Finance Act 1998

1998 CHAPTER 36

PART III

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

CHAPTER II

TAXATION OF CHARGEABLE GAINS

Rate for trustees

120 Rate of CGT for trustees etc

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

"(1AA) The rate of capital gains tax in respect of gains accruing to—

(a) the trustees of a settlement, or

(b) the personal representatives of a deceased person,

in a year of assessment shall be equivalent to the rate which for that year is applicable to trusts under section 686(1) of the Taxes Act."

(2) Subsection (1) above applies for the year 1998-99 and subsequent years of assessment.

Taper relief and indexation allowance

121 Taper relief for CGT

(1) The following section shall be inserted after section 2 of the Taxation of Chargeable Gains Act 1992—

"**2A Taper relief**

(1) This section applies where, for any year of assessment—

(a) there is, in any person's case, an excess of the total amount referred to in subsection (2) of section 2 over the amounts falling to be deducted from that amount in accordance with that subsection; and

(b) the excess is or includes an amount representing the whole or a part of any chargeable gain that is eligible for taper relief.

(2) The amount on which capital gains tax is taken to be charged by virtue of section 2(2) shall be reduced to the amount computed by—

(a) applying taper relief to so much of every chargeable gain eligible for that relief as is represented in the excess;

(b) aggregating the results; and

(c) adding to the aggregate of the results so much of every chargeable gain not eligible for taper relief as is represented in the excess.

(3) Subject to the following provisions of this Act, a chargeable gain is eligible for taper relief if—

(a) it is a gain on the disposal of a business asset with a qualifying holding period of at least one year; or

(b) it is a gain on the disposal of a non-business asset with a qualifying holding period of at least three years.

(4) Where taper relief falls to be applied to the whole or any part of a gain on the disposal of a business or non-business asset, that relief shall be applied by multiplying the amount of that gain or part of a gain by the percentage given by the table in subsection (5) below for the number of whole years in the qualifying holding period of that asset.

(5) That table is as follows—

Gains on disposals of business assets		*Gains on disposals of non-business assets*	
Number of whole years in qualifying holding period	*Percentage of gain chargeable*	*Number of whole years in qualifying holding period*	*Percentage of gain chargeable*
1	92.5	—	—
2	85	—	—
3	77.5	3	95
4	70	4	90
5	62.5	5	85
6	55	6	80
7	47.5	7	75
8	40	8	70

Gains on disposals of business assets		*Gains on disposals of non-business assets*	
Number of whole years in qualifying holding period	*Percentage of gain chargeable*	*Number of whole years in qualifying holding period*	*Percentage of gain chargeable*
9	32.5	9	65
10 or more	25	10 or more	60

(6) The extent to which the whole or any part of a gain on the disposal of a business or non-business asset is to be treated as represented in the excess mentioned in subsection (1) above shall be determined by treating deductions made in accordance with section 2(2)(a) and (b) as set against chargeable gains in such order as results in the largest reduction under this section of the amount charged to capital gains tax under section 2.

(7) Schedule A1 shall have effect for the purposes of this section.

(8) Subject to paragraph 2(4) of that Schedule, references in this section to the qualifying holding period of an asset are references—

(a) except in the case of an asset falling within subsection (9) below, to the period after 5th April 1998 for which that asset had been held at the time of its disposal; and

(b) in the case of an asset falling within that subsection, to the period mentioned in paragraph (a) above plus one year.

(9) An asset falls within this subsection if—

(a) the time which, for the purposes of paragraph 2 of Schedule A1, is the time when the asset is taken to have been acquired by the person making the disposal is a time before 17th March 1998; and

(b) there is no period which in the case of that asset is a period which by virtue of paragraph 11 or 12 of that Schedule does not count for the purposes of taper relief."

(2) Before Schedule 1 to the Taxation of Chargeable Gains Act 1992 there shall be inserted, as Schedule A1 to that Act, the Schedule set out in Schedule 20 to this Act.

(3) Schedule 21 to this Act (which makes incidental and consequential provision in connection with the introduction of taper relief) shall have effect.

(4) This section and those two Schedules have effect for the year 1998-99 and subsequent years of assessment.

122 Freezing of indexation allowance for CGT

(1) In section 53 of the Taxation of Chargeable Gains Act 1992 (indexation allowance), after subsection (1) there shall be inserted the following subsection—

"(1A) Indexation allowance in respect of changes shown by the retail prices indices for months after April 1998 shall be allowed only for the purposes of corporation tax."

(2) In subsection (1) of section 54 of that Act (calculation of indexation allowance), in the definition of "RD", for "the month in which the disposal occurs" there shall be substituted "the relevant month".

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

"(1A) In subsection (1) above—

(a) the references to an item of relevant allowable expenditure shall not, except for the purposes of corporation tax, include any item of expenditure incurred on or after 1st April 1998; and

(b) the reference to the relevant month is a reference—

(i) where that subsection has effect for the purposes of capital gains tax, to April 1998; and

(ii) where that subsection has effect for the purposes of corporation tax, to the month in which the disposal occurs."

(4) In section 13 of that Act (attribution of gains to non-resident companies), the following subsection shall be inserted after subsection (11)—

"(11A) For the purposes of this section the amount of the gain or loss accruing at any time to a company that is not resident in the United Kingdom shall be computed (where it is not the case) as if that company were within the charge to corporation tax on capital gains."

(5) In section 145 of that Act (call options: indexation allowance), in subsection (1), after the word "applies", in the first place where it occurs, there shall be inserted "(subject to subsection (1A) below)"; and after that subsection there shall be inserted the following subsection—

"(1A) In a case where the whole of the expenditure comprised in the option consideration was incurred on or after 1st April 1998, this section applies for the purposes of corporation tax only."

(6) Subject to subsection (7) below, the preceding provisions of this section have effect in relation to disposals on or after 6th April 1998.

