Finance Act 2006

2006 CHAPTER 25

U.K.

An Act to grant certain duties, to alter other duties, and to amend the law relating to the National Debt and the Public Revenue, and to make further provision in connection with finance. [19th July 2006]

Most Gracious Sovereign

WE, Your Majesty's most dutiful and loyal subjects, the Commons of the United Kingdom in Parliament assembled, towards raising the necessary supplies to defray Your Majesty's public expenses, and making an addition to the public revenue, have freely and voluntarily resolved to give and to grant unto Your Majesty the several duties hereinafter mentioned; and do therefore most humbly beseech Your Majesty that it may be enacted, and be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

PART 1 U.K.

EXCISE DUTIES

Tobacco products duty

1 Rates of tobacco products duty U.K.

(1) For the Table of rates of duty in Schedule 1 to the Tobacco Products Duty Act 1979 (c. 7) substitute—

"TABLE

1. Cigarettes	An amount equal to 22 per cent of the retail price plus £105.10 per thousand cigarettes.
2. Cigars	£153.07 per kilogram.
3. Hand-rolling tobacco	£110.02 per kilogram.
4. Other smoking tobacco and chewing tobacco	£67.30 per kilogram."

(2) This section shall be deemed to have come into force at 6 o'clock in the evening of 22nd March 2006.

VALID FROM 01/10/2006

2 Tobacco products duty: evasion U.K.

(1) After section 7 of the Tobacco Products Duty Act 1979 (c. 7) (regulations for management of duty) insert—

"7A Duty not to facilitate smuggling

(1) A manufacturer of cigarettes or hand-rolling tobacco shall so far as is reasonably practicable avoid—
(a) supplying cigarettes or hand-rolling tobacco to persons who are likely to smuggle them into the United Kingdom,
(b) supplying cigarettes or hand-rolling tobacco where the nature or circumstances of the supply makes it likely that they will be resupplied to persons who are likely to smuggle them into the United Kingdom, or
(c) otherwise facilitating the smuggling into the United Kingdom of cigarettes or hand-rolling tobacco.

(2) In particular, a manufacturer—
(a) in supplying cigarettes or hand-rolling tobacco to persons carrying on business in or in relation to a country other than the United Kingdom, shall consider whether the size or nature of the supply suggests that the products may be required for smuggling into the United Kingdom,
(b) shall maintain a written policy about steps to be taken for the purpose of complying with the duty under subsection (1), and
(c) shall provide a copy of the policy to the Commissioners on request.

(3) In this section a reference to smuggling products into the United Kingdom is a reference to importing them into the United Kingdom without payment of duty which is—
(a) chargeable under section 2, and
(b) payable by virtue of section 1(1) of the Finance (No. 2) Act 1992 (c. 48) (power to fix excise duty point).

(4) The Commissioners may notify a manufacturer in writing that they think the risk of smuggling into the United Kingdom is particularly great in relation to—
(a) products marketed under a specified brand name;
(b) products supplied to persons carrying on business in or in relation to a specified country or place.

(5) The Commissioners may by notice in writing require a manufacturer of cigarettes or hand-rolling tobacco to provide, within a specified period of time, specified information about—
(a) supply of products marketed under a brand name specified under subsection (4)(a);
(b) supply to persons carrying on business in or in relation to a country or place specified under subsection (4)(b);
(c) demand for cigarettes or hand-rolling tobacco in a country or place specified under subsection (4)(b).

(6) The Commissioners may issue guidance about the content of policies under subsection (2)(b).

(7) The Commissioners may make regulations—
(a) under which they are required to notify manufacturers of cigarettes or hand-rolling tobacco where products of a kind specified in the regulations are seized under section 139 of the Customs and Excise Management Act 1979 (c. 2) in circumstances specified in the regulations,
(b) specifying the procedure for notification,
(c) including provision about access to seized products for the purpose of determining who manufactured them, and
(d) requiring manufacturers to provide the Commissioners with information or documents, of a kind specified in the regulations or determined by the Commissioners, in relation to notified seizures.

7B Penalty for facilitating smuggling: initial notice

(1) Where the Commissioners think that a manufacturer has without reasonable excuse failed to comply with the duty under section 7A(1) they may give him written notice that they are considering requiring him to pay a penalty.

(2) In determining whether to give notice to a manufacturer under subsection (1) the Commissioners shall have regard to—
(a) the content of the manufacturer's policy under section 7A(2)(b),
(b) compliance with that policy,
(c) action taken pursuant to any notice under section 7A(4),
(d) compliance by the manufacturer with any notice under section 7A(5),
(e) the number, size and nature of seizures of which the manufacturer has been given notice by virtue of section 7A(7)(a),
(f) compliance by the manufacturer with any requirement by virtue of section 7A(7)(d),

(g) evidence about the level of demand for the manufacturer's products for consumption outside the United Kingdom, and
(h) any other matter that they think relevant.

(3) A notice must specify the matters to which the Commissioners have had regard in determining to give it.

(4) After the end of the period of six months beginning with the date on which a notice is given to a manufacturer, the Commissioners shall give him notice in writing either—
(a) that they require payment of a penalty, or
(b) that they do not require payment of a penalty.

(5) The Commissioners shall comply with subsection (4) during the period of 45 days beginning with the end of the period specified in that subsection; and for that purpose they shall consider—
(a) any representations made by the manufacturer during that period in such form and manner as the Commissioners may direct, and
(b) action taken by the manufacturer during that period.

7C Penalty for facilitating evasion: penalty notice

(1) A notice under section 7B(4)(a) (a "penalty notice") must—
(a) specify the amount of the penalty which the manufacturer is required to pay, and
(b) state the grounds on which the Commissioners think that the manufacturer has failed to comply with the duty under section 7A(1).

(2) The amount specified under subsection (1)(a) must not exceed £5 million; and in determining the amount to specify the Commissioners shall have regard to—
(a) the nature or extent of the manufacturer's failure to comply with the duty under section 7A(1),
(b) action taken by the manufacturer to secure compliance with that duty,
(c) the content of the manufacturer's policy under section 7A(2)(b),
(d) compliance with that policy,
(e) action taken pursuant to any notice under section 7A(4),
(f) compliance by the manufacturer with any notice under section 7A(5),
(g) the number, size and nature of seizures of which the manufacturer has been given notice by virtue of section 7A(7)(a),
(h) the loss of revenue by way of duty under section 2, or VAT, in respect of the products seized, and
(i) any other matter that they think relevant.

(3) A manufacturer who is given a penalty notice may require the Commissioners to review the decision to issue the notice; and—

(a) a requirement must be imposed by notice in writing given to the Commissioners before the end of the period of 45 days beginning with the date of the penalty notice,

(b) the Commissioners shall comply with a requirement given in accordance with paragraph (a),

(c) the Commissioners shall confirm, vary or withdraw the penalty notice, and

(d) the Commissioners shall be taken to have confirmed the penalty notice unless, within the period of 45 days beginning with the date of the requirement to conduct the review, they have varied or withdrawn it by notice in writing to the manufacturer.

(4) If following a requirement under subsection (3) the Commissioners confirm or vary the notice (or are taken to have confirmed it) the manufacturer may appeal to a VAT and duties tribunal.

(5) The tribunal may—

(a) cancel the penalty notice,

(b) reduce the penalty, or

(c) confirm the penalty notice.

7D Sections 7A to 7C: supplemental

(1) Payment of a penalty imposed under section 7B(4)(a) shall not be allowed as a deduction in computing income, profits or losses for purposes of income tax or corporation tax.

(2) A penalty may be enforced as a debt due to the Commissioners.

(3) In sections 7A to 7C and this section a reference to a manufacturer of cigarettes or hand-rolling tobacco includes a reference to a person who, in the opinion of the Commissioners—

(a) arranges to have cigarettes or hand-rolling tobacco manufactured, and

(b) is wholly or partly responsible for the initial supply of the products after manufacture.

