Finance Act 1997

1997 CHAPTER 16

PART V

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

Income tax charge, rates and reliefs

54 Charge and rates of income tax for 1997-98

(1) Income tax shall be charged for the year 1997-98, and for that year—

(a) the lower rate shall be 20 per cent.;

(b) the basic rate shall be 23 per cent.; and

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

(2) For the year 1997-98 section 1(2) of the Taxes Act 1988 shall apply as if the amount specified in paragraph (aa) (the lower rate limit) were £4,100; and, accordingly, section 1(4) of that Act (indexation) shall apply for the year 1997-98 in relation only to the amount specified in section 1(2)(b) of that Act (the basic rate limit).

(3) In section 686(1A) of the Taxes Act 1988 (meaning of "the rate applicable to trusts"), for the words "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" there shall be substituted ", in relation to any year of assessment for which income tax is charged, shall be 34 per cent. or such other rate as Parliament may determine".

(4) Subsection (3) above has effect in relation to the year 1997-98 and subsequent years of assessment.

(5) Section 559(4) of the Taxes Act 1988 (deductions from payments to sub-contractors in the construction industry) shall have effect—

(a) in relation to payments made on or after 1st July 1997 and before the appointed day (within the meaning of section 139 of the Finance Act 1995), with "23 per cent." substituted for "24 per cent."; and

(b) in relation to payments made on or after that appointed day, as if the substitution for which section 139(1) of the Finance Act 1995 provided were a substitution of "the relevant percentage" for "23 per cent."

55 Modification of indexed allowances

(1) For the year 1997-98 the amounts specified in the provisions mentioned in subsection (2) below shall be taken to be as set out in that subsection; and, accordingly, section 257C(1) of the Taxes Act 1988 (indexation), so far as it relates to the amounts so specified, shall not apply for the year 1997-98.

(2) In section 257 of that Act (personal allowance)—

(a) the amount in subsection (1) (basic allowance) shall be £4,045;

(b) the amount in subsection (2) (allowance for persons aged 65 or more but not aged 75 or more) shall be £5,220; and

(c) the amount in subsection (3) (allowance for persons aged 75 or more) shall be £5,400.

56 Blind person's allowance

(1) In subsection (1) of section 265 of the Taxes Act 1988 (blind person's allowance), for "£1,250" there shall be substituted "£1,280".

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

"(1A) Section 257C (indexation) shall have effect (using the rounding up rule in subsection (1)(b) of that section) for the application of this section for the year 1998-99 and any subsequent year of assessment as it has effect for the application of sections 257 and 257A."

(3) Subsection (1) above shall apply for the year 1997-98 and, subject to subsection (2) above, for subsequent years of assessment.

57 Limit on relief for interest

For the year 1997-98 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.

Corporation tax charge and rate

58 Charge and rate of corporation tax for 1997

Corporation tax shall be charged for the financial year 1997 at the rate of 33 per cent.

59 Small companies

For the financial year 1997—

(a) the small companies' rate shall be 23 per cent.; and

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

Payments for wayleaves

60 Wayleaves for electricity cables, telephone lines, etc

(1) Section 120 of the Taxes Act 1988 (payments for wayleaves for electricity cables, telephone lines, etc.) shall be amended as follows.

(2) In subsection (1) (payments charged under Schedule D subject to deduction of tax)—

(a) at the beginning there shall be inserted "Subject to subsection (1A) below,"; and

(b) the words from "and, subject to" onwards (which provide for the deduction of tax) shall be omitted.

(3) After subsection (1) there shall be inserted the following subsection—

"(1A) If—

(a) the profits and gains arising to any person for any chargeable period include both rent in respect of any such easement as is mentioned in subsection (1) above and amounts which are charged to tax under Schedule A, and

(b) some or all of the land to which the easement relates is included in the land by reference to which the amounts charged under Schedule A arise,

then, for that period, that rent shall be charged to tax under Schedule A, instead of being charged under Schedule D."

(4) Subsections (2) to (4) and, in subsection (5), paragraph (c) and the word "and" immediately preceding it shall cease to have effect.

(5) This section has effect in relation to payments made on or after 6th April 1997.

Schedule E

61 Phasing out of relief for profit-related pay

(1) Chapter III of Part V of the Taxes Act 1988 (profit-related pay) shall have effect as if, in section 171(4) (£4,000 limit on relief for profit period of twelve months), for "£4,000" there were substituted—

(a) in relation to profit-related pay paid by reference to profit periods beginning on or after 1st January 1998 and before 1st January 1999, "£2,000"; and

(b) in relation to profit-related pay paid by reference to profit periods beginning on or after 1st January 1999 and before 1st January 2000, "£1,000".

(2) That Chapter shall not have effect in relation to any payment made by reference to a profit period beginning on or after 1st January 2000.

(3) Accordingly—

(a) a scheme shall not be registered under that Chapter if the only payments for which it provides are payments by reference to profit periods beginning on or after 1st January 2000; and

(b) registration under that Chapter shall end on 31st December 2000.

62 Travelling expenses etc

(1) For subsection (1) of section 198 of the Taxes Act 1988 (relief for necessary expenses) there shall be substituted the following subsections—

"(1) If the holder of an office or employment is obliged to incur and defray out of the emoluments of that office or employment—

(a) any amount necessarily expended on travelling in the performance of the duties of the office or employment,

(b) any other expenses of travelling which are not expenses of ordinary commuting but are attributable to the attendance of the holder of the office or employment at any place on an occasion when his attendance at that place is in the performance of the duties of the office or employment, or

(c) any amount not comprised in expenses falling within paragraph (a) or (b) above but expended wholly, exclusively and necessarily in the performance of the duties of the office or employment,

then (subject to subsection (1A) below) there may be deducted from the emoluments to be assessed the amount which is so incurred and defrayed.

(1A) Where—

(a) any person holding an office or employment undertakes any travelling the expenses of which fall within paragraph (a) or (b) of subsection (1) above, and

(b) in consequence of his doing so, he does not incur expenses of ordinary commuting which it is likely he would have incurred had he not undertaken that travelling,

the amount (if any) which is deductible under subsection (1) above in respect of that travelling, or in respect of expenses incurred as mentioned in paragraph (c) of that subsection in connection with that travelling, shall be reduced by the amount of the expenses of ordinary commuting that have been saved.

(1B) For the purposes of subsection (1A) above the amount of any saving on ordinary commuting shall be calculated by using the same method for the expenses of the travelling comprised in ordinary commuting as would be used in the employee's case for calculating the deductible expenses of that travelling if it were not ordinary commuting."

(2) After section 198 of that Act there shall be inserted the following section—

"**198A Interpretation of section 198**

(1) For the purposes of section 198 and this section ordinary commuting, in relation to the holder of an office or employment, is—

(a) travelling, in either direction, between a permanent workplace of his and a place mentioned in subsection (4) below (including any travel via another place so mentioned); or

(b) travelling between two places in a case where, because of the proximity of one place to another, the journey in question is, for practical purposes, the same as a journey which would constitute ordinary commuting by virtue of paragraph (a) above.

(2) For the purposes of section 198 and this section a permanent workplace, in relation to the holder of an office or employment, is any place which—

(a) he regularly attends in the performance of the duties of the office or employment and otherwise than for the purpose of performing a task of limited duration or for some other temporary purpose; and

(b) is not a place falling within subsection (4)(a) below.

