

SCHEDULES

SCHEDULE 6

Section 79.

TAXATION OF DISTRIBUTIONS: SUPPLEMENTAL PROVISIONS

The Taxes Act 1988

- 1 In each of sections 167(2A), 353(5), 369(3B), 683(2), 684(2) and 819(2) of the Taxes Act 1988 (definitions of excess liability), and in the definition of “excess liability” in paragraph 19(1) of Schedule 7 to that Act, for “were charged at the basic rate” there shall be substituted “by virtue of section 1(2)(aa) were charged at the basic rate, or (so far as applicable in accordance with section 207A) the lower rate,”.
- 2 (1) In subsection (1) of section 233 of that Act (taxation of certain recipients and in respect of non-qualifying distributions)—
- (a) for the words “basic rate”, in each place where they occur, there shall be substituted “lower rate”; and
 - (b) in paragraph (c), the words “as income which is not chargeable at the lower rate and” shall be omitted.
- (2) After that subsection there shall be inserted the following subsections—
- “(1A) Where in any year of assessment the income of any person who is not a company includes a qualifying distribution in respect of which that person, not being resident in the United Kingdom, is not entitled to a tax credit—
- (a) the amount or value of the distribution so far as it is comprised in—
 - (i) income to which an assessment such as is mentioned in paragraph (b) of subsection (1) above relates, or
 - (ii) income chargeable to tax in accordance with section 686 at the rate applicable to trusts,shall be deemed for the purposes of that assessment or, as the case may be, that section to be the sum which if reduced by an amount equal to income tax on that sum at the lower rate would be equal to the amount or value of the distribution actually made; and
 - (b) that person shall be treated for the purposes of section 686 as having paid tax at the lower rate on any amount which under paragraph (a) above is deemed to be the amount or value of the distribution for the purpose of that section;
- but no repayment shall be made of any income tax treated by virtue of this subsection as having been paid.
- (1B) Where in any year of assessment the income of any trustees which is chargeable to income tax in accordance with section 686 includes any non-qualifying distribution (within the meaning of subsection (2) below), the trustees' liability under any assessment made in respect of income tax at the rate applicable to trusts on the amount or value of the distribution, or on any part of the distribution, shall be reduced by a sum equal to income tax at the

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lower rate on so much of the distribution as is assessed at the rate applicable to trusts.”

- (3) In subsection (2) of that section, in the definition of “excess liability”—
- (a) for the words from “not chargeable” to “basic rate” there shall be substituted “were charged at the lower rate”; and
 - (b) for “any higher rate” there shall be substituted “the higher rate or, as the case may be, the rate applicable to trusts”.
- 3 In each of sections 235(4) and 237(3) of that Act (taxation on distributions at the additional rate), for the words from “the additional rate” to “is made” there shall be substituted “the difference according to the rates in force at the time the distribution is made between the lower rate and the rate applicable to trusts”.
- 4 In section 468E(2) of that Act (deemed rate of corporation tax in relation to authorised unit trusts), for “for a financial year shall be deemed to be the rate at which income tax at the basic rate” there shall be substituted “shall be deemed to be 22.5 per cent. for the financial year 1993 and for subsequent financial years shall be deemed to be the rate at which income tax at the lower rate”.
- 5 (1) In subsection (2) of section 468F of that Act (distributions by authorised unit trusts to persons chargeable to corporation tax)—
- (a) for “the payment” there shall be substituted “the unfranked portion of the payment”; and
 - (b) in paragraph (b), for “basic rate” there shall be substituted “lower rate”.
- (2) After that subsection there shall be inserted the following subsections—
- “(2A) For the purposes of subsection (2) above the unfranked portion of the payment shall be calculated according to the following formula—
- $$U = P \times \frac{I - D}{I}$$
- (2B) For the purposes of the formula in subsection (2A) above—
- U is the unfranked portion of the payment;
- P is the payment;
- I is the gross amount of the income arising to the trustees in respect of the distribution period in question which has been brought into account in ascertaining the amount of income available for distribution to unit holders in respect of that period; and
- D is so much of I as represents franked investment income from the investments subject to the trusts.”
- 6 In each of sections 549(2), 689(2) and 699(2) of that Act (definitions of excess liability), for “were chargeable at the basic rate” there shall be substituted “by virtue of section 1(2)(aa) were chargeable at the basic rate, or (so far as applicable in accordance with section 207A) the lower rate,”.
- 7 (1) In each of subsections (2)(h) and (7)(a) of section 677 of that Act (sums paid to settlor), for the words from “the sum” to “additional rate” there shall be substituted “tax at the rate applicable to trusts”.
- (2) In subsection (6) of that section, for “both tax at the basic rate and tax at the additional rate” there shall be substituted “tax at the rate applicable to trusts”.