(4) Where a manufacturer is a parent undertaking or a subsidiary undertaking (within the meaning of section 258 of the Companies Act 1985 (c. 6)) the Commissioners may—

(a) treat the parent and its subsidiaries as a single undertaking for the purpose of sections 7A to 7C and this section, and

(b) in particular, enforce a penalty imposed on the single undertaking as a debt owed by—

(i) the single undertaking,

(ii) the parent, or

(iii) any of the subsidiaries.

(5) A notice or guidance under section 7A(4) to (6)—

(a) may be issued to manufacturers generally or to one or more manufacturers or classes of manufacturer,

(b) may be expressed to apply to or in respect of manufacturers generally or only to or in respect of one or more specified manufacturers or classes of manufacturer,

(c) may make provision generally or only in relation to specified cases or circumstances,

(d) may make different provision in relation to different cases or circumstances, and

(e) may be varied, replaced or revoked.

(6) The Treasury may by order—

(a) amend the list in section 7B(2) or 7C(2) so as to—

(i) add an entry,

(ii) remove an entry, or

(iii) amend an entry;

(b) amend sections 7A to 7C and this section so as to alter the class of tobacco products in relation to which they apply.

(7) An order under subsection (6)—

(a) may include transitional, consequential or incidental provision,

(b) shall be made by statutory instrument,

(c) shall be laid before the House of Commons, and

(d) shall cease to have effect unless approved by resolution of the House of Commons within the period of 28 days beginning with the date on which it is laid (disregarding any period of dissolution or prorogation or of adjournment for more than four days)."

(2) At the end of section 9 of the Tobacco Products Duty Act 1979 (c. 7) (regulations) (which becomes subsection (1)) add—

"(2) Regulations under this Act—

(a) may enable the Commissioners to dispense with compliance with a provision of the regulations (whether absolutely or conditionally),

(b) may make provision generally or only in relation to specified cases or circumstances,

(c) may make different provision in relation to different cases or circumstances, and

(d) may include transitional, consequential or incidental provision."

(3) This section shall come into force in accordance with provision made by the Treasury by order.

(4) An order under subsection (3)—

(a) may include transitional, consequential or incidental provision, and

(b) shall be made by statutory instrument.

Subordinate Legislation Made

P1 S. 2(3) power fully exercised: 1.10.2006 appointed by {S.I. 2006/2367}, art. 2

VALID FROM 26/03/2006

Alcoholic liquor duties

3 Rate of duty on beer U.K.

(1) In section 36(1AA)(a) of ALDA 1979 (rate of duty on beer) for "£12.92" substitute " £13.26 ".

(2) This section shall be deemed to have come into force at midnight on 26th March 2006.

4 Rates of duty on wine and made-wine U.K.

(1) For Part 1 of the Table of rates of duty in Schedule 1 to ALDA 1979 (rates of duty on wine and made-wine) substitute—

"PART 1 U.K.

WINE AND MADE-WINE OF A STRENGTH NOT EXCEEDING 22 PER CENT

Description of wine or made-wine	*Rates of duty per hectolitre*
	£
Wine or made-wine of a strength not exceeding 4 per cent	53.06
Wine or made-wine of a strength exceeding 4 per cent but not exceeding 5.5 per cent	72.95
Wine or made-wine of a strength exceeding 5.5 per cent but not exceeding 15 per cent and not sparkling	172.17
Sparkling wine or sparkling made-wine of a strength exceeding 5.5 per cent but less than 8.5 per cent	166.70
Sparkling wine or sparkling made-wine of a strength of 8.5 per cent or of a strength exceeding 8.5 per cent but not exceeding 15 per cent	220.54
Wine or made-wine of a strength exceeding 15 per cent but not exceeding 22 per cent	229.55"

(2) This section shall be deemed to have come into force at midnight on 26th March 2006.

VALID FROM 19/07/2006

5 Repeal of provisions of ALDA 1979 of no practical utility etc U.K.

(1) The following provisions of ALDA 1979 shall cease to have effect—
- (a) section 12(4) (power to refuse or revoke distiller's licence where premises near to premises of a rectifier, registered brewer or vinegar-maker);
- (b) section 14 (duty on spirits – attenuation charge);
- (c) section 15(4) (provision of accommodation in distiller's warehouse);
- (d) section 18(5) (power to refuse licence as a rectifier where premises near to premises of a distillery);
- (e) section 21 (restrictions relating to rectifiers);
- (f) section 24 (restriction on carrying on of other trades by distiller or rectifier);
- (g) section 26 (importation and exportation of spirits);
- (h) section 32 (restriction on transfer of British spirits in warehouses);
- (i) section 35 (returns as to importation, manufacture, sale or use of alcohols);
- (j) section 55A (wine and made-wine of a strength not exceeding 5.5%);
- (k) section 67 (power to regulate keeping of dutiable alcoholic liquors by wholesalers and retailers);
- (l) section 69 (miscellaneous provisions as to wholesalers and retailers of spirits);
- (m) section 71 (penalty for mis-describing liquor as spirits);
- (n) section 74 (liquor to be deemed wine or spirits); and
- (o) section 82 (power to make regulations with respect to stills).

(2) In consequence of the repeal of section 55A of ALDA 1979, that Act is amended as follows.

(3) In section 54 (wine: charge of excise duty), in subsection (4A), for "wine to which section 55A below applies" substitute " wine of a strength not exceeding 5.5 per cent ".

(4) In section 55 (made-wine: charge of excise duty), in subsections (4A) and (5)(d), for "made-wine to which section 55A below applies" substitute " made-wine of a strength not exceeding 5.5 per cent ".

VALID FROM 19/07/2006

Hydrocarbon oil duties

6 Rates until 1st September 2006 U.K.

(1) HODA 1979 is amended as follows.

(2) In section 6(1A) (hydrocarbon oil: rates of duty)—
- (a) in paragraph (a) (ultra low sulphur petrol) for "£0.4832" substitute " £0.4710 ",

(b) in paragraph (aa) (sulphur-free petrol) for "£0.4832" substitute " £0.4710 ",
(c) in paragraph (b) (light oil other than ultra low sulphur petrol and sulphur-free petrol) for "£0.5766" substitute " £0.5620 ",
(d) in paragraph (c) (ultra low sulphur diesel) for "£0.4832" substitute " £0.4710 ",
(e) in paragraph (ca) (sulphur-free diesel) for "£0.4832" substitute " £0.4710 ", and
(f) in paragraph (d) (heavy oil other than ultra low sulphur diesel and sulphur-free diesel) for "£0.5465" substitute " £0.5327 ".

(3) In section 6AA(3) (biodiesel) for "£0.2832" substitute " £0.2710 ".

(4) In section 6AD(3) (bioethanol) for "£0.2832" substitute " £0.2710 ".

(5) In section 8(3) (road fuel gas)—
(a) in paragraph (a) for "£0.1080" substitute " £0.0900 ", and
(b) in paragraph (b) for "£0.1270" substitute " £0.0900 ".

(6) In section 13A(1) (rebate on unleaded petrol) for "£0.0617" substitute " £0.0601 ".

(7) The following statutory instruments shall cease to have effect—
(a) the Excise Duties (Surcharges or Rebates) (Hydrocarbon Oils etc.) Order 2005 (S.I. 2005/1978),
(b) the Excise Duties (Road Fuel Gases) (Reliefs) Regulations 2005 (S.I. 2005/1979), and
(c) the Excise Duties (Surcharges or Rebates) (Hydrocarbon Oils etc.) (Amendment) Order 2005 (S.I. 2005/3330).

VALID FROM 01/09/2006

7 Rates from 1st September 2006 U.K.

(1) HODA 1979 is amended as follows.

(2) In section 6(1A) (hydrocarbon oil: rates of duty)—
(a) in paragraph (a) (ultra low sulphur petrol) for "£0.4710" substitute " £0.4835 ",
(b) in paragraph (aa) (sulphur-free petrol) for "£0.4710" substitute " £0.4835 ",
(c) in paragraph (b) (light oil other than ultra low sulphur petrol and sulphur-free petrol) for "£0.5620" substitute " £0.5768 ",
(d) in paragraph (c) (ultra low sulphur diesel) for "£0.4710" substitute " £0.4835 ",
(e) in paragraph (ca) (sulphur-free diesel) for "£0.4710" substitute " £0.4835 " and
(f) in paragraph (d) (heavy oil other than ultra low sulphur diesel and sulphur-free diesel) for "£0.5327" substitute " £0.5468 ".