(3) The holder of an office or employment who does not have a permanent workplace apart from this subsection but is a person who—

(a) in the performance of the duties of the office or employment, attends different places within a particular area, and

(b) performs his duties at places in that area because his duties (except so far as requiring his attendance at places outside that area for the purpose of carrying out tasks of limited duration or for other temporary purposes) are defined by reference to that area,

shall be deemed for the purposes of section 198 and this section to have a permanent workplace comprising the whole area.

(4) The places referred to in subsection (1) above, in relation to the holder of an office or employment, are—

(a) his home or any other place which he uses, otherwise than in the performance of the duties of that office or employment, as a permanent or temporary place of residence,

(b) any place that he is visiting for social or personal reasons and otherwise than in the performance of the duties of that office or employment,

(c) any place that he attends, otherwise than in the performance of the duties of that office or employment, for the purposes of any trade, profession or vocation carried on by him, and

(d) any place that he attends in the performance of the duties of another office or employment held by him.

(5) For the purposes of this section attendance for limited purposes at—

(a) a place which forms the base from which a person works in the performance of the duties of his office or employment, or

(b) the place at which he is allocated the tasks that he is to carry out in the performance of those duties,

shall not be taken to involve attendance at that place to perform a task of limited duration or for a temporary purpose.

(6) For the purposes of this section, where on any occasion a person attends any place in the performance of the duties of any office or employment or performs those duties within a particular area—

(a) the tasks which he carries out on that occasion at that place, or within that area, shall not be taken to be tasks of limited duration, and

(b) the purposes for which, on that occasion, he attends that place or performs duties within that area shall not be taken to be temporary purposes,

if subsection (7) below applies to the place or area as respects that occasion.

(7) This subsection applies to a place or area as respects any occasion on which a task is carried out, or duties are performed, by a person holding an office or employment if—

(a) the task is carried out, or the duties are performed—

(i) in the course of a period of continuous work at that place or within that area; or

(ii) at a time which it would be reasonable, on that occasion, to assume will be included in such a period;

and

(b) the period of continuous work is one of which more than twenty-four months has expired before that occasion or is one which it would be reasonable, on that occasion, to assume will in due course be either—

(i) a period of more than twenty-four months; or

(ii) a period comprising all or almost all of the period for which the person holding the office or employment is likely to continue to hold it after that occasion.

(8) The reference in subsection (7) above to a period of continuous work at a place or within an area is (subject to subsection (9) below) a reference to any continuous period throughout which the duties of the office or employment in question fall to be performed wholly or mainly at that place or, as the case may be, within that area.

(9) For the purposes of subsection (8) above any actual or contemplated modification of the place at which, or of the area within which, the duties of any office or employment fall to be performed shall be disregarded unless it is such that it has had, or would have, a significant effect on the expenses of any travel by the person holding the office or employment to or from the place or area where those duties fall wholly or mainly to be performed.

(10) For the purposes of this section, where a person holds any office or employment with a company, the reference in subsection (4)(d) above to another office or employment does not, in relation to that office or employment, include a reference to an office or employment with another company in the same group of companies.

(11) For the purposes of subsection (10) above two companies shall be taken to be members of the same group if, and only if, one of them is a 51 per cent. subsidiary of the other or they are both 51 per cent. subsidiaries of a third company."

(3) In section 158 of the Taxes Act 1988 (car fuel scales), in subsection (6) at the beginning there shall be inserted "Subject to subsection (7) below,"; and after that subsection there shall be inserted the following subsection—

"(7) Subsection (6) above does not apply in the relevant year unless the employee is required to make good, and does make good, to the person providing the fuel so much of the expenses incurred by him in or in connection with the provision of fuel for business travel as, for the purposes of section 198(1A), would be taken to represent expenses of ordinary commuting which (disregarding the requirement to make good) have been saved in consequence of the business travel having been undertaken."

(4) In subsections (5) and (5A) of section 168 of the Taxes Act 1988 (meaning of business travel), for paragraph (c) there shall be substituted, in each case, the following paragraph—

"(c) "business travel", in relation to any employee, means any travelling the expenses of which, if incurred out of the emoluments of his employment, would be deductible under section 198;".

(5) This section has effect for the year 1998-99 and subsequent years of assessment.

63 Work-related training

(1) After section 200A of the Taxes Act 1988 there shall be inserted the following sections—

"**200B Work-related training provided by employers**

(1) This section applies for the purposes of Schedule E where any person ("the employer") incurs expenditure on providing work-related training for a person ("the employee") who holds an office or employment under him.

(2) Subject to section 200C, the emoluments of the employee from the office or employment shall not be taken to include—

(a) any amount in respect of that expenditure; or

(b) any amount in respect of the benefit of the work-related training provided by means of that expenditure.

(3) For the purposes of this section the employer shall be taken to incur expenditure on the provision of work-related training in so far only as he incurs expenditure in paying or reimbursing—

(a) the cost of providing any such training to the employee; or

(b) any related costs.

(4) In subsection (3) above "related costs", in relation to any work-related training provided to the employee, means—

(a) any costs which are incidental to the employee's undertaking the training and are incurred wholly and exclusively as a result of his doing so;

(b) any expenses incurred in connection with an assessment (whether by examination or otherwise) of what the employee has gained from the training; and

(c) the cost of obtaining for the employee any qualification, registration or award to which he has or may become entitled as a result of undertaking the training or of undergoing such an assessment.

(5) In this section "work-related training" means any training course or other activity which is designed to impart, instill, improve or reinforce any knowledge, skills or personal qualities which—

(a) is or, as the case may be, are likely to prove useful to the employee when performing the duties of any relevant employment; or

(b) will qualify him, or better qualify him—

(i) to undertake any relevant employment; or

(ii) to participate in any charitable or voluntary activities that are available to be undertaken in association with any relevant employment.

(6) In this section "relevant employment", in relation to the employee, means—

(a) any office or employment which he holds under the employer or which he is to hold under the employer or a person connected with the employer;

(b) any office or employment under the employer or such a person to which he has a serious opportunity of being appointed; or

(c) any office or employment under the employer or such a person as respects which he can realistically expect to have such an opportunity in due course.

(7) Section 839 (meaning of "connected person") applies for the purposes of this section.

200C Expenditure excluded from section 200B

(1) Section 200B shall not apply in the case of any expenditure to the extent that it is incurred in paying or reimbursing the cost of any facilities or other benefits provided or made available to the employee for one or more of the following purposes, that is to say—

(a) enabling the employee to enjoy the facilities or benefits for entertainment or recreational purposes unconnected with the imparting, instilling, improvement or reinforcement of knowledge, skills or personal qualities falling within section 200B(5)(a) or (b);

(b) rewarding the employee for the performance of the duties of his office or employment under the employer, or for the manner in which he has performed them;

(c) providing the employee with an employment inducement which is unconnected with the imparting, instilling, improvement or reinforcement of knowledge, skills or personal qualities falling within section 200B(5)(a) or (b).

(2) Section 200B shall not apply in the case of any expenditure incurred in paying or reimbursing any expenses of travelling or subsistence, except to the extent that those expenses would be deductible under section 198 if the employee—

(a) undertook the training in question in the performance of the duties of his office or employment under the employer; and

(b) incurred those expenses out of the emoluments of that office or employment.

(3) Section 200B shall not apply in the case of any expenditure incurred in paying or reimbursing the cost of providing the employee with, or with the use of, any asset except where—

(a) the asset is provided or made available for use only in the course of the training;

(b) the asset is provided or made available for use in the course of the training and in the performance of the duties of the employee's office or employment but not for any other use;

(c) the asset consists in training materials provided in the course of the training; or

(d) the asset consists in something made by the employee in the course of the training or incorporated into something so made.

