



# Finance Act 1999

## 1999 CHAPTER 16

### PART III

#### INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

##### *Income tax rates and charge etc.*

#### **22 Starting rate.**

- (1) The following shall be substituted for section 1(2)(aa) of the Taxes Act 1988 (the charge to income tax: lower rate)—
  - “(aa) in respect of so much of an individual’s total income as does not exceed £1,500, at such rate as Parliament may determine to be the starting rate for that year.”
- (2) The following shall be substituted for section 1(2A) of that Act (lower rate limit)—
  - “(2A) The amount up to which an individual’s income is by virtue of subsection (2) above chargeable for any year at the starting rate shall be known as the starting rate limit.”
- (3) In section 1(3) of that Act (basic rate limit), for “lower rate” there shall be substituted “starting rate”.
- (4) In section 1(4) of that Act (indexation), for the words from “and, if the result is not a multiple of £100” to the end there shall be substituted “and—
  - (a) if the result in the case of the amount specified in subsection (2)(aa) above is not a multiple of £10, rounding it up to the nearest amount which is such a multiple, and
  - (b) if the result in the case of the amount specified in subsection (2)(b) above is not a multiple of £100, rounding it up to the nearest amount which is such a multiple.”
- (5) Section 1(4) of that Act (indexation), so far as it relates to section 1(2)(aa), shall not apply for the year 1999-00.

*Status: Point in time view as at 27/07/1999.*

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- (6) In section 1(6A) of that Act (repayment), for “lower rate” there shall be substituted “starting rate”.
- (7) In section 1A of that Act (application of lower rate to income from savings and distributions)—
- (a) the following shall be inserted before subsection (2)—
- “(1B) In relation to any year of assessment for which income tax is charged the lower rate is 20 per cent. or such other rate as Parliament may determine.”, and
- (b) the following shall be inserted after subsection (6)—
- “(6A) Where income tax at the basic rate has been borne on income chargeable at the lower rate any necessary repayment of tax shall be made on the making of a claim.”
- (8) In the following provisions of that Act, for “lower rate” there shall be substituted “starting rate”
- (a) section 547(5)(c) (life policies, etc.: method of charging gain to tax);
- (b) section 550(3) (life policies, etc.: relief where gain charged at a higher rate).
- (9) In the following provisions of that Act, for “at the lower rate by virtue of section 1(2)(aa)” there shall be substituted “at the starting rate”
- (a) section 549(2) (life policies, etc.: deficiencies allowable as deductions);
- (b) section 699(2) (relief from higher rate for inheritance tax on accrued income);
- (c) section 819(2) (old references to standard rate tax).
- (10) In section 832(1) of that Act (interpretation of the Tax Acts)—
- (a) the following shall be substituted for the definition of “lower rate”—
- ““lower rate”, in relation to the charging of income tax for any year of assessment, means the rate of income tax specified in or determined in pursuance of section 1A(1B);”, and
- (b) the following shall be inserted after the definition of “Schedule A business”—
- ““starting rate”, in relation to the charging of income tax for any year of assessment, means the rate of income tax determined in pursuance of section 1(2)(aa), and any reference to the starting rate limit shall be construed in accordance with section 1(2A);”.
- (11) In the following provisions of the <sup>M1</sup>Taxes Management Act 1970, for “or the lower rate” there shall be substituted “, the lower rate or the starting rate”
- (a) section 7(6) (notice of liability to income tax and capital gains tax);
- (b) section 91(3)(c) (effect of reliefs on tax charged on income subject to deduction).
- (12) Subsections (1) to (3) and (6) to (11) above apply for the year 1999-00 and subsequent years of assessment; and subsection (4) above applies for the year 2000-01 and subsequent years of assessment.

**Marginal Citations**

**M1** 1970 c.9.

*Status: Point in time view as at 27/07/1999.*

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## **23 Charge and rates for 1999-00.**

Income tax shall be charged for the year 1999-00, and for that year—

- (a) the starting rate shall be 10 per cent.;
- (b) the basic rate shall be 23 per cent.; and
- (c) the higher rate shall be 40 per cent.

## **24 Personal allowances for 1999-00 for those aged 65 or more.**

- (1) For the year 1999-00 the amounts specified in subsections (2) and (3) of section 257 of the Taxes Act 1988 (personal allowances for those aged at least 65 but less than 75 and for those aged 75 or more) shall be taken to be £5,720 and £5,980, respectively.
- (2) 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 1999-00.

## **25 Operative date of indexation for PAYE.**

- (1) The Taxes Act 1988 shall be amended in accordance with subsections (2) and (3) below.
- (2) In section 1 (charge to income tax), after subsection (4) there shall be inserted—

“(5A) Subsection (4) above shall not require any change to be made in the amounts deductible or repayable under section 203 during the period beginning with 6th April and ending with 17th May in the year of assessment.”
- (3) In section 257C (indexation of allowances), after subsection (1) there shall be inserted—

“(2A) Subsection (1) above shall not require any change to be made in the amounts deductible or repayable under section 203 during the period beginning with 6th April and ending with 17th May in the year of assessment.”
- (4) This section has effect for the year 1999-00 and subsequent years of assessment.

### *Rates of capital gains tax*

## **26 Rates of capital gains tax.**

- (1) Section 4 of the <sup>M2</sup>Taxation of Chargeable Gains Act 1992 (rates of capital gains tax) shall be amended as follows.
- (2) In subsection (1) (link between rate of capital gains tax and rate of income tax), for “basic rate” there shall be substituted “lower rate”.
- (3) In subsection (1AA) (rate for trusts etc.), for “applicable to trusts under section 686(1) of the Taxes Act” there shall be substituted “the rate applicable to trusts under section 686 of the Taxes Act”.
- (4) Subsections (1A), (1B), (3A) and (3B) (charge at income tax lower rate in certain cases) shall cease to have effect.
- (5) In subsection (4) (definition of “unused part of an individual’s basic rate band”), the words “(disregarding subsection (3B)(a) above)” shall cease to have effect.

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(6) This section applies for the year 1999-00 and subsequent years of assessment.

**Marginal Citations**

M2 1992 c.12.

*Corporation tax charge and rates*

**27 Charge and main rate for financial year 2000.**

Corporation tax shall be charged for the financial year 2000 at the rate of 30 per cent.

**28 Corporation tax starting rate.**

(1) After section 13 of the Taxes Act 1988 there shall be inserted the following section—

**“13AA Corporation tax starting rate.**

- (1) Where in any accounting period the profits of a qualifying company do not exceed the first relevant amount, the company may, instead of making a claim under section 13(1), claim that the corporation tax charged on its basic profits for that period shall be calculated as if the rate of corporation tax were such rate (to be known as the “corporation tax starting rate”), lower than the small companies’ rate, as Parliament may from time to time determine.
- (2) Where in any accounting period the profits of a qualifying company exceed the first relevant amount but do not exceed the second relevant amount, the company may, instead of making a claim under section 13(1), claim that the corporation tax charged on its basic profits for that period shall be—
  - (a) calculated as if the rate of corporation tax were the small companies’ rate; and
  - (b) then reduced by the sum specified in subsection (3) below.
- (3) That sum is the sum equal to such fraction as Parliament may from time to time determine of the following amount—

$$(R2 - P) \times \frac{I}{P}$$

where—

R2 is the second relevant amount;

P is the amount of the profits; and

I is the amount of the basic profits.

- (4) The first and second relevant amounts mentioned above shall be determined as follows—
  - (a) where the company has no associated company in the accounting period, those amounts are £10,000 and £50,000 respectively;
  - (b) where the company has one or more associated companies in the accounting period—

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- (i) the first relevant amount is £10,000 divided by one plus the number of those associated companies, and
  - (ii) the second relevant amount is £50,000 divided by one plus the number of those associated companies.
- (5) Subsections (4) and (5) of section 13 shall apply for the purposes of subsection (4) above as they apply for the purposes of subsection (3) of that section.
- (6) For an accounting period of less than 12 months the relevant amounts determined in accordance with subsection (4) above shall be proportionately reduced.
- (7) The profits and the basic profits of a company for an accounting period shall be determined for the purposes of this section as they are for the purposes of section 13.
- (8) In this section “qualifying company”, in relation to an accounting period, means a company which—
  - (a) is resident in the United Kingdom;
  - (b) is not a close investment-holding company (as defined in section 13A) at the end of that period; and
  - (c) is not an investment trust which for that period has any eligible rental income (within the meaning of section 508A).”
- (2) In section 13A(1) of the Taxes Act 1988 (close investment-holding companies), after “section 13(1)” there shall be inserted “ or 13AA(8) ”.
- (3) In section 468(1A) of that Act (taxation of authorised unit trusts), at the end there shall be inserted “ and sections 13 and 13AA shall not apply ”.
- (4) In paragraph 1(a) of Schedule 12 to the <sup>M3</sup>Finance Act 1989 (provision of information for the purposes of close companies provisions), for “13A” there shall be substituted “ 13 to 13A ”.
- (5) In paragraph 8(1) of Schedule 18 to the <sup>M4</sup>Finance Act 1998 (tax calculation in company tax return), after “section 13(2)” there shall be inserted “ or 13AA(2) ”.
- (6) Subsections (1) to (5) above have effect, subject to subsection (7) below, in relation to corporation tax for the financial year 2000 or any subsequent financial year.
- (7) In the case of an accounting period beginning before 1st April 2000 and ending on or after that date—
  - (a) section 13AA of the Taxes Act 1988 shall apply as if the different parts of that accounting period falling in the different financial years were separate accounting periods;
  - (b) where a claim is made under section 13AA in relation to the part of that period beginning with 1st April 2000, section 13 of that Act shall also so apply; and
  - (c) for the purposes of treating different parts of an accounting period as separate accounting periods in accordance with paragraphs (a) and (b) above, the profits and basic profits of the company for that period shall be attributed to the different parts of it according to the financial year in which, for the purposes of section 8 of that Act, they are taken to arise.

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#### **Marginal Citations**

**M3** 1989 c.26.

**M4** 1998 c.36.

### **29 Rate and fraction for corporation tax starting rate.**

For the financial year 2000—

- (a) the corporation tax starting rate shall be 10 per cent.; and
- (b) the fraction mentioned in section 13AA(3) of the Taxes Act 1988 shall be one fortieth.

#### *Income tax reductions*

### **30 Children’s tax credit.**

(1) The following section shall be inserted after section 257 of the Taxes Act 1988—

#### **“257AA Children’s tax credit.**

- (1) If a qualifying child (or more than one) is resident with the claimant during the whole or part of the year of assessment, the claimant shall be entitled to an income tax reduction, to be known as a children’s tax credit.
  - (2) The reduction shall be calculated by reference to £4,160.
  - (3) Where any part of the claimant’s income for the year of assessment falls within section 1(2)(b), his children’s tax credit for the year shall be calculated as if the amount specified in subsection (2) above were reduced by £2 for every £3 of that part of his income.
  - (4) In this section “qualifying child” means, in relation to a person—
    - (a) a child of his who has not attained the age of 16, or
    - (b) a child who has not attained the age of 16 and who is maintained by, and at the expense of, the person for any part of the year of assessment;
 and “child” includes illegitimate child and stepchild.
  - (5) Schedule 13B (which modifies this section where a child lives with more than one adult during a year of assessment) shall have effect.”
- (2) The Schedule set out in Schedule 3 to this Act shall be inserted after Schedule 13A to the Taxes Act 1988.
- (3) In section 257C(1) and (3) of the Taxes Act 1988 (indexation), for the words “sections 257 and 257A” there shall be substituted “ sections 257, 257AA(2) and 257A ”.
- (4) The <sup>M5</sup>Taxes Management Act 1970 shall be amended as follows—
- (a) in section 36(3A) (fraudulent or negligent conduct), there shall be inserted at the end “ or under Schedule 13B to that Act (elections as to transfer of children’s tax credit) ”,
  - (b) in section 37A (effect of assessment where allowances transferred)—
    - (i) after “spouse” there shall be inserted “ or partner ”, and

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- (ii) after “Act” there shall be inserted “ or paragraph 4 of Schedule 13B to that Act ”,
  - (c) in section 43A(2A) (further assessments), there shall be inserted at the end “ or under Schedule 13B to that Act (elections as to transfer of children’s tax credit) ”, and
  - (d) in section 58(3)(b) (proceedings in Northern Ireland), after “repealed by that Act)” there shall be inserted “ , paragraph 6 of Schedule 13B to that Act ”.
- (5) Subsections (1), (2) and (4) above have effect for the year 2001-02 and subsequent years of assessment.
- (6) Subsection (3) above has effect for the purposes of the application of section 257AA of the Taxes Act 1988 for the year 2002-03 and subsequent years of assessment.

#### Marginal Citations

M5 1970 c.9.

### 31 Restriction of MCA to those reaching 65 before 2000-01.

- (1) Section 257A of the Taxes Act 1988 (income tax reduction for married couples) shall be amended as follows.
- (2) Subsection (1) (reduction where neither spouse is aged 65 or over) shall cease to have effect.
- (3) In subsection (2) (reduction where either spouse is aged 65 or over)—
  - (a) for “is at any time within that year of the age of 65 or upwards” there shall be substituted “ was born before 6th April 1935 ”;
  - (b) the words from “(instead of” to the end shall be omitted.
- (4) In subsection (3) (reduction where either spouse is aged 75 or over)—
  - (a) after “either of them” there shall be inserted “ (a) ”;
  - (b) after “75 or upwards,” there shall be inserted “and
    - (b) was born before 6th April 1935,”;
  - (c) the words “(1) or” shall be omitted.
- (5) In subsection (4) (rule where person dies in year of assessment)—
  - (a) for “subsections (2) and (3)” there shall be substituted “ subsection (3) ”;
  - (b) for “a specified age” there shall be substituted “ the age of 75 ”.
- (6) In subsection (5) (tapering of reduction where claimant’s total income exceeds specified amount), the words from “(but not” to the end shall be omitted.
- (7) After that subsection there shall be inserted the following subsection—

“(5A) The amounts specified in subsections (2) and (3) above shall not by virtue of subsection (5) above be treated as reduced below £1,970.”
- (8) In subsection (6) (rule where claimant marries in year of assessment, etc.), for “subsections (1) to (3)” there shall be substituted “ subsections (2) and (3) ”.
- (9) After subsection (6) there shall be inserted the following subsections—

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- “(7) A man who is entitled for any year of assessment to an income tax reduction under this section, or to make a claim for such a reduction, shall not be entitled for that year to any income tax reduction under section 257AA.
- (8) Where—
- (a) a woman is married to and living with a man for the whole or any part of a year of assessment, and
  - (b) that man is entitled for that year to an income tax reduction under this section, or to make a claim for such a reduction,
- no child shall be regarded for any of the purposes of section 257AA or Schedule 13B as resident with that woman at any time in that year when she is married to and living with that man.
- (9) A person may, by notice to an officer of the Board, elect to give up his entitlement for any year of assessment to an income tax reduction under this section; and where he does so and the election is not subsequently revoked, that person shall be taken for the purposes of this section to have no entitlement for that year to a reduction under this section, or to make a claim for such a reduction.”
- (10) Subsections (2) to (5) and (8) above have effect for the year 2000-01 and subsequent years of assessment.
- (11) Subject to section 32(5) below, subsections (6) and (7) above have effect for the year 1999-00 and subsequent years of assessment.
- (12) Subsection (9) above has effect for the year 2001-02 and subsequent years of assessment.