(7) This section does not affect the computation of the amount of so much of any gain as—

(a) is treated for the purposes of the taxation of chargeable gains as having accrued on a disposal on or after 6th April 1998; but

(b) is taken for those purposes to be equal to the whole or any part of a gain that—

(i) would (but for any enactment relating to the taxation of chargeable gains) have accrued on an actual disposal made before that date, or

(ii) would have accrued on a disposal assumed under any such enactment to have been made before that date.

Pooling and identification of shares etc.

123 Abolition of pooling for CGT

(1) In subsection (2) of section 104 of the Taxation of Chargeable Gains Act 1992 (cases where share pooling does not apply), before the word "and" at the end of paragraph (a) there shall be inserted—

"(aa) does not apply, except for the purposes of corporation tax, to any securities acquired on or after 6th April 1998;".

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

"(2A) Subsection (2)(aa) above shall not prevent the application of subsection (1) above to any securities that would be treated as acquired on or after 6th April 1998 but for their falling by virtue of section 127 to be treated as the same as securities acquired before that date."

(3) In subsection (3) of that section (interpretation), for ""a new holding" is" there shall be substituted ""a section 104 holding" is".

(4) For subsection (4) of that section there shall be substituted the following subsection—

"(4) For the purposes of this Chapter securities of a company which are held—

(a) by a person who acquired them as an employee of the company or of any other person, and

(b) on terms which for the time being restrict his right to dispose of them,

shall (notwithstanding that they would otherwise fall to be treated as of the same class) be treated as of a different class from any securities acquired by him otherwise than as an employee of the company or of any other person and also from any shares that are not held subject to restrictions, or the same restrictions, on disposal or in the case of which the restrictions are no longer in force."

(5) In the following enactments for the words "new holding", wherever they occur, there shall be substituted "section 104 holding", namely—

(a) in section 440A of the Taxes Act 1988 (securities held by insurance companies); and

(b) in sections 104(6), 107 and 110 of the Taxation of Chargeable Gains Act 1992.

(6) The preceding provisions of this section have effect in relation to any disposal on or after 6th April 1998 of any securities (whenever acquired).

(7) The powers of the Treasury to make provision by regulations under one or both of—

(a) section 333 of the Taxes Act 1988 (regulations providing for exemptions in respect of investment plans), and

(a) section 151 of the Taxation of Chargeable Gains Act 1992 (capital gains tax and investment plans),

shall include power to provide, to such extent as appears to them to be appropriate for purposes connected with the enactment of this section and section 124 below, for any provision contained in any such regulations to have effect retrospectively in relation to such times falling on or after 17th March 1998 as may be specified in the regulations.

124 New identification rules for CGT

(1) After section 106 of the Taxation of Chargeable Gains Act 1992 there shall be inserted the following section—

"**106A Identification of securities: general rules for capital gains tax**

(1) This section has effect for the purposes of capital gains tax (but not corporation tax) where any securities are disposed of by any person.

(2) The securities disposed of shall be identified in accordance with the following provisions of this section with securities of the same class that have been acquired by the person making the disposal.

(3) The provisions of this section have effect in the case of any disposal notwithstanding that some or all of the securities disposed of are otherwise identified—

(a) by the disposal, or

(b) by a transfer or delivery giving effect to it;

but where a person disposes of securities in one capacity, they shall not be identified under those provisions with any securities which he holds, or can dispose of, only in some other capacity.

(4) Securities disposed of on an earlier date shall be identified before securities disposed of on a later date; and, accordingly, securities disposed of by a later disposal shall not be identified with securities already identified as disposed of by an earlier disposal.

(5) Subject to subsection (4) above, if within the period of thirty days after the disposal the person making it acquires securities of the same class, the securities disposed of shall be identified—

(a) with securities acquired by him within that period, rather than with other securities; and

(b) with securities acquired at an earlier time within that period, rather than with securities acquired at a later time within that period.

(6) Subject to subsections (4) and (5) above, securities disposed of shall be identified with securities acquired at a later time, rather than with securities acquired at an earlier time.

(7) Subsection (6) above shall not require securities to be identified with particular securities comprised in a section 104 holding or a 1982 holding.

(8) Accordingly, that subsection shall have effect for determining whether, and to what extent, any securities should be identified with the whole or any part of a section 104 holding or a 1982 holding—

(a) as if the time of the acquisition of a section 104 holding were the time when it first came into being; and

(b) as if 31st March 1982 were the time of the acquisition of a 1982 holding.

(9) The identification rules set out in the preceding provisions of this section have effect subject to subsection (1) of section 105, and securities disposed of shall not be identified with securities acquired after the disposal except in accordance with that section or subsection (5) above.

(10) In this section—

"1982 holding" has the same meaning as in section 109;

"securities" means any securities within the meaning of section 104 or any relevant securities within the meaning of section 108.

(11) For the purposes of this section securities of a company shall not be treated as being of the same class unless they are so treated by the practice of a recognised stock exchange, or would be so treated if dealt with on that recognised stock exchange."

(2) In subsection (1) of section 105 of that Act (disposal and acquisition on the same day), for "The following provisions" there shall be substituted "Paragraphs (a) and (b) below"; and for subsection (2) of that section there shall be substituted the following subsection—

"(2) Where the quantity of securities disposed of by any person exceeds the aggregate quantity of—

(a) the securities (if any) which are required by subsection (1) above to be identified with securities acquired on the day of the disposal,

(b) the securities (if any) which are required by any of the provisions of section 106 or 106A(5) to be identified with securities acquired after the day of the disposal, and

(c) the securities (if any) which are required by any of the provisions of sections 104, 106, 106A or 107, or of Schedule 2, to be identified with securities acquired before the day of the disposal,

the disposal shall be treated as diminishing a quantity of securities subsequently acquired, and as so diminishing any quantity so acquired at an earlier date, rather than one so acquired at a later date."

(3) In section 107 of that Act (general identification rules) for subsections (1) and (2) there shall be substituted the following subsections—

"(1) This section has effect for the purposes of corporation tax where any securities are disposed of by a company.

(1A) The securities disposed of shall be identified in accordance with the following provisions of this section with securities of the same class that have been acquired by the company making the disposal and could be comprised in that disposal.