(4) Section 200B shall apply in the case of expenditure in connection with anything that is a qualifying course of training for the purposes of section 588 to the extent only that section 588(1) does not have effect.

(5) Section 200B shall not apply in the case of any expenditure incurred in enabling the employee to meet, or in reimbursing him for, any payment in respect of which there is an entitlement to relief under section 32 of the Finance Act 1991 (vocational training).

(6) In subsection (1) above the reference to enjoying facilities or benefits for entertainment or recreational purposes includes a reference to enjoying them in the course of any leisure activity.

(7) In this section—

"employment inducement", in relation to the employee, means an inducement to remain in, or to accept, any office or employment with the employer or a person connected with the employer;

"subsistence" includes food and drink and temporary living accommodation; and

"training materials" means stationery, books or other written material, audio or video tapes, compact disks or floppy disks.

(8) Section 839 (meaning of "connected person") applies for the purposes of this section.

200D Other work-related training

(1) For the purposes of Schedule E, where—

(a) any person ("the employee") who holds an office or employment under another ("the employer") is provided by reason of that office or employment with any benefit,

(b) that benefit consists in any work-related training or is provided in connection with any such training, and

(c) the amount which (apart from this section and sections 200B and 200C) would be included in respect of that benefit in the emoluments of the employee ("the chargeable amount") is or includes an amount that does not represent expenditure incurred by the employer,

the questions whether and to what extent those emoluments shall in fact be taken to include an amount in respect of that benefit shall be determined in accordance with those sections as if the benefit had been provided by means of a payment by the employer of an amount equal to the whole of the chargeable amount.

(2) In this section "work-related training" has the same meaning as in section 200B."

(2) In section 200A(3)(b) of that Act (definition of a qualifying absence from home), the word "either" before sub-paragraph (i) shall be omitted and, at the end of sub-paragraph (ii), there shall be inserted "or

(iii) expenses the amount of which, having been paid or reimbursed by the person under whom he holds that office or employment, is excluded from his emoluments in pursuance of section 200B, or

(iv) expenses the amount of which would be so excluded if it were so paid or reimbursed."

(3) This section applies for the year 1997-98 and subsequent years of assessment.

Relieved expenditure, losses etc.

64 Postponed company donations to charity

(1) In section 339 of the Taxes Act 1988 (company donations to charity), after subsection (7) there shall be inserted the following subsections—

"(7AA) Where—

(a) a covenanted donation to a charity is made by a company which is wholly owned by a charity,

(b) the requirements of subsection (7) above for that donation to be regarded as a charge on income are satisfied,

(c) the disposition or covenant under which the donation is made required it to be made in an accounting period of the company which ended before the time when it is in fact made, and

(d) the donation is made within nine months of the end of that period,

the donation shall be deemed for the purposes of section 338 to be a charge on income paid in the accounting period in which it was required to be made, and not in any later period.

(7AB) For the purposes of this section a company is wholly owned by a charity if it is either—

(a) a company with an ordinary share capital every part of which is owned by a charity (whether or not the same charity); or

(b) a company limited by guarantee in whose case every person who—

(i) is beneficially entitled to participate in the divisible profits of the company, or

(ii) will be beneficially entitled to share in any net assets of the company available for distribution on its winding up,

is or must be a charity or a company wholly owned by a charity.

(7AC) For the purposes of subsection (7AB) above ordinary share capital of a company shall be taken to be owned by a charity if there is a charity which—

(a) within the meaning of section 838 directly or indirectly owns that share capital; or

(b) would be taken so to own that share capital if references in that section to a body corporate included references to a charity which is not a body corporate."

(2) This section has effect in relation to donations made in accounting periods beginning on or after 1st April 1997.

65 National Insurance contributions

(1) Section 617 of the Taxes Act 1988 (social security benefits and contributions) shall be amended as follows.

(2) In subsection (3) (which provides that, subject to subsection (4) and (5), no relief or deduction shall be given in respect of National Insurance contributions) the words "and (5)" shall be omitted in consequence of the repeal of subsection (5) by section 147 of the Finance Act 1996.

(3) For subsection (4) (exception from subsection (3) for secondary Class 1 contributions which are allowable as a deduction in certain computations) there shall be substituted—

"(4) Subsection (3) above shall not apply to a contribution if it is a secondary Class 1 contribution or Class 1A contribution (within the meaning of Part I of either of those Acts) and is allowable—

(a) as a deduction in computing profits or gains;

(b) as expenses of management deductible under section 75 or under that section as applied by section 76;

(c) as expenses of management or supervision deductible under section 121;

(d) as a deduction under section 198 from the emoluments of an office or employment; or

(e) as a deduction under section 332(3)(a) from the profits, fees or emoluments of the profession or vocation of a clergyman or minister of any religious denomination."

(4) Subsection (2) above has effect in relation to the year 1996-97 and subsequent years of assessment.

(5) Subsection (3) above has effect in relation to contributions paid on or after 26th November 1996.

66 Expenditure on production wells etc

(1) After section 91B of the Taxes Act 1988 there shall be inserted the following section—

"**91C Mineral exploration and access**

Where—

(a) a person carrying on a trade incurs expenditure on mineral exploration and access as defined in section 121(1) of the Capital Allowances Act 1990 in an area or group of sands in which the presence of mineral deposits in commercial quantities has already been established, and

(b) if the presence in that area or group of sands of mineral deposits in commercial quantities had not already been established, that expenditure would not have been allowed to be deducted in computing the profits or gains of the trade for the purposes of tax,

that expenditure shall not be so deducted."

(2) In section 115 of the Capital Allowances Act 1990 (certain expenditure on purchased assets treated as expenditure on mineral exploration and access if attributable to previous trader's expenditure on mineral exploration and access), after subsection (2) there shall be inserted the following subsection—

"(2A) Expenditure incurred by the previous trader which is or has been deducted in computing, for the purposes of tax, the profits or gains of a trade carried on by him shall not be treated as expenditure on mineral exploration and access for the purposes of subsection (1)(b)."

(3) Subsection (1) above applies to expenditure which—

(a) is incurred on or after 26th November 1996; but

(b) is not incurred before 26th November 1997 in pursuance of a contract entered into before 26th November 1996.

(4) The reference in subsection (3) above to expenditure incurred in pursuance of a contract entered into before 26th November 1996 does not, in the case of a contract varied on or after that date, include a reference to so much of any expenditure of the sort described in section 91C of the Taxes Act 1988 as exceeds the amount of expenditure of that sort that would have been incurred if that contract had not been so varied.

(5) Subsection (2) above applies in relation to claims made on or after 26th November 1996.

67 Annuity business of insurance companies

(1) In section 437 of the Taxes Act 1988 (extent to which payments in respect of new annuities are to be treated as charges on income), for subsections (1A) and (1B) there shall be substituted the following subsection—

"(1A) In the computation, otherwise than in accordance with the provisions applicable to Case I of Schedule D, of the profits for any accounting period of a company's life assurance business, new annuities paid by the company in that period shall be brought into account by treating an amount equal to the income limit for that period as a sum disbursed as expenses of management of the company for that period."

(2) In subsection (1C) of that section (interpretation of section), after "this section" there shall be inserted "(but subject to subsections (1CA) to (1CD) below)"; and after that subsection there shall be inserted the following subsections—

"(1CA) Where a new annuity ("the actual annuity") is a steep-reduction annuity, the income limit for an accounting period of the company paying the annuity shall be computed for the purposes of this section as if—

(a) the contract providing for the actual annuity provided instead for the annuities identified by subsections (1CB) and (1CC) below; and

(b) the consideration for each of those annuities were to be determined by the making of a just and reasonable apportionment of the consideration for the actual annuity.