### **32 Further provision about married couple’s allowance.**

- (1) In section 257BA of the Taxes Act 1988 (elections as to transfer of relief under section 257A)—
- (a) in subsections (1)(a), (2)(a), (3)(a) and (6), for “section 257A(1)” there shall be substituted “ section 257A(5A) ”;
  - (b) in subsection (2), the words from “(to nil” to the end shall be omitted;
  - (c) in subsection (9), for “deduction” there shall be substituted “ income tax reduction ”.
- (2) Sections 257D to 257F of that Act (transitional relief in connection with married couple’s allowance) shall cease to have effect.
- (3) Subsection (1)(a) and (c) above has effect for the year 1999-00 and subsequent years of assessment.
- (4) Subsections (1)(b) and (2) above have effect for the year 2000-01 and subsequent years of assessment.
- (5) Section 257C of the Taxes Act 1988 (indexation) shall apply in relation to subsection (5A) of section 257A of that Act, but only for the year 2000-01 and subsequent years of assessment.



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**33 Abolition of existing relief in respect of children.**

- (1) Sections 259 to 261A of the Taxes Act 1988 (additional relief in respect of children) shall cease to have effect.
- (2) This section has effect for the year 2000-01 and subsequent years of assessment.

**34 Abolition of widow's bereavement allowance.**

- (1) Section 262 of the Taxes Act 1988 (income tax reduction for widow in year of bereavement and following year) shall cease to have effect.
- (2) Subsection (1) above has effect in relation to deaths occurring on or after 6th April 2000.
- (3) Where a woman is entitled to an income tax reduction for the year 2000-01 by virtue of paragraph (b) of section 262(1) of the Taxes Act 1988, the reference in that paragraph to the amount specified in section 257A(1) for that year shall be read as a reference to the amount specified in section 257A(5A) for that year.

**35 Order of income tax reductions etc.**

- (1) In section 256(3) of the Taxes Act 1988 (order of income tax reductions etc.)—
  - (a) in paragraph (a), for “section 259 or 261A” there shall be substituted “section 257AA”;
  - (b) paragraph (b) shall cease to have effect;
  - (c) the words after paragraph (c) shall be omitted.
- (2) Subsection (1)(a) and (b) above has effect for the year 2001-02 and subsequent years of assessment.
- (3) Subsection (1)(c) above has effect for the year 2000-01 and subsequent years of assessment.
- (4) For the year 2000-01, section 256(3) of the Taxes Act 1988 shall have effect with the omission of paragraph (a) and, in paragraph (b), of the words “except section 259 or 261A”.

**36 Maintenance payments.**

- (1) In subsection (1) of section 347B of the Taxes Act 1988 (income tax reduction in respect of qualifying maintenance payments), at the beginning there shall be inserted “Subject to subsection (1A) below”.
- (2) After that subsection there shall be inserted the following subsection—

“(1A) A periodical payment is not a qualifying maintenance payment unless either of the parties to the marriage mentioned in subsection (1)(b) above was born before 6th April 1935.”
- (3) In subsection (2) of that section, for “subsections (3) and (4)” there shall be substituted “subsection (3)”.
- (4) In subsection (3) of that section, for “section 257A(1)” there shall be substituted “section 257A(5A)”.

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- (5) In subsection (5A) of that section, for “subsections (2) to (5)” there shall be substituted “subsections (2) and (3)”.
- (6) In subsection (8) of that section, for “subsections (1)(a) and (5)(a)” there shall be substituted “subsection (1)(a)”.
- (7) Sections 347A and 347B of the Taxes Act 1988 shall have effect, notwithstanding anything in subsection (3) of section 36 of the <sup>M6</sup>Finance Act 1988 (which provides for the application of those sections), in relation to a payment made in pursuance of an existing obligation (within the meaning of that subsection) as they have effect in relation to a payment made otherwise than in pursuance of such an obligation.
- (8) This section has effect in relation to any payment falling due on or after 6th April 2000.

**Marginal Citations**

**M6** 1988 c.39.

*Relief for interest payments*

**37 Limit on relief for interest.**

For the year 1999-00 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.

**38 Withdrawal of relief for interest on loans to buy land etc.**

- (1) A payment of interest falling within subsection (3) or (4) below shall not be eligible for relief under section 353 of the Taxes Act 1988 by virtue of section 354 of that Act (interest on loans to buy land etc.).
- (2) Section 369(1) of that Act (mortgage interest payable under deduction of tax) shall not apply to any payment of interest falling within subsection (3) or (4) below which (apart from section 353(2) of that Act and subsection (1) above) would be eligible for relief under section 353 of that Act by virtue of section 354 of that Act.
- (3) A payment of interest falls within this subsection if it is—
  - (a) a payment made on or after 6th April 2000 (whenever falling due); or
  - (b) a payment made before that date, but not before 9th March 1999, of any interest that was not due until on or after 6th April 2000.
- (4) A payment of interest falls within this subsection if it is—
  - (a) made before 6th April 2000 but not before 9th March 1999; and
  - (b) made under or in accordance with any scheme made for a tax-avoidance purpose on or after 9th March 1999 (whether or not before the making of the payment).
- (5) For the purposes of subsection (4) above, a scheme is made for a tax-avoidance purpose if its main purpose, or one of its main purposes, is to secure that a payment of one or more of the following descriptions is a relievable payment, that is to say—
  - (a) a payment discharging an obligation to make a payment which (but for the scheme) might have been expected to be a non-relievable payment;

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- (b) a payment made in pursuance of any obligation which has effect, directly or indirectly, in place of an obligation under which a payment which might have been expected to be a non-relievable payment would have become due;
  - (c) a payment made in pursuance of an obligation which (apart from the purpose of securing that it is a relievable payment) might have been expected to take the form of an obligation—
    - (i) to make a non-relievable payment, or
    - (ii) to make two or more payments at least one of which would have been a non-relievable payment.
- (6) In subsection (5) above—  
“non-relievable payment” means a payment falling within subsection (3) above; and  
“relievable payment” means a payment which—
  - (a) is eligible for relief under section 353 of the Taxes Act 1988, or
  - (b) is a payment to which section 369(1) of that Act applies.
- (7) The references in this section to a scheme are references to any scheme, arrangements or understanding of any kind whatever, whether or not legally enforceable.
- (8) Schedule 4 to this Act (which contains amendments consequential on the preceding provisions of this section) shall have effect.

### **39 Withdrawal of relief for interest on new annuity loans.**

- (1) In section 365 of the Taxes Act 1988 (relief for interest on loans to buy life annuities), in subsection (1), before paragraph (a) insert—  
“(aa) that the loan was made before 9th March 1999;”.
- (2) After subsection (1) of that section insert—  
“(1AA) Where—
  - (a) a loan made on or after 9th March 1999 was made in pursuance of an offer made by the lender before that date, and
  - (b) the offer was either in writing or evidenced by a note or memorandum made by the lender before that date,the loan shall be deemed for the purposes of subsection (1)(aa) above to have been made before that date.”
- (3) This section has effect for the year 1998-99 and subsequent years of assessment.

### **40 Annuity loans: residence requirements and re-mortgages.**

- (1) Section 365 of the Taxes Act 1988 (relief for interest on loans to buy life annuities) is amended as follows.
- (2) In subsection (1)(d) (residence requirement for land on which loan is secured), for “uses the land on which it was secured as his only or main residence at the time the interest is paid” substitute “used the land on which it was secured as his only or main residence immediately before 9th March 1999”.
- (3) After subsection (1AA) (inserted by section 39 of this Act) insert—

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“(1AB) Subject to subsection (1AC) below, the conditions in paragraphs (aa) and (a) of subsection (1) above shall be treated as satisfied in relation to a loan (“the new loan”) if—

- (a) the new loan was made on or after the day on which the Finance Act 1999 was passed;
- (b) the new loan was made as part of a scheme (“the scheme”) under which the whole or any part of the proceeds of the loan was used to defray money applied in paying off another loan (“the old loan”); and
- (c) the conditions in subsection (1) above were, or were treated by virtue of this subsection as, satisfied with respect to the old loan.

(1AC) If only part of the proceeds of the new loan was used to defray money applied in paying off the old loan, subsection (1AB) above applies only if, under the scheme, not less than nine-tenths of the remaining part of the proceeds of the new loan was applied to the purchase by the person to whom it was made of an annuity ending with his life or with the life of the survivor of two or more persons who include him.

(1AD) In subsection (1AC) above “the remaining part” means the part of the proceeds of the new loan that was not used to defray money applied in paying off the old loan.”

(4) For subsection (1A) substitute—

“(1A) The condition in subsection (1)(d) above shall be treated as satisfied in relation to a loan if—

- (a) the person to whom the loan was made, or any of the annuitants, ceased to use the land as his only or main residence at a time falling within the period of twelve months ending with 8th March 1999, and
- (b) the intention at that time of the person to whom the loan was made, or each of the annuitants owning an estate or interest in the land, was to take steps, before the end of the period of twelve months after the day on which the land ceased to be so used, with a view to the disposal of his estate or interest.”

(5) This section has effect in relation to any payment of interest (whenever falling due) made on or after the day on which this Act is passed.

#### **41 Repayments attracting repayment supplement.**

(1) Section 824 of the Taxes Act 1988 (repayment supplements for individuals) shall have effect, and be deemed always to have had effect, with the following amendments.

(2) Before subsection (3) insert—

“(2B) Subsection (1) above shall apply to a payment made by the Board under section 375(8) (payment of amount which borrower would have been able to deduct from interest payment under section 369(1)) as if the payment were a repayment falling within that subsection.”

(3) In subsection (3), before paragraph (a) insert—

“(aa) if the repayment is a payment made by the Board under section 375(8), the relevant time is—

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- (i) if the interest payment was made in the year 1996-97 or a subsequent year of assessment, the 31st January next following that year;
  - (ii) if the interest payment was made in an earlier year of assessment, the 5th April next following that year;”.
- (4) This section shall be deemed to have had effect in relation to provisions corresponding to section 824 of the Taxes Act 1988 directly or indirectly re-enacted in that section as it has effect in relation to that section, subject to subsections (5) and (6) below.
- (5) For the purposes of subsection (4) above the references in the amendments of section 824 of the Taxes Act 1988 made by this section to provisions of that Act shall be taken to include references to any corresponding provision contained in the enactments directly or indirectly re-enacted in those provisions.
- (6) Subsection (4) above applies only if the payments corresponding to payments under section 375(8) of the Taxes Act 1988 were made in the year 1984-85 or a subsequent year of assessment.

*Employee benefits etc.*

#### **42 Conditional acquisition of shares.**

- (1) Section 140A of the Taxes Act 1988 (conditional acquisition of shares) is amended as follows.
- (2) Omit subsection (2).
- (3) In subsection (3), for “In any other case” substitute “ If the terms on which the employee acquires the employee’s interest are such that his interest in the shares in question will cease to be only conditional within five years after his acquisition of the interest ”.
- (4) In subsection (4), for “, in a case falling within subsection (2) or (3) above” substitute “ (whether or not subsection (3) above applies) ”.
- (5) This section applies in relation to shares acquired on or after the day on which this Act is passed.

#### **43 Meaning of conditional interests in shares.**

- (1) Section 140C of the Taxes Act 1988 (which describes the cases in which an interest in shares is, or is not, to be treated as only conditional) is amended as follows.
- (2) After subsection (1) insert—
  - “(1A) A person shall not for the purposes of sections 140A and 140B be taken, in relation to any shares in a company or any security, to have an interest which is only conditional by reason only that one or more of subsections (2) to (4) below applies in relation to him.”
- (3) In subsections (2), (3) and (4) for the words from the beginning to “by reason only that” substitute “ This subsection applies in relation to a person if ”.
- (4) In subsection (3)—

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- (a) after “offer the shares for sale” insert “ or transfer them ”; and
  - (b) for the words from “if he ceases” to the end substitute “ if he ceases to be an officer or employee of the company or of one or more group companies or of any group company. ”
- (5) After that subsection insert—
- “(3A) This subsection applies in relation to a person if he may be required to offer the shares for sale or transfer them, if, as a result of misconduct, he ceases to be an officer or employee of the company or of one or more group companies or of any group company.”
- (6) After subsection (5) add—
- “(6) For the purposes of this section—
- (a) a company is a “group company” in relation to another company if they are members of the same group, and
  - (b) companies are taken to be members of the same group if, and only if, one is a 51 per cent. subsidiary of the other or both are 51 per cent. subsidiaries of a third company.”
- (7) The amendments made by this section shall be deemed always to have had effect.

#### **44 Exemption for mobile telephones.**

- (1) The following section shall be inserted after section 155 of the Taxes Act 1988 (exception of certain benefits in kind from the general charge to tax)—

##### **“155AA Mobile telephones.**

- (1) Section 154 does not apply where the benefit consists in a mobile telephone being made available (without any transfer of the property in it) to the employee or to a member of his family or household.
- (2) In this section “mobile telephone” means wireless telegraphy apparatus designed or adapted for the purpose of transmitting and receiving spoken messages so as to provide a telephone which—
  - (a) is connected to a public telecommunication system (within the meaning of the <sup>M7</sup>Telecommunications Act 1984); and
  - (b) is not physically connected to a land-line;
 but does not include any cordless telephone or any telepoint telephone.
- (3) The mobile telephones to which the exemption provided by this section applies include any mobile telephone provided in connection with a car, van or heavier commercial vehicle, notwithstanding that the vehicle is made available as mentioned in section 157, section 159AA or, as the case may be, section 159AC.
- (4) In this section “cordless telephone” means wireless telegraphy apparatus which (whether or not provided in connection with a car, van or heavier commercial vehicle)—
  - (a) is designed or adapted for the purpose of transmitting and receiving spoken messages so as to provide a wireless extension to a telephone, and

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- (b) is used only as such an extension to a telephone that is physically connected to a land-line.
- (5) In this section “telepoint telephone” means wireless telegraphy apparatus which (whether or not provided in connection with a car, van or heavier commercial vehicle) is used for the purpose of a short-range radio communications service utilising frequencies between 864 and 868 megahertz (inclusive).
- (6) In this section “heavier commercial vehicle” has the same meaning as in section 159AC.”
- (2) Section 159A of that Act (charge on mobile telephones) shall cease to have effect.
- (3) In section 154 of that Act (general charging provision for benefits in kind), in subsection (2)—
  - (a) in paragraph (b), “159A,” shall be omitted; and
  - (b) after “sections 155” there shall be inserted “ , 155AA ”.
- (4) In section 168A of that Act (price of a car as regards a year), in subsection (11), for “section 159A(8)(a)” there shall be substituted “ section 155AA(2) ”.
- (5) In section 200AA of that Act (incidental benefits for holders of certain offices etc.), subsection (3) shall cease to have effect.
- (6) This section has effect for the year 1999-00 and subsequent years of assessment.

**Marginal Citations**

M7 1984 c.12.