(2) The provisions of this section have effect in the case of any disposal notwithstanding that some or all of the securities disposed of are otherwise identified—

(a) by the disposal, or

(b) by a transfer or delivery giving effect to it;

but where a company disposes of securities in one capacity, they shall not be identified with securities which it holds, or can dispose of, only in some other capacity."

(4) In section 108 of that Act (relevant securities), at the beginning there shall be inserted the following subsection—

"(A1) This section has effect for the purposes of corporation tax where any relevant securities are disposed of by a company."

(5) In that section—

(a) in subsections (2) and (7), for "person", in each place where it occurs, there shall be substituted "company"; and

(b) in subsection (2), for "him" and "he" there shall be substituted, respectively, "the company" and "it".

(6) In each of section 151B(1) and (7) of that Act and paragraph 4(2) of Schedule 5C to that Act (disapplication of share pooling and identification rules in relation to shares in a VCT), for "107" there shall be substituted "106A".

(7) Subject to subsection (8) below, the preceding provisions of this section have effect in relation to any disposal on or after 6th April 1998.

(8) For the purposes of capital gains tax for the year 1997-98 (but not for the purposes of corporation tax), the following provisions have effect in relation to any disposal of securities made on or after 17th March 1998 and before 6th April 1998, that is to say—

(a) the identification rule in subsection (5) of the section 106A of the Taxation of Chargeable Gains Act 1992 set out in subsection (1) above shall apply in accordance with subsections (3) and (4) of that section;

(b) that rule shall have priority over any other rule, except the one in section 105(1) of that Act; and

(c) section 104(1) of that Act shall not apply to any securities identified by virtue of this subsection with the securities disposed of.

(9) In subsection (8) above "securities" means any securities within the meaning of section 104 of the Taxation of Chargeable Gains Act 1992 or any relevant securities within the meaning of section 108 of that Act.

125 Indexation and share pooling etc

(1) In subsection (1) of section 110 of the Taxation of Chargeable Gains Act 1992 (indexation allowance for section 104 holdings), for "This" there shall be substituted "For the purposes of corporation tax this".

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

"**110A Indexation for section 104 holdings: capital gains tax**

(1) For the purposes of capital gains tax (but not corporation tax) where—

(a) there is a disposal on or after 6th April 1998 of a section 104 holding, and

(b) any of the relevant allowable expenditure was incurred before 6th April 1998,

this section applies, in place of section 54 and subject to section 105, for computing the indexation allowance.

(2) There shall be an indexed pool of expenditure and subsection (2) or, as the case may be, subsection (3) of section 110 shall apply by reference to that pool in relation to the disposal as it would apply (by reference to the pool for which that section provides) for the purposes of corporation tax.

(3) The amount at any time of the indexed pool of expenditure shall be determined by—

(a) taking the amount which would, under section 110 and section 114, have been the amount of the indexed pool of expenditure for the purposes of a disposal of the whole of the holding at the end of 5th April 1998; and

(b) making any adjustments by way of increase or reduction that would be required to be made by virtue of subsection (8) of section 110 on the assumptions set out in subsection (4) below.

(4) Those assumptions are—

(a) that the indexed pool of expenditure is an indexed pool of expenditure for the purposes of section 110;

(b) that no increase or reduction is to be made except for an operative event on or after 6th April 1998; and

(c) that paragraph (a) of section 110(8) and section 114 are to be disregarded.

(5) For the purposes of making any adjustment in accordance with subsection (3)(b) above, subsection (9) of section 110 shall be assumed to provide only that, where the operative event is a disposal, the calculation of the indexation allowance under subsection (2) of that section, as applied by subsection (2) above, is to be made before the reduction under subsection (8)(c) of that section."

(3) In each of sections 53(4) and 104(3) and (5) of that Act (which refer to section 110), after "110" there shall be inserted ", 110A".

(4) Subject to subsection (5) below, the preceding provisions of this section have effect in relation to disposals on or after 6th April 1998.

(5) This section does not affect the computation of the amount of so much of any gain as—

(a) is treated for the purposes of the taxation of chargeable gains as having accrued on a disposal on or after 6th April 1998; but

(b) is taken for those purposes to be equal to the whole or any part of a gain that—

(i) would (but for any enactment relating to the taxation of chargeable gains) have accrued on an actual disposal made before that date, or

(ii) would have accrued on a disposal assumed under any such enactment to have been made before that date.

Stock dividends

126 Capital gains on stock dividends

(1) For sections 141 and 142 of the Taxation of Chargeable Gains Act 1992 (stock dividends) there shall be substituted the following section—

"**142 Capital gains on stock dividends**

(1) This section applies where any share capital to which section 249 of the Taxes Act applies is issued as mentioned in subsection (4), (5) or (6) of that section in respect of shares in the company held by any person.

(2) The case shall not constitute a reorganisation of the company's share capital for the purposes of sections 126 to 128.

(3) The person who acquires the share capital by means of its issue shall (notwithstanding section 17(1)) be treated for the purposes of section 38(1)(a) as having acquired that asset for a consideration equal to the appropriate amount in cash (within the meaning of section 251(2) to (4) of the Taxes Act)."

(2) This section applies to any share capital issued on or after 6th April 1998.

Non-residents etc.

127 Charge to CGT on temporary non-residents

(1) After section 10 of the Taxation of Chargeable Gains Act 1992 there shall be inserted the following section—

"**10A Temporary non-residents**

(1) This section applies in the case of any individual ("the taxpayer") if—

(a) he satisfies the residence requirements for any year of assessment ("the year of return");

(b) he did not satisfy those requirements for one or more years of assessment immediately preceding the year of return but there are years of assessment before that year for which he did satisfy those requirements;

(c) there are fewer than five years of assessment falling between the year of departure and the year of return; and

(d) four out of the seven years of assessment immediately preceding the year of departure are also years of assessment for each of which he satisfied those requirements.