(3) In section 6AA(3) (biodiesel) for "£0.2710" substitute " £0.2835 ".

(4) In section 6AD(3) (bioethanol) for "£0.2710" substitute " £0.2835 ".

(5) In section 8(3) (road fuel gas)—

(a) in paragraph (a) for "£0.0900" substitute " £0.1081 ", and
(b) in paragraph (b) for "£0.0900" substitute " £0.1221 ".

(6) In section 11(1) (rebate on heavy oil)—
(a) in paragraph (a) for "£0.0604" substitute " £0.0729 ",
(b) in paragraph (b) for "£0.0644" substitute " £0.0769 ", and
(c) in paragraph (ba) for "£0.0644" substitute " £0.0769 ".

(7) In section 13A(1) (rebate on unleaded petrol) for "£0.0601"substitute " £0.0617 ".

(8) In section 14(1) (rebate on light oil for use as furnace oil) for "£0.0604" substitute " £0.0729 ".

(9) This section comes into force on 1st September 2006.

8 Road vehicles U.K.

After section 27(1A) of HODA 1979 (interpretation) insert—

"(1B) The Treasury may by order made by statutory instrument amend Schedule 1 to this Act so as to—
(a) add a class of excepted vehicle,
(b) remove a class of excepted vehicle, or
(c) redefine a class of excepted vehicle.

(1C) Section 2A(2) and (3) above shall apply to an order under subsection (1B)."

VALID FROM 19/07/2006

Betting and gaming duties

9 General betting duty: gaming machines U.K.

(1) In section 2(2) of the Betting and Gaming Duties Act 1981 (c. 63) (general betting duty: exemptions) after paragraph (c) add—

", or
(d) a bet made using a gaming machine, within the meaning of section 23 of the Value Added Tax Act 1994."

(2) This section shall have effect in respect of anything done on or after 6th December 2005 (with the reference to section 23 of the Value Added Tax Act 1994 being a reference to that definition as it is treated as having effect in relation to things done on or after that date by virtue of section 16(6) and (7) below).

10 Rates of gaming duty U.K.

(1) For the Table in section 11(2) of FA 1997 (rates of gaming duty) substitute—

"TABLE

Part of gross gaming yield	*Rate*
The first £546,500	2.5 per cent.
The next £1,212,500	12.5 per cent.
The next £1,212,500	20 per cent.
The next £2,124,000	30 per cent.
The remainder	40 per cent."

(2) This section has effect in relation to accounting periods beginning on or after 1st April 2006.

VALID FROM 19/07/2006

Amusement machine licence duty

11 Definition of "gaming machine" U.K.

(1) For section 25(1) to (1B) of the Betting and Gaming Duties Act 1981 (c. 63) (amusement machine licence duty: definition of "amusement machine") substitute—

"(1) A machine is an amusement machine for the purposes of this Act if it is—

(a) a gaming machine, and

(b) a prize machine.

(1A) In this Act "gaming machine" means a machine that is a gaming machine for the purposes of section 23 of the Value Added Tax Act 1994 (c. 23)."

(2) In section 25(1C) of the Betting and Gaming Duties Act 1981 ("prize machine") for "an amusement machine is a prize machine" substitute " a machine is a prize machine ".

(3) In Schedule 3 to the Betting and Gaming Duties Act 1981 (bingo duty) omit paragraph 6 (machine bingo).

(4) Subsections (1) and (2) shall have effect in relation to the provision of a machine on or after 1st August 2006.

(5) Subsection (3) shall have effect in relation to accounting periods beginning on or after 1st August 2006.

12 Classes of machine and rates of duty U.K.

(1) For section 21(3AA) to (3E) of the Betting and Gaming Duties Act 1981 (c. 63) (special licences and excepted machines) substitute—

"(4) A special amusement machine licence shall be granted only—

(a) for a small prize machine,

(b) if conditions prescribed by the Commissioners by regulations are satisfied in relation to the application for the licence, the applicant and the machine, and

(c) for a period of twelve months.

(5) The following are excepted machines—

(a) machines that are not gaming machines,

(b) a gaming machine in respect of which—

(i) the cost of a single game does not exceed 30p,

(ii) the maximum value of the prize for winning a single game does not exceed £8, and

(iii) the maximum cash component of the prize for winning a single game does not exceed £5,

(c) a gaming machine in respect of which—

(i) the cost of a single game does not exceed 10p, and

(ii) the maximum value of the prize for winning a single game does not exceed £5, and

(d) two-penny machines."

(2) In section 22(2) of that Act (gaming machines) paragraph (b) shall cease to have effect.

(3) For section 23(2) and (3) of that Act (rates) substitute—

"(2) The appropriate amount for each machine shall be determined in accordance with the following Table by reference to—

(a) the period for which the licence is granted, and

(b) the machine's category determined in accordance with subsection (3).

(1) *Months for which licence granted*	*(2)* *Category A*	*(3)* *Category B1*	*(4)* *Category B2*	*(5)* *Category B3*	*(6)* *Category B4*	*(7)* *Category C*
1	£435	£220	£170	£170	£155	£65
2	£875	£435	£345	£345	£310	£130
3	£1310	£655	£515	£515	£465	£195
4	£1750	£875	£690	£690	£625	£255
5	£2185	£1095	£860	£860	£780	£320
6	£2625	£1310	£1030	£1030	£935	£385
7	£3060	£1530	£1205	£1205	£1090	£450
8	£3500	£1750	£1375	£1375	£1245	£515
9	£3935	£1970	£1545	£1545	£1400	£580
10	£4375	£2185	£1720	£1720	£1555	£645

11	£4810	£2405	£1890	£1890	£1715	£705
12	£5000	£2500	£1965	£1965	£1780	£735

(3) The categories of gaming machine are as follows—

Category A – a gaming machine which is not within another category.

Category B1 – a gaming machine which is not within a lower category and in respect of which—

(i) the cost of a single game does not exceed £2, and

(ii) the maximum value of the prize for winning a single game does not exceed £4,000.

Category B2 – a gaming machine which is not within a lower category and in respect of which—

(i) the cost of a single game does not exceed £100, and

(ii) the maximum value of the prize for winning a single game does not exceed £500.

Category B3 – a gaming machine which is not within a lower category and in respect of which—

(i) the cost of a single game does not exceed £1, and

(ii) the maximum value of the prize for winning a single game does not exceed £500.

Category B4 – a gaming machine which is not within a lower category and in respect of which—

(i) the cost of a single game does not exceed £1, and

(ii) the maximum value of the prize for winning a single game does not exceed £250.

Category C—

(i) a gaming machine in respect of which the cost of a single game does not exceed 5p, and

(ii) a gaming machine in respect of which—

(a) the cost of a single game does not exceed 50p, and

(b) the maximum value of the prize for winning a single game does not exceed £25.

(4) Where a machine offers more than one class of game, it falls within a category only if it satisfies the requirements of that category in respect of each class.

(5) Where a prize is anything other than money its value for the purposes of this section is—

(a) in the case of a voucher or token that may be exchanged for, or used in place of, an amount of money, that amount,

(b) in the case of a voucher or token that does not fall within paragraph (a) and that may be exchanged for something other than money, the cost that the person providing the machine would incur in obtaining that thing from a person not connected with him (within the meaning of section 839 of the Income and Corporation Taxes Act 1988), and

(c) in any other case, the cost that the person providing the machine would incur in obtaining the prize from a person not connected with him (within that meaning).

(6) For the purposes of subsection (3) Category A is the highest category and Category C is the lowest."

(4) For section 25(4) to (7) of the Betting and Gaming Duties Act 1981 (c. 63) substitute—

"(4) A machine which has a number of individual playing positions allowing persons to play simultaneously (whether or not participating in the same game) shall be treated for the purposes of sections 21 to 24 as that number of separate machines."

(5) Section 25A of that Act (power to modify definitions) shall cease to have effect.