**45 Limited exemption for computer equipment.**

- (1) After section 156 of the Taxes Act 1988 there shall be inserted the following section—

**“156A Limited exemption for computer equipment.**

- (1) This section applies to a benefit consisting in the provision of computer equipment if, in the case of a person (“the employee”) who is in employment to which this Chapter applies—
  - (a) that equipment is provided by being made available to the employee or to a member of his family or household;
  - (b) it is so made available without any transfer of property in the equipment to the employee or to a member of his family or household; and
  - (c) it is so made available in a case in which the arrangements for providing employees of the employer with the benefit of computer equipment comply with subsection (2) below.
- (2) The arrangements for providing the employees of the employer with the benefit of computer equipment comply with this subsection unless—
  - (a) the only arrangements for making computer equipment available to such employees, or to members of their families or households,

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- are arrangements that are confined to cases where the employee in question is a director of a company; or
- (b) the arrangements (taking them all together) for making computer equipment available to employees of the employer, or to members of their families or households, are such that it is made available on terms that are more favourable in some or all of the cases where the employee in question is a director of a company than in one or more cases where he is not.
- (3) Section 154 applies for any year of assessment to—
- (a) the benefits to which this section applies that are provided in that year and consist in the making available to the employee of any equipment, and
- (b) the benefits to which this section applies that are provided in that year and consist in the making available to members of his family or household of any equipment,
- to the extent only that the amount which (disregarding this section) would be taken to be the aggregate cash equivalent of the benefits falling within paragraphs (a) and (b) above exceeds £500.
- (4) For the purposes of this section “computer equipment” includes printers, scanners, modems, discs and other peripheral devices designed to be used by being connected to or inserted in a computer.
- (5) In this section references to making computer equipment available—
- (a) include references to the provision, together with any computer equipment made available, of a right to use computer software; but
- (b) do not include references to the provision of a benefit consisting in access to, or the use of, any public telecommunication system (within the meaning of the <sup>M8</sup>Telecommunications Act 1984).”
- (2) In section 154(2) of that Act, for “and 155A” there shall be substituted “, 155A and 156A ”.
- (3) This section applies for the year 1999-00 and subsequent years of assessment.

#### Marginal Citations

M8 1984 c.12.

#### 46 PRP and agricultural pay.

- (1) An application made at any time on or after 28th July 1998 for the registration of a profit-related pay scheme shall not be required to contain, or to have contained, any such undertaking as is mentioned in section 175(1)(c) of the Taxes Act 1988 (undertaking to satisfy minimum wage legislation without taking account of profit-related pay).
- (2) In section 178(1) of the Taxes Act 1988, paragraph (d) (cancellation on grounds of non-compliance with a section 175(1)(c) undertaking) shall be omitted.



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- (3) Subsection (2) above has effect in relation only to failures to comply taking place on or after 28th July 1998; but it shall be deemed so to have had effect at all times on or after that date.

#### **47 Cars available for private use.**

- (1) Schedule 6 to the Taxes Act 1988 (cars available for private use: cash equivalent of car) shall be amended as follows.
- (2) In paragraph 2(1) (reduction for business travel: 18,000 miles and above)—
- (a) for “in the year concerned” substitute “ in a year ”, and
  - (b) for “the amount ascertained under paragraph 1 above, reduced by two thirds” substitute “ 15 per cent. of the price of the car as regards the year ”.
- (3) In paragraph 2(2) (reduction for business travel: 2,500 to 18,000 miles)—
- (a) for “in the year concerned” substitute “ in a year ”, and
  - (b) for “the amount ascertained under paragraph 1 above, reduced by one third” substitute “ 25 per cent. of the price of the car as regards the year ”.
- (4) For paragraph 4(a) (two or more cars) substitute—
- “(a) paragraph 2(1) above shall have effect as if for “15 per cent.” there were substituted “25 per cent.””
- (5) In paragraph 5 (reduction for age of car), for “one third” substitute “ one quarter ”.
- (6) This section has effect for the year 1999-00 and subsequent years of assessment.

#### **48 Provision and support of bus services.**

- (1) In Chapter IV of Part V of the Taxes Act 1988 (provisions relating to the Schedule E charge: exemptions and deductions), after section 197A insert—

##### **“197AA Works bus services.**

- (1) There is no charge to tax under section 154 (taxable benefits: general charging provision) in respect of the provision for employees of a works bus service.
- (2) A “works bus service” means a service provided by means of a bus for conveying employees of one or more employers on qualifying journeys.
- (3) For the purposes of this section—
- “bus” means a road passenger vehicle with a seating capacity of 12 or more; and
  - “qualifying journey”, in relation to an employee, means a journey—
    - (a) between his home and workplace, or
    - (b) between one workplace and another,in connection with the performance of the duties of the employment.
- (4) The exemption conferred by this section is subject to the following conditions—

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- (a) the service must be available generally to employees of the employer (or each employer) concerned;
  - (b) the main use of the service must be for qualifying journeys by those employees.
- (5) The exemption is also subject to substantial compliance with the condition that the service must be used only by the employees for whom it is provided or their children.
- For this purpose “children” includes stepchildren and illegitimate children but does not include children aged 18 or over.
- (6) If under this section there is no charge to tax under section 154 (or would be no charge if the employee were in employment to which Chapter II of Part V applies), there is no charge to tax under section 141 (non-cash vouchers) in respect of a voucher evidencing the employee’s entitlement to use the service.
- (7) In this section—
- “employment” includes an office and related expressions have a corresponding meaning; and
  - “workplace” means a place at which the employee’s attendance is necessary in the performance of the duties of the employment.
- (8) For the purposes of this section the seating capacity of a vehicle is determined in the same way as for the purposes of Part III of Schedule 1 to the <sup>M9</sup>Vehicle Excise and Registration Act 1994 (vehicle excise duty on buses), whether or not the vehicle is a bus within the meaning of that Part.

#### **197AB Support for public transport road services.**

- (1) There is no charge to tax under section 154 (taxable benefits: general charging provision) in respect of financial or other support for a public transport road service used by employees of one or more employers for qualifying journeys.
- (2) For this purpose—
- “public transport road service” means a public passenger transport service provided by means of a road vehicle; and
  - “qualifying journey”, in relation to an employee, means a journey—
    - (a) between his home and workplace, or
    - (b) between one workplace and another,
 in connection with the performance of the duties of the employment.
- (3) The exemption conferred by this section is subject to the following conditions—
- (a) the terms on which the service is available to the employees referred to in subsection (1) above must not be more favourable than those available to other passengers;
  - (b) the service must be available generally to employees of the employer (or each employer) concerned.
- (4) In this section—

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“employment” includes an office and related expressions have a corresponding meaning; and

“workplace” means a place at which the employee’s attendance is necessary in the performance of the duties of the employment.”

(2) This section has effect for the year 1999-00 and subsequent years of assessment.

#### Marginal Citations

M9 1994 c.22.

### 49 Provision of motor cycle or cycle parking facilities.

(1) The provisions listed below (which provide for exemption from tax in relation to the provision of car parking spaces) apply in relation to—

- (a) motor cycle parking spaces, and
- (b) facilities for parking cycles,

as they apply in relation to car parking spaces.

(2) The provisions referred to above are—

section 141(6A) of the Taxes Act 1988 (use of non-cash voucher to obtain use of parking space);

section 142(3A) of that Act (use of credit-token to obtain use of parking space);

section 155(1A) of that Act (taxable benefits: general charge excluded in relation to provision of parking space); and

section 197A of that Act (charge on emoluments excluded in relation to expenditure in connection with provision of parking space).

(3) In subsection (1) above—

“motor cycle” has the meaning given by section 185(1) of the <sup>M10</sup>Road Traffic Act 1988, and

“cycle” has the meaning given by section 192(1) of that Act.

(4) The provisions of this section have effect for the year 1999-00 and subsequent years of assessment.

#### Modifications etc. (not altering text)

C1 S. 49(1) applied (6.4.2001 with effect as mentioned in reg. 1(2) of S.I. 2001/597) by S.R. 1979/186, reg. 19, Sch. 1ZC Pt. V para. 3 (as inserted 6.4.2001 with effect as mentioned in reg. 1(2) of S.I. 2001/597) by S.I. 2001/597, reg. 11, Sch. 2

S. 49(1) applied (6.4.2001 with effect as mentioned in reg. 1(1) of the amending S.I.) by S.I. 2001/1004, regs. 1, 26, Sch. 3 Pt. V para. 3

#### Marginal Citations

M10 1988 c.52.

*Status: Point in time view as at 27/07/1999.*

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## 50 Cycles and cyclist's safety equipment.

- (1) In Chapter IV of Part V of the Taxes Act 1988 (provisions relating to the Schedule E charge: exemptions and deductions), after section 197AB (inserted by section 48 above) insert—

### “197AC Provision of cycle or cyclist's safety equipment.

- (1) There is no charge to tax under section 154 (taxable benefits: general charging provision) in respect of the provision for an employee of—
- (a) a cycle, or
  - (b) cyclist's safety equipment,
- without any transfer of the property in the cycle or equipment.
- (2) In this section “cycle” has the meaning given by section 192(1) of the Road Traffic Act 1988, and “cyclist” has a corresponding meaning.
- (3) The exemption conferred by subsection (1) above is subject to the condition that the benefit or facility in question must be available generally to employees of the employer concerned.
- (4) The exemption is also subject to the condition that the employee must use the cycle or safety equipment mainly for qualifying journeys.
- For this purpose “qualifying journey”, in relation to an employee, means a journey—
- (a) between his home and workplace, or
  - (b) between one workplace and another,
- in connection with the performance of the duties of the employment.
- (5) If under this section there is no charge to tax under section 154 (or would be no charge if the employee were in employment to which Chapter II of Part V applies), there is no charge to tax under section 141 (non-cash vouchers) in respect of a voucher evidencing the employee's entitlement to use the cycle or safety equipment in question.
- (6) In this section—
- “employment” includes an office and related expressions shall be construed accordingly; and
- “workplace” means a place at which the employee's attendance is necessary in the performance of the duties of the employment.”
- (2) In section 27(2B) of the <sup>M11</sup>Capital Allowances Act 1990 (cases in which expenditure on machinery or plant qualifies for allowances although not “necessarily” provided for use in performance of duties of employment)—
- (a) in paragraph (a) after “mechanically propelled road vehicle” insert “ or a cycle ”; and
  - (b) after paragraph (b) insert—
- “In paragraph (a) “cycle” has the meaning given by section 192(1) of the <sup>M12</sup>Road Traffic Act 1988.”.

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- (3) The provisions of this section have effect for the year 1999-00 and subsequent years of assessment.

**Marginal Citations**

- M11** 1990 c.1.  
**M12** 1988 c.52.

*Members of parliaments and assemblies*

**51 EU travel expenses.**

- (1) In section 200 of the Taxes Act 1988 (expenses of Members of Parliament), in subsection (2), for the words from “the cost of” to “Strasbourg” substitute “EU travel expenses” and after that subsection insert—

“(3) For the purposes of subsection (2) above “EU travel expenses” are the cost of, and any additional expenses incurred in, travelling between the United Kingdom and—

- (a) any European Union institution in Brussels, Luxembourg or Strasbourg, or  
(b) the national parliament of another member State.”.

- (2) This section has effect in relation to sums paid on or after 1st April 1999.

**52 Scottish Parliament and devolved assemblies.**

- (1) Schedule 5 to this Act, which makes amendments the effect of which is—

- (a) to treat members of the Scottish Parliament, the National Assembly for Wales and the Northern Ireland Assembly in the same way, for tax purposes, as members of Parliament, and  
(b) to treat certain office holders under the <sup>M13</sup>Scotland Act 1998, the <sup>M14</sup>Government of Wales Act 1998 and the <sup>M15</sup>Northern Ireland Act 1998 in the same way, for tax purposes, as holders of ministerial and other offices, shall have effect.

- (2) The amendments made by that Schedule have effect for the year 1999-00 and subsequent years of assessment.

**Marginal Citations**

- M13** 1998 c.46.  
**M14** 1998 c.38.  
**M15** 1998 c.47.

*Status: Point in time view as at 27/07/1999.*

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*Sub-contractors in the construction industry*

**53 Exemption certificates.**

- (1) Sections 562 to 565 of the Taxes Act 1988 (exemption certificates for the scheme for sub-contractors in the construction industry) shall have effect in relation to any application to which this section applies, and shall be deemed always to have had effect in relation to such an application—
  - (a) with the substitution of the subsection set out in subsection (2) below for the subsection (2B) inserted in section 562 by paragraph 4(3) of Schedule 27 to the <sup>M16</sup>Finance Act 1995 (which defined the payments to be taken into account in assessing turnover for the purposes of exemption); and
  - (b) as if paragraphs 3 to 5 of Schedule 8 to the <sup>M17</sup>Finance Act 1998 (which extended the description of payments for certain cases) had not been enacted.
- (2) That subsection is as follows—
 

“(2B) In subsection (2A) above “relevant payments” means payments under contracts relating to, or to the work of individuals participating in the carrying out of, any operations which—

  - (a) are of a description specified in subsection (2) of section 567; but
  - (b) are not of a description specified in subsection (3) of that section, other than so much of the payments as represents the direct cost to the person receiving the payments of materials used or to be used in carrying out the operations in question.”
- (3) This section applies to any application for the issue or renewal of a certificate under section 561 of the Taxes Act 1988 which is or has been made with respect to any period beginning on or after 1st August 1999.

**Marginal Citations**

**M16** 1995 c.4.

**M17** 1998 c.36.

*Reverse premiums*

**54 Tax treatment of reverse premiums.**

- (1) Schedule 6 to this Act (tax treatment of receipts by way of reverse premium) has effect.
- (2) The provisions of that Schedule apply in relation to a reverse premium (within the meaning of that Schedule) received on or after 9th March 1999, unless it is a payment or other benefit to which the recipient was entitled immediately before that date.
- (3) In determining whether a payment or benefit was one to which the recipient was entitled immediately before 9th March 1999, no account shall be taken of any arrangements made on or after that date.

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## Charities

### 55 Gifts in kind to charities etc.

(1) The following section shall be inserted after section 83 of the Taxes Act 1988—

#### “83A Gifts in kind to charities etc.

- (1) This section applies where a person carrying on a trade, profession or vocation gives an article falling within subsection (2) below to—
    - (a) a charity within the meaning of section 506, or
    - (b) a body listed in section 507(1).
  - (2) An article falls within this subsection if—
    - (a) it is an article manufactured, or of a class or description sold, by the donor in the course of his trade; or
    - (b) it is an article used by the donor in the course of his trade, profession or vocation which for the purposes of Part II of the 1990 Act constitutes machinery or plant used by him wholly or partly in the course of that trade, profession or vocation.
  - (3) Subject to subsection (4) below, where this section applies in the case of the gift of an article—
    - (a) no amount shall be required, in consequence of the donor’s disposal of that article from trading stock, to be brought into account for the purposes of the Tax Acts as a trading receipt of the donor; and
    - (b) section 24(6) of the 1990 Act shall not require the donor to bring into account any disposal value in respect of the article for the purposes of that section.
  - (4) In any case where—
    - (a) relief is given under subsection (3) above in respect of the gift of an article, and
    - (b) any benefit received in any chargeable period by the donor or any person connected with him is in any way attributable to the making of that gift,  
the donor shall in respect of that chargeable period be charged to tax under Case I or Case II of Schedule D or, if he is not chargeable to tax under either of those Cases for that period, under Case VI of Schedule D on an amount equal to the value of that benefit.
  - (5) Section 839 applies for the purposes of this section.”
- (2) Section 47 of the <sup>M18</sup>Finance Act 1998 (gifts in kind for relief in poor countries) shall cease to have effect.
- (3) Subsections (1) and (2) above have effect in relation to gifts made on or after the day on which this Act is passed.

#### Marginal Citations

M18 1998 c.36.

*Status: Point in time view as at 27/07/1999.*

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## 56 Gifts of money to relieve refugee poverty.