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- (3) In subsection (7)(b) of that section, for “that sum” there shall be substituted “the amount of tax at that rate”.
- 8 (1) In subsection (1) of section 686 of that Act (income of discretionary trusts subject to additional rate tax), for the words from “in addition” onwards there shall be substituted “be chargeable to income tax at the rate applicable to trusts, instead of at the basic rate or, in accordance with section 207A, at the lower rate.”
- (2) After that subsection there shall be inserted the following subsection—
- “(1A) The rate applicable to trusts for any year of assessment shall be the rate equal to the sum of the basic rate and the additional rate in force for that year; and, for the purposes of assessments for the year 1993-94 and in relation to years of assessment for which tax at the basic rate and the additional rate was separately chargeable, references to the charging of income with tax at the rate applicable to trusts shall be taken to include references to the charging of income with tax both at the basic rate and at the additional rate.”
- (3) After subsection (2) of that section there shall be inserted the following subsection—
- “(2A) For the purposes of this section where—
- (a) any trustees have expenses in any year of assessment (“management expenses”) which are properly chargeable to income or would be so chargeable but for any express provisions of the trust, and
- (b) there is income arising to them in that year (“the untaxed income”) which does not bear income tax for that year by reason wholly or partly of the trustees not having been resident in the United Kingdom or being deemed under any arrangements under section 788, or any arrangements having effect by virtue of that section, to have been resident in a territory outside the United Kingdom,
- there shall be disregarded for the purposes of subsection (2)(d) above such part of the management expenses as bears the same proportion to all those expenses as the untaxed income bears to all the income arising to the trustees in that year.”
- (4) In subsection (6) of that section (payments by personal representatives to trustees), for “basic rate” there shall be substituted “applicable rate”.
- 9 (1) In subsection (2) of section 687 of that Act (deemed deduction from payment under discretionary trust), for the words from “a rate” to “in force” there shall be substituted “the rate applicable to trusts”.
- (2) In subsection (3) of that section—
- (a) in paragraph (a), for “and charged at the additional as well as at the basic rate” there shall be substituted “which (not being income the tax on which falls within paragraph (aa) or (b) below) is charged at the rate applicable to trusts”;
- (b) after that paragraph there shall be inserted the following paragraph—
- “(aa) the amount of tax which, by virtue of section 233(1B), is charged, at a rate equal to the difference between the lower rate and the rate applicable to trusts, on the amount or value of the whole or any part of any non-qualifying distribution included in the income arising to the trustees;”

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- (c) in paragraph (b), as it has effect by virtue of section 79(2) of this Act, for “the additional rate” there shall be substituted “a rate equal to the difference between the lower rate and the rate applicable to trusts”;
 - (d) in each of paragraphs (e) to (i) (except paragraph (g)), and in paragraph (j) as it so has effect, for the words from “at a rate” to “additional rate” there shall be substituted “at the rate applicable to trusts”.
- 10 In section 694(2A) of that Act (special charge for trustees in certain cases), for “sum of the basic and additional rates” there shall be substituted “amount of the rate applicable to trusts”.
- 11 (1) In each of sections 695(4)(a), 696(3) to (5) and 698(2) of that Act (deemed payments out of the residue of a deceased’s estate), for the words “basic rate”, wherever they occur, there shall be substituted “applicable rate”.
- (2) After section 698 of that Act there shall be inserted the following section—