(6) In section 26(2) of that Act (supplemental) the following shall cease to have effect—

(a) the definition of " video machine ", and

(b) in the definition of "two-penny machine", the words from "and "five-penny machine"" to the end.

(7) Paragraphs 2 and 3 of Schedule 4 to that Act (exemptions) shall cease to have effect.

(8) Subsections (1) to (7) shall have effect in relation to the grant of an amusement machine licence on or after 1st August 2006.

(9) An amusement machine licence granted before that time shall continue to have effect (for which purpose the Betting and Gaming Duties Act 1981 shall have effect without the amendments effected by this section).

(10) But subsection (9) shall not apply in relation to machines which become gaming machines by virtue of section 11 of this Act.

(11) For the purpose of the application of Schedule 4A to that Act (default licences) in respect of a period before 1st August 2006 no account shall be taken of an amendment effected by subsections (1) to (7) above or by section 11 above.

VALID FROM 23/03/2006

Vehicle excise duty

13 Rates U.K.

(1) Schedule 1 to VERA 1994 (annual rates of duty) is amended as follows.

(2) In paragraph 1(2) (general rate of duty), for "£170" substitute " £175 ".

(3) For paragraph 1B (rates for light passenger vehicles) substitute—

"1B The annual rate of vehicle excise duty applicable to a vehicle to which this Part of this Schedule applies shall be determined in accordance with Table A, where the vehicle is first registered before 23rd March 2006, or Table B, where the vehicle is first registered on or after that date, by reference to—

(a) the applicable CO_2 emissions figure, and

(b) whether the vehicle qualifies for the reduced rate of duty, or is liable to the standard rate or the premium rate of duty.

Table A: Vehicles first registered before 23rd March 2006

CO_2 emissions figure		***Rate***		
(1)	***(2)***	***(3)***	***(4)***	***(5)***
Exceeding	***Not exceeding***	***Reduced rate***	***Standard rate***	***Premium rate***
g/km	g/km	£	£	£
100	120	30	40	50
120	150	90	100	110
150	165	115	125	135
165	185	140	150	160
185		180	190	195

Table B: Vehicles first registered on or after 23rd March 2006

CO_2 emissions figure		***Rate***		
(1)	***(2)***	***(3)***	***(4)***	***(5)***
Exceeding	***Not exceeding***	***Reduced rate***	***Standard rate***	***Premium rate***
g/km	g/km	£	£	£
100	120	30	40	50
120	150	90	100	110
150	165	115	125	135
165	185	140	150	160
185	225	180	190	195
225		200	210	215"

(4) In paragraph 1C (reduced rate for light passenger vehicles)—

(a) for sub-paragraph (2) substitute—

"(2) Condition A is that the vehicle—

(a) is constructed—

(i) so as to be propelled by a relevant type of fuel, or

(ii) so as to be capable of being propelled by any of a number of relevant types of fuel, or

(b) is constructed or modified—

(i) so as to be propelled by a prescribed type of fuel, or

(ii) so as to be capable of being propelled by any of a number of prescribed types of fuel,

and complies with any other requirements prescribed for the purposes of this condition.", and

(b) after sub-paragraph (5) insert—

"(6) In this paragraph—

"bioethanol" has the meaning given in section 2AB of the Hydrocarbon Oil Duties Act 1979,

"relevant type of fuel" means—

(a) bioethanol, or

(b) a mixture of bioethanol and unleaded petrol, if the proportion of bioethanol by volume is at least 85%, and

"unleaded petrol" has the meaning given in section 1(3C) of the Hydrocarbon Oil Duties Act 1979.

(7) The Secretary of State may, with the consent of the Treasury, by regulations amend sub-paragraph (6)."

(5) In paragraph 1J(a) (rates for light goods vehicles), for "£165" substitute " £170 ".

(6) In paragraph 1K(a) (lower-emission vans), after "1st March 2003" insert " and before 1st January 2007 ".

(7) In paragraph 2(1) (rates for motorcycles)—

(a) in paragraph (b), for "£30" substitute " £31 ",

(b) in paragraph (c), for "£45" substitute " £46 ", and

(c) in paragraph (d), for "£60" substitute " £62 ".

(8) In Schedule 2 to VERA 1994 (exempt vehicles), after paragraph 24 insert—

"**Light passenger vehicles with low CO_2 emissions**

25 A vehicle is an exempt vehicle if—

(a) it is a vehicle to which Part 1A of Schedule 1 applies, and

(b) the applicable CO_2 emissions figure (as defined in paragraph 1A(3) and (4) of that Schedule) for the vehicle does not exceed 100 g/km."

(9) Subsection (8) comes into force on 23rd March 2006; but nothing in that subsection has the effect that a nil licence is required to be in force in respect of a vehicle while a vehicle licence is in force in respect of it.

(10) The rest of this section has effect in relation to licences taken out on or after that date.

VALID FROM 19/07/2006

14 Reduced pollution certificates U.K.

In section 61B of VERA 1994 (reduced pollution certificates), for subsection (2) substitute—

"(2) For the purposes of this Act, the reduced pollution requirements are satisfied with respect to a vehicle at any time if, at that time, prescribed requirements relating to the vehicle's emissions are satisfied as a result of—

(a) the design, construction or equipment of the vehicle as manufactured; or

(b) adaptations of a prescribed description having been made to the vehicle after a prescribed date.

(2A) Different requirements may be prescribed under subsection (2) for vehicles first registered at different times."

VALID FROM 19/07/2006

15 Late renewal supplement U.K.

In VERA 1994, after section 7B insert—

"7C Recovery of section 7A supplements: Scotland

(1) The Secretary of State may by regulations provide for the recovery of supplement that has become payable under section 7A by diligence authorised by summary warrant.

(2) Regulations under subsection (1) may, in particular, provide—

(a) for such summary warrants—

(i) to be granted by the sheriff on the application of the Secretary of State; and

(ii) to authorise any of the diligences mentioned in subsection (3);

(b) for such applications to be accompanied by a certificate mentioned in subsection (4); and

(c) for the fees and outlays of sheriff officers incurred in executing such summary warrants to be chargeable against the debtor.

(3) The diligences referred to in subsection (2)(a)(ii) are—

(a) an attachment;

(b) an earnings arrestment;

(c) an arrestment and action of furthcoming or sale.

(4) The certificate referred to in subsection (2)(b) is a certificate by the Secretary of State —

(a) stating that none of the persons specified in the application has paid the supplement due;
(b) stating that payment of the amount due from each such person has been demanded from him;
(c) stating whether in response to that demand any such person disputes liability to pay; and
(d) specifying the amount due from and unpaid by each such person.

(5) No fee shall be chargeable by the sheriff officer against the debtor for—
(a) collecting; or
(b) accounting to the Secretary of State for,

sums paid to him by the debtor in respect of the amount owing.

(6) No summary warrant for recovery of supplement payable under section 7A may be granted against a person if—
(a) he disputes liability to pay; or
(b) an action for payment to recover such supplement from him has already been raised.

(7) Failure to respond to a demand to pay shall not be taken to mean liability to pay is disputed.

(8) An action for payment to recover supplement payable under section 7A may be raised against a person notwithstanding that a summary warrant has already been granted for recovery of such supplement from him but only if none of the diligences mentioned in subsection (3) has been executed against him.

(9) Where such an action is raised, the summary warrant shall cease to have effect in relation to such person.

(10) This section extends to Scotland only."

VALID FROM 19/07/2006

PART 2 U.K.

VALUE ADDED TAX

Gaming machines

16 Gaming machines U.K.

(1) Section 23 of VATA 1994 (gaming machines) shall be amended as follows.

(2) In subsection (1)—
(a) for "plays a game of chance" substitute " gambles ", and
(b) omit "to play".

(3) In subsection (2) for "playing" substitute " gambling ".

(4) In subsection (3)—

(a) for "playing" substitute " gambling ", and

(b) for "to play" substitute " to use ".

(5) For subsection (4) substitute—

"(4) In this section "gaming machine" means a machine which is designed or adapted for use by individuals to gamble (whether or not it can also be used for other purposes).