- (1) Section 48 of the Finance Act 1998 (gifts of money made for relief in poor countries) shall be amended in accordance with subsections (2) to (4) below.
- (2) In subsection (1)—
  - (a) in paragraph (a), for “the first designation date” there shall be substituted “31st July 1998”;
  - (b) in paragraph (b), for “one or both” there shall be substituted “one or more”.
- (3) In subsection (2)—
  - (a) in paragraphs (a) and (b) for “designated countries or territories” there shall be substituted “countries or territories designated for the purposes of this paragraph,”; and
  - (b) at the end of paragraph (b) there shall be inserted “, and
    - (c) the relief of poverty in the case of persons from any country or territory designated for the purposes of this paragraph who are refugees or who have suffered displacement as a result of organised intimidation or oppression or of war or other armed conflict.”
- (4) In subsection (9), for “this section” there shall be substituted “paragraph (a), (b) or (c) of subsection (2) above”.
- (5) Any order made before the passing of this Act under subsection (9) of that section (designation of countries or territories in respect of which section 48 has effect) shall have effect as if made for the purposes only of subsection (2)(a) and (b) of that section.
- (6) Any notification given for the purposes of that section, in relation to a charity, before the passing of this Act shall be treated as a notification given for the purposes of that section as amended by this section.
- (7) This section has effect in relation to gifts made on or after 6th April 1999.
- (8) An order made under subsection (9) of that section for the purposes of subsection (2)(c) (as inserted by subsection (3)(b) above) may have effect retrospectively in relation to such times falling on or after that date as may be specified in the order.

## 57 Aggregation of money gifts for relief in poor countries.

- (1) Section 48 of the <sup>M19</sup>Finance Act 1998 (gifts of money made for relief in poor countries) shall have effect, and be deemed always to have had effect, with the following amendments.
- (2) In subsection (4) (aggregated small gifts to be treated as a single payment made at the time of the last of them), after “that section” there shall be inserted “(but subject to subsection (4A) below)”.
- (3) After that subsection there shall be inserted the following subsection—
 

“(4A) Subsection (10) of section 25 of the <sup>M20</sup>Finance Act 1990 (receipts of gifts by a charity to be treated as payments of grossed-up amounts after deduction of basic rate income tax) shall have effect where—

  - (a) any aggregated gifts are treated under this section as a single qualifying donation made to a charity, and



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- (b) the aggregated gifts include gifts made in different years of assessment,  
as if that single qualifying donation had been received by the charity in the year of assessment in which the first of the aggregated gifts was made and as if that were the relevant year of assessment for the purposes of that subsection.”

#### Marginal Citations

M19 1998 c.36.

M20 1990 c.29.

### *Education and training*

#### **58 Employees seconded to educational establishments.**

- (1) Section 86 of the Taxes Act 1988 (employees seconded to charities and educational establishments) shall be amended as follows.
- (2) In subsection (3) (relief for expenditure attributable to the employment before 1st April 1997 of employees seconded to educational establishments), the words “and before 1st April 1997” shall be omitted.
- (3) In that subsection, for paragraphs (a) to (c) there shall be substituted—
- “(a) in England and Wales, any body falling within subsection (4) below;
  - (b) in Scotland, any body falling within subsection (5) below;
  - (c) in Northern Ireland, any body falling within subsection (6) below; and”.
- (4) After subsection (3) there shall be inserted—
- “(4) A body falls within this subsection if it is—
- (a) a local education authority;
  - (b) an educational institution maintained or otherwise supported by such an authority (including a grant-maintained school or a grant-maintained special school within the meaning of the <sup>M21</sup>Education Act 1996);
  - (c) an independent school, within the meaning of the Education Act 1996, whose registration under section 465 of that Act is final; or
  - (d) an institution within the further education sector, or the higher education sector, within the meaning of the <sup>M22</sup>Further and Higher Education Act 1992.
- (5) A body falls within this subsection if it is—
- (a) an education authority;
  - (b) an educational establishment managed by such an authority within the meaning of the <sup>M23</sup>Education (Scotland) Act 1980 (“the 1980 Act”);
  - (c) a public or grant-aided school within the meaning of the 1980 Act;
  - (d) a self-governing school within the meaning of the <sup>M24</sup>Self-Governing Schools etc. (Scotland) Act 1989;
  - (e) an independent school within the meaning of the 1980 Act;

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- (f) a central institution within the meaning of the 1980 Act;
  - (g) an institution within the higher education sector within the meaning of section 56(2) of the <sup>M25</sup>Further and Higher Education (Scotland) Act 1992; or
  - (h) a college of further education within the meaning of section 36(1) of that Act.
- (6) A body falls within this subsection if it is—
- (a) an education or library board within the meaning of the <sup>M26</sup>Education and Libraries (Northern Ireland) Order 1986;
  - (b) a college of education or a controlled, maintained, grant-maintained integrated, controlled integrated, voluntary or independent school within the meaning of that Order; or
  - (c) an institution of further education within the meaning of the <sup>M27</sup>Further Education (Northern Ireland) Order 1997.”
- (5) The amendment made by subsection (2) above shall be deemed always to have had effect.
- (6) The amendments made by subsections (3) and (4) above have effect for the year 1999-00 and subsequent years of assessment.

#### Marginal Citations

- M21** 1996 c.56.  
**M22** 1992 c.13.  
**M23** 1980 c.44.  
**M24** 1989 c.39.  
**M25** 1992 c.37.  
**M26** S.I. 1986/594 (N.I. 3).  
**M27** S.I. 1997/1772 (N.I. 15).

## 59 Phasing out of vocational training relief.

- (1) For subsection (2) of section 32 of the <sup>M28</sup>Finance Act 1991 (vocational training relief) there shall be substituted—
- “(2) The individual shall be entitled to relief under this subsection in respect of the payment for the year of assessment in which it is made; but relief under this subsection shall be given only on a claim made for the purpose, except where subsections (3) to (5) below apply.
- (2A) Where an individual is entitled to relief under subsection (2) above in respect of any payment made in a year of assessment, the amount of his liability for that year to income tax on his total income shall be the amount to which he would be liable apart from this section less whichever is the smaller of—
- (a) the amount which is equal to such percentage of the amount of the payment as is the basic rate for the year; and
  - (b) the amount which reduces his liability to nil.

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- (2B) In determining for the purposes of subsection (2A) above the amount of income tax to which a person would be liable apart from this section, no account shall be taken of—
- (a) any income tax reduction under Chapter I of Part VII of the Taxes Act 1988 or under section 347B of that Act;
  - (b) any income tax reduction under section 353(1A) of the Taxes Act 1988;
  - (c) any relief by way of a reduction of liability to tax which is given in accordance with any arrangements having effect by virtue of section 788 of the Taxes Act 1988 or by way of a credit under section 790(1) of that Act;
  - (d) any tax at the basic rate on so much of that person's income as is income the income tax on which he is entitled to charge against any other person or to deduct, retain or satisfy out of any payment."
- (2) That section and section 33 of that Act (provisions supplementary to section 32) shall cease to have effect.
- (3) In this section—
- (a) subsection (1) has effect in relation to payments made on or after 6th April 1999; and
  - (b) subsection (2) shall have effect in relation to payments made on or after such date after 6th April 2000 as the Treasury may by order appoint.

**Subordinate Legislation Made**

P1 S. 59(3)(b) power fully exercised: 1.9.2000 appointed by [S.I. 2000/2004](#), [art. 2](#)

**Marginal Citations**

M28 [1991 c.31](#)

**60 Student loans: certain interest to be disregarded.**

The following section shall be inserted after section 331 of the Taxes Act 1988—

**“331A Student loans: certain interest to be disregarded.**

- (1) If—
- (a) a loan is made to a person under any of the relevant student loan provisions,
  - (b) an amount is recovered from him in respect of the loan,
  - (c) an amount is repaid to him in respect of the amount recovered, and
  - (d) interest is paid to him in respect of the amount repaid,
- the interest shall be disregarded for all purposes of income tax.
- (2) For the purposes of subsection (1) above the relevant student loan provisions are—
- (a) section 22 of the <sup>M29</sup>Teaching and Higher Education Act 1998;
  - (b) section 73(f) of the <sup>M30</sup>Education (Scotland) Act 1980;

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- (c) Article 3 of the <sup>M31</sup>Education (Student Support) (Northern Ireland) Order 1998.”

**Marginal Citations**

- M29** 1998 c.30  
**M30** 1980 c.44  
**M31** S.I. 1998/1760 (N.I. 14).

*Various other reliefs etc.*

**61 Class 1B National Insurance contributions.**

- (1) In section 617 of the Taxes Act 1988 (social security benefits and contributions), in subsection (4), for “or Class 1A contribution” there shall be substituted “, a Class 1A contribution or a Class 1B contribution ”.
- (2) Subsection (1) above has effect in relation to contributions paid on or after 6th April 1999.

**62 Expenditure on film production and acquisition.**

In subsection (2)(a) of section 48 of <sup>M32</sup>the Finance (No. 2) Act 1997 (which provides for favourable tax treatment for certain expenditure on film production and acquisition incurred on or after 2nd July 1997 and before 2nd July 2000), for “2nd July 2000” there shall be substituted “ 2nd July 2002 ”.

**Marginal Citations**

- M32** 1997 c.58.

**63 Treatment of transfer fees under existing contracts.**

- (1) Subject to subsection (2) below, where—
- (a) a contract is or has been entered into by a football or other sports club to secure the services of a player; and
  - (b) the contract is or was entered into before the beginning of the first accounting period of the club in relation to which a relevant financial reporting standard has effect (whether by virtue of the adoption of the standard by the club or otherwise),
- nothing in the standard shall be taken to affect the manner in which any fee required to be paid by the club under the contract may be taken into account in computing the club’s profits to be charged under Case I of Schedule D.
- (2) Subsection (1) above shall not apply if the club so elects by a notice given to an officer of the Board within the period of two years beginning immediately after the accounting period described in subsection (1)(b) above.
- (3) The relevant financial reporting standards are—

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- (a) Financial Reporting Standard 10 issued by the Accounting Standards Board on 4th December 1997; and
  - (b) Financial Reporting Standard for Smaller Entities issued by that Board on 10th December 1998.
- (4) All such adjustments shall be made (whether by way of assessment, amendment of an assessment, repayment of tax or otherwise) as may be necessary to give effect to the provisions of this section.
- (5) Subsection (4) above has effect notwithstanding any time limits relating to the making or amendment of an assessment for any accounting period.

### *Settlements*

#### **64 Income of unmarried child of settlor.**

- (1) In section 660B(1) of the Taxes Act 1988 (circumstances in which income arising under settlement treated as that of settlor), before “is paid to or for the benefit of an unmarried minor child of the settlor” insert “(a)” and after those words insert—

“, or

- (b) would otherwise be treated (apart from this section) as income of an unmarried minor child of the settlor.”.

- (2) In subsection (3) of that section (meaning of available retained or accumulated income), for paragraphs (a) and (b) substitute—

“(a) treated as income of the settlor, or

- (b) paid (whether as income or capital) to or for the benefit of, or otherwise treated as the income of, a beneficiary other than an unmarried minor child of the settlor, or

(bb) treated as the income of an unmarried minor child of the settlor, and subject to tax, in any of the years 1995-96, 1996-97 or 1997-98, or”.

- (3) After that subsection insert—

“(3A) For the purposes of subsection (3)(bb) above—

- (a) the amount of a child’s income that is subject to tax in a year of assessment is the amount (“the taxable amount”) by which the child’s total income for income tax purposes exceeds the aggregate amount of allowances that may be set against it; and
- (b) income arising under the settlement that is treated as income of the child is subject to tax to the extent that it does not exceed the taxable amount.

In this subsection “allowance” includes any deduction allowed against total income.”.

- (4) For subsection (5) of that section substitute—

“(5) If in any year of assessment the aggregate amount of a child’s relevant settlement income does not exceed £100, subsection (1) does not apply in relation to that income.

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A child's 'relevant settlement income' means income paid to or for the benefit of, or otherwise treated as income of, that child which apart from this subsection would be treated as income of the settlor under subsection (1)."

- (5) The amendment in subsection (1) above has effect in relation to—
- (a) income arising under a settlement made or entered into on or after 9th March 1999, and
  - (b) income arising under a settlement made or entered into before that date so far as it arises directly or indirectly from funds provided on or after that date;
- and the amendment in subsection (4) above has effect accordingly.

Any apportionment required for the purposes of paragraph (b) shall be made on a just and reasonable basis.

- (6) The amendments in subsections (2) and (3) above have effect in relation to any payment within subsection (2) of section 660B of the Taxes Act 1988 made on or after 9th March 1999.

In relation to such a payment those amendments apply whenever the facts mentioned in subsection (3) of that section occurred.

- (7) In section 660E of the Taxes Act 1988 (application of provisions to settlements by two or more settlors), in subsection (3) (which refers to section 660B) for the words from "in relation to" to "child of the settlor" substitute "in relation to a child of the settlor".

### *Securities and investments*

#### **65 Relevant discounted securities.**

- (1) In paragraph 3 of Schedule 13 to the <sup>M33</sup>Finance Act 1996 (meaning of "relevant discounted security"), for sub-paragraph (1) there shall be substituted the following sub-paragraphs—

“(1) Subject to the following provisions of this paragraph and paragraph 14(1) below, in this Schedule “relevant discounted security” means any security which (whenever issued) is such that, taking the security as at the time of its issue, the amount payable on redemption—

- (a) on maturity, or
- (b) in the case of a security of which there may be a redemption before maturity, on at least one of the occasions on which it may be redeemed,

is or would be an amount involving a deep gain, or might be an amount which would involve a deep gain.

- (1A) The occasions that are to be taken into account for the purpose of determining whether a security is a relevant discounted security by virtue of sub-paragraph (1)(b) above shall not include any of the following occasions on which it may be redeemed, that is to say—

- (a) any occasion not falling within sub-paragraph (1C) below on which there may be a redemption otherwise than at the option of the person who holds the security;

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- (b) in a case where a redemption may occur as a result of the exercise of an option that is exercisable—
  - (i) only on the occurrence of an event adversely affecting the holder, or
  - (ii) only on the occurrence of a default by any person, any occasion on which that option is unlikely (judged as at the time of the security's issue) to be exercisable;

but nothing in this sub-paragraph shall require an occasion on which a security may be redeemed to be disregarded by reason only that it is or may be an occasion that coincides with an occasion mentioned in this sub-paragraph.

(1B) In sub-paragraph (1A) above “event adversely affecting the holder”, in relation to a security, means an event which (judged as at the time of the security's issue) is such that, if it occurred and there were no provision for redemption, the interests of the person holding the security at the time of the event would be likely to be adversely affected.

(1C) An occasion on which there may be a redemption of a security falls within this sub-paragraph if—

- (a) the security is a security issued to a person connected with the issuer; or
- (b) the obtaining of a tax advantage by any person is the main benefit, or one of the main benefits, that might have been expected to accrue from the provision in accordance with which it may be redeemed on that occasion.

(1D) In sub-paragraph (1C) above “tax advantage” has the meaning given by section 709(1) of the Taxes Act 1988.

(1E) Subject to sub-paragraph (1F) below, where a security which is not a relevant discounted security but which would have been such a security if it had been issued to a person connected with the issuer—

- (a) is acquired by a person who is so connected, or
- (b) is held by a person who becomes so connected,

this Schedule shall have effect, in relation to times falling at or after the time of the acquisition or, as the case may be, the time when that person became so connected, as if the security were a relevant discounted security.

(1F) Where a security which—

- (a) is a relevant discounted security, but
- (b) would not be such a security but for sub-paragraph (1C)(a) or (1E) above,

is acquired by a person who is not connected with the issuer, this Schedule shall have effect, in relation to that person, as if the security ceased to be a relevant discounted security at the time of the acquisition.”

(2) After sub-paragraph (2) of that paragraph there shall be inserted the following sub-paragraphs—

“(2A) Nothing in sub-paragraph (2)(c) above shall prevent a security that would have been a relevant discounted security if it had been issued to a person connected

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with the issuer from being treated as a relevant discounted security by virtue of sub-paragraph (1E) above.

(2B) Nothing in sub-paragraph (2)(f) above shall prevent a security from being treated as a relevant discounted security by virtue of sub-paragraph (1C)(a) or (1E) above.”

