calendar year ".

(5) In section 1(4) (resolution to cease to have statutory effect unless Bill read a second time within twenty-five sitting days) for "twenty-five" there shall be substituted " thirty ".

(6) In section 5 (resolution giving provisional effect to motions)—

(a) in subsection (1), paragraph (c) and the word "or" immediately preceding it shall be omitted;

(b) in subsection (2) for ", sections 8(5) and 822 of the 1988 Act" there shall be substituted " and section 822 of the Income and Corporation Taxes Act 1988 ".

(7) This section shall apply in relation to resolutions passed after the day on which this Act is passed.

Marginal Citations

M111 1968 c. 2.

206 Corporation tax.

(1) In section 8 of the Taxes Act 1988 (general scheme of corporation tax) subsections (4) to (6) (assessments where tax not charged for year etc.) shall be omitted.

(2) The following section shall be inserted after section 8 of the Taxes Act 1988—

"8A Resolutions to reduce corporation tax.

(1) In a case where—

(a) an Act of Parliament charges corporation tax for the financial year 1993 or a subsequent financial year,

(b) the House of Commons passes a resolution that the rate at which corporation tax for the financial year concerned is charged shall be a rate which is set out in the resolution and is lower than that fixed by the Act of Parliament, and

(c) the resolution is passed in the financial year concerned,

any assessment to corporation tax made in the prescribed period may be made in accordance with the resolution.

(2) Unless an Act of Parliament—

(a) is passed within the prescribed period, and

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(b) contains a provision that the rate at which corporation tax for the financial year concerned is charged shall be the rate set out in the resolution passed under subsection (1) above,

any assessment made under that subsection in accordance with the resolution shall be subject to adjustment, whether by the making of a further assessment or otherwise.

(3) Subsection (4) below applies where an Act of Parliament fixes the small companies' rate, and the fraction mentioned in section 13(2), for the financial year 1993 or a subsequent financial year.

(4) If the House of Commons passes a resolution in the financial year concerned that—

(a) the rate shall be a rate which is set out in the resolution and is lower than that fixed by the Act of Parliament,

(b) the fraction shall be a fraction which is set out in the resolution and is different from that fixed by the Act of Parliament, or

(c) the rate shall be as mentioned in paragraph (a) above and the fraction shall be as mentioned in paragraph (b) above,

any assessment to corporation tax made in the prescribed period may be made in accordance with the resolution.

(5) Unless an Act of Parliament—

(a) is passed within the prescribed period, and

(b) contains a provision to the same effect as the resolution passed under subsection (4) above,

any assessment made under that subsection in accordance with the resolution shall be subject to adjustment, whether by the making of a further assessment or otherwise.

(6) For the purposes of this section the prescribed period is the period of six months beginning with the day after that on which the resolution concerned is passed."

(3) In section 246(2)(b) of the Taxes Act 1988 (charge of advance corporation tax at previous rate not to apply to distributions made after 5th August) for "August" there shall be substituted " May ".

207 Stamp duty.

(1) In section 50(2) of the [M112]Finance Act 1973 (period of temporary statutory effect of resolution affecting stamp duties)—

(a) in paragraph (a) (period by reference to twenty-fifth day of Commons sitting) for "twenty-fifth" there shall be substituted " thirtieth ";

(b) in paragraph (d) (period by reference to five months beginning with day resolution takes effect) for "five" there shall be substituted " six ".

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

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Marginal Citations
M112 1973 c. 51.

Miscellaneous

208 Residence: available accommodation.

(1) In section 336 of the Taxes Act 1988 (temporary residents in the United Kingdom) the following subsection shall be inserted after subsection (2)—

"(3) The question whether—

(a) a person falls within subsection (1)(a) above, or

(b) for the purposes of subsection (2) above a person is in the United Kingdom for some temporary purpose only and not with the intention of establishing his residence there,

shall be decided without regard to any living accommodation available in the United Kingdom for his use."

(2) In section 9 of the [M113]Taxation of Chargeable Gains Act 1992 (residence, including temporary residence) the following subsection shall be inserted after subsection (3)—

"(4) The question whether for the purposes of subsection (3) above an individual is in the United Kingdom for some temporary purpose only and not with any view or intent to establish his residence there shall be decided without regard to any living accommodation available in the United Kingdom for his use."

(3) In consequence of subsection (1) above, in section 267(4) of the [M114]Inheritance Tax Act 1984 (residence in United Kingdom determined as for purposes of income tax) the words "but without regard to any dwelling-house available in the United Kingdom for his use" shall be omitted.

(4) Subsections (1) and (2) above shall have effect for the year 1993-94 and subsequent years of assessment.

(5) Subsection (3) above shall have effect where the year of assessment concerned is 1993-94 or a subsequent year of assessment.

Marginal Citations
M113 1992 c. 12.
M114 1984 c. 51.