“698A Taxation at the lower rate of the income of beneficiaries

- (1) Subject to subsection (2) below, in so far as the income of any person is treated under this Part as having borne income tax at the lower rate, section 207A shall apply to that income as it applies to income chargeable under Schedule F.
 - (2) Subsection (1) above shall not apply to income paid indirectly through a trustee and treated as having borne income tax at the lower rate by virtue of section 698(3); but (subject to section 686(1)) section 207A shall apply as if the payment made to the trustee were income of the trustee chargeable under Schedule F.”
- (3) In section 701 of that Act (interpretation of provisions relating to deemed payments), after subsection (3) there shall be inserted the following subsection—
- “(3A) “Applicable rate”, in relation to any amount which a person is deemed by virtue of this Part to receive or to have a right to receive, means the basic rate or the lower rate according as the income of the residue of the estate out of which that amount is or would be paid bears tax at the basic rate or the lower rate; and in determining for the purposes of this Part whether or how much of any payment is or would be deemed to be made out of income that bears tax at one rate rather than another—
- (a) such apportionments of the amounts bearing tax at different rates shall be made between different persons with interests in the residue of the estate as are just and reasonable in relation to their different interests; and
 - (b) subject to paragraph (a) above, it shall be assumed that payments are to be made out of income bearing tax at the basic rate before they are made out of income bearing tax at the lower rate.”
- 12 In section 703(5)(b) of that Act (cancellation of tax advantage), for “basic rate” there shall be substituted “lower rate”.
- 13 In each of sections 720(5) and 764 of that Act (taxation of other income of trustees), for the words from “at a rate” to “additional rate” there shall be substituted “at the rate applicable to trusts”.

- 14 In section 737 of that Act (manufactured dividends), after subsection (1) there shall be inserted the following subsection—
- “(1A) In the case of any payment which under Schedule 23A is such that, in relation to a recipient chargeable to income tax, it would be chargeable under Schedule F, the deduction of tax which (apart from this subsection) would be deemed by virtue of subsection (1) above to have been made at the basic rate shall be deemed to have been made—
- (a) at a rate of 22.5 per cent., if the payment is made on or after 6th April 1993 and before 6th April 1994; and
- (b) at the lower rate, if the payment is made on or after 6th April 1994; and, accordingly, section 350(1) shall have effect by virtue of that subsection in relation to any such payment so as to make the dividend manufacturer assessable and chargeable with income tax on the gross amount of the payment at the rate specified in paragraph (a) or, as the case may be, paragraph (b) above, instead of at the basic rate.”
- 15 In section 832(1) of that Act (interpretation), after the definition of “qualifying policy” there shall be inserted the following definition—
- ““the rate applicable to trusts” shall be construed in accordance with section 686(1A);”.
- 16 In section 835(6)(a) of that Act (year for which income included in total income), after “an amount” there shall be inserted “which is or (apart from section 78(3) of the Finance Act 1993) would be”.
- 17 (1) In Schedule 3 to that Act (machinery provisions), in sub-paragraph (1) of paragraph 6A, for “basic rate” there shall be substituted “applicable rate”.
- (2) After sub-paragraph (2) of that paragraph there shall be inserted the following sub-paragraph—
- “(2A) Payments of tax made on any person’s behalf under this paragraph shall be treated as made for the purpose only of being applied in the discharge of that person’s liability to tax charged (otherwise than by virtue of this paragraph) on the dividends or proceeds to which the payments relate.”
- (3) After sub-paragraph (3) of that paragraph there shall be inserted the following sub-paragraph—
- “(4) For the purposes of sub-paragraph (1) above the applicable rate shall be—
- (a) the lower rate, in the case of a foreign dividend which is neither interest nor any other annual payment which is made otherwise than by way of dividend; and
- (b) the basic rate in any other case.”
- 18 In paragraph 17(1) of Schedule 4 to that Act (taxation of trustees in respect of deep discount securities), for the words from “a rate” to “additional rate” there shall be substituted “the rate applicable to trusts”.
- 19 In paragraph 2 of Schedule 23A to that Act (manufactured dividends and interest), after sub-paragraph (4) there shall be inserted the following sub-paragraph—
- “(5) Sub-paragraph (3)(c) above shall be without prejudice to the operation of subsection (3) of section 78 of the Finance Act 1993, where that subsection has effect by virtue of sub-paragraph (3)(a) above for