(3) Sub-paragraph (5) of that paragraph shall cease to have effect.

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

“(7) Section 839 of the Taxes Act 1988 (connected persons) applies for the purposes of this paragraph.

(8) In determining for the purposes of sub-paragraph (1C), (1E), (1F) or (2A) above whether a person is or becomes connected with the issuer, no account shall be taken of—

- (a) the security mentioned in that sub-paragraph; or
- (b) any security issued under the same prospectus as that security.”

(5) In paragraph 10 of that Schedule (issue of securities in separate tranches), after sub-paragraph (3) there shall be inserted the following sub-paragraph—

“(4) For the purpose of determining whether a security held by a person who is not connected with the issuer is a relevant discounted security by virtue of this paragraph, a security which—

- (a) is a relevant discounted security, but
- (b) would not be such a security but for paragraph 3(1C)(a) or (1E) above,

shall be assumed not to be a security falling within sub-paragraph (1)(b) above.”

(6) In paragraph 13 of that Schedule (excluded indexed securities), after sub-paragraph (8) there shall be inserted the following sub-paragraph—

“(9) In this paragraph references to redemption, in relation to a security, do not include references to redemption of the security on any such occasion as, by reason of sub-paragraph (1A) of paragraph 3 above, is not to be taken into account for the purpose of determining whether the security is a relevant discounted security by virtue of sub-paragraph (1)(b) of that paragraph.”

(7) In section 92 of that Act, after subsection (6) there shall be inserted the following subsections—

“(7) Where an asset representing a creditor relationship of a company—

- (a) ceases at any time to be an asset to which this section applies, but
- (b) does not cease at that time to represent a creditor relationship of that company,

the company shall be deemed for the purposes of the <sup>M34</sup>Taxation of Chargeable Gains Act 1992 and this Chapter to have disposed of the asset immediately before that time for the relevant consideration, and to have re-acquired it immediately after that time for the relevant consideration.



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- (8) Any deemed disposal and re-acquisition under subsection (7) above shall be treated for the purposes of that Act of 1992 as a transaction in the case of which—
- (a) sections 127 to 130 of that Act would apply, apart from the provisions of section 116 of that Act, by virtue of any provision of Chapter II of Part IV of that Act;
  - (b) the asset in question represents both the original shares and the new holding for the purposes of those sections;
  - (c) the market value of the asset at the time of the transaction is an amount equal to the relevant consideration.
- (9) Subject to subsection (10) below, in subsections (7) and (8) above “the relevant consideration”, in relation to an asset, means the amount that would have been taken, in accordance with the relevant accounting method, to be the value of the asset at the time of its deemed disposal if that method had been applied to the asset for tax purposes at all times until then.
- (10) Subsection (5) above shall not apply in the case of a deemed disposal and re-acquisition under subsection (7) above; but the amount of the relevant consideration in such a case shall be treated for the purposes of the Taxation of Chargeable Gains Act 1992 as reduced by so much (if any) of the amount mentioned in subsection (9) above as is referable to interest which—
- (a) is not paid or payable to the company before the time of the deemed disposal; but
  - (b) is interest falling to be brought into account under subsections (2) and (3) above as having accrued before that time.
- (11) In subsection (9) above “the relevant accounting method”, in relation to an asset representing a creditor relationship of a company, means the accounting method which, for the accounting period of that company in which the deemed re-acquisition takes place, is used as respects that asset and the part of that accounting period beginning with the deemed re-acquisition.”
- (8) Subject to subsections (9) to (12) below, subsections (1) to (7) above have effect in relation to—
- (a) any transfer of a security on or after 15th February 1999; or
  - (b) any occasion on or after that date on which a person holding a security becomes entitled to any payment on its redemption.
- (9) For the purposes of section 92 of that Act, subsections (1) to (7) above—
- (a) have effect in relation to any accounting period of a company ending on or after 15th February 1999; but
  - (b) do not affect any amount falling to be brought into account in respect of any disposal (in whole or in part) of an asset representing a creditor relationship if the disposal was one completed before that day.
- (10) For the purposes of paragraphs 17 and 18 of Schedule 9 to that Act, subsections (1) to (7) above—
- (a) have effect in relation to any accounting period of a company ending on or after 15th February 1999; but

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- (b) do not affect any amount falling to be brought into account in respect of a security representing a debtor relationship of a company if, on that day, the company was no longer subject to any liability under the relationship.
- (11) For the purposes of sections 117(2AA) and 251(8) of the <sup>M35</sup>Taxation of Chargeable Gains Act 1992, subsections (1) to (7) above have effect in relation to any disposal (in whole or in part) of an asset on or after 15th February 1999.
- (12) For the purposes of subsection (1)(c) of section 254 of that Act (which, notwithstanding its repeal by the <sup>M36</sup>Finance Act 1998, continues to have effect in relation to loans made before 17th March 1998), subsections (1) to (7) above have effect in relation to any claim made on or after 15th February 1999.

#### Marginal Citations

- M33** 1996 c.8.
- M34** 1992 c.12.
- M35** 1992 c.12.
- M36** 1998 c.36.

## 66 Qualifying corporate bonds: provision consequential on s. 65.

- (1) This section applies where—
  - (a) before 15th February 1999 there occurred a transaction (“the relevant transaction”) to which sections 127 to 130 of the Taxation of Chargeable Gains Act 1992 applied; and
  - (b) the new holding (within the meaning given by section 126 of that Act) consisted of or included something (“the new asset”) that—
    - (i) did not fall to be treated as a qualifying corporate bond in relation to the relevant transaction, but
    - (ii) by virtue of section 65 above, does fall to be so treated in relation to a disposal on or after 15th February 1999.
- (2) Section 116 of the Taxation of Chargeable Gains Act 1992 (reorganisations etc. involving qualifying corporate bonds) shall have effect in relation to any disposal of the whole or part of the new asset on or after 15th February 1999 as if—
  - (a) there had been a transaction (“the subsequent transaction”) by which the person holding the new asset had disposed of it and immediately re-acquired it;
  - (b) the subsequent transaction had occurred at the time mentioned in subsection (3) below;
  - (c) the asset re-acquired had been a qualifying corporate bond; and
  - (d) the subsequent transaction had been a transaction to which section 127 of that Act would have applied but for section 116(5) of that Act.
- (3) That time is—
  - (a) where the relevant transaction took place before 5th April 1996, that date;
  - (b) where the relevant transaction took place on or after that date, immediately after the relevant transaction.

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## 67 Deep discount and deep gain securities.

- (1) In paragraph 19 of Schedule 15 to the <sup>M37</sup>Finance Act 1996 (loan relationships: savings and transitional provisions), after sub-paragraph (3) there shall be inserted the following sub-paragraph—
  - “(3A) Any income that is treated as arising at the time mentioned in subsection (5) of that section, as it applies by virtue of sub-paragraph (3) above, shall be brought into account as a non-trading credit given for the purposes of this Chapter for the accounting period in which that time falls.”
- (2) In paragraph 20 of that Schedule, after sub-paragraph (2) there shall be inserted the following sub-paragraph—
  - “(2A) Any income that is treated as arising on the day mentioned in subsection (5) of that section, as it applies by virtue of sub-paragraph (2) above, shall be brought into account as a non-trading credit given for the purposes of this Chapter for the accounting period in which that day falls.”
- (3) In paragraph 19(7) of that Schedule, for paragraph (b) there shall be substituted the following paragraph—
  - “(b) the company did not make any disposal of that security on that date,”.
- (4) In subsection (5)(c) of sections 64 and 65 of the <sup>M38</sup>Finance Act 1993 (which have effect, notwithstanding their repeal by the Finance Act 1996, in relation to deep discount and deep gain securities held on and after 31st March 1996), for “it is transferred by the creditor company” there shall be substituted “the creditor company makes a disposal of the security”.
- (5) After subsection (5) of section 65 of that Act there shall be inserted the following subsection—
  - “(5A) There is a disposal of a security for the purposes of subsection (5)(c) above if there would be such a disposal for the purposes of the <sup>M39</sup>Taxation of Chargeable Gains Act 1992.”
- (6) Subsections (1) and (2) above apply in relation to income treated as arising on or after 15th February 1999.
- (7) Subsection (3) above applies in any case where the day mentioned in paragraph 19(9) of Schedule 15 to the Finance Act 1996 falls on or after 15th February 1999.
- (8) Subsections (4) and (5) above apply for determining whether a time on or after 15th February 1999—
  - (a) is a time falling within section 64(5)(c) of the Finance Act 1993; or
  - (b) is on a day falling within section 65(5)(c) of that Act.

### Marginal Citations

M37 1996 c.8.

M38 1993 c.34.

M39 1992 c.12.

*Status: Point in time view as at 27/07/1999.*

*Changes to legislation: Finance Act 1999, Part III is up to date with all changes known to be in force on or before 24 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

## 68 Court common investment funds.

(1) After section 469 of the Taxes Act 1988 there shall be inserted the following section—

### “469A Court common investment funds.

- (1) The Tax Acts shall have effect in relation to any common investment fund established under section 42 of the <sup>M40</sup>Administration of Justice Act 1982 (common investment funds for money paid into court) as if—
- (a) the fund were an authorised unit trust;
  - (b) the person who is for the time being the investment manager of the fund were the trustee of that authorised unit trust; and
  - (c) the persons whose interests entitle them, as against the Accountant General, to share in the fund’s investments were the unit holders in that authorised unit trust.
- (2) In this section “the Accountant General” means (subject to subsection (3) below) the Accountant General of the Supreme Court of Judicature in England and Wales or the Accountant General of the Supreme Court of Judicature of Northern Ireland.
- (3) Where in the case of any common investment fund a person other than the Accountant General is authorised by the Lord Chancellor to hold shares in the fund, the reference in subsection (1)(c) above to the Accountant General shall include a reference to that other person.”
- (2) Section 328 of the Taxes Act 1988 (agreements with the Board about the taxation regime for common investment funds) shall cease to have effect.
- (3) Subsections (1) and (2) above have effect in relation to—
- (a) any income arising to a common investment fund on or after 6th April 1999; and
  - (b) any distribution made by such a fund for a distribution period beginning on or after that date.
- (4) For the purposes of the Tax Acts where any common investment fund was in existence on 5th April 1999—
- (a) the distribution period of that fund which was current on that date for the purposes of section 469 of the Taxes Act 1988 shall be taken to have ended with that date; and
  - (b) the fund’s first accounting period for the purposes of corporation tax, and its first distribution period for the purposes of the enactments relating to authorised unit trusts, shall each be taken to have begun with 6th April 1999.
- (5) In this section “common investment fund” means any common investment fund established under section 42 of the Administration of Justice Act 1982.

#### Marginal Citations

M40 1982 c.53.

*Status: Point in time view as at 27/07/1999.*

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### *Venture capital trusts*

## **69 Company restructuring and convertible securities.**

- (1) The Taxes Act 1988 shall be amended as follows.
- (2) In Schedule 28B (requirements to be satisfied by qualifying investments of VCTs), after paragraph 10B there shall be inserted the following paragraphs—

### **Acquisitions for restructuring purposes**

- “10C (1) This paragraph applies where—
- (a) arrangements are made for a company (“the new company”) to acquire all the shares (“old shares”) in another company (“the old company”);
  - (b) the acquisition provided for by the arrangements falls within sub-paragraph (2) below; and
  - (c) the Board have, before any exchange of shares takes place under the arrangements, given an approval notification.
- (2) An acquisition of shares falls within this sub-paragraph if—
- (a) the consideration for the old shares consists wholly of the issue of shares (“new shares”) in the new company;
  - (b) new shares are issued in consideration of old shares only at times when there are no issued shares in the new company other than subscriber shares and new shares previously issued in consideration of old shares;
  - (c) the consideration for new shares of each description consists wholly of old shares of the corresponding description; and
  - (d) new shares of each description are issued to the holders of old shares of the corresponding description in respect of, and in proportion to, their holdings.
- (3) For the purposes of sub-paragraph (1)(c) above an approval notification is one which, on an application by either the old company or the new company, is given to the applicant company and states that the Board are satisfied that the exchange of shares under the arrangements—
- (a) will be effected for bona fide commercial reasons; and
  - (b) will not form part of any such scheme or arrangements as are mentioned in section 137(1) of the 1992 Act.
- (4) If the requirements of paragraph 3 above were satisfied in relation to the old company and any old shares immediately before the beginning of the period for giving effect to the arrangements, then (to the extent that it would not otherwise be the case) those requirements shall be deemed to be satisfied in relation to the new company and the matching new shares at all times which—
- (a) fall in that period; and
  - (b) do not fall after a time when (apart from the arrangements) those requirements would have ceased by virtue of—
    - (i) sub-paragraph (4) or (5) of that paragraph, or
    - (ii) any cessation of a trade by any company,

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to be satisfied in relation to the old company and the matching old shares.

- (5) For the purposes of paragraph 3 above the period of two years mentioned in sub-paragraph (4) of that paragraph shall be deemed, in the case of any new shares, to expire at the same time as it would have expired (or by virtue of this sub-paragraph would have been deemed to expire) in the case of the matching old shares.
- (6) Subject to sub-paragraph (7) below, where—
- (a) there is an exchange under the arrangements of any new shares for any old shares, and
  - (b) those old shares are shares in relation to which the requirements of paragraphs 6 and 8 above were (or were deemed to be) satisfied to any extent immediately before the exchange,
- those requirements shall be deemed, at all times after that time, to be satisfied to the same extent in relation to the matching new shares.
- (7) Where there is a time following any exchange under the arrangements of any new shares for any old shares when (apart from the arrangements) the requirements of paragraph 6 above would have ceased under—
- (a) sub-paragraph (2) of that paragraph, or
  - (b) this sub-paragraph,
- to be satisfied in relation to those old shares, those requirements shall cease at that time to be satisfied in relation to the matching new shares.
- (8) For the purposes of paragraph 7 above any new shares acquired under the arrangements shall be deemed to represent an investment which—
- (a) raised the same amount of money as was raised (or, by virtue of this sub-paragraph, is deemed to have been raised) by the issue of the matching old shares, and
  - (b) raised that amount by an issue of shares in the new company made at the time when the issue of the matching old shares took place (or, as the case may be, is deemed to have taken place).
- (9) In determining whether the requirements of paragraph 9 above are satisfied in relation to the old company or the new company at a time in the period for giving effect to the arrangements, both—
- (a) the arrangements themselves, and
  - (b) any exchange of new shares for old shares that has already taken place under the arrangements,
- shall be disregarded.
- (10) For the purposes of paragraph 10B above the value of the new shares, both immediately after the time of their acquisition and immediately after the time of any subsequent relevant event occurring by virtue of the arrangements, shall be taken to be the same as the value, when last valued in accordance with that paragraph, of the old shares for which they are exchanged.
- (11) Nothing in this paragraph shall deem any of the requirements of this Schedule to be satisfied in relation to any new shares unless the matching old shares were first issued to the trust company and have been held by

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that company from the time when they were issued until they are acquired by the new company.

(12) References in this paragraph to the period for giving effect to the arrangements are references to the period which—

- (a) begins with the time when those arrangements first came into existence; and
- (b) ends with the time when the new company completes its acquisition under the arrangements of all the old shares.

(13) If, at any time after the arrangements first came into existence and before the new company has acquired all the old shares, the arrangements—

- (a) cease to be arrangements for the acquisition of all the old shares by the new company, or
- (b) cease to be arrangements for an acquisition falling within sub-paragraph (2) above,

this paragraph shall not deem any requirement of this Schedule to be satisfied, and sub-paragraph (10) above shall not apply, in the case of any new shares at any time after the arrangements have so ceased.