(2) Subject to the following provisions of this section and section 86A, the taxpayer shall be chargeable to capital gains tax as if—

(a) all the chargeable gains and losses which (apart from this subsection) would have accrued to him in an intervening year,

(b) all the chargeable gains which under section 13 or 86 would be treated as having accrued to him in an intervening year if he had been resident in the United Kingdom throughout that intervening year, and

(c) any losses which by virtue of section 13(8) would have been allowable in his case in any intervening year if he had been resident in the United Kingdom throughout that intervening year,

were gains or, as the case may be, losses accruing to the taxpayer in the year of return.

(3) Subject to subsection (4) below, the gains and losses which by virtue of subsection (2) above are to be treated as accruing to the taxpayer in the year of return shall not include any gain or loss accruing on the disposal by the taxpayer of any asset if—

(a) that asset was acquired by the taxpayer at a time in the year of departure or any intervening year when he was neither resident nor ordinarily resident in the United Kingdom;

(b) that asset was so acquired otherwise than by means of a relevant disposal which by virtue of section 58, 73 or 258(4) is treated as having been a disposal on which neither a gain nor a loss accrued;

(c) that asset is not an interest created by or arising under a settlement; and

(d) the amount or value of the consideration for the acquisition of that asset by the taxpayer does not fall, by reference to any relevant disposal, to be treated as reduced under section 23(4)(b) or (5)(b), 152(1)(b), 162(3)(b) or 247(2)(b) or (3)(b).

(4) Where—

(a) any chargeable gain that has accrued or would have accrued on the disposal of any asset ("the first asset") is a gain falling (apart from this section) to be treated by virtue of section 116(10) or (11), 134 or 154(2) or (4) as accruing on the disposal of the whole or any part of another asset, and

(b) the other asset is an asset falling within paragraphs (a) to (d) of subsection (3) above but the first asset is not,

subsection (3) above shall not exclude that gain from the gains which by virtue of subsection (2) above are to be treated as accruing to the taxpayer in the year of return.

(5) The gains and losses which by virtue of subsection (2) above are to be treated as accruing to the taxpayer in the year of return shall not include any chargeable gain or allowable loss accruing to the taxpayer in an intervening year which, in the taxpayer's case, has fallen to be brought into account for that year by virtue of section 10 or 16(3).

(6) The reference in subsection (2)(c) above to losses allowable in an individual's case in an intervening year is a reference to only so much of the aggregate of the losses that would have been available in accordance with subsection (8) of section 13 for reducing gains accruing by virtue of that section to that individual in that year as does not exceed the amount of the gains that would have accrued to him in that year if it had been a year throughout which he was resident in the United Kingdom.

(7) Where this section applies in the case of any individual, nothing in any enactment imposing any limit on the time within which an assessment to capital gains tax may be made shall prevent any such assessment for the year of departure from being made in the taxpayer's case at any time before the end of two years after the 31st January next following the year of return.

(8) In this section—

"intervening year" means any year of assessment which, in a case where the conditions in paragraphs (a) to (d) of subsection (1) above are satisfied, falls between the year of departure and the year of return;

"relevant disposal", means a disposal of an asset acquired by the person making the disposal at a time when that person was resident or ordinarily resident in the United Kingdom; and

"the year of departure" means the last year of assessment before the year of return for which the taxpayer satisfied the residence requirements.

(9) For the purposes of this section an individual satisfies the residence requirements for a year of assessment if that year of assessment is one during any part of which he is resident in the United Kingdom or during which he is ordinarily resident in the United Kingdom.

(10) This section is without prejudice to any right to claim relief in accordance with any double taxation relief arrangements."

(2) In section 9(3) of that Act (exclusion from charge of persons temporarily resident), for "section 10(1)" there shall be substituted "sections 10(1) and 10A".

(3) In section 96 of that Act (payments by and to companies), after subsection (9) there shall be inserted the following subsections—

"(9A) For the purposes of this section an individual shall be deemed to have been resident in the United Kingdom at any time in any year of assessment which in his case is an intervening year for the purposes of section 10A.

(9B) If—

(a) it appears after the end of any year of assessment that any individual is to be treated by virtue of subsection (9A) above as having been resident in the United Kingdom at any time in that year, and

(b) as a consequence, any adjustments fall to be made to the amounts of tax taken to have been chargeable by virtue of this section on any person,

nothing in any enactment limiting the time for the making of any claim or assessment shall prevent the making of those adjustments (whether by means of an assessment, an amendment of an assessment, a repayment of tax or otherwise)."

(4) This section has effect—

(a) in any case in which the year of departure is the year 1998-99 or a subsequent year of assessment; and

(b) in any case in which the year of departure is the year 1997-98 and the taxpayer was resident or ordinarily resident in the United Kingdom at a time in that year on or after 17th March 1998.

128 Disposal of interests in a settlement

(1) In section 76 of the Taxation of Chargeable Gains Act 1992 (disposal of interests in settled property)—

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

(b) after that subsection there shall be inserted the subsections set out in subsection (2) below; and

(c) after subsection (2) there shall be inserted the subsection set out in subsection (3) below.

(2) The subsections inserted after subsection (1) are as follows—

"(1A) Subject to subsection (3) below, subsection (1) above does not apply if—

(a) the settlement falls within subsection (1B) below; or

(b) the property comprised in the settlement is or includes property deriving directly or indirectly from a settlement falling within that subsection.

(1B) A settlement falls within this subsection if there has been a time when the trustees of that settlement—

(a) were not resident or ordinarily resident in the United Kingdom; or

(b) fell to be regarded for the purposes of any double taxation relief arrangements as resident in a territory outside the United Kingdom."

(3) The subsection inserted after subsection (2) is as follows—

"(3) Subsection (1A) above shall not prevent subsection (1) above from applying where the disposal in question is a disposal in consideration of obtaining settled property that is treated as made under subsection (2) above."

(4) This section has effect in relation to any disposal on or after 6th March 1998.