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determining the amount of any tax credit to which any person is entitled in respect of any manufactured dividend.”

The Finance Act 1989 (c. 26)

- 20 In each of sections 68(2)(c) and 71(4)(c) of the Finance Act 1989 and in paragraph 11(1) of Schedule 11 to that Act (which contain references to a rate equal to the sum of the basic rate and the additional rate), for the words from “a rate” to “additional rate” there shall be substituted “the rate applicable to trusts”.

The Finance Act 1990 (c. 29)

- 21 In paragraph 19(1) of Schedule 10 to the Finance Act 1990 (taxation of trustees in respect of convertible securities), for the words from “a rate” to “additional rate” there shall be substituted “the rate applicable to trusts”.

The Taxation of Chargeable Gains Act 1992 (c. 12)

- 22 (1) In section 4 of the Taxation of Chargeable Gains Act 1992 (rates of capital gains tax), after subsection (3) there shall be inserted the following subsections—

“(3A) Income chargeable to income tax at the lower rate in accordance with section 207A of the Taxes Act, and any income which would be chargeable in accordance with that section if it were not chargeable at the higher rate, shall be disregarded in determining for the purposes of subsections (1A) and (1B) above—

- (a) whether any individual has income for any year of assessment; or
- (b) an individual’s total income for any year of assessment.

(3B) Where any amount on which an individual is chargeable for a year of assessment to capital gains tax at a rate equivalent to the lower rate is or includes an amount (“the amount of the lower rate gains”) on which he is so chargeable by virtue only of subsection (3A) above then—

- (a) for the purposes of the Income Tax Acts and this section, the amount (if any) of income comprised in the individual’s total income which is chargeable to income tax at the higher rate shall be determined as if the basic rate limit for that year were reduced in relation to that individual by the amount of the lower rate gains; and
- (b) the amount (if any) on which, but for this paragraph, the individual would be chargeable under subsection (2) above to capital gains tax at a rate equivalent to the higher rate shall be treated as reduced by the amount of the lower rate gains or, if the amount to be reduced is not more than the amount of those gains, to nil.”

- (2) In subsection (4) of that section (definition of “unused part of an individual’s basic rate band”), after “by which” there shall be inserted “(disregarding subsection (3B) (a) above)”.

- 23 In section 5(1) of that Act (rate of tax in respect of capital gains accruing to trustees of an accumulation or discretionary settlement), for the words from “the sum” onwards there shall be substituted “the rate which for that year is applicable to trusts under section 686(1) of the Taxes Act.”

- 24 In section 6(1) of that Act (which contains a definition of “excess liability”), for “were charged at the basic rate” there shall be substituted “by virtue of section 1(2) (aa) of the Taxes Act were charged at the basic rate, or (so far as applicable in accordance with section 207A of that Act) the lower rate,”.

Commencement

- 25 (1) This Schedule, except the provisions to which sub-paragraphs (2) to (5) below apply, shall have effect for the year 1993-94 and subsequent years of assessment.
- (2) Paragraph 4 above shall have effect for the financial year 1993 and subsequent financial years.
- (3) Paragraph 5(1)(a) and (2) above shall have effect where the date of payment is on or after 1st April 1993.
- (4) Paragraphs 14 and 19 above shall have effect in relation to any payment of a manufactured dividend made on or after 6th April 1993.
- (5) Paragraph 17 above shall have effect in relation to transactions effected on or after 6th April 1993.