(1CB) The annuities mentioned in subsection (1CA)(a) above are—

(a) an annuity the payments in respect of which are confined to the payments in respect of the actual annuity that fall to be made before

the earliest time for the making in respect of the actual annuity of a reduced payment such as is mentioned in section 437A(1)(c); and

(b) subject to subsection (1CC) below, an annuity the payments in respect of which are all the payments in respect of the actual annuity other than those mentioned in paragraph (a) above.

(1CC) Where an annuity identified by paragraph (b) of subsection (1CB) above ("the later annuity") would itself be a steep-reduction annuity, the annuities mentioned in subsection (1CA)(a) above—

(a) shall not include the later annuity; but

(b) shall include, instead, the annuities which would be identified by subsection (1CB) above (with as many further applications of this subsection as may be necessary for securing that none of the annuities mentioned in subsection (1CA)(a) above is a steep-reduction annuity) if references in that subsection to the actual annuity were references to the later annuity.

(1CD) Subsections (1CA) to (1CC) above shall be construed in accordance with section 437A."

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

"**437A Meaning of "steep-reduction annuity" etc**

(1) For the purposes of section 437 an annuity is a steep-reduction annuity if—

(a) the amount of any payment in respect of the annuity (but not the term of the annuity) depends on any contingency other than the duration of a human life or lives;

(b) the annuitant is entitled in respect of the annuity to payments of different amounts at different times; and

(c) those payments include a payment ("a reduced payment") of an amount which is substantially smaller than the amount of at least one of the earlier payments in respect of that annuity to which the annuitant is entitled.

(2) Where there are different intervals between payments to which an annuitant is entitled in respect of any annuity, the question whether or not the conditions in subsection (1)(b) and (c) above are satisfied in the case of that annuity shall be determined by assuming—

(a) that the annuitant's entitlement, after the first payment, to payments in respect of that annuity is an entitlement to payments at yearly intervals on the anniversary of the first payment; and

(b) that the amount to which the annuitant is assumed to be entitled on each such anniversary is equal to the annuitant's assumed entitlement for the year ending with that anniversary.

(3) For the purposes of subsection (2) above an annuitant's assumed entitlement for any year shall be determined as follows—

(a) the annuitant's entitlement to each payment in respect of the annuity shall be taken to accrue at a constant rate during the interval between the previous payment and that payment; and

(b) his assumed entitlement for any year shall be taken to be equal to the aggregate of the amounts which, in accordance with paragraph (a) above, are treated as accruing in that year.

(4) In the case of an annuity to which subsection (2) above applies, the reference in section 437(1CB)(a) to the making of a reduced payment shall be construed as if it were a reference to the making of a payment in respect of that annuity which (applying subsection (3)(a) above) is taken to accrue at a rate that is substantially less than the rate at which at least one of the earlier payments in respect of that annuity is taken to accrue.

(5) Where—

(a) any question arises for the purposes of this section whether the amount of any payment in respect of any annuity—

(i) is substantially smaller than the amount of, or

(ii) accrues at a rate substantially less than,

an earlier payment in respect of that annuity, and

(b) the annuitant or, as the case may be, every annuitant is an individual who is beneficially entitled to all the rights conferred on him as such an annuitant,

that question shall be determined without regard to so much of the difference between the amounts or rates as is referable to a reduction falling to be made as a result of the occurrence of a death.

(6) Where the amount of any one or more of the payments to which an annuitant is entitled in respect of an annuity depends on any contingency, his entitlement to payments in respect of that annuity shall be determined for the purposes of section 437(1CA) to (1CC) and this section according to whatever (applying any relevant actuarial principles) is the most likely outcome in relation to that contingency.

(7) Where any agreement or arrangement has effect for varying the rights of an annuitant in relation to a payment in respect of any annuity, that payment shall be taken, for the purposes of section 437(1CA) to (1CC) and this section, to be a payment of the amount to which the annuitant is entitled in accordance with that agreement or arrangement.

(8) References in this section to a contingency include references to a contingency that consists wholly or partly in the exercise by any person of any option."

(4) Section 434B(2) of that Act (treatment of annuities paid by an insurance company) shall cease to have effect and accordingly—

(a) in section 76(2A)(b) of that Act (limit on expenses of management of insurance companies), the word "and" shall be inserted at the end of sub-paragraph (ii), and sub-paragraph (iv) (together with the word "and" immediately preceding it) shall be omitted; and

(b) in section 337(2B) of that Act, for "the references in sections 338(2) and 434B(2)" there shall be substituted "the reference in section 338(2)".

(5) In paragraph 9B of Schedule 19AC to that Act (subsection (3) inserted in section 434B in relation to overseas life insurance companies), for the words from the beginning to "An" there shall be substituted—

"9B The following section shall be treated as inserted after section 434A—

"**434AA Treatment of annuities**

An"."

(6) In sub-paragraph (1) of paragraph 16 of Schedule 7 to the Finance Act 1991 (which makes transitional provision for annuities under contracts made in accounting periods beginning before 1st January 1992), for the words before paragraph (a) there shall be substituted—

"(1) In the computation, otherwise than in accordance with the provisions applicable to Case I of Schedule D, of the profits for any accounting period of an insurance company's life assurance business, an amount equal to the lesser of the following amounts shall be treated (if it is not nil) as a sum disbursed as expenses of management of the company for that period, that is to say—".

(7) Subsections (1) and (4) to (6) above have effect in relation to accounting periods beginning after 5th March 1997.

(8) Subsections (2) and (3) above have effect in relation to accounting periods ending on or after 5th March 1997 but do not affect the computation of the capital elements contained in any annuity payments made before that date.

68 Consortium claims for group relief

In section 410 of the Taxes Act 1988 (group relief not available in certain cases including those where a person, either alone or with connected persons, controls 75% or more of the voting rights in a company owned by a consortium), in the definition of "connected persons" in subsection (5) after "in accordance with section 839" there shall be inserted "but as if subsection (7) of that section (persons acting together to control a company are connected) were omitted".

Distributions etc.

69 Special treatment for certain distributions

Schedule 7 to this Act (which makes provision for the treatment of distributions arising on the purchase etc. by a company of its own shares and for cases where a distribution has a connection with a transaction in securities) shall have effect.

70 Distributions of exempt funds

(1) In subsection (5) of section 236 of the Taxes Act 1988 (meaning of "relevant profits") —

(a) in paragraph (a), after "franked investment income" there shall be inserted "and foreign income dividends"; and

(b) in paragraph (b), for "and franked investment income" there shall be substituted ", franked investment income and foreign income dividends".

(2) After subsection (7) of that section there shall be inserted the following subsection—

"(8) In this section "foreign income dividends" shall be construed in accordance with Chapter VA of Part VI."

(3) This section has effect (subject to subsection (4) below) for the purposes of computing the relevant profits (within the meaning of section 236 of the Taxes Act 1988) arising to a company in any period falling wholly or partly after 7th October 1996.

(4) No foreign income dividend paid before 8th October 1996 shall be included or, as the case may be, excluded by virtue of this section from any such profits as are mentioned in subsection (3) above.

71 Set-off against franked investment income

Section 242 of the Taxes Act 1988 (set-off of losses against surplus franked investment income) shall have effect, and be deemed always to have had effect, as if at the end of paragraph (c) of subsection (6) (power to carry set-off forward) there were inserted "and

(d) in relation to relief given in respect of amounts available to be set against profits under section 83 of the Finance Act 1996 or paragraph 4 of Schedule 11 to that Act or under section 131(4) of the Finance Act 1993 (which are provisions relating to deficits on loan relationships, foreign exchange losses and losses on certain financial instruments);".