209 Gas levy.

(1) In section 123 of the [M115]Finance Act 1990 (gas levy) in subsection (3) (future variation or termination of rights and liabilities under tax-exempt contracts etc. to be disregarded, except in certain cases) at the end of paragraph (b) there shall be added the words " or pursuant to a term in a contract or document which is certified for the purposes of this paragraph by the Secretary of State with the approval of the Treasury ".

(2) After subsection (3) of that section there shall be inserted the following subsections—

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"(3A) The Secretary of State shall not certify a term for the purposes of paragraph (b) of subsection (3) above except on the application of the person winning the gas and unless the Secretary of State is satisfied—

(a) that the term (however expressed) provides for termination on the ground that the winning of gas in accordance with the contract or document has ceased to be commercially viable; and

(b) that the term was in the contract or document immediately before 16th March 1993; and

(c) that the termination purports to be in pursuance of the term; and

(d) that the term has been properly invoked.

(3B) For the purpose of determining whether a term is properly invoked the Secretary of State—

(a) may require the person winning the gas to supply him with any expert assessment provided under the contract or document;

(b) if no such assessment has been made, or if the Secretary of State considers it desirable for a further expert assessment to be obtained, may require the person winning the gas to obtain and supply him with an expert assessment;

and in this subsection "assessment" means an assessment as to whether winning gas in accordance with the contract or document has ceased to be commercially viable."

(3) Where a person ceases to be liable to pay gas levy in respect of any gas won by him by virtue of the fact that winning the gas, in accordance with a contract or document, has ceased to be commercially viable, then, with respect to any chargeable period which ends—

(a) after that cessation of liability to pay gas levy, and

(b) after 30th June 1993,

any oil (whether or not consisting of gas) won and saved from the field from which the gas is won shall cease to be disregarded under section 10(1)(b) of the [M116]Oil Taxation Act 1975 (PRT disregard of up to 5 per cent of oil production incidental to the production of gas sold to the British Gas Corporation).

Marginal Citations

M115 1990 c. 29.

M116 1975 c. 22.

210 Trading funds.

Schedule 22 to this Act (which contains provisions about trading funds) shall have effect.

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VALID FROM 09/12/1993

211 National Debt Commissioners: securities.

(1) With a view to facilitating the raising of money by means of the issue of securities under section 12 of the [M117]National Loans Act 1968 (power of Treasury to borrow) the National Debt Commissioners may—
  (a) acquire securities issued under that section, and
  (b) transfer such securities.

(2) Subject to subsection (8) below, the sums required by the Commissioners for or for purposes connected with the acquisition of securities under this section shall be issued to the Commissioners out of the National Loans Fund.

(3) Except so far as directions by the Treasury authorise the application of the sums for any purpose for which sums may be issued under subsection (2) above, the Commissioners shall pay into the National Loans Fund—
  (a) any sums received by them by way of dividend or other return on securities acquired under this section;
  (b) any sums received by them in respect of the redemption of such securities;
  (c) any sums received by them in respect of the transfer of such securities.

(4) The Commissioners shall prepare accounts relating to securities acquired under this section and shall send the accounts to the Comptroller and Auditor General.

(5) The Comptroller and Auditor General shall examine, certify and report on accounts sent to him under subsection (4) above and lay a copy of them and of his report on them before each House of Parliament.

(6) For the purpose of facilitating either the proper management by the Commissioners of their investments and other holdings or the carrying out of any of their other functions—
  (a) sums may be advanced to the Commissioners out of the National Loans Fund against securities for the time being held by them for any purpose other than those for which they may be acquired under this section; and
  (b) the Commissioners' powers shall include power to treat securities acquired under this section as appropriated to any such other purpose.

(7) This section shall have effect, and the appropriate sums shall be charged on or payable into the National Loans Fund, as if—
  (a) any making by virtue of subsection (6)(a) above of an advance against any securities involved an acquisition of the securities for the purposes for which they may be acquired under this section; and
  (b) any exercise of the power mentioned in subsection (6)(b) above involved the exercise of the power to transfer securities acquired under this section.

(8) The following rules shall apply for the purposes of this section—
  (a) sums issued out of or paid into the National Loans Fund under this section shall be of such amount, and shall be so issued or paid at such times and in such manner, as the Treasury may direct;

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(b) accounts prepared under subsection (4) above shall be in such form, shall be prepared in respect of such periods, and shall be sent to the Comptroller and Auditor General at such times, as the Treasury may direct.

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

Subordinate Legislation Made

P5 S. 211(9) power fully exercised (18.11.1993): 9.12.1993 appointed day by S.I. 1993/2831.

Marginal Citations

M117 1968 c. 13.

General

212 Interpretation.

In this Act "the Taxes Act 1988" means the [M118]Income and Corporation Taxes Act 1988.

Marginal Citations

M118 1988 c. 1.

213 Repeals.

The enactments specified in Schedule 23 to this Act (which include provisions which are already spent) are hereby repealed to the extent specified in the third column of that Schedule, but subject to any provision of that Schedule.

214 Short title.

This Act may be cited as the Finance Act 1993.

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