129 Attribution of gains to settlor in section 10A cases

(1) After section 86 of the Taxation of Chargeable Gains Act 1992 there shall be inserted the following section—

"**86A Attribution of gains to settlor in section 10A cases**

(1) Subsection (2) below applies in the case of a person who is a settlor in relation to any settlement ("the relevant settlement") where—

(a) by virtue of section 10A, amounts falling within section 86(1)(e) for any intervening year or years would (apart from this section) be treated as accruing to the settlor in the year of return; and

(b) there is an excess of the relevant chargeable amounts for the non-residence period over the amount of the section 87 pool at the end of the year of departure.

(2) Only so much (if any) of—

(a) the amount falling within section 86(1)(e) for the intervening year, or

(b) if there is more than one intervening year, the aggregate of the amounts falling within section 86(1)(e) for those years,

as exceeds the amount of the excess mentioned in subsection (1)(b) above shall fall in accordance with section 10A to be attributed to the settlor for the year of return.

(3) In subsection (1) above, the reference to the relevant chargeable amounts for the non-residence period is (subject to subsection (5) below) a reference to the aggregate of the amounts on which beneficiaries of the relevant settlement are charged to tax under section 87 or 89(2) for the intervening year or years in respect of any capital payments received by them.

(4) In subsection (1) above, the reference to the section 87 pool at the end of the year of departure is (subject to subsection (5) below) a reference to the amount (if any) which, in accordance with subsection (2) of that section, fell in relation

to the relevant settlement to be carried forward from the year of departure to be included in the amount of the trust gains for the year of assessment immediately following the year of departure.

(5) Where the property comprised in the relevant settlement has at any time included property not originating from the settlor, only so much (if any) of any capital payment or amount carried forward in accordance with section 87(2) as, on a just and reasonable apportionment, is properly referable to property originating from the settlor shall be taken into account for the purposes of subsections (3) and (4) above.

(6) Where any reduction falls to be made by virtue of subsection (2) above in any amount to be attributed in accordance with section 10A to any settlor for any year of assessment, the reduction to be treated as made for that year in accordance with section 87(3) in the case of the settlement in question shall not be made until—

(a) the reduction (if any) falling to be made by virtue of that subsection has been made in the case of every settlor to whom any amount is so attributed; and

(b) effect has been given to any reduction required to be made under subsection (7) below.

(7) Where in the case of any settlement there is (after the making of any reduction or reductions in accordance with subsection (2) above) any amount or amounts falling in accordance with section 10A to be attributed for any year of assessment to settlors of the settlement, the amount or (as the case may be) aggregate amount falling in accordance with that section to be so attributed shall be applied in reducing the amount carried forward to that year in accordance with section 87(2).

(8) Where an amount or aggregate amount has been applied, in accordance with subsection (7) above, in reducing the amount which in the case of any settlement is carried forward to any year in accordance with section 87(2), that amount (or, as the case may be, so much of it as does not exceed the amount which it is applied in reducing) shall be deducted from the amount used for that year for making the reduction under section 87(3) in the case of that settlement.

(9) Expressions used in this section and section 10A have the same meanings in this section as in that section; and paragraph 8 of Schedule 5 shall apply for the construction of the references in subsection (5) above to property originating from the settlor as it applies for the purposes of that Schedule."

(2) In section 97(1) to (5), (7) and (8) of that Act (interpretation of sections 87 to 96), for the words "sections 87", wherever occurring, there shall be substituted "sections 86A".

(3) This section has effect where the year of departure is the year 1997-98 or any subsequent year of assessment.

130 Charge on beneficiaries of settlements with non-resident settlors

(1) In subsection (1) of section 87 of the Taxation of Chargeable Gains Act 1992 (charge on beneficiaries of a non-resident settlement if the settlor is or has been domiciled and resident in the United Kingdom), the words from "if the settlor" to the end of the subsection shall be omitted.

(2) In subsection (1) of section 88 of that Act (charge on beneficiaries of a settlement treated as resident outside the United Kingdom if the settlor is or has been domiciled and resident in the United Kingdom)—

(a) the word "and" shall be inserted at the end of paragraph (a); and

(b) paragraph (c) and the word "and" immediately preceding it shall be omitted.

(3) Subject to subsection (4) below, the preceding provisions of this section apply for the year 1998-99 and subsequent years of assessment and shall be deemed to have applied for the year 1997-98.

(4) Where section 87 of that Act applies for any year of assessment in relation to any settlement in relation to which it would not have applied for that year but for subsection (1) or (2) above—

(a) gains and losses accruing to the trustees of the settlement before 17th March 1998, and

(b) capital payments received before that date,

shall be disregarded for the purposes of that section.

131 Charge on settlors of settlements for grandchildren

(1) In paragraph 2 of Schedule 5 to the Taxation of Chargeable Gains Act 1992 (test whether settlor has interest)—

(a) after sub-paragraph (3)(d) there shall be inserted the following paragraphs—

"(da) any grandchild of the settlor or of the settlor's spouse;

(db) the spouse of any such grandchild;"

(b) in sub-paragraph (3)(e), for "(d)" there shall be substituted "(db)".

(2) For sub-paragraph (7) of that paragraph, there shall be substituted the following sub-paragraph—

"(7) In this paragraph—

"child" includes a stepchild; and

"grandchild" means a child of a child."

(3) Schedule 22 to this Act (which makes transitional provision and consequential amendments in connection with the provisions of this section) shall have effect.

(4) The preceding provisions of this section and Schedule 22 to this Act apply for the year 1998-99 and subsequent years of assessment and shall be deemed to have applied for the year 1997-98.

132 Charge on settlors of pre-19th March 1991 settlements

(1) In paragraph 9 of Schedule 5 to the Taxation of Chargeable Gains Act 1992 (which sets out when a settlement is a qualifying settlement for the purposes of the attribution of gains to the settlor), after sub-paragraph (1) there shall be inserted the following sub-paragraphs—

"(1A) Subject to sub-paragraph (1B) below, a settlement created before 19th March 1991 is a qualifying settlement for the purposes of section 86 and this Schedule in—

(a) the year 1999-00, and

(b) subsequent years of assessment.