72 FIDs paid to unauthorised unit trusts

(1) In section 246D(5) of the Taxes Act 1988 (section 233(1) and (1A) of that Act not to apply to FIDs paid to individuals, personal representatives or certain trustees), after "representatives" there shall be inserted ", a foreign income dividend paid to the trustees of a unit trust scheme to which section 469 applies".

(2) This section has effect in relation to distributions made on or after 26th November 1996.

73 Tax advantages to include tax credits

(1) In section 709 of the Taxes Act 1988 (meaning of "tax advantage" etc. in Chapter I of Part XVII of that Act), after subsection (2) there shall be inserted the following subsection—

"(2A) In this Chapter references to a relief and to a repayment of tax include, respectively, references to a tax credit and to a payment of any amount in respect of a tax credit."

(2) This section—

(a) has effect for the purposes of the application of provisions of Chapter I of Part XVII of the Taxes Act 1988 in relation to chargeable periods ending at any time, including times before the passing of this Act, but

(b) without prejudice to the construction of that Chapter apart from this section, does not apply in the case of a tax credit in respect of a distribution made before 8th October 1996.

Investments etc.

74 Enterprise investment scheme

Schedule 8 to this Act (which amends the provisions in Chapter III of Part VII of the Taxes Act 1988 about the companies which are qualifying companies for the purposes of the enterprise investment scheme and makes related amendments to that Chapter) shall have effect.

75 Venture capital trusts

(1) Section 842AA of the Taxes Act 1988 (venture capital trusts) shall have effect, and be deemed always to have had effect, with the following subsections inserted after subsection (5)—

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

(a) there has been an issue of ordinary share capital of a company ("the first issue"),

(b) an approval of that company for the purposes of this section has taken effect on or before the day of the making of the first issue, and

(c) a further issue of ordinary share capital of that company has been made since the making of the first issue.

(5B) Where this subsection applies, the use to which the money raised by the further issue is put, and the use of any money deriving from that use, shall be disregarded in determining whether any of the conditions specified in subsection (2)(b) and (c) above are, have been or will be fulfilled in relation to—

(a) the accounting period in which the further issue is made; or

(b) any later accounting period ending no more than three years after the making of the further issue."

(2) Subsection (6) of that section (withdrawal of approval) shall have effect, and be deemed always to have had effect, with the insertion of the following paragraph before the word "or" at the end of paragraph (c)—

"(ca) in a case where the use of any money falls to be disregarded for any accounting period in accordance with subsection (5B) above—

(i) that the first accounting period of the company for which the use of that money will not be disregarded will be a period in relation to which a condition specified in subsection (2) above will fail to be fulfilled; or

(ii) that the company has not fulfilled such other conditions as may be prescribed by regulations made by the Board in relation to, or to any part of, an accounting period for which the use of that money falls to be disregarded;".

(3) Schedule 9 to this Act (which amends the provisions of Schedule 28B to the Taxes Act 1988 defining "qualifying holdings") shall have effect.

76 Stock lending and manufactured payments

Schedule 10 to this Act (which makes provision for the treatment for the purposes of income tax, corporation tax and capital gains tax of stock lending arrangements and manufactured payments) shall have effect.

77 Bond washing and repos

(1) After subsection (2A) of section 731 of the Taxes Act 1988 (disapplication of bond washing rules where buyer has to make manufactured payment) there shall be inserted the following subsections—

"(2B) Subject to subsection (2E) below, where there is a repo agreement in relation to any securities—

(a) neither—

(i) the purchase of the securities by the interim holder from the original owner, nor

(ii) the repurchase of the securities by the original owner,

shall be a purchase of those securities for the purposes of subsection (2) above; and

(b) neither—

(i) the sale of the securities by the original owner to the interim holder, nor

(ii) the sale by the interim holder under which the securities are bought back by the original owner,

shall be taken for the purposes of subsection (2) above to be a subsequent sale of securities previously purchased by the seller.

(2C) Accordingly, where there is a repo agreement, the securities repurchased by the original owner shall be treated for the purposes of subsection (2) above (to the extent that that would not otherwise be the case) as if they were the same as, and were purchased by the original owner at the same time as, the securities sold by him to the interim holder.

(2D) For the purposes of subsections (2B) and (2C) above there is a repo agreement in relation to any securities if there is an agreement in pursuance of which a person ("the original owner") sells the securities to another ("the interim holder") and, in pursuance of that agreement or a related agreement, the original owner—

(a) is required to buy back the securities;

(b) will be required to buy them back on the exercise by the interim holder of an option conferred by the agreement or related agreement; or

(c) is entitled, in pursuance of any obligation arising on a person's becoming entitled to receive an amount in respect of the redemption of those securities, to receive from the interim holder an amount equal to the amount of the entitlement.

(2E) Subsections (2B) and (2C) above do not apply if—

(a) the agreement or agreements under which the arrangements are made for the sale and repurchase of the securities are not such as would be entered into by persons dealing with each other at arm's length; or

(b) any of the benefits or risks arising from fluctuations, before the securities are repurchased, in the market value of the securities in question accrues to or falls on the interim holder.

(2F) Section 730B applies for the purposes of subsections (2B) to (2E) above as it applies for the purposes of section 730A."

(2) This section applies in relation to cases in which the interest becomes payable on or after the day on which this Act is passed.

78 National Savings Bank interest

(1) In section 349(3) of the Taxes Act 1988 (cases where yearly interest may be paid without deduction of tax), after paragraph (b) there shall be inserted the following paragraph—

"(ba) to interest paid on deposits with the National Savings Bank; or".

(2) This section applies to interest whenever paid (including interest paid before the day on which this Act is passed).

79 Payments under certain life insurance policies

(1) In this section "relevant excepted benefit" means so much of any qualifying payment under a relevant life insurance policy as—

(a) is a sum falling, but for this section, to be treated for the purposes of the Tax Acts as an amount of interest or as an annual payment;

(b) is not a sum paid or falling to be paid by virtue of provisions of that policy which, taken alone, would constitute a different sort of policy; and

(c) does not represent interest for late payment on—

(i) any other part of that qualifying payment, or

(ii) the whole or any part of any other qualifying payment under the policy.

(2) For the purposes of subsection (1)(c) above, interest on the whole or any part of a qualifying payment under a policy ("the relevant amount") is interest for late payment if it is interest for a period beginning on or after the date of the occurrence of the event or contingency as a result of the occurrence of which the relevant amount falls to be paid.

(3) The Tax Acts shall have effect, and be deemed always to have had effect, as if—

(a) a relevant excepted benefit were neither an amount of interest nor an annual payment;

(b) the payments which are relevant capital payments for the purposes of section 541 of the Taxes Act 1988 (computation of gain in the case of life policies) included the payment of a relevant excepted benefit;

(c) on the payment of a relevant excepted benefit there were a surrender—

(i) except in a case falling within sub-paragraph (ii) below, of a part of the rights conferred by the policy in question; and

(ii) in a case where the payment of the benefit (or of that benefit together with any interest falling within subsection (1)(c) above) comprises the whole of the last payment to be made under the policy, of all of the remaining rights so conferred;

and

(d) the value of the part or rights treated as surrendered on the payment of a relevant excepted benefit were equal to the amount of the payment.