(5) But—

(a) a machine is not a gaming machine to the extent that it is designed or adapted for use to bet on future real events,

(b) a machine is not a gaming machine to the extent that—

(i) it is designed or adapted for the playing of bingo, and

(ii) bingo duty is charged under section 17 of the Betting and Gaming Duties Act 1981 (c. 63) on the playing of that bingo, or would be charged but for paragraphs 1 to 5 of Schedule 3 to that Act, and

(c) a machine is not a gaming machine to the extent that—

(i) it is designed or adapted for the playing of a real game of chance, and

(ii) the playing of the game is dutiable gaming for the purposes of section 10 of the Finance Act 1997 (c. 16), or would be dutiable gaming but for subsections (3) and (4) of that section.

(6) In this section—

(a) a reference to gambling is a reference to—

(i) gaming within the meaning of section 6 of the Gambling Act 2005 (c. 19), and

(ii) betting within the meaning of section 9 of that Act,

(b) a reference to a machine is a reference to any apparatus which uses or applies mechanical power, electrical power or both,

(c) a reference to a machine being designed or adapted for a purpose includes a reference to a machine to which anything has been done as a result of which it can reasonably be expected to be used for that purpose,

(d) a reference to a machine being adapted includes a reference to computer software being installed on it,

(e) "real" has the meaning given by section 353(1) of that Act,

(f) "game of chance" has such meaning as may be prescribed by the Treasury by order,

(g) "bingo" means any version of that game, irrespective of by what name it is described.

(7) The Treasury may by order amend subsections (4) to (6)."

(6) This section shall have effect in relation to anything done on or after 6th December 2005.

(7) In the application of section 23(5)(c) of VATA 1994 as substituted by this section in relation to anything done before 1st November 2006, "game of chance" shall have the same meaning as in the Gaming Act 1968 (c. 65).

Land

17 Buildings and land U.K.

(1) The Treasury may by order—
- (a) make provision for substituting Schedule 10 to VATA 1994 (buildings and land) for the purpose of rewriting that Schedule with amendments;
- (b) make provision amending sections 83 and 84 of that Act (appeals) in connection with any provision of that Schedule as so rewritten.

(2) The Treasury may by order make provision repealing—
- (a) paragraph (b) of item 1 in Group 1 of Schedule 9 to VATA 1994 (exempt supplies of land not to include supplies made pursuant to a developmental tenancy, developmental lease or developmental licence), and
- (b) Note (7) in that Group (meaning of developmental tenancy, developmental lease or developmental licence).

The power conferred by this subsection is not to be regarded as affecting in any way the power to vary Schedule 9 to that Act conferred by section 31(2) of that Act.

(3) The Treasury may by order make provision repealing—
- (a) section 26 of FA 1995 (co-owners etc of buildings and land), and
- (b) the enactments inserted by that section (section 51A of VATA 1994 and paragraph 8(2) and (3) of Schedule 10 to that Act).

(4) Any power to make an order under this section includes power—
- (a) to make any provision that might be made by an Act, and
- (b) to make incidental, consequential, supplemental, or transitional provision or savings.

(5) The consequential provision that may be made under subsection (4)(b) includes provision amending any Act or any instrument made under any Act.

(6) Any order under this section—
- (a) is to be made by statutory instrument,
- (b) must be laid before the House of Commons, and
- (c) unless approved by that House before the end of the period of 28 days beginning with the date on which it is made, ceases to have effect at the end of that period.

(7) But, if an order so ceases to have effect, this does not affect—
- (a) anything previously done under the order, or
- (b) the making of a new order.

(8) In reckoning the period of 28 days no account is to be taken of any time—
- (a) during which Parliament is dissolved or prorogued, or
- (b) during which the House of Commons is adjourned for more than 4 days.

Imported works of art etc

18 Value of imported works of art etc: auctioneer's commission U.K.

(1) Section 21 of VATA 1994 (value of imported goods) is amended as follows.

(2) In subsection (2) (value of imported goods to include taxes and expenses), after "shall" insert " (subject to subsection (2A) below) ".

(3) After subsection (2) insert—

"(2A) Where—

(a) any goods falling within subsection (5) below are sold by auction at a time when they are subject to the procedure specified in subsection (2B) below, and

(b) arrangements made by or on behalf of the purchaser of the goods following the sale by auction result in the importation of the goods from a place outside the member States,

the value of the goods shall not be taken for the purposes of this Act to include, in relation to that importation, any commission or premium payable to the auctioneer in connection with the sale of the goods.

(2B) That procedure is the customs procedure for temporary importation with total relief from import duties provided for in Articles 137 to 141 of Council Regulation 2913/92/EEC establishing the Community Customs Code."

(4) Subsections (1) to (3) come into force on such day as the Treasury may by order made by statutory instrument appoint.

Commencement Information

I1 S. 18 wholly in force at 1.9.2006; s. 18(4) in force at Royal Assent; s. 18(1)-(3) in force (1.9.2006) by S.I. 2006/2149, **art. 2**

Avoidance and fraud

19 Missing trader intra-community fraud U.K.

(1) After section 55 of VATA 1994 (customers to account for tax on supplies of gold etc) insert—

"55A Customers to account for tax on supplies of goods of a kind used in missing trader intra-community fraud

(1) Subsection (3) applies if—

(a) a taxable (but not a zero-rated) supply of goods ("the relevant supply") is made to a person ("the recipient"),

(b) the relevant supply is of goods to which this section applies (see subsection (9)),

(c) the relevant supply is not an excepted supply (see subsection (10)), and

(d) the total value of the relevant supply, and of corresponding supplies made to the recipient in the month in which the relevant supply is made, exceeds £1,000 ("the disregarded amount").

(2) For this purpose a "corresponding supply" means a taxable (but not a zero-rated) supply of goods which—
(a) is a supply of goods to which this section applies, and
(b) is not an excepted supply.

(3) The relevant supply, and the corresponding supplies made to the recipient in the month in which the relevant supply is made, are to be treated for the purposes of Schedule 1—
(a) as taxable supplies of the recipient (as well as taxable supplies of the person making them), and
(b) in so far as the recipient is supplied in connection with the carrying on by him of any business, as supplies made by him in the course or furtherance of that business,

but the relevant supply, and those corresponding supplies, are to be so treated only in so far as their total value exceeds the disregarded amount.

(4) Nothing in subsection (3)(b) requires any supply to be disregarded for the purposes of Schedule 1 on the grounds that it is a supply of capital assets of the recipient's business.

(5) For the purposes of subsections (1) and (3), the value of a supply is determined on the basis that no VAT is chargeable on the supply.

(6) If—
(a) a taxable person makes a supply of goods to a person ("the recipient") at any time,
(b) the supply is of goods to which this section applies and is not an excepted supply, and
(c) the recipient is a taxable person at that time and is supplied in connection with the carrying on by him of any business,

it is for the recipient, on the supplier's behalf, to account for and pay tax on the supply and not for the supplier.

(7) The relevant enforcement provisions apply for the purposes of this section, in relation to any person required under subsection (6) to account for and pay any VAT, as if that VAT were VAT on a supply made by him.

(8) For this purpose "the relevant enforcement provisions" means so much of—
(a) this Act and any other enactment, and
(b) any subordinate legislation,

as has effect for the purposes of, or in connection with the enforcement of, any obligation to account for and pay VAT.

(9) For the purposes of this section, goods are goods to which this section applies if they are of a description specified in an order made by the Treasury.

(10) For the purposes of this section, an "excepted supply" means a supply which is of a description specified in, or determined in accordance with, provision contained in an order made by the Treasury.

(11) Any order made under subsection (10) may describe a supply of goods by reference to—

(a) the use which has been made of the goods, or

(b) other matters unrelated to the characteristics of the goods themselves.

(12) The Treasury may by order substitute for the sum for the time being specified in subsection (1)(d) such greater sum as they think fit.

(13) The Treasury may by order make such amendments of any provision of this Act as they consider necessary or expedient for the purposes of this section or in connection with this section.

An order under this subsection may confer power on the Commissioners to make regulations or exercise any other function, but no order may be made under this subsection on or after 22nd March 2009.