(1B) Where a settlement created before 19th March 1991 is a protected settlement immediately after the beginning of 6th April 1999, that settlement shall be treated as a qualifying settlement for the purposes of section 86 and this Schedule in a year of assessment mentioned in sub-paragraph (1A)(a) or (b) above only if—

(a) any of the five conditions set out in subsections (3) to (6A) below becomes fulfilled as regards the settlement in that year; or

(b) any of those five conditions became so fulfilled in any previous year of assessment ending after 19th March 1991."

(2) Sub-paragraph (2) of that paragraph shall not have effect for the purpose of determining whether any settlement is a qualifying settlement in the year 1999-00 or any subsequent year of assessment.

(3) After sub-paragraph (6) of that paragraph there shall be inserted the following sub-paragraph—

"(6A) The fifth condition is that the settlement ceases to be a protected settlement at any time on or after 6th April 1999."

(4) After sub-paragraph (10) of that paragraph there shall be inserted the following sub-paragraphs—

"(10A) Subject to sub-paragraph (10B) below, a settlement is a protected settlement at any time in a year of assessment if at that time the beneficiaries of that settlement are confined to persons falling within some or all of the following descriptions, that is to say—

(a) children of a settlor or of a spouse of a settlor who are under the age of eighteen at that time or who were under that age at the end of the immediately preceding year of assessment;

(b) unborn children of a settlor, of a spouse of a settlor, or of a future spouse of a settlor;

(c) future spouses of any children or future children of a settlor, a spouse of a settlor or any future spouse of a settlor;

(d) a future spouse of a settlor;

(e) persons outside the defined categories.

(10B) For the purposes of sub-paragraph (10A) above a person is outside the defined categories at any time if, and only if, there is no settlor by reference to whom he is at that time a defined person in relation to the settlement for the purposes of paragraph 2(1) above.

(10C) For the purposes of sub-paragraph (10A) above a person is a beneficiary of a settlement if—

(a) there are any circumstances whatever in which relevant property which is or may become comprised in the settlement is or will or may become applicable for his benefit or payable to him;

(b) there are any circumstances whatever in which relevant income which arises or may arise under the settlement is or will or may become applicable for his benefit or payable to him;

(c) he enjoys a benefit directly or indirectly from any relevant property comprised in the settlement or any relevant income arising under the settlement.

(10D) In sub-paragraph (10C) above—

"relevant property" means property originating from a settlor; and

"relevant income" means income originating from a settlor."

(5) In construing section 86(1)(e) of the Taxation of Chargeable Gains Act 1992 (which specifies the amount by reference to which a charge arises under that section) as regards a particular year of assessment and in relation to a settlement created before 19th March 1991 which—

(a) is a qualifying settlement in the year 1999-00, but

(b) was not a qualifying settlement in any earlier year of assessment,

no account shall be taken of disposals made before 6th April 1999 (whether for the purpose of arriving at gains or for the purpose of arriving at losses).

(6) Schedule 23 (which makes transitional provision in connection with the coming into force of this section) shall have effect.

Groups of companies etc.

133 Transfer within group to investment trust

(1) After section 101 of the Taxation of Chargeable Gains Act 1992, there shall be inserted the following section—

"**101A Transfer within group to investment trust**

(1) This section applies where—

(a) an asset has been disposed of to a company (the "acquiring company") and the disposal has been treated by virtue of section 171(1) as giving rise to neither a gain nor a loss,

(b) at the time of the disposal the acquiring company was not an investment trust, and

(c) the conditions set out in subsection (2) below are satisfied by the acquiring company.

(2) Those conditions are satisfied by the acquiring company if—

(a) it becomes an investment trust for an accounting period beginning not more than 6 years after the time of the disposal,

(b) at the beginning of that accounting period, it owns, otherwise than as trading stock—

(i) the asset, or

(ii) property to which a chargeable gain has been carried forward from the asset on a replacement of business assets,

(c) it has not been an investment trust for any earlier accounting period beginning after the time of the disposal, and

(d) at the time at which it becomes an investment trust, there has not been an event by virtue of which it falls by virtue of section 179(3)

or 101C(3) to be treated as having sold, and immediately reacquired, the asset at the time specified in subsection (3) below.

(3) The acquiring company shall be treated for all the purposes of this Act as if immediately after the disposal it had sold, and immediately reacquired, the asset at its market value at that time.

(4) Any chargeable gain or allowable loss which, apart from this subsection, would accrue to the acquiring company on the sale referred to in subsection (3) above shall be treated as accruing to it immediately before the end of the last accounting period to end before the beginning of the accounting period for which the acquiring company becomes an investment trust.

(5) For the purposes of this section a chargeable gain is carried forward from an asset to other property on a replacement of business assets if—

(a) by one or more claims under sections 152 to 158, the chargeable gain accruing on a disposal of the asset is reduced, and

(b) as a result an amount falls to be deducted from the expenditure allowable in computing a gain accruing on the disposal of the other property.

(6) For the purposes of this section an asset acquired by the acquiring company shall be treated as the same as an asset owned by it at a later time if the value of the second asset is derived in whole or in part from the first asset; and, in particular, assets shall be so treated where—

(a) the second asset is a freehold and the first asset was a leasehold; and

(b) the lessee has acquired the reversion.

(7) Where under this section a company is to be treated as having disposed of and reacquired an asset—

(a) all such recomputations of liability in respect of other disposals, and

(b) all such adjustments of tax, whether by way of assessment or by way of discharge or repayment of tax,

as may be required in consequence of the provisions of this section shall be carried out.

(8) Notwithstanding any limitation on the time for making assessments, any assessment to corporation tax chargeable in consequence of this section may be made at any time within 6 years after the end of the accounting period referred to in subsection (2)(a) above."

(2) In section 179 of that Act (company ceasing to be a member of a group), after subsection (2B) there shall be inserted the following subsection—

"(2C) This section shall not have effect as respects any asset if, before the time when the chargeable company ceases to be a member of the group or, as the case may be, the second group, an event has already occurred by virtue of which the company falls by virtue of section 101A(3) to be treated as having sold and immediately reacquired the asset at the time specified in subsection (3) below."

(3) Subsections (1) and (2) above apply to any company which becomes an investment trust for an accounting period beginning on or after 17th March 1998.