(4) For the purposes of this section a qualifying payment under a relevant life insurance policy is any amount which has been or is to be paid under that policy by the insurer.

(5) In this section "relevant life insurance policy" means any contract of insurance (whenever effected) which—

(a) is of a description applying to contracts the effecting and carrying out of which falls within Class I or III of the classes of long term business specified in Schedule 1 to the Insurance Companies Act 1982; and

(b) is neither—

(i) an annuity contract, nor

(ii) a contract effected in the course of a company's pension business (within the meaning given by section 431B of the Taxes Act 1988 or the corresponding enactment in force when the contract was effected).

(6) In subsection (1)(b) above, the reference to a different sort of policy is a reference to any contract of a description applying to contracts the effecting and carrying out of which falls within any class of business specified in Schedule 1 or 2 to the Insurance Companies Act 1982 other than the Classes I and III specified in Schedule 1.

(7) This section shall be deemed to have had effect, for the purposes of the cases to which the enactments applied, in relation to enactments directly or indirectly re-enacted in the Tax Acts, as it has effect in relation to those Acts.

(8) For the purposes of subsection (7) above the reference in subsection (3)(b) above to section 541 of the Taxes Act 1988 shall be taken to include a reference to any corresponding provision contained in the enactments directly or indirectly re-enacted in the Tax Acts.

80 Futures and options: transactions with guaranteed returns

(1) After section 127 of the Taxes Act 1988 there shall be inserted the following section—

"**127A Futures and options: transactions with guaranteed returns**

Schedule 5AA (which makes provision for the taxation of the profits and gains arising from transactions in futures and options that are designed to produce guaranteed returns) shall have effect."

(2) After Schedule 5 to that Act there shall be inserted, as Schedule 5AA to that Act, the Schedule set out in Schedule 11 to this Act.

(3) In section 128 of that Act (profits arising from commodity and financial futures etc. to be taxed only under the provisions relating to chargeable gains)—

(a) after the word "which", where it first occurs, there shall be inserted "is not chargeable to tax in accordance with Schedule 5AA and"; and

(b) for "that Schedule" there shall be substituted "Schedule D".

(4) In section 399 of that Act (withdrawal of loss relief for losses from dealing in futures etc.), after subsection (1) there shall be inserted the following subsection—

"(1A) Subsection (1) above does not apply to a loss arising from a transaction to which Schedule 5AA applies."

(5) In section 469(9) of that Act (sections 686 and 687 disapplied in relation to unauthorised unit trusts), at the end there shall inserted "except as respects income to which section 686 is treated as applying by virtue of paragraph 7 of Schedule 5AA."

(6) Subject to subsection (7) below, this section and Schedule 11 to this Act shall have effect, and be deemed to have had effect, for chargeable periods ending on or after 5th March 1997 in relation to profits and gains realised, and losses sustained, on or after that date.

(7) In relation to profits and gains realised, and losses sustained, on or after 5th March 1997, paragraph 1(6) and (7) of the Schedule 5AA to the Taxes Act 1988 (rule against double counting) inserted by this section shall be deemed to have had effect for chargeable periods beginning before that date (as well as for those beginning on or after that date).

Transfer of assets abroad

81 Transfer of assets abroad

(1) After section 739(1) of the Taxes Act 1988 (prevention of avoidance of income tax by means of transfer of assets with or without associated operations) there shall be inserted the following subsection—

"(1A) Nothing in subsection (1) above shall be taken to imply that the provisions of subsections (2) and (3) below apply only if—

(a) the individual in question was ordinarily resident in the United Kingdom at the time when the transfer was made; or

(b) the avoiding of liability to income tax is the purpose, or one of the purposes, for which the transfer was effected."

(2) This section applies irrespective of when the transfer or associated operations took place, but applies only to income arising on or after 26th November 1996.

Leasing and loan arrangements

82 Finance leases and loans

Schedule 12 to this Act (which makes provision about arrangements such as are treated for certain accounting purposes as finance leases or loans) shall have effect.

83 Loan relationships: transitions

(1) Chapter II of Part IV of the Finance Act 1996 (loan relationships) shall be amended as follows.

(2) In subsection (5) of section 90 (changes in accounting methods), before the word "and" at the end of paragraph (a) there shall be inserted the following paragraph—

"(aa) the relationship is one to which the company in question is still a party at the end of the period or part of a period for which the accruals basis of accounting is used,".

(3) In that subsection for the words after paragraph (b) there shall be substituted—

"that amount shall be computed using for the closing value as at the end of that period or part of a period the amount specified in subsection (6) below."

(4) For subsection (6) of that section (amounts used for computations under subsection (5)) there shall be substituted the following subsection—

"(6) That amount is—

(a) in a case to which subsection (3) above applies, the amount taken for the purposes of subsection (3)(a)(ii) above to be the closing value as at the end of the period for which the accruals basis of accounting is used; and

(b) in a case to which subsection (2) above applies, the amount which, without the making of the assumptions mentioned in subsection (4) above, would be taken to be the closing value as at the end of the part of the period for which that basis is used."

(5) Subsections (2) to (4) above apply where the period or part of a period for which the superseded accounting method is or was used is a period ending on or after 14th November 1996.

(6) Schedule 13 to this Act (which contains amendments of the transitional provisions in Schedule 15 to the Finance Act 1996) shall have effect.

Capital allowances

84 Writing-down allowances on long-life assets

Schedule 14 to this Act (which reduces the rate at which expenditure on long-life assets is written down for the purposes of writing-down allowances) shall have effect.

85 Schedule A cases etc

Schedule 15 to this Act (which makes provision in relation to capital allowances for cases where persons have income chargeable to tax under Schedule A or make lettings of furnished holiday accommodation in the United Kingdom) shall have effect.

86 Capital allowances on fixtures

Schedule 16 to this Act (which makes amendments relating to the provisions of the Capital Allowances Act 1990 about fixtures) shall have effect.

Chargeable gains

87 Re-investment relief

Schedule 17 to this Act (which amends Chapter IA of Part V of the Taxation of Chargeable Gains Act 1992) shall have effect.

88 Conversion of securities: QCBs and debentures

(1) The Taxation of Chargeable Gains Act 1992 shall be amended as follows.

(2) In paragraph (a) of subsection (3) of section 132 (meaning of conversion of securities) —

(a) after "includes" there shall be inserted "any of the following, whether effected by a transaction or occurring in consequence of the operation of the terms of any security or of any debenture which is not a security, that is to say";

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

"(ia) a conversion of a security which is not a qualifying corporate bond into a security of the same company which is such a bond, and

(ib) a conversion of a qualifying corporate bond into a security which is a security of the same company but is not such a bond, and".

(3) After that subsection there shall be inserted the following subsections—

"(4) In subsection (3)(a)(ia) above the reference to the conversion of a security of a company into a qualifying corporate bond includes a reference to—

(a) any such conversion of a debenture of that company that is deemed to be a security for the purposes of section 251 as produces a security of that company which is a qualifying corporate bond; and

(b) any such conversion of a security of that company, or of a debenture that is deemed to be a security for those purposes, as produces a debenture of that company which, when deemed to be a security for those purposes, is such a bond.

(5) In subsection (3)(a)(ib) above the reference to the conversion of a qualifying corporate bond into a security of the same company which is not such a bond includes a reference to any conversion of a qualifying corporate bond which produces a debenture which—

(a) is not a security; and

(b) when deemed to be a security for the purposes of section 251, is not such a bond."

(4) In section 116(2) (qualifying corporate bonds), after the word "section", in the first place where it occurs, there shall be inserted "references to a transaction include references to any conversion of securities (whether or not effected by a transaction) within the meaning of section 132 and".