(14) Any order made under this section (other than one under subsection (12)) may—

(a) make different provision for different cases, and

(b) contain supplementary, incidental, consequential or transitional provisions.".

(2) After section 26A of VATA 1994 (disallowance of input tax where consideration not paid) insert—

"26AB Adjustment of output tax in respect of supplies under section 55A

(1) This section applies if—

(a) a person is, as a result of section 26A, taken not to have been entitled to any credit for input tax in respect of any supply, and

(b) the supply is one in respect of which the person is required under section 55A(6) to account for and pay VAT.

(2) The person is entitled to make an adjustment to the amount of VAT which he is so required to account for and pay.

(3) The amount of the adjustment is to be equal to the amount of the credit for the input tax to which the person is taken not to be entitled.

(4) Regulations may make such supplementary, incidental, consequential or transitional provisions as appear to the Commissioners to be necessary or expedient for the purposes of this section.

(5) Regulations under this section may in particular—

(a) make provision for the manner in which, and the period for which, the adjustment is to be given effect,

(b) require the adjustment to be evidenced and quantified by reference to such records and other documents as may be specified by or under the regulations,

(c) require the person entitled to the adjustment to keep, for such period and in such form and manner as may be so specified, those records and documents,

(d) make provision for readjustments if any credit for input tax is restored under section 26A.

(6) Regulations under this section may make different provision for different circumstances.”.

(3) In section 65 of VATA 1994 (inaccuracies in EC sales statements)—

(a) at the end insert—

“(7) This section applies in relation to a statement which is required to be submitted to the Commissioners in accordance with regulations under paragraph 2(3A) of Schedule 11 as it applies in relation to an EC sales statement.”, and

(b) in consequence of the amendment made by paragraph (a) the heading becomes “Inaccuracies in EC sales statements or in statements relating to section 55A”.

(4) In section 66 of VATA 1994 (failure to submit EC sales statements)—

(a) at the end insert—

“(10) This section applies in relation to a statement which is required to be submitted to the Commissioners in accordance with regulations under paragraph 2(3A) of Schedule 11 as it applies in relation to an EC sales statement.”, and

(b) in consequence of the amendment made by paragraph (a) the heading becomes “ Failure to submit EC sales statement or statement relating to section 55A ”.

(5) In section 69 of VATA 1994 (breaches of regulatory provisions), in subsection (1) (failure to comply with a requirement imposed under provisions mentioned in the paragraphs in that subsection), after paragraph (b) insert—

“(ba) paragraph 2(3B) of Schedule 11; or”.

(6) In section 97 of VATA 1994 (orders, rules and regulations), in subsection (4) (orders which cease to have effect unless approved by House of Commons), after paragraph (e) insert—

“(ea) an order under section 55A(13);”.

(7) In Schedule 11 to VATA 1994 (administration, collection and enforcement), in paragraph 2 (accounting for VAT and payment of VAT), after sub-paragraph (3) insert—

“(3A) Regulations under this paragraph may require the submission to the Commissioners by taxable persons, at such times and intervals, in such cases and in such form and manner as may be—

(a) specified in the regulations, or

(b) determined by the Commissioners in accordance with powers conferred by the regulations,

of statements containing such particulars of supplies to which section 55A(6) applies in which the taxable persons are concerned, and of the persons concerned in those supplies, as may be prescribed.

(3B) Regulations under this paragraph may make provision, in relation to the first occasion on which a person makes a supply of goods to which section 55A(6) applies, for requiring the person to give to the Commissioners such notification of the supply at such time and in such form and manner as may be specified in the regulations.".

(8) The amendments made by this section have effect in relation to supplies made on or after such day as the Treasury may by order made by statutory instrument appoint.

But no order may be made under this subsection on or after 22nd March 2009.

(9) An order under subsection (8) may contain transitional provision and savings.

Subordinate Legislation Made

P2 S. 19(8) power fully exercised: 1.6.2007 appointed by {S.I. 2007/1419}, art. 2

20 Power to inspect goods U.K.

(1) In Schedule 11 to VATA 1994 (administration, collection and enforcement), paragraph 10 (entry and search of premises and persons) is amended as follows.

(2) After sub-paragraph (2) (power to inspect premises and goods found on them) insert—

"(2A) The power under sub-paragraph (2) above to inspect any goods includes, in particular,—

(a) power to mark the goods, or anything containing the goods, for the purpose of indicating that they have been inspected, and

(b) power to record any information (which may be obtained by electronic or any other means) relating to the goods that have been inspected.".

21 Directions to keep records where belief VAT might not be paid U.K.

(1) VATA 1994 is amended as follows.

(2) After section 69A (breach of record-keeping requirements etc in relation to transactions in gold) insert—

"69B Breach of record-keeping requirements imposed by directions

(1) If any person fails to comply with a requirement imposed under paragraph 6A(1) of Schedule 11, the person is liable to a penalty.

(2) The amount of the penalty is equal to £200 multiplied by the number of days on which the failure continues (up to a maximum of 30 days).

(3) If any person fails to comply with a requirement to preserve records imposed under paragraph 6A(6) of Schedule 11, the person is liable to a penalty of £500.

(4) If it appears to the Treasury that there has been a change in the value of money since—

(a) the day on which the Finance Act 2006 is passed, or

(b) (if later) the last occasion when the power conferred by this subsection was exercised,

they may by order substitute for the sums for the time being specified in subsections (2) and (3) such other sums as appear to them to be justified by the change.

(5) But any such order does not apply to a failure which began before the date on which the order comes into force.

(6) A failure by any person to comply with any requirement mentioned in subsection (1) or (3) does not give rise to a liability to a penalty under this section if the person concerned satisfies—

(a) the Commissioners, or

(b) on appeal, a tribunal,

that there is a reasonable excuse for the failure.

(7) If by reason of conduct falling within subsection (1) or (3) a person—

(a) is assessed to a penalty under section 60, or

(b) is convicted of an offence (whether under this Act or otherwise),

that conduct does not also give rise to a penalty under this section.".

(3) In section 76(1) (assessment of amounts due by way of penalty, interest or surcharge) for "69A", in both places, substitute " 69B ".

(4) In section 83 (appeals)—

(a) in paragraph (n) (penalties or surcharges by virtue of any of sections 59 to 69A) for "69A" substitute " 69B " and

(b) after paragraph (z) (conditions imposed by virtue of paragraph 2B(2)(c) or 3(1) of Schedule 11) insert—

"(zza) a direction under paragraph 6A of Schedule 11;".

(5) In section 84 (further provision relating to appeals) after subsection (7A) (appeals against directions mentioned in section 83(wa)) insert—

"(7B) Where there is an appeal against a decision to make such a direction as is mentioned in section 83(zza)—

(a) the tribunal shall not allow the appeal unless it considers that the Commissioners could not reasonably have been satisfied that there were grounds for making the direction;

(b) the direction shall have effect pending the determination of the appeal.".

(6) In Schedule 11 (administration, collection and enforcement), after paragraph 6 (duty to keep records) insert—

"6A (1) The Commissioners may direct any taxable person named in the direction to keep such records as they specify in the direction in relation to such goods as they so specify.

(2) A direction under this paragraph may require the records to be compiled by reference to VAT invoices or any other matter.

(3) The Commissioners may not make a direction under this paragraph unless they have reasonable grounds for believing that the records specified in the direction might assist in identifying taxable supplies in respect of which the VAT chargeable might not be paid.

(4) The taxable supplies in question may be supplies made by—
(a) the person named in the direction, or
(b) any other person.

(5) A direction under this paragraph—
(a) must be given by notice in writing to the person named in it,
(b) must warn that person of the consequences under section 69B of failing to comply with it, and
(c) remains in force until it is revoked or replaced by a further direction.

(6) The Commissioners may require any records kept in pursuance of this paragraph to be preserved for such period not exceeding 6 years as they may require.

(7) Sub-paragraphs (4) to (6) of paragraph 6 (preservation of information by means approved by the Commissioners) apply for the purposes of this paragraph as they apply for the purposes of that paragraph.

(8) This paragraph is without prejudice to the power conferred by paragraph 6(1) to make regulations requiring records to be kept.