134 Transfer of company's assets to venture capital trust

(1) In subsection (4) of section 139 of the Taxation of Chargeable Gains Act 1992 (reconstruction or amalgamation involving transfer of a business), after "investment trust" there shall be inserted "or a venture capital trust."

(2) After the section 101A of that Act inserted by section 133 above there shall be inserted the following section—

"**101B Transfer of company's assets to venture capital trust**

(1) Where section 139 has applied on the transfer of a company's business (in whole or in part) to a company which at the time of the transfer was not a venture capital trust, then if—

(a) at any time after the transfer the company becomes a venture capital trust by virtue of an approval for the purposes of section 842AA of the Taxes Act; and

(b) at the time as from which the approval has effect the company still owns any of the assets of the business transferred,

the company shall be treated for all the purposes of this Act as if immediately after the transfer it had sold, and immediately reacquired, the assets referred to in paragraph (b) above at their market value at that time.

(2) Any chargeable gain or allowable loss which, apart from this subsection, would accrue to the company on the sale referred to in subsection (1) above shall be treated as accruing to the company immediately before the time mentioned in subsection (1)(b) above.

(3) This section does not apply if at the time mentioned in subsection (1)(b) above there has been an event by virtue of which the company falls by virtue of section 101(1) to be treated as having sold, and immediately reacquired, the assets immediately after the transfer referred to in subsection (1) above.

(4) Notwithstanding any limitation on the time for making assessments, any assessment to corporation tax chargeable in consequence of this section may, in a case in which the approval mentioned in subsection (1)(a) above has effect as from the beginning of an accounting period, be made at any time within 6 years after the end of that accounting period.

(5) Where under this section a company is to be treated as having disposed of, and reacquired, an asset of a business, all such recomputations of liability in respect of other disposals and all such adjustments of tax, whether by way of assessment or by way of discharge or repayment of tax, as may be required in consequence of the provisions of this section shall be carried out."

(3) After subsection (1A) of section 101 of that Act there shall be inserted the following subsection—

"(1B) This section does not apply if at the time at which the company becomes an investment trust there has been an event by virtue of which it falls by virtue of section 101B(1) to be treated as having sold, and immediately reacquired, the assets immediately after the transfer referred to in subsection (1) above."

(4) Subsection (1) above applies to transfers made on or after 17th March 1998.

(5) Subsections (2) and (3) above apply to a company in respect of which an approval for the purposes of section 842AA of the Taxes Act 1988 (venture capital trusts) has effect as from a time falling on or after 17th March 1998.

135 Transfer within group to venture capital trust

(1) In section 171 of the Taxation of Chargeable Gains Act 1992 (transfers within a group), after the word "or" at the end of paragraph (c) of subsection (2) there shall be inserted the following paragraph—

"(cc) a disposal by or to a venture capital trust; or"

(2) After the section 101B of that Act inserted by section 134 above there shall be inserted the following section—

"**101C Transfer within group to venture capital trust**

(1) This section applies where—

(a) an asset has been disposed of to a company (the "acquiring company") and the disposal has been treated by virtue of section 171(1) as giving rise to neither a gain nor a loss,

(b) at the time of the disposal the acquiring company was not a venture capital trust, and

(c) the conditions set out in subsection (2) below are satisfied by the acquiring company.

(2) Those conditions are satisfied by the acquiring company if—

(a) it becomes a venture capital trust by virtue of an approval having effect as from a time (the "time of approval") not more than 6 years after the time of the disposal,

(b) at the time of approval the company owns, otherwise than as trading stock—

(i) the asset, or

(ii) property to which a chargeable gain has been carried forward from the asset on a replacement of business assets,

(c) it has not been a venture capital trust at any earlier time since the time of the disposal, and

(d) at the time of approval, there has not been an event by virtue of which it falls by virtue of section 179(3) or 101A(3) to be treated as having sold, and immediately reacquired, the asset at the time specified in subsection (3) below.

(3) The acquiring company shall be treated for all the purposes of this Act as if immediately after the disposal it had sold, and immediately reacquired, the asset at its market value at that time.

(4) Any chargeable gain or allowable loss which, apart from this subsection, would accrue to the acquiring company on the sale referred to in subsection (3) above shall be treated as accruing to it immediately before the time of approval.

(5) Subsections (5) to (7) of section 101A apply for the purposes of this section as they apply for the purposes of that section.

(6) Notwithstanding any limitation on the time for making assessments, any assessment to corporation tax chargeable in consequence of this section may, in a case in which the time of approval is the time at which an accounting period of the company begins, be made at any time within 6 years after the end of that accounting period.

(7) Any reference in this section to an approval is a reference to an approval for the purposes of section 842AA of the Taxes Act."

(3) In section 179 of that Act (company ceasing to be a member of a group), after the subsection (2C) inserted by section 133 above there shall be inserted the following subsection—

"(2D) This section shall not have effect as respects any asset if, before the time when the chargeable company ceases to be a member of the group or, as the case may be, the second group, an event has already occurred by virtue of which the company falls by virtue of section 101C(3) to be treated as having sold and immediately reacquired the asset at the time specified in subsection (3) below."

(4) Subsection (1) above applies to disposals made on or after 17th March 1998.

(5) Subsections (2) and (3) above apply to a company in respect of which an approval for the purposes of section 842AA of the Taxes Act 1988 (venture capital trusts) has effect as from a time falling on or after 17th March 1998.

136 Incorporated friendly societies

(1) In section 170(9) of the Taxation of Chargeable Gains Act 1992 (meaning of "company" in sections 170 to 181), after the word "and" at the end of paragraph (c) there shall be inserted the following paragraph—

"(cc) an incorporated friendly society within the meaning of the Friendly Societies Act 1992; and".

(2) In subsection (2) of section 171 of that Act (transfers within a group), after the word "or" at the end of the paragraph (cc) inserted by section 135 above there shall be inserted the following paragraph—

"(cd) a disposal by or to a qualifying friendly society; or"

(3) After subsection (4) of that section there shall be inserted the following subsection—

"(5) In subsection (2)(cd) above "qualifying friendly society" means a company which is a qualifying society for the purposes of section 461B of the Taxes Act (incorporated friendly societies entitled to exemption from income tax and corporation tax on certain profits)."