(5) In section 251(6) (deemed securities), after paragraph (d) there shall be inserted—

"and any debenture which results from a conversion of securities within the meaning of section 132, or is issued in pursuance of rights attached to such a debenture, shall be deemed for the purposes of this section to be a security (as defined in that section)."

(6) This section has effect for the purposes of the application of the Taxation of Chargeable Gains Act 1992 in relation to any disposal on or after 26th November 1996 and shall so have effect, where a conversion took place at a time before that date, as if it had come into force before that time.

89 Earn-out rights

(1) After section 138 of the Taxation of Chargeable Gains Act 1992 there shall be inserted the following section—

"**138A Use of earn-out rights for exchange of securities**

(1) For the purposes of this section an earn-out right is so much of any right conferred on any person ("the seller") as—

(a) constitutes the whole or any part of the consideration for the transfer by him of shares in or debentures of a company ("the old securities");

(b) consists in a right to be issued with shares in or debentures of another company ("the new company");

(c) is such that the value or quantity of the shares or debentures to be issued in pursuance of the right ("the new securities") is unascertainable at the time when the right is conferred; and

(d) is not capable of being discharged in accordance with its terms otherwise than by the issue of the new securities.

(2) Where—

(a) there is an earn-out right,

(b) the exchange of the old securities for the earn-out right is an exchange to which section 135 would apply, in a manner unaffected by section 137, if the earn-out right were an ascertainable amount of shares in or debentures of the new company, and

(c) the seller elects under this section for the earn-out right to be treated as a security of the new company,

this Act shall have effect, in the case of the seller and every other person who from time to time has the earn-out right, in accordance with the assumptions specified in subsection (3) below.

(3) Those assumptions are—

(a) that the earn-out right is a security within the definition in section 132;

(b) that the security consisting in the earn-out right is a security of the new company and is incapable of being a qualifying corporate bond for the purposes of this Act;

(c) that references in this Act (including those in this section) to a debenture include references to a right that is assumed to be a security in accordance with paragraph (a) above; and

(d) that the issue of shares or debentures in pursuance of such a right constitutes the conversion of the right, in so far as it is discharged by the issue, into the shares or debentures that are issued.

(4) For the purposes of this section where—

(a) any right which is assumed, in accordance with this section, to be a security of a company ("the old right") is extinguished,

(b) the whole of the consideration for the extinguishment of the old right consists in another right ("the new right") to be issued with shares in or debentures of that company,

(c) the new right is such that the value or quantity of the shares or debentures to be issued in pursuance of the right ("the replacement

securities") is unascertainable at the time when the old right is extinguished,

(d) the new right is not capable of being discharged in accordance with its terms otherwise than by the issue of the replacement securities, and

(e) the person on whom the new right is conferred elects under this section for it to be treated as a security of that company,

the assumptions specified in subsection (3) above shall have effect in relation to the new right, in the case of that person and every other person who from time to time has the new right, as they had effect in relation to the old right.

(5) An election under this section in respect of any right must be made, by a notice given to an officer of the Board—

(a) in the case of an election by a company within the charge to corporation tax, within the period of two years from the end of the accounting period in which the right is conferred; and

(b) in any other case, on or before the first anniversary of the 31st January next following the year of assessment in which that right is conferred.

(6) An election under this section shall be irrevocable.

(7) Subject to subsections (8) to (10) below, where any right to be issued with shares in or debentures of a company is conferred on any person, the value or quantity of the shares or debentures to be issued in pursuance of that right shall be taken for the purposes of this section to be unascertainable at a particular time if, and only if—

(a) it is made referable to matters relating to any business or assets of one or more relevant companies; and

(b) those matters are uncertain at that time on account of future business or future assets being included in the business or assets to which they relate.

(8) Where a right to be issued with shares or debentures is conferred wholly or partly in consideration for the transfer of other shares or debentures or the extinguishment of any right, the value and quantity of the shares or debentures to be issued shall not be taken for the purposes of this section to be unascertainable in any case where, if—

(a) the transfer or extinguishment were a disposal, and

(b) a gain on that disposal fell to be computed in accordance with this Act,

the shares or debentures to be issued would, in pursuance of section 48, be themselves regarded as, or as included in, the consideration for the disposal.

(9) Where any right to be issued with shares in or debentures of a company comprises an option to choose between shares in that company and debentures of that company, the existence of that option shall not, by itself, be taken for the purposes of this section either—

(a) to make unascertainable the value or quantity of the shares or debentures to be issued; or

(b) to prevent the requirements of subsection (1)(b) and (d) or (4)(b) and (d) above from being satisfied in relation to that right.

(10) For the purposes of this section the value or quantity of shares or debentures shall not be taken to be unascertainable by reason only that it has not been fixed if it will be fixed by reference to the other and the other is ascertainable.

(11) In subsection (7) above "relevant company", in relation to any right to be issued with shares in or debentures of a company, means—

(a) that company or any company which is in the same group of companies as that company; or

(b) the company for whose shares or debentures that right was or was part of the consideration, or any company in the same group of companies as that company;

and in this subsection the reference to a group of companies shall be construed in accordance with section 170(2) to (14)."

(2) Subject to subsections (3) to (8) below—

(a) the section 138A inserted by subsection (1) above shall be deemed always to have been a section of the Taxation of Chargeable Gains Act 1992; and

(b) the enactments applying to chargeable periods beginning before 6th April 1992 shall be deemed always to have included a corresponding section.

(3) Subject to subsections (4) to (6) below, an election under section 138A of the Taxation of Chargeable Gains Act 1992 in respect of a right conferred on any person before 26th November 1996 may be made at any time before the end of the period for the making of such an election in respect of a right conferred on that person on that date.

(4) An election in respect of a right conferred on any person shall not be made by virtue of subsection (3) above at any time after the final determination of his liability to corporation tax or capital gains tax for the chargeable period in which the right was in fact conferred on him.

(5) A notice given to an officer of the Board before the day on which this Act is passed shall not have effect as an election under section 138A of the Taxation of Chargeable Gains Act 1992, or the corresponding provision applying to chargeable periods beginning before 6th April 1992, except in accordance with subsection (6) below.

(6) Where—

(a) any person has given a notification to an officer of the Board before the day on which this Act is passed, and

(b) that notification was given either—

(i) in anticipation of the right to make an election under section 138A of the Taxation of Chargeable Gains Act 1992, or

(ii) for the purposes of an extra-statutory concession available to be used by that person for purposes similar to those of that section,

that notification shall, unless the Board otherwise direct, be treated as if it were a valid and irrevocable election made by that person for the purposes of that section or, as the case may be, the corresponding provision.

(7) Where any notification given as mentioned in subsection (6)(b)(ii) above is treated as an election for the purposes of section 138A of the Taxation of Chargeable Gains Act 1992 or any corresponding provision, that section or, as the case may be, the corresponding provision shall be taken to have no effect by virtue of that election in relation to any disposal before 26th November 1996 of any asset which—

(a) was issued to any person in pursuance of an earn-out right;

(b) was issued to any person in pursuance of any such right as is mentioned in subsection (4) of that section; or

(c) falls for the purposes of that Act to be treated as the same as an asset issued at any time to any person in pursuance of such a right as is mentioned in paragraph (a) or (b) above but is not an asset first held by that person before that time.