(14) Subject to sub-paragraph (15) below, references in this paragraph, except in the expression “subscriber shares”, to shares in a company include references to any securities of that company.

(15) For the purposes of this paragraph, a relevant security of the old company shall not be treated as a security of that company if—

- (a) the arrangements do not provide for the acquisition of the security by the new company; or
- (b) such treatment prevents sub-paragraph (1)(b) above from being satisfied in connection with the arrangements.

(16) In sub-paragraph (15) above “relevant security” means an instrument which is a security for the purposes of this Schedule by reason only of section 842AA(12).

(17) For the purposes of this paragraph—

- (a) old shares and new shares are of a corresponding description if, were they shares in the same company, they would be of the same description; and
- (b) old shares and new shares are matching shares in relation to each other if the old shares are the shares for which those new shares are exchanged under the arrangements.

#### *Conversion of convertible shares and securities*

10D.—(1) This paragraph applies where—

- (a) shares have been issued to the trust company by virtue of the exercise by that company of any right of conversion attached to other shares, or securities, held by that company (“the convertibles”);
- (b) the shares so issued are in the same company as the convertibles to which the right was attached;

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- (c) the convertibles to which the right was attached were first issued to the trust company and were held by that company from the time they were issued until converted; and
  - (d) the right was attached to the convertibles when they were first so issued and was not varied before it was exercised.
- (2) Sub-paragraphs (5) to (8) of paragraph 10C above shall apply in relation to the exchange of convertibles for shares by virtue of the exercise of the right of conversion as if—
- (a) that exchange were an exchange under any such arrangements as are mentioned in that paragraph of new shares for old shares; and
  - (b) the references in those sub-paragraphs and sub-paragraph (17) (b) of that paragraph to the arrangements were references to the provision conferring the right of conversion.
- (3) For the purposes of paragraph 10B above the value of the new shares immediately after the time of their acquisition by the trust company shall be taken to be the same as the value, when last valued in accordance with that paragraph, of the convertibles for which they are exchanged.”
- (3) In paragraph 13 of Schedule 28B, at the beginning of sub-paragraph (1) there shall be inserted “ Subject to paragraph 10C(15) above, ”.
- (4) In section 842AA (venture capital trusts), after subsection (5) there shall be inserted the following subsections—
- “(5AA) For the purposes of subsection (2)(b) to (d) above where—
- (a) any shares (“new shares”) are exchanged for other shares (“old shares”) under arrangements in relation to which paragraph 10C of Schedule 28B applies, and
  - (b) those arrangements have not ceased by virtue of sub-paragraph (13) of that paragraph to be arrangements by reference to which requirements of that Schedule are deemed to be satisfied,
- the value of the new shares, both at the time of their acquisition and immediately after any subsequent addition to a holding of the new shares that is made under those arrangements, shall be taken to be the same as the value, when last valued in accordance with subsection (5) above, of the old shares for which they are exchanged.
- (5AB) References in subsection (5AA) above to shares in a company include references to any securities of that company.
- (5AC) For the purposes of subsection (2)(b) to (d) above, where—
- (a) shares (“new shares”) are issued to a company by virtue of the exercise by that company of any right of conversion attached to other shares, or securities, held by that company (“convertibles”), and
  - (b) paragraph 10D of Schedule 28B applies in relation to the issue of the new shares,
- the value of the new shares at the time of their acquisition shall be taken to be the same as the value, when last valued in accordance with subsection (5) above, of the convertibles for which they are exchanged.”
- (5) This section—



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- (a) shall have effect in relation to any arrangements made, and rights of conversion exercised, on or after 16th June 1999; and
- (b) shall be deemed to have come into force on that date.

## 70 Relief on distributions.

- (1) In Schedule 15B to the Taxes Act 1988 (VCTs: relief from income tax), in paragraph 7 (relief on distributions), in sub-paragraph (3)(a), after “trust,” there shall be inserted—
- “(ia) were so acquired for bona fide commercial purposes and not as part of a scheme or arrangement the main purpose of which, or one of the main purposes of which, is the avoidance of tax.”.
- (2) This section applies in relation to shares acquired on or after 9th March 1999.

### *Enterprise investment scheme*

## 71 Eligibility for EIS relief.

- (1) In section 289 of the Taxes Act 1988 (eligibility for EIS relief), in subsection (1A)—
- (a) for paragraph (a) there shall be substituted—
    - “(a) is a company which—
      - (i) is such a company as is mentioned in section 293(2)(a), and
      - (ii) if it is a subsidiary of the qualifying company, is a 90 per cent subsidiary of that company, or”;
  - (b) in paragraph (b), for “such a company” there shall be substituted “ a company falling within paragraph (a) above ”.
- (2) This section applies in relation to shares issued on or after 6th April 1999.

## 72 Deferred gains: application of taper relief.

- (1) After section 150C of the <sup>M41</sup>Taxation of Chargeable Gains Act 1992 insert—

### **“150D Enterprise investment scheme: application of taper relief**

Schedule 5BA to this Act (which provides for the application of taper relief in cases where relief under Schedule 5B, or Chapter III of Part VII of the Taxes Act, applies) shall have effect.”

- (2) Schedule 7 to this Act (which inserts Schedule 5BA into that Act) shall have effect.
- (3) In consequence of the insertion of Schedule 5BA, in that Act—
- (a) in section 2A(8) (qualifying holding period for taper relief), after “that Schedule” insert “ and paragraph 3 of Schedule 5BA ”; and
  - (b) in paragraph 2(4) of Schedule A1 (effect of periods not counting for taper relief purposes), after “paragraphs 10 to 12 below” insert “ or paragraph 4 of Schedule 5BA ”.

*Status: Point in time view as at 27/07/1999.*

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**Marginal Citations**

M41 1992 c.12.

**73 Deferred gains: gain accruing on part disposal, etc.**

- (1) Schedule 8 to this Act (which amends Schedule 5B to the <sup>M42</sup>Taxation of Chargeable Gains Act 1992 in relation to cases where there is a disposal of some, but not all, of the shares to which relief under that Schedule is attributable) shall have effect.
- (2) The amendments made by Schedule 8 to this Act have effect in relation to shares issued on or after 6th April 1999.

**Marginal Citations**

M42 1992 c.12.

*Chargeable gains*

**74 Value shifting: tax-free benefits.**

Schedule 9 to this Act (which makes provision about tax-free benefits in relation to value shifting) shall have effect.

**75 Allowable losses where beneficiary absolutely entitled.**

- (1) For subsection (2) of section 71 of the Taxation of Chargeable Gains Act 1992 (allowable losses of trustees treated as transferred to a person becoming absolutely entitled to settled property) there shall be substituted the following subsections—
  - “(2) Where, in any case in which a person (“the beneficiary”) becomes absolutely entitled to any settled property as against the trustee, an allowable loss would (apart from this subsection) have accrued to the trustee on the deemed disposal under subsection (1) above of an asset comprised in that property—
    - (a) that loss shall be treated, to the extent only that it cannot be deducted from pre-entitlement gains of the trustee, as an allowable loss accruing to the beneficiary (instead of to the trustee); but
    - (b) any allowable loss treated as accruing to the beneficiary under this subsection shall be deductible under this Act from chargeable gains accruing to the beneficiary to the extent only that it can be deducted from gains accruing to the beneficiary on the disposal by him of—
      - (i) the asset on the deemed disposal of which the loss accrued; or
      - (ii) where that asset is an estate, interest or right in or over land, that asset or any asset deriving from that asset.
- (2A) In subsection (2) above “pre-entitlement gain”, in relation to an allowable loss accruing to a trustee on the deemed disposal of any asset comprised in any settled property, means a chargeable gain accruing to that trustee on—

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- (a) a disposal which, on the occasion on which the beneficiary becomes absolutely entitled as against the trustee to that property, is deemed under subsection (1) above to have taken place; or
    - (b) any other disposal taking place before that occasion but in the same year of assessment.
  - (2B) For the purposes of subsection (2)(b)(ii) above an asset (“the relevant asset”) derives from another if, in a case where—
    - (a) assets have merged,
    - (b) an asset has divided or otherwise changed its nature, or
    - (c) different rights or interests in or over any asset have been created or extinguished at different times,the value of the relevant asset is wholly or partly derived (through one or more successive events falling within paragraphs (a) to (c) above but not otherwise) from the other asset.
  - (2C) The rules set out in subsection (2D) below shall apply (notwithstanding any other rules contained in this Act or in section 113(2) of the <sup>M43</sup>Finance Act 1995 (order of deduction))—
    - (a) for determining for the purposes of this section whether an allowable loss accruing to the trustee, or treated as accruing to the beneficiary, can be deducted from particular chargeable gains for any year of assessment; and
    - (b) for the making of deductions of allowable losses from chargeable gains in cases where it has been determined that such an allowable loss can be deducted from particular chargeable gains.
  - (2D) Those rules are as follows—
    - (a) allowable losses accruing to the trustee on a deemed disposal under subsection (1) above shall be deducted before any deduction is made in respect of any other allowable losses accruing to the trustee in that year;
    - (b) allowable losses treated as accruing to the beneficiary under this section, so far as they cannot be deducted in a year of assessment as mentioned in subsection (2)(b) above, may be carried forward from year to year until they can be so deducted; and
    - (c) allowable losses treated as accruing to the beneficiary for any year of assessment under this section, and allowable losses carried forward to any year of assessment under paragraph (b) above—
      - (i) shall be deducted before any deduction is made in respect of any allowable losses accruing to the beneficiary in that year otherwise than by virtue of this section; and
      - (ii) in the case of losses carried forward to any year, shall be deductible as if they were losses actually accruing in that year.”
- (2) This section applies in relation to any occasion on or after 16th June 1999 on which a person becomes absolutely entitled to settled property as against the trustee.

*Status: Point in time view as at 27/07/1999.*

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### Marginal Citations

M43 1995 c.4.

## 76 Concessions that defer a capital gains charge.

- (1) In Part VIII of the <sup>M44</sup>Taxation of Chargeable Gains Act 1992 (supplemental), after section 284 there shall be inserted the following sections—

### “284A Concessions that defer a charge.

- (1) This section applies where—
- (a) a person (“the original taxpayer”) has at any time obtained for any chargeable period (“the first chargeable period”) the benefit of any capital gains relief to which he had no statutory entitlement;
  - (b) the benefit of the relief was obtained in reliance on any concession;
  - (c) the concession was first published by the Board before 9th March 1999 or (having been published on or after that date) replaced a concession satisfying the requirements of this paragraph with a concession to the same or substantially the same effect; and
  - (d) the concession involved the application (with or without modifications), to a case to which they would not otherwise have applied, of the provisions of any enactment (“the relevant statutory provisions”).
- (2) This section applies only if, at the time when the original taxpayer obtained the benefit of the relief, the concession was one available generally to any person falling within its terms.
- (3) If the benefit obtained for the first chargeable period by the original taxpayer is repudiated for any later chargeable period (whether by the original taxpayer or by another person), the enactments relating to the taxation of chargeable gains shall have effect as if a chargeable gain equal to the amount of that benefit accrued in the later chargeable period to the person repudiating the benefit.
- (4) For the purposes of this section—
- (a) a capital gains relief for any chargeable period is a relief (of whatever description) the effect of which is that the amount of the chargeable gains taken to have accrued to that person in that period is less than it otherwise would have been; and
  - (b) the amount of the benefit of any such relief is the amount by which, as a consequence of that relief, those gains are less than they otherwise would have been.
- (5) Where, without applying a specific enactment, any concession has the effect that—
- (a) any asset is treated as the same as another asset and as acquired as the other asset was acquired,
  - (b) any two or more assets are treated as a single asset, or
  - (c) any disposal is treated as having been a disposal on which neither a gain nor a loss accrued,

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that concession shall be assumed for the purposes of this section to have involved the application, to a case to which it would not otherwise have applied, of the provisions of an enactment to the corresponding effect.

- (6) For the purposes of this section the benefit of any relief obtained by the original taxpayer for the first chargeable period is repudiated by a person for a later chargeable period if—
- (a) circumstances arise such that, had the equivalent circumstances arisen in the case of the corresponding relief under the relevant statutory provisions, the whole or a part of the benefit of that relief would have fallen to be recouped from that person in the later chargeable period;
  - (b) apart from this section, the recoupment in the actual circumstances of the whole or a part of the benefit obtained by the original taxpayer is prevented by the fact that the original taxpayer relied on a concession (rather than on the relevant statutory provisions) to obtain that benefit; and
  - (c) the person from whom, in the equivalent circumstances, the amount of the benefit or any part of it would have fallen to be recouped is not precluded by subsection (8) below from relying on that fact in relation to that amount or part.
- (7) For the purposes of this section an amount of the benefit of a capital gains relief is recouped from any person in a chargeable period to the extent that an amount is so brought into account in his case for that period as to secure that—
- (a) the amount of his chargeable gains for that period is taken to be more than it otherwise would have been by an amount directly or indirectly representing the whole or a part of the amount of the benefit; or
  - (b) the amount of his allowable losses for that period is taken to be less than it otherwise would have been by an amount directly or indirectly representing the whole or a part of the amount of the benefit.
- (8) Where—
- (a) any such circumstances as are mentioned in subsection (6)(a) above have arisen in relation to the relief the benefit of which has been obtained by the original taxpayer,
  - (b) the person from whom, in the equivalent circumstances, the whole or any part of the amount of the benefit would have fallen to be recouped has accepted that, in the actual circumstances, the whole or a part of the benefit obtained by the original taxpayer may be recouped from him, and
  - (c) that acceptance is indicated in writing to the Board (whether by the making or amendment of a self-assessment or otherwise),
- that person's rights subsequently to amend, appeal against or otherwise challenge any assessment shall not be exercised in any manner inconsistent with his acceptance of that matter (which shall be irrevocable).
- (9) In this section “concession” includes any practice, interpretation or other statement in the nature of a concession.

*Status: Point in time view as at 27/07/1999.*

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### **284B Provisions supplementary to section 284A.**

- (1) Chargeable gains that are treated as accruing to any person under section 284A(3) shall not be eligible for taper relief.
- (2) The total amount of chargeable gains that are treated as accruing to any person under subsection (3) of section 284A in respect of any such benefit as is referred to in that subsection shall not exceed the amount of that benefit.
- (3) Where, after any assessment to tax has been made on the basis that any chargeable gain is treated as having accrued to any person under section 284A(3)—
  - (a) the person assessed, within any of the periods allowed by subsection (4) below, gives an indication for the purposes of section 284A(8), or
  - (b) a final determination of the original taxpayer's liability to tax for the first chargeable period is made on the basis that the original taxpayer did not, or was not entitled to, rely on the concession in question,
 all such adjustments shall be made (whether by way of assessment, amendment of an assessment, repayment of tax or otherwise) as are necessary to secure that no person is subjected to any greater liability by virtue of section 284A(3) than he would have been had the indication been given, or the final determination made, before the making of the assessment.
- (4) The periods allowed by this subsection are—
  - (a) the period of twelve months beginning with the making of the assessment;
  - (b) the period within which the person is entitled to amend his self-assessment or company tax return for the chargeable period in which the chargeable gain under section 284A(3) is treated as having accrued to him;
  - (c) where the person makes a claim for any further relief against the amount that may be recouped from him by virtue of his indication under section 284A(8), the period allowed for making that claim.
- (5) Subsection (3) above has effect notwithstanding any time limits relating to the making or amendment of an assessment for any chargeable period.”
- (2) Sections 284A and 284B of the <sup>M45</sup>Taxation of Chargeable Gains Act 1992 have effect in relation to any case in which the circumstances arising as mentioned in subsection (6)(a) of section 284A are circumstances arising on or after 9th March 1999, whether the benefit mentioned in subsection (1) of that section was obtained as so mentioned before or after the passing of this Act.