(9) Any records required to be kept by virtue of this paragraph are in addition to any records required to be kept by virtue of paragraph 6.".

22 Treatment of credit vouchers U.K.

(1) VATA 1994 is amended as follows.

(2) In section 97 (orders, rules and regulations), in subsection (4) (orders which cease to have effect unless approved by House of Commons), after paragraph (f) insert—
"(fa) an order under paragraph 3(4) of Schedule 10A;".

(3) In paragraph 3 of Schedule 10A (treatment of credit vouchers), after sub-paragraph (3) (circumstances in which consideration for supply of credit voucher not to be disregarded under sub-paragraph (2) for the purposes of Act) insert—

"(4) The Treasury may by order specify other circumstances in which sub-paragraph (2) above does not apply.".

PART 3 U.K.

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

VALID FROM 19/07/2006

CHAPTER 1 U.K.

INCOME TAX AND CORPORATION TAX: CHARGE AND RATE BANDS

Income tax

23 Charge and rates for 2006-07 U.K.

Income tax shall be charged for the year 2006-07, and for that year—

(a) the starting rate shall be 10%;

(b) the basic rate shall be 22%;

(c) the higher rate shall be 40%.

Corporation tax

24 Charge and main rate for financial year 2007 U.K.

Corporation tax shall be charged for the financial year 2007 at the rate of 30%.

25 Small companies' rate and fraction for financial year 2006 U.K.

For the financial year 2006—

(a) the small companies' rate shall be 19%, and

(b) the fraction mentioned in section 13(2) of ICTA (marginal relief for small companies) shall be 11/400ths.

26 Abolition of corporation tax starting rate and non-corporate distribution rate U.K.

(1) Section 13AA of ICTA (corporation tax starting rate) shall cease to have effect.

(2) Section 13AB of ICTA (the non-corporate distribution rate), and Schedule A2 to that Act (supplementary provisions in relation to that rate), shall cease to have effect.

(3) In section 13A of ICTA (close investment-holding companies), in subsection (1) (meaning of "close investment-holding company" for purposes of sections 13(1) and 13AA(8)), omit "or 13AA(8)".

(4) In section 468 of ICTA (authorised unit trusts), in subsection (1A) (rate of corporation tax in relation to such trusts), for "and sections 13, 13AA and 13AB shall not apply" substitute " and section 13 shall not apply ".

(5) In section 468A of ICTA (open-ended investment companies), in subsection (1) (rate of corporation tax in relation to such companies), for "(and sections 13, 13AA and 13AB shall not apply)" substitute " (and section 13 shall not apply) ".

(6) In paragraph 1(a) of Schedule 12 to FA 1989 (provision of information for the purposes of close companies provisions), for "13 to 13A" substitute " 13, 13ZA, 13A ".

(7) In paragraph 8(1) of Schedule 18 to FA 1998 (tax calculation in company tax return), in the second step, omit "or 13AA(2)">.

(8) The amendments made by this section have effect for the financial year 2006 and subsequent financial years (but see also subsections (9) to (11)).

(9) In the case of an accounting period (a "straddling period")—

(a) beginning before 1st April 2006, and

(b) ending on or after that date,

sections 13AA and 13AB of, and Schedule A2 to, ICTA ("the repealed provisions") apply as if the different parts of the straddling period falling in the different financial years were separate accounting periods.

(10) Where the rate of corporation tax charged on a company's basic profits for any such separate accounting period ending with 31st March 2006 is determined in accordance with any of the repealed provisions, section 13 of ICTA (small companies' relief) also so applies.

(11) For the purpose of treating different parts of the straddling period as separate accounting periods in accordance with subsections (9) and (10), the profits and basic profits of the straddling period are to be apportioned between those separate accounting periods.

VALID FROM 19/07/2006

CHAPTER 2 U.K.

RELIEFS FOR BUSINESS

Group relief

27 Group relief where surrendering company not resident in UK U.K.

Schedule 1 (which makes provision in relation to group relief where the surrendering company is not resident in the United Kingdom) has effect.

Research and development

28 Relief for research and development: subjects of clinical trials U.K.

(1) Schedule 2 (which amends Schedule 20 to FA 2000 and Schedules 12 and 13 to FA 2002 so as to make provision relating to payments to subjects of clinical trials) has effect.

(2) The amendments made by paragraph 2 of Schedule 2 to Schedule 12 to FA 2002 (large companies etc) have effect in relation to expenditure incurred on or after 1st April 2006.

(3) Except as provided by subsection (4), the amendments made by Schedule 2 to—

(a) Schedule 20 to FA 2000 (small or medium-sized enterprises),

(b) Schedule 13 to FA 2002 (vaccine research etc),

have effect in relation to expenditure incurred on or after the appointed day.

(4) The amendment made by paragraph 1(3) of Schedule 2 (insertion of paragraph 6A of Schedule 20 to FA 2000), in its application for the purposes of Schedule 12 to FA 2002 by virtue of the amendments made to Schedule 12 by paragraph 2 of Schedule 2, has effect in relation to expenditure incurred on or after 1st April 2006.

(5) "The appointed day" means such day as the Treasury may by order appoint; and different days may be so appointed for different provisions or different purposes.

(6) The days that may be appointed by an order under this section include days earlier than the day on which this Act is passed, but not days earlier than 1st April 2006.

29 Claims for relief for research and development U.K.

Schedule 3 (which amends Schedule 18 to FA 1998 in connection with claims for tax relief for expenditure on research and development) has effect.

Capital allowances

30 Temporary increase in amount of first-year allowances for small enterprises U.K.

(1) The amount of a first-year allowance under section 44 of CAA 2001 (expenditure incurred by small or medium-sized enterprises) shall be determined, in the case of expenditure to which this subsection applies, as if the percentage specified in the entry relating to that section in the Table in section 52(3) of that Act were 50%.

(2) Subsection (1) applies to expenditure incurred by a small enterprise (within the meaning of section 44 of that Act) in the period of 12 months beginning with—

(a) 1st April 2006, if the small enterprise is within the charge to corporation tax, or

(b) 6th April 2006, if the small enterprise is within the charge to income tax.

(3) Accordingly, in section 52(3) of CAA 2001, for the sentence following the Table substitute—

"In the case of expenditure qualifying under section 44, see also—

(a) section 142 of the Finance Act 2004 (substitution of 50% in the case of expenditure incurred by a small enterprise in 2004-05 or financial year 2004);

(b) section 30 of the Finance Act 2006 (substitution of 50% in the case of expenditure incurred by a small enterprise in 2006-07 or financial year 2006).".

VALID FROM 01/01/2007

CHAPTER 3 U.K.

FILMS AND SOUND RECORDINGS

Modifications etc. (not altering text)

C1 Pt. 3 Ch. 3 applied (with modifications) (29.3.2007) by The Corporation Tax (Taxation of Films) (Transitional Provisions) Regulations 2007 (S.I. 2007/1050), **reg. 3-12** (with effect reg. 1(2)) (as amended by Corporation Tax Act 2009 (c. 4), Sch. 2 para. 131)

Introductory

31 Meaning of "film" and related expressions U.K.

(1) In this Chapter "film" includes any record, however made, of a sequence of visual images that is capable of being used as a means of showing that sequence as a moving picture.

(2) For the purposes of this Chapter each part of a series of films is treated as a separate film, unless—

(a) the films form a series with not more than 26 parts,

(b) the combined playing time is not more than 26 hours, and

(c) the series constitutes a self-contained work or is a series of documentaries with a common theme,

in which case the films are treated as a single film.

(3) References in this Chapter to a film include the film soundtrack.

(4) For the purposes of this Chapter a film is completed when it is first in a form in which it can reasonably be regarded as ready for copies of it to be made and distributed for presentation to the general public.

32 Meaning of "film production company" U.K.

(1) The following provisions have effect for the purposes of this Chapter as regards the meaning of "film production company".

(2) There cannot be more than one film production company in relation to a film.

(3) A company that (otherwise than in partnership)—

(a) is responsible—
(i) for pre-production, principal photography and post production of the film, and
(ii) for delivery of the completed film,
(b) is actively engaged in production planning and decision-making during pre-production, principal photography and post production, and
(c) directly negotiates, contracts and pays for rights, goods and services in relation to the film,

is the film production company in relation to the film.