(8) Subsection (7) above shall not prevent section 138A of the Taxation of Chargeable Gains Act 1992 from being taken, for the purposes of applying that Act to any disposal on or after 26th November 1996, to have had effect in relation to—

(a) any disposal before that date on which, by virtue of any of the enactments specified in section 35(3)(d) of that Act, neither a gain nor a loss accrued,

(b) any deemed disposal before that date by reference to which a gain or loss falls to be calculated in accordance with section 116(10)(a) of that Act, or

(c) any transaction before that date that would have fallen to be treated as a disposal but for section 127 of that Act.

Double taxation relief

90 Restriction of relief for underlying tax

(1) After section 801 of the Taxes Act 1988 there shall be inserted the following section—

"**801A Restriction of relief for underlying tax**

(1) This section applies where—

(a) a company resident in the United Kingdom ("the United Kingdom company") makes a claim for an allowance by way of credit in accordance with this Part;

(b) the claim relates to underlying tax on a dividend paid to that company by a company resident outside the United Kingdom ("the overseas company");

(c) that underlying tax is or includes an amount in respect of tax ("the high rate tax") payable by—

(i) the overseas company, or

(ii) such a third, fourth or successive company as is mentioned in section 801,

at a rate in excess of the relievable rate; and

(d) the whole or any part of the amount in respect of the high rate tax which is or is included in the underlying tax would not be, or be included in, that underlying tax but for the existence of, or for there having been, an avoidance scheme.

(2) Where this section applies, the amount of the credit to which the United Kingdom company is entitled on the claim shall be determined as if the high rate tax had been tax at the relievable rate, instead of at a rate in excess of that rate.

(3) For the purposes of this section tax shall be taken to be payable at a rate in excess of the relievable rate if, and to the extent that, the amount of that tax exceeds the amount that would represent tax on the relevant profits at the relievable rate.

(4) In subsection (3) above "the relevant profits", in relation to any tax, means the profits of the overseas company or, as the case may be, of the third, fourth or successive company which, for the purposes of this Part, are taken to bear that tax.

(5) In this section "the relievable rate" means the rate of corporation tax in force when the dividend mentioned in subsection (1)(b) above was paid.

(6) In this section "an avoidance scheme" means any scheme or arrangement which—

(a) falls within subsection (7) below; and

(b) is a scheme or arrangement the purpose, or one of the main purposes, of which is to have an amount of underlying tax taken into account on a claim for an allowance by way of credit in accordance with this Part.

(7) A scheme or arrangement falls within this subsection if the parties to it include both—

(a) the United Kingdom company, a company related to that company or a person connected with the United Kingdom company; and

(b) a person who was not under the control of the United Kingdom company at any time before the doing of anything as part of, or in pursuance of, the scheme or arrangement.

(8) In this section "arrangement" means an arrangement of any kind, whether in writing or not.

(9) Section 839 (meaning of "connected persons") applies for the purposes of this section.

(10) Subsection (5) of section 801 (meaning of "related company") shall apply for the purposes of this section as it applies for the purposes of that section.

(11) For the purposes of this section a person who is a party to a scheme or arrangement shall be taken to have been under the control of the United Kingdom company at all the following times, namely—

(a) any time when that company would have been taken (in accordance with section 416) to have had control of that person for the purposes of Part XI;

(b) any time when that company would have been so taken if that section applied (with the necessary modifications) in the case of partnerships and unincorporated associations as it applies in the case of companies; and

(c) any time when that person acted in relation to that scheme or arrangement, or any proposal for it, either directly or indirectly under the direction of that company."

(2) This section has effect in relation to dividends paid to a company resident in the United Kingdom at any time on or after 26th November 1996.

91 Disposals of loan relationships with or without interest

(1) Section 807A of the Taxes Act 1988 (disposals and acquisitions of company loan relationships with or without interest) shall be amended as follows.

(2) At the beginning of subsection (2) there shall be inserted "Subject to subsection (2A) below,".

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

"(2A) Tax attributable to interest accruing to a company under a loan relationship does not fall within subsection (2) above if—

(a) at the time when the interest accrues, that company has ceased to be a party to that relationship by reason of having made the initial transfer under or in accordance with any repo or stock-lending arrangements relating to that relationship; and

(b) that time falls during the period for which those arrangements have effect."

(4) In subsection (3)(b), after "related transaction" there shall be inserted "other than the initial transfer under or in accordance with any repo or stock-lending arrangements relating to that relationship".

(5) After subsection (6) there shall be inserted the following subsection—

"(6A) In this section "repo or stock-lending arrangements" has the same meaning as in paragraph 15 of Schedule 9 to the Finance Act 1996 (repo transactions and stock-lending); and, in relation to any such arrangements—

(a) a reference to the initial transfer is a reference to the transfer mentioned in sub-paragraph (3)(a) of that paragraph; and

(b) a reference to the period for which the arrangements have effect is a reference to the period from the making of the initial transfer until whichever is the earlier of the following—

(i) the discharge of the obligations arising by virtue of the entitlement or requirement mentioned in sub-paragraph (3)(b) of that paragraph; and

(ii) the time when it becomes apparent that the discharge mentioned in sub-paragraph (i) above will not take place."

(6) Subsections (2) and (3) above have effect in relation to interest accruing on or after 1st April 1996.

(7) Subsection (4) above has effect in relation to transactions made on or after 26th November 1996.

Repayment supplement

92 Time from which entitlement runs

(1) Section 824 of the Taxes Act 1988 (repayment supplements), where it has effect as amended by paragraph 41 of Schedule 19 to the Finance Act 1994, shall be amended in accordance with subsections (2) to (4) below.

(2) For paragraphs (a) and (b) of subsection (3) there shall be substituted the following paragraphs—

"(a) if the repayment is—

(i) the repayment of an amount paid in accordance with the requirements of section 59A of the Management Act on account of income tax for a year of assessment, or

(ii) the repayment of income tax for such a year which is not income tax deducted at source,

the relevant time is the date of the payment that is being repaid;

(b) if the repayment is of income tax deducted at source for a year of assessment, the relevant time is the 31st January next following that year; and".

(3) In paragraph (c) of that subsection, for the words from "the relevant time" to the end of that paragraph there shall be substituted "the relevant time is the date on which the penalty or surcharge was paid".

(4) For subsection (4) there shall be substituted the following subsections—

"(4) For the purposes of subsection (3) above, where a repayment in respect of income tax for a year of assessment is made to any person, that repayment—

(a) shall be attributed first to so much of any payment made by him under section 59B of the Management Act as is a payment in respect of income tax for that year;

(b) in so far as it exceeds the amount (if any) to which it is attributable under paragraph (a) above, shall be attributed in two equal parts to each of the payments made by him under section 59A of the Management Act on account of income tax for that year;

(c) in so far as it exceeds the amounts (if any) to which it is attributable under paragraphs (a) and (b) above, shall be attributed to income tax deducted at source for that year; and

(d) in so far as it is attributable to a payment made in instalments shall be attributed to a later instalment before being attributed to an earlier one.

(4A) In this section any reference to income tax deducted at source for a year of assessment is a reference to—

(a) income tax deducted or treated as deducted from any income, or treated as paid on any income, in respect of that year, and

(b) amounts which, in respect of that year, are tax credits to which section 231 applies,

but does not include a reference to amounts which, in that year, are deducted at source under section 203 in respect of previous years."

(5) In subsection (2) of section 283 of the Taxation of Chargeable Gains Act 1992 (repayment supplements), for the words from "the relevant time" to the end of that subsection there shall be substituted "the relevant time is the date on which the tax was paid".

(6) This section has effect as respects the year 1997-98 and subsequent years of assessment and shall be deemed to have had effect as respects the year 1996-97.