#### **Marginal Citations**

**M44** 1992 c.12.

**M45** 1992 c.12.

*Status: Point in time view as at 27/07/1999.*

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## Capital allowances

### 77 Extension of first-year allowances.

In section 22(3D) of the <sup>M46</sup>Capital Allowances Act 1990 (first year allowances: transitional relief), for “1st July 1999” there shall be substituted “ 1st July 2000 ”.

#### Marginal Citations

M46 1990 c.1.

### 78 First-year allowances for investment in Northern Ireland.

- (1) In section 22 of the Capital Allowances Act 1990 (“the 1990 Act”) (first-year allowances), in subsection (3CC) (which restricts the expenditure on machinery and plant for use in Northern Ireland which is eligible for 100 per cent. allowances), after paragraph (b) there shall be inserted “; or
- (c) expenditure on the provision of a goods vehicle for the purposes of a trade which consists primarily of the conveyance of goods; or
  - (d) unauthorised expenditure on the provision of machinery or plant for use primarily in—
    - (i) agriculture, fishing or fish farming, or
    - (ii) any relevant activity carried out in relation to agricultural produce, fish or any fish product for the purpose of bringing it to market.”
- (2) After subsection (3CC) of that section there shall be inserted—
- “(3CD) For the purposes of subsection (3CC) above—
- (a) expenditure is unauthorised expenditure unless it is authorised, for the purposes of subsection (3CA) above, by the Department of Agriculture for Northern Ireland; and
  - (b) “relevant activity” means transportation, storage, preparation, processing or packaging.
- (3CE) An authorisation given, for the purposes of subsection (3CA) above, by the Department of Agriculture for Northern Ireland—
- (a) may be given either specially (that is to say, so as to apply only to a specified item of expenditure or a specified person) or generally (that is to say, so as not only so to apply);
  - (b) may, if given generally, be modified by that Department; and
  - (c) may in any case be absolute or conditional.”
- (3) In subsection (10) of that section, after “section” there shall be inserted—
- ““agriculture” and “agricultural produce” have the same meanings as in section 6 of the <sup>M47</sup>European Communities Act 1972;
- “fish” includes shellfish;
- “fish farming” means the intensive rearing, on a commercial basis, of fish intended for human consumption;

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“fishing” means a trade, or part of a trade, which consists of the catching or taking of fish;

“goods vehicle” has the same meaning as in the <sup>M48</sup>Road Traffic (Northern Ireland) Order 1995;”.

- (4) In section 22B of the 1990 Act (withdrawal of first-year allowance on change of use)—
- (a) in subsection (2)(a), for “the period of two years beginning with the date of the incurring of that expenditure” there shall be substituted “ the relevant period ”; and
  - (b) after subsection (2) there shall be inserted—
 

“(2A) In subsection (2) above “the relevant period” means—

    - (a) where the expenditure concerned exceeds £3.5 million, the period of five years beginning with the date of the incurring of that expenditure, and
    - (b) in any other case, the period of two years beginning with that date.”
- (5) After section 22B of the 1990 Act there shall be inserted—

**“22C Disclosure of information in connection with first-year allowances.**

- (1) No obligation as to secrecy or other restriction on the disclosure of information imposed by statute or otherwise shall prevent—
  - (a) the Board or an authorised officer of the Board from disclosing to the Department of Agriculture for Northern Ireland (“the Department”) or an authorised officer of the Department, or
  - (b) the Department or an authorised officer of the Department from disclosing to the Board or an authorised officer of the Board, information for the purpose of assisting the Board in the carrying out of their functions with respect to claims for capital allowances made under section 22 by virtue of subsection (3CA) of that section or, as the case may be, the Department in the carrying out of its functions under that section.
- (2) Information obtained by virtue of a disclosure authorised by this section shall not be disclosed except—
  - (a) to the Board or the Department or to an authorised officer of the Board or of the Department; or
  - (b) for the purposes of any proceedings connected with a matter in relation to which the Board or the Department carry out the functions mentioned in subsection (1) above.”
- (6) The preceding provisions of this section have effect in relation to every chargeable period ending on or after 12th May 1998.

**Marginal Citations**

**M47** 1972 c.68.

**M48** S.I. 1995/2994 (N.I. 18).



*Status: Point in time view as at 27/07/1999.*

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*Pensions and insurance, etc.*

**79 Sharing of pensions on divorce, etc.**

Schedule 10 to this Act (which, for purposes connected with the sharing of pensions between ex-spouses, makes provision with respect to pensions and annuities) shall have effect.

**80 Purchased life annuities.**

Section 657(2) of the Taxes Act 1988 (annuities not treated as purchased life annuities within section 656) shall have effect, and shall be deemed always to have had effect, with the substitution of the following paragraph for the “or” at the end of paragraph (d)

—  
“(da) to any annuity purchased under or for the purposes of a scheme approved by virtue of section 591 or in pursuance of any obligation imposed, or offer or invitation made, under or in connection with any such scheme;”.

**81 Acquisitions disregarded under insurance companies concession.**

- (1) This section applies for the purposes of corporation tax in relation to the disposal by a company (“the relevant company”) of any asset where—
  - (a) the asset is one acquired by the relevant company from an insurance company at a time when the relevant company and that insurance company were both members of the same group of companies;
  - (b) there was an occasion before the disposal (whether the occasion of the transfer of the asset to the relevant company or the occasion of an earlier transfer of the asset) in relation to which the non-statutory arrangements for groups of insurance companies were applied in the case of the transferring company;
  - (c) the application of those arrangements in relation to that occasion had the effect of preventing the cost of the asset’s acquisition by the transferring company (“the previous acquisition”) from being brought into account for tax purposes; and
  - (d) there has not, between that occasion and the making of the disposal, been any relevant event by reference to which the cost of the previous acquisition has been brought into account in computing the profits or losses of any company for tax purposes.
- (2) Subject to subsection (5) below, where the computation of the relevant company’s profits or losses from any trade requires the cost of the acquisition of the asset by that company to be brought into account in the accounting period in which the disposal takes place, that cost shall be brought into account in that period as if it were an amount equal to the cost of the previous acquisition.
- (3) Subject to subsections (4) and (5) below, where—
  - (a) the asset disposed of represents a creditor relationship,
  - (b) the disposal is such that paragraph 6 of Schedule 15 to the <sup>M49</sup>Finance Act 1996 (adjustment for pre-commencement trading relationships) would require an amount to be brought into account in the accounting period in which the disposal takes place in any case in which there is, for that relationship, a difference such as is mentioned in sub-paragraph (1) of that paragraph, and

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- (c) the cost of the previous acquisition is less than the amount which for the purposes of paragraph 5(2) of that Schedule would (apart from this subsection) be the notional closing value of the relationship on 31st March 1996,
- the question whether an amount falls to be brought into account in accordance with paragraph 6(2) or (3) of that Schedule, and the amount (if any) falling to be so brought into account, shall be determined as if the notional closing value of the relationship on 31st March 1996 had been equal to the cost of the previous acquisition.
- (4) In any case where the asset represents a creditor relationship in relation to which an election under paragraph 6(4) of Schedule 15 to the <sup>M50</sup>Finance Act 1996 has effect—
- (a) subsection (3) above and paragraphs (b) and (c) below shall be disregarded in determining the amounts falling to be brought into account under paragraph 6(4) to (7) of that Schedule;
  - (b) paragraph 6(1) and (2) of that Schedule shall be treated as applying, notwithstanding paragraph 6(4)(a), if, in the case of that relationship, the amount referred to in subsection (3)(c) above exceeds the cost of the previous acquisition; and
  - (c) the amount falling by virtue of paragraph (b) above to be brought into account in accordance with paragraph 6(2) of that Schedule shall be determined as if the excess referred to in paragraph 6(2)(a) were the excess mentioned in paragraph (b) above.
- (5) Where—
- (a) there are two or more occasions such as are mentioned in paragraph (b) of subsection (1) above, and
  - (b) paragraph (d) of that subsection is satisfied in relation to each of them,
- subsections (2) to (4) above shall have effect as if the references to the previous acquisition were references to the acquisition which is the previous acquisition in relation to the earliest of those occasions.
- (6) In subsection (1)(d) above “relevant event”, in relation to any asset, means—
- (a) a disposal of the asset; or
  - (b) any event by reference to which the conditions of the non-statutory arrangements for groups of insurance companies has required the cost of the previous acquisition to be brought into account in computing the profits or losses of any company for tax purposes.
- (7) Section 170 of the <sup>M51</sup>Taxation of Chargeable Gains Act 1992 (meaning of groups etc.) shall apply for construing references in the preceding provisions of this section to a group of companies as it applies for the purposes of sections 171 to 181 of that Act.
- (8) In the preceding provisions of this section—
- “creditor relationship” has the same meaning as in Chapter II of Part IV of the Finance Act 1996; and
- “insurance company” means an insurance company within the meaning of Chapter I of Part XII of the Taxes Act 1988.
- (9) References in this section to an asset shall be construed as if section 473 of the Taxes Act 1988 (cases where different assets are treated as the same) applied for the purposes of this section as it applies for the purposes of that Act; and paragraph 12(2) of Schedule 9 to the <sup>M52</sup>Finance Act 1996 (cases where different companies are treated as the same) shall apply for the purposes of this section as it applies for the purposes of Chapter II of Part IV of that Act of 1996.

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- (10) In this section any reference to the non-statutory arrangements for groups of insurance companies is a reference to so much of any arrangements made by the Board otherwise than by virtue of an enactment as—
- (a) in relation to an accounting period beginning before 1st January 2000—
    - (i) provided for a single assessment of the trading profits of a group of insurance companies to be made on the principal company of the group; and
    - (ii) excluded trading profits on intra-group transfers of investments from the group assessment;
  - or
  - (b) contains transitional provision, in connection with the withdrawal of any arrangements falling within paragraph (a) above, for allowing trading profits on intra-group transfers to be excluded from assessments of members of groups of insurance companies that relate to accounting periods beginning on or after 1st January 1999 and before 1st January 2000.
- (11) This section—
- (a) shall not be construed as requiring any amount representing a gain on the disposal of the asset to be brought into account for tax purposes in so far as an amount representing that gain is or has already been brought into account, as an attributed gain, under any regulations made by virtue of Schedule 16 to the <sup>M53</sup>Finance Act 1993 (Forex transitional provisions); and
  - (b) shall be without prejudice to any power of the Board apart from this section to enforce any conditions subject to which any relief in accordance with the non-statutory arrangements for groups of insurance companies has been allowed.
- (12) This section applies in relation to disposals by the relevant company made in accounting periods beginning on or after 1st January 1999.

#### Marginal Citations

- M49 1996 c.8.
- M50 1996 c.8.
- M51 1992 c.12.
- M52 1996 c.8.
- M53 1993 c.34.

## 82 Lloyd's: members' agent pooling arrangements.

- (1) This section applies where a member has entered into a members' agent pooling arrangement ("the arrangement").
- (2) Subsections (3) to (9) below shall apply for the purpose of determining any liability of the member's to capital gains tax that may arise from transactions effected in pursuance of the arrangement.
- (3) The syndicate rights held by the member under the arrangement shall be treated as a single asset acquired by him at the time when he entered into the arrangement; but, subject to subsection (9) below, he shall not be treated as disposing of the asset (in whole or in part) except as mentioned in subsection (6) below.

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- (4) The member shall be treated as having given, wholly and exclusively for the acquisition of the asset, consideration equal to any amount paid by him on entering into the arrangement.
- (5) Any other amount paid by the member under the arrangement shall, on a disposal of the asset, be treated as expenditure incurred wholly and exclusively on the asset for the purpose of enhancing its value and reflected in its state or nature at the time of the disposal.
- (6) If an amount is paid to the member at any time under the arrangement, he shall be treated as disposing of the whole asset or, as the case may be, part of the asset at that time for a consideration equal to that amount.
- (7) If syndicate rights held by the member otherwise than under the arrangement become at any time rights held by him under the arrangement, he shall be treated as disposing of those rights at that time for a consideration equal to their market value at that time.
- (8) If syndicate rights held by the member under the arrangement become at any time rights held by him otherwise than under the arrangement, he shall be treated as acquiring those rights at that time for a consideration equal to their market value at that time.
- (9) Nothing in subsection (3) above shall affect the operation of section 24(1) of the <sup>M54</sup>Taxation of Chargeable Gains Act 1992 (disposals where assets extinguished etc.) in relation to the asset.
- (10) Subject to subsection (11) below this section applies to arrangements entered into on or after 6th April 1999 or subsisting on that date.
- (11) In the case of arrangements subsisting on 6th April 1999, this section has effect—
  - (a) as if the time mentioned in subsection (3) above were the earliest time (“the notional time of acquisition”) at which the member acquired any of the syndicate rights held by him under the arrangement immediately before 6th April 1999;
  - (b) as if the consideration referred to in subsection (4) above were the consideration, in money or money’s worth, given by him wholly and exclusively for the acquisition of such of those rights as he acquired at the notional time of acquisition; and
  - (c) in relation to times before 6th April 1999, as if the amount mentioned in subsection (5) above were the amount of any consideration, in money or money’s worth, given by him wholly and exclusively for the acquisition, after the notional time of acquisition, of rights such as are mentioned in paragraph (a) above;
 and the incidental costs of any acquisition falling within paragraph (b) or (c) above shall be taken to be incidental costs of the acquisition of the asset.

**Marginal Citations**

M54 1992 c.12.

**83 Provisions supplementary to s. 82.**

- (1) In section 82 above and this section, except where the context otherwise requires—

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“member” means an individual who is an underwriting member of Lloyd’s;  
“members’ agent”, in relation to a member, means a person registered as a members’ agent at Lloyd’s who is acting as such an agent for the member;

“members’ agent pooling arrangement”, in relation to a member, means an arrangement—

- (i) under which a members’ agent arranges for the member’s participation in syndicates; and
- (ii) which satisfies the conditions set out in subsection (2) below;

“syndicate” has the same meaning as in Chapter III of Part II of the <sup>M55</sup>Finance Act 1993; and

“syndicate rights”, in relation to a member, means rights under a syndicate in which the member participates.

(2) The conditions mentioned in paragraph (ii) of the above definition of “members’ agent pooling arrangement” are that under the arrangement—

- (a) the member must participate in each of the syndicates to which the arrangement relates; and
- (b) the extent to which the member participates in each such syndicate is determined—
  - (i) by the members’ agent; or
  - (ii) according to a formula provided for in the arrangement.

(3) References in section 82 above to the payment of an amount are references to the payment of an amount in money or money’s worth; and to the extent that an amount mentioned in subsection (4), (5) or (6) of that section is paid in money’s worth, the amount of the consideration or expenditure there referred to shall be calculated by reference to the market value of the money’s worth at the time of the payment mentioned in that subsection.

(4) Section 82 above and this section have effect in relation to a Scottish partnership which is an underwriting member of Lloyd’s as they have effect in relation to a member, but as if the reference in section 82(2) to any liability of the member’s to capital gains tax that may arise from transactions effected in pursuance of the arrangement were a reference to any such liability of members of the partnership that may so arise.

#### Marginal Citations

M55 1993 c.34.

## 84 Lloyd’s: roll-over relief.

(1) In section 155 of the <sup>M56</sup>Taxation of Chargeable Gains Act 1992 (classes of assets for the purposes of roll-over relief), after Class 7 there shall be inserted—

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## “CLASS 8

### ASSETS WITHIN HEADS A AND B BELOW.

#### HEAD A

RIGHTS OF A MEMBER OF LLOYD'S UNDER A SYNDICATE WITHIN THE MEANING OF CHAPTER III OF PART II OF THE <sup>M57</sup>FINANCE ACT 1993.