(4) Subsection (1) above applies for the purpose of determining, in relation to times on and after 17th March 1998, whether a friendly society is a company within the meaning of the provisions of sections 170 to 181 of the Taxation of Chargeable Gains Act 1992.

(5) Subsections (2) and (3) above apply in relation to disposals made on or after 17th March 1998.

137 Pre-entry gains

(1) In the Taxation of Chargeable Gains Act 1992, after section 177A (pre-entry losses) there shall be inserted the following section—

"Pre-entry gains

177B Restrictions on setting losses against pre-entry gains

Schedule 7AA to this Act (which makes provision restricting the losses that may be set against the chargeable gains accruing to a company in the accounting period in which it joins a group of companies) shall have effect."

(2) After Schedule 7A to that Act there shall be inserted, as Schedule 7AA to that Act, the Schedule set out in Schedule 24 to this Act.

(3) In subsection (3) of section 213 of that Act (carry back of losses in respect of deemed annual disposal by insurance companies)—

(a) at the beginning there shall be inserted "Subject to subsection (3A) below,"; and

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

"(ca) none of the intervening accounting periods is an accounting period in which the company joined a group of companies, and".

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

"(3A) Subsection (3) above shall have effect where the company in question joins a group of companies in the later period as if a claim could not be made in respect of the net amount for that period except to the extent (if any) that the net amount is an amount which, assuming there to be gains accruing to the company immediately after the beginning of that period, would fall to be treated under paragraph 4 of Schedule 7AA as a qualifying loss in relation to those gains.

(3B) References in subsections (3) and (3A) above to a company joining a group of companies shall be construed in accordance with paragraph 1 of Schedule 7AA as if those references were contained in that Schedule."

(5) Subsections (1) and (2) above and Schedule 24 to this Act have effect in relation to any accounting period ending on or after 17th March 1998.

(6) Subsection (3) above has effect in relation to any intervening period ending on or after 17th March 1998.

(7) Subsection (4) above has effect in any case where the earlier accounting period is one ending on or after 17th March 1998.

138 Pre-entry losses

(1) In paragraph 9(6) of Schedule 7A to the Taxation of Chargeable Gains Act 1992 (separate application of provisions relating to pre-entry losses in relation to different groups), for "for the purposes of this paragraph as the same group if" there shall be substituted "in relation to any company that is or has become a member of the second

group ("the relevant company") as the same group for the purposes of this paragraph if—

(a) the time at which the relevant company became a member of the first group is a time in the same accounting period as that in which the principal company of the first group became a member of the second group; or

(b)".

(2) This section has effect in relation to any accounting period ending on or after 17th March 1998.

139 De-grouping charges

(1) In section 179(2B) of the Taxation of Chargeable Gains Act 1992 (cases where there is a connection between groups successively left by a company)—

(a) in paragraph (b), for the words from "company which" to "its" there shall be substituted "person or persons who control the company mentioned in paragraph (a) above or who have had it under their";

(b) in paragraph (c), for the words from "company which has" to "its" there shall be substituted "person or persons who have, at any time in that period, had under their"; and

(c) in that paragraph, for "fallen", wherever it occurs, there shall be substituted "been a person falling".

(2) Subsection (1) above has effect in relation to a company in any case in which the time of the company's ceasing to be a member of the second group is on or after 17th March 1998.

Abolition of reliefs

140 Phasing out of retirement relief

(1) In Schedule 6 to the Taxation of Chargeable Gains Act 1992 (retirement relief etc.), paragraph 13(1) (amount available for relief: basic rule) shall have effect, in relation to qualifying disposals in a year of assessment specified in the first column of the following Table, as if—

(a) for the references to £250,000 there were substituted references to the amount specified in the second column of that Table; and

(b) for the reference to £1 million there were substituted a reference to the amount specified in the third column of that Table.

TABLE

Year	*£250,000*	*£1 million*
1999-00	£200,000	£800,000
2000-01	£150,000	£600,000
2001-02	£100,000	£400,000
2002-03	£50,000	£200,000

(2) The following provisions, namely—

(a) section 163 of that Act (relief for disposals by individuals on retirement from family business),

(b) section 164 of that Act (other retirement relief), and

(c) Schedule 6 to that Act,

shall cease to have effect in relation to disposals in the year 2003-04 and subsequent years of assessment.

(3) In section 157 of that Act (trade carried on by family company), for the words "within the meaning of Schedule 6" there shall be substituted the words "that is to say, a company the voting rights in which are exercisable, as to not less than 5 per cent., by him".

(4) In subsection (8) of section 165 of that Act (relief for gifts of business assets), for paragraph (a) there shall be substituted the following paragraphs—

"(a) "personal company", in relation to an individual, means a company the voting rights in which are exercisable, as to not less than 5 per cent., by that individual;

(aa) "holding company", "trading company" and "trading group" have the meanings given by paragraph 22 of Schedule A1; and".

(5) In the following provisions, namely—

(a) subsection (8) of section 228 of that Act (conditions for roll-over relief: supplementary), and

(b) subsection (14)(b) of section 253 of that Act (relief for loans to traders),

for the words "paragraph 1 of Schedule 6" there shall be substituted the words "paragraph 22 of Schedule A1".

(6) Subsections (3) to (5) above have effect in relation to the year 2003-04 and subsequent years of assessment.

141 Abolition of certain other CGT reliefs

(1) The following provisions of the Taxation of Chargeable Gains Act 1992 shall cease to have effect, namely—

(a) Chapter IA of Part V (roll-over relief on re-investment); and

(b) sections 254 and 255 (relief for debts on qualifying corporate bonds).

(2) In subsection (1) above—

(a) paragraph (a) has effect in relation to acquisitions made on or after 6th April 1998; and

(b) paragraph (b) has effect in relation to loans made on or after 17th March 1998.