#### HEAD B

AN ASSET WHICH A MEMBER OF LLOYD'S IS TREATED AS HAVING ACQUIRED BY VIRTUE OF SECTION 82 OF THE FINANCE ACT 1999.”

- (2) This section applies to—
- (a) assets (or interests in them) disposed of on or after 6th April 1999;
  - (b) assets (or interests in them) acquired on or after that date.

#### Marginal Citations

**M56** 1992 c.12.

**M57** 1993 c.34.

### *Advance pricing agreements and CFCs*

#### **85 Advance pricing agreements etc.**

- (1) This section applies in relation to any chargeable period where—
- (a) the Board have made a written agreement with any person (“the taxpayer”);
  - (b) the agreement relates to one or more of the matters mentioned in subsection (2) below and to that chargeable period;
  - (c) the agreement is one made as a consequence of an application by the taxpayer to the Board for the clarification by agreement of the effect in the taxpayer's case of provisions by reference to which questions relating to any one or more of those matters fall, or might fall, to be determined; and
  - (d) the agreement contains a declaration that it is an agreement made for the purposes of this section.
- (2) Those matters are—
- (a) the attribution of income to a branch or agency through which the taxpayer has been carrying on a trade in the United Kingdom, or is proposing so to carry on a trade;
  - (b) the attribution of income to any permanent establishment of the taxpayer (wherever situated) through which he has been carrying on, or is proposing to carry on, any business;

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- (c) the extent to which income which has arisen or may arise to the taxpayer is to be taken for any purpose to be income arising in a country or territory outside the United Kingdom;
  - (d) the treatment for tax purposes of any provision made or imposed (whether before or after the date of the agreement) as between the taxpayer and any associate of his;
  - (e) the treatment for tax purposes of any provision made or imposed (whether before or after the date of the agreement) as between a ring fence trade carried on by the taxpayer and any other activities so carried on.
- (3) Subject to the following provisions of this section and to section 86 below, the Tax Acts shall have effect in the taxpayer's case as if questions relating to the matters mentioned in subsection (2) above were, to the extent provided for in the agreement, to be determined in accordance with the agreement, and without reference to the provisions in accordance with which they would otherwise have fallen to be determined.
- (4) In the case of so much of any question as—
- (a) relates to any matter mentioned in paragraph (d) or (e) of subsection (2) above, and
  - (b) is not comprised in a question falling within another paragraph of that subsection,
- the provisions reference to which is capable of being excluded under subsection (3) above by an agreement made for the purposes of this section shall be confined to those contained in Schedule 28AA to the Taxes Act 1988 (transfer pricing rules).
- (5) Any such application to the Board as is mentioned in subsection (1)(c) above must set out—
- (a) the taxpayer's understanding of what would, in his case, be the effect, in the absence of any agreement, of the provisions in relation to which clarification is sought;
  - (b) the respects in which it appears to the taxpayer that clarification is required in relation to those provisions; and
  - (c) how the taxpayer proposes that matters should be clarified in a manner consistent with the understanding mentioned in paragraph (a) above.
- (6) For the purposes of this section two persons are associates, in relation to provision made or imposed as between them if, within the meaning of Schedule 28AA to the Taxes Act 1988—
- (a) one of them is directly or indirectly participating, at the time of the making or imposition of the provision, in the management, control or capital of the other; or
  - (b) the same person or persons is or are, at that time, directly or indirectly participating in the management, control or capital of each of the two persons;
- and, in the case of provision made or imposed by or in relation to the terms of any sale of oil (within the meaning of paragraph 9 of that Schedule), two persons shall also be treated as associates for the purposes of this section wherever sub-paragraph (2) of that paragraph would require them for the purposes of that Schedule to be treated in relation to that provision as falling within paragraph (b) above.
- (7) In this section “ring fence trade”, in relation to the taxpayer, means any activities which—
- (a) are carried on by the taxpayer as, or as part of, a trade; and

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- (b) in accordance with section 492(1) of the Taxes Act 1988 (tax treatment of oil extraction activities), either—
  - (i) fall to be treated for tax purposes as a separate trade, distinct from all other activities carried on by the taxpayer; or
  - (ii) would so fall if the taxpayer did carry on any other activities as part of that trade.
- (8) This section applies in relation to any chargeable period ending on or after the day on which this Act is passed but only if the agreement is one made on or after that day and in relation to that period.

## 86 Provisions supplementary to s. 85.

- (1) The chargeable periods in relation to which provision may be made by a section 85 agreement include periods ending before the making of the agreement.
- (2) An agreement shall not have effect in accordance with section 85(3) above in relation to any determination of a question which—
  - (a) relates to a time after a time as from which an officer of the Board has revoked the agreement in accordance with its terms;
  - (b) relates to a time after or in relation to which there has been a failure by a party to the agreement to comply with any provision of the agreement compliance with which is, under the terms of the agreement, to be a condition of its having effect; or
  - (c) relates to any matter as respects which any other conditions which, by the terms of the agreement, are to be conditions of its having effect have not been, or are no longer, satisfied.
- (3) Where—
  - (a) there is a section 85 agreement between the Board and any person, and
  - (b) there is a mutual agreement made under and for the purposes of any double taxation arrangements which is not consistent with the terms of the section 85 agreement,
 it shall be the duty of the Board to ensure that all such modifications of the section 85 agreement are made (whether in exercise of powers conferred on the Board by that agreement or otherwise) as may be necessary for enabling effect to be given to the mutual agreement in relation to the subject-matter of the section 85 agreement.
- (4) It shall be the duty of any person who is a party to a section 85 agreement to provide the Board from time to time with all such reports and other information as he may be required to provide under the agreement or by virtue of any request made by an officer of the Board in accordance with the terms of the agreement.
- (5) Where—
  - (a) the Board and any person have purported to enter into a section 85 agreement at any time,
  - (b) before that time, that person fraudulently or negligently provided the Board with information which was false or misleading,
  - (c) that information was so provided for or in connection with the application to the Board for the making of the agreement or otherwise in connection with its preparation, and



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- (d) the Board have notified that person that the agreement is nullified by reason of the misrepresentation,  
the agreement shall be deemed never to have been made.
- (6) Any provision of a section 85 agreement that provides for the modification or revocation of that agreement by the Board, or by an officer of the Board, may provide for the modification or revocation to take effect as from such time (including a time before the modification is made or the agreement revoked) as the Board or officer may determine.
- (7) Where a section 85 agreement—
- (a) relates to a chargeable period beginning or ending before the making of the agreement, and
  - (b) provides for the manner in which adjustments are to be made for tax purposes in consequence of that agreement,
- the adjustments shall be made for those purposes in the manner provided for in the agreement.
- (8) A person shall be liable to a penalty not exceeding £10,000 if he fraudulently or negligently makes any false or misleading statement to the Board or an officer of the Board either—
- (a) for or in connection with any application to the Board for them to enter into a section 85 agreement; or
  - (b) otherwise in connection with the preparation of such an agreement.
- (9) In section 98 of the <sup>M58</sup>Taxes Management Act 1970 (penalties in connection with returns etc.), in the second column of the table, after the final entry there shall be inserted the following entry—

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“Section 86(4) of the Finance Act 1999.”

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- (10) In this section—

“double taxation arrangements” means any arrangements having effect under or by virtue of section 788 of the Taxes Act 1988 (double taxation agreements); and

“section 85 agreement” means an agreement made for the purposes of section 85 above.

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**Marginal Citations**

**M58** 1970 c.9.

## 87 Effect of section 85 agreements on non-parties.

- (1) This section applies where—
- (a) any agreement made for the purposes of section 85 above has effect in relation to any provision (“the actual provision”) made or imposed as between any person (“the taxpayer”) and another (“the other party”); and
  - (b) section 85(3) above has the effect in the taxpayer’s case of requiring a question relating to the actual provision to be determined in accordance with

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the agreement rather than by reference to rules which would otherwise be applicable by virtue of Schedule 28AA to the Taxes Act 1988.

- (2) Paragraphs 6 and 7 of Schedule 28AA to the Taxes Act 1988 (relief from double counting in the case of disadvantaged persons) shall have effect in the other party's case on the assumption that any question falling within subsection (3) below is to be determined, to the same extent as in the taxpayer's case, by reference to the agreement.
- (3) Those questions are—
  - (a) whether the taxpayer is a person on whom a potential advantage in relation to United Kingdom taxation is conferred by the actual provision; and
  - (b) what constitutes the arm's length provision in relation to the actual provision.
- (4) Subsection (2) above shall have effect subject to any agreement made for the purposes of section 85 above between the Board and the other party.
- (5) Section 111 of the <sup>M59</sup>Finance Act 1998 (notice to persons who may be entitled to claim as disadvantaged persons) shall have effect as if the assumptions referred to in subsection (1)(b) of that section included any assumptions falling to be made by virtue of the agreement.

#### Marginal Citations

M59 1998 c.36.

## 88 Controlled foreign companies.

- (1) In Schedule 25 to the Taxes Act 1988 (cases where section 747(3) does not apply), after sub-paragraph (1A) of paragraph 2 (acceptable distribution policy) there shall be inserted the following sub-paragraph—

“(1B) A dividend paid by a company shall not fall within sub-paragraph (1)(d) above if, and to the extent that, the profits which are the relevant profits in relation to the dividend derive from dividends or other distributions paid to the company at any time which are dividends or other distributions—

- (a) to which section 208 applied; or
- (b) to which that section would have applied if the company had been resident in the United Kingdom at that time.

Subsections (3) and (4) of section 799 (double taxation relief: computation of underlying tax) apply for the purposes of this sub-paragraph as they apply for the purposes of subsection (1) of that section.”

- (2) Subsection (1) above applies for the purpose of determining whether dividends paid on or after 9th March 1999 for accounting periods ending on or after that date fall within sub-paragraph (1)(d) of paragraph 2 of that Schedule.

### *Management and enforcement*

## 89 Corporation tax: due and payable date.

- (1) In the Table in section 98 of the <sup>M60</sup>Taxes Management Act 1970 (penalties for failure to provide information, produce documents etc.), in the first column, after the entry

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for Part III of the Taxes Management Act 1970 insert “ regulations under section 59E of this Act; ”.

- (2) In section 102(5)(a) of the <sup>M61</sup>Finance Act 1989 (surrender of company tax refund within group), for “section 10 of the Taxes Act 1988” substitute “ section 59D or 59E of the Taxes Management Act 1970 ”.
- (3) This section has effect in relation to accounting periods ending on or after 1st July 1999.

#### Marginal Citations

**M60** 1970 c.9.

**M61** 1989 c.26.

### 90 Release or writing off of debt: interest on tax overpaid.

- (1) In section 826(4) of the Taxes Act 1988 (interest on tax overpaid)—
  - (a) for “the repayment of, or of the part in question of, the loan or advance mentioned in section 419(4) was made” substitute “ the event giving rise to entitlement to relief under section 419(4) occurred ”; and
  - (b) in paragraph (a)(i) of that subsection, after “repayment” insert “ , or the release or writing off, ”.
- (2) This section has effect in relation to the release or writing off of the whole or part of a debt on or after 6th April 1999.

### 91 Advance corporation tax: consequences of abolition.

- (1) Schedule 16 to the Taxes Act 1988 (collection of income tax on company payments) is amended as follows.
- (2) In paragraph 4 (payment of tax), omit—
  - (a) in sub-paragraph (1), the words “Subject to sub-paragraph (3) below,”; and
  - (b) sub-paragraph (3).
- (3) In paragraph 8 (items included in return or claim in error)—
  - (a) for “should have been included in a return under Schedule 13” substitute “ should not have been so included ”; and
  - (b) for “been included in the right return” substitute “ not been included in the return or claim in question ”.
- (4) In section 32(6) of the <sup>M62</sup>Finance Act 1998 (meaning of “unrelieved surplus advance corporation tax”), for “paragraph 11” substitute “ paragraph 12 ”.
- (5) Subsections (1) to (3) above have effect—
  - (a) in relation to periods for which a return is required under paragraph 2 of Schedule 16 to the Taxes Act 1988 beginning on or after 6th April 1999; and
  - (b) in relation to accounting periods beginning on or after that date.
- (6) The amendment made by subsection (4) above shall be deemed always to have had effect.

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### Marginal Citations

M62 1998 c.36.

## 92 Group relief: consequences of reduction in surrenderable amount.

- (1) Part VIII of Schedule 18 to the Finance Act 1998 (claims for group relief) is amended as follows.
- (2) In paragraph 75 (reduction in amount available for surrender by way of group relief)—
  - (a) in sub-paragraph (1), for “amount available for relief” substitute “ total amount available for surrender ”; and
  - (b) in sub-paragraphs (2) and (4), before “amount available for surrender” insert “ total ”.
- (3) After that paragraph insert—

### “75A Assessment on other claimant companies

- (1) This paragraph applies where, after the surrendering company has given notice of consent to surrender, a claimant company (“the chargeable company”) has become liable to tax in consequence of receiving—
    - (a) notice of the withdrawal of consent, or a copy of a new notice of consent, under paragraph 75(3), or
    - (b) a copy of a notice containing directions by the Inland Revenue under paragraph 75(4).
  - (2) If any of the tax is unpaid six months after the chargeable company’s time limit for claims, the Inland Revenue may make an assessment to tax in the name of the chargeable company on any other company that has obtained group relief as a result of the surrender.
  - (3) The assessment may not be made more than two years after that time limit.
  - (4) The amount of the assessment must not exceed—
    - (a) the amount of the unpaid tax, or
    - (b) if less, the amount of tax which the other company saves by virtue of the surrender.
  - (5) A company assessed to an amount of tax under sub-paragraph (2) is entitled to recover from the chargeable company—
    - (a) a sum equal to that amount, and
    - (b) any interest on that amount which it has paid under section 87A of the <sup>M63</sup>Taxes Management Act 1970 (interest on unpaid corporation tax).
  - (6) For the purposes of this paragraph the chargeable company’s time limit for claims is the last of the dates mentioned in paragraph 74(1) on which the chargeable company could make or withdraw a claim for group relief for the accounting period for which the claim in question is made.”
- (4) In paragraph 76 (assessments to recover excessive group relief), after sub-paragraph (2) add—

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- “(3) If an assessment under this paragraph is made because a claimant company fails, or is unable, to amend its company tax return under paragraph 75(6), the assessment is not out of time if it is made within one year from—
- (a) the date on which the surrendering company gives notice of the withdrawal of consent, or (if later) sends a copy of a new notice of consent, to the claimant company under paragraph 75(3), or
  - (b) the date on which the Inland Revenue send the claimant company a copy of a notice containing their directions under paragraph 75(4).”
- (5) In section 87A(3) of the Taxes Management Act 1970 (interest on unpaid corporation tax assessed on other persons), for “section 96(8) of the <sup>M64</sup>Finance Act 1990” substitute “ paragraph 75A(2) of Schedule 18 to the <sup>M65</sup>Finance Act 1998 ”.
- (6) Section 96 of the Finance Act 1990 shall cease to have effect.
- (7) This section has effect in relation to accounting periods ending on or after 1st July 1999.

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**Marginal Citations**

**M63** 1970 c.9.

**M64** 1990 c.29.

**M65** 1998 c.36.

### 93 Company tax returns, etc.

- (1) The enactments mentioned in Schedule 11 to this Act have effect with the amendments specified there, which are minor amendments and amendments consequential on Schedule 18 to the Finance Act 1998 (company tax returns, assessments and claims, etc.).
- (2) The amendments made by Schedule 11 to this Act have effect in relation to accounting periods ending on or after 1st July 1999.

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