(4) In relation to a qualifying co-production, a company that (otherwise than in partnership)—
(a) is a co-producer, and
(b) makes an effective creative, technical and artistic contribution to the film,

is the film production company in relation to the film.

(5) If there is more than one company meeting the description in subsection (3) or (4), the company that is most directly engaged in the activities referred to in that subsection is the film production company in relation to the film.

(6) If there is no company meeting the description in subsection (3) or (4), there is no film production company in relation to the film.

33 Meaning of "film-making activities" etc U.K.

(1) In this Chapter "film-making activities", in relation to a film, means the activities involved in development, pre-production, principal photography and post production of the film.

(2) If all or any of the images in a film are generated by computer, references in this Chapter to principal photography shall be read as references to, or as including, the generation of those images.

(3) The Treasury may by regulations—
(a) amend subsections (1) and (2);
(b) provide that specified activities are or are not to be regarded for the purposes of this Chapter as film-making activities or as film-making activities of a particular description;
(c) provide that, in relation to a specified description of film, references in this Chapter to film-making activities of a particular description are to be read as references to such activities as may be specified.

"Specified" here means specified in the regulations.

(4) No such regulations shall be made unless a draft of the regulations has been laid before and approved by a resolution of the House of Commons.

34 Meaning of "production expenditure" and related expressions U.K.

(1) In this Chapter, in relation to a film—

"production expenditure" means expenditure on film-making activities in connection with the film, and "core expenditure" means production expenditure on pre-production, principal photography and post production.

(2) For the purposes of this Chapter a "limited-budget film" means a film whose core expenditure is £20 million or less.

(3) In determining whether a film is a limited-budget film, any core expenditure that—

(a) is incurred by a person under or as a result of a transaction entered into directly or indirectly between that person and a connected person, and

(b) might have been expected to have been of a greater amount ("the arm's length amount") if the transaction had been between independent persons dealing at arm's length,

is treated as having been of an amount equal to the arm's length amount.

(4) Section 839 of ICTA (connected persons) applies for the purposes of subsection (3).

35 Meaning of "UK expenditure" U.K.

(1) For the purposes of this Chapter "UK expenditure", in relation to a film, means expenditure on goods or services that are used or consumed in the United Kingdom.

(2) Any apportionment of expenditure for the purposes of this Chapter as between UK expenditure and non-UK expenditure shall be made on a fair and reasonable basis.

(3) The Treasury may by regulations amend subsection (1).

(4) No such regulations shall be made unless a draft of the regulations has been laid before and approved by a resolution of the House of Commons.

36 Meaning of "qualifying co-production" and "co-producer" U.K.

In this Chapter—

(a) "qualifying co-production" means a film that falls to be treated as a national film in the United Kingdom by virtue of an agreement between Her Majesty's Government in the United Kingdom and any other government, international organisation or authority,

(b) "co-producer" means a person who is a co-producer for the purposes of the agreement.

Taxation of activities of film production company

37 Taxation of activities of film production company U.K.

Schedule 4 to this Act (taxation of activities of film production company) has effect for the purposes of corporation tax.

Film tax relief

38 Films qualifying for film tax relief U.K.

A film qualifies for film tax relief if the conditions specified in the following sections are met—

(a) section 39 (intended theatrical release),
(b) section 40 (British film), and
(c) section 41 (UK expenditure).

39 Conditions of relief: intended theatrical release U.K.

(1) The film must be intended for theatrical release.

(2) For this purpose—
(a) "theatrical release" means exhibition to the paying public at the commercial cinema;
(b) a film is not regarded as intended for theatrical release unless it is intended that a significant proportion of the earnings from the film should be obtained by such exhibition.

(3) Whether this condition is met is determined for each accounting period of the film production company during which film-making activities are carried on in relation to the film, in accordance with the following rules.

(4) If at the end of an accounting period the film is intended for theatrical release, the condition is treated as having been met throughout that period (subject to subsection (5)(b)).

(5) If at the end of an accounting period the film is not intended for theatrical release, the condition—
(a) is treated as having been not met throughout that period, and
(b) cannot be met in any subsequent accounting period.

This does not affect any entitlement of the company to relief in an earlier accounting period for which the condition was met.

40 Conditions of relief: British film U.K.

The film must be certified by the Secretary of State as a British film under Schedule 1 to the Films Act 1985 (c. 21).

41 Conditions of relief: UK expenditure U.K.

(1) Not less than 25% of the core expenditure on the film incurred—
(a) in the case of a British film other than a qualifying co-production, by the film production company,
(b) in the case of a qualifying co-production, by the co-producers,

must be UK expenditure.

(2) The Treasury may by regulations amend the percentage specified in subsection (1).

(3) No such regulations shall be made unless a draft of the regulations has been laid before and approved by a resolution of the House of Commons.

42 Film tax relief: further provisions U.K.

(1) Schedule 5 to this Act contains further provisions about film tax relief.

(2) In that Schedule—

Part 1 deals with entitlement to the relief;

Part 2 provides for the certification of British films for the purposes of the relief;

Part 3 makes provision for claims for the relief;

Part 4 is about provisional entitlement to relief.

Film losses

43 Films: restriction on use of losses while film in production U.K.

(1) This section applies to restrict the use that may be made of a film production company's trading loss for an accounting period before—

(a) that in which the film is completed, or

(b) where the company does not complete the film, that in which it abandons film-making activities in relation to the film.

(2) A trading loss for such a period is not available for loss relief except to the extent that it may be carried forward under section 393(1) of ICTA to be set against profits of the same trade in a later period.

(3) In this section "loss relief" includes any means by which a loss might be used to reduce the amount in respect of which the film production company, or any other person, is chargeable to tax.

44 Films: use of losses in later periods U.K.

(1) This section applies—

(a) to the accounting period—

(i) in which the film is completed, or

(ii) if the film production company does not complete the film, in which it abandons film-making activities in relation to the film, and

(b) to any subsequent accounting period during which the trade continues.

(2) Where a trading loss is carried forward to any such period under section 393(1) of ICTA from an earlier period in relation to which section 43 applied (restriction on use of losses while film is in production), so much (if any) of the loss as is not attributable to film tax relief may be treated for the purposes of loss relief as if it were a loss incurred in the period to which it is carried forward.

(3) The amount of the trading loss for an accounting period to which this section applies that may be—

(a) set against other profits of the same or an earlier period under section 393A of ICTA, or

(b) surrendered as group relief under section 403 of that Act,

is restricted to the amount (if any) that is not attributable to film tax relief.

(4) For the purposes of this section the amount of a trading loss in any period that is attributable to film tax relief is calculated by deducting from the total amount of the loss the amount there would have been if there had been no additional deduction under Schedule 5 in that or any earlier period.

(5) In this section "loss relief" includes any means by which a loss might be used to reduce the amount in respect of which the film production company, or any other person, is chargeable to tax.

(6) This section does not apply to a loss to the extent that it is carried forward or surrendered under section 45 (terminal losses).

45 Films: terminal losses U.K.

(1) This section applies where—
   (a) a film production company ("company A") ceases to carry on a trade in relation to a qualifying film, and
   (b) if the company had not ceased to carry on the trade, it could have carried forward an amount under section 393(1) of ICTA 1988 to be set against profits of the same trade in a later period (the "terminal loss").

(2) If on cessation of the trade company A is carrying on a trade in relation to another qualifying film, it may on making a claim elect that the terminal loss or a part of it shall be treated as if it were a loss brought forward under section 393(1) to be set against profits of that other trade in the accounting period following that at the end of which the cessation takes place.

(3) If on cessation of the trade carried on by company A there is another film production company ("company B") which—
   (a) is carrying on a trade in relation to a qualifying film (its "qualifying trade"), and
   (b) is in the same group as company A for the purposes of Chapter 4 of Part 10 of ICTA (group relief),

the whole or part of the terminal loss may be surrendered by company A to company B.

(4) On the making of a claim by company B the amount surrendered shall be treated as if it were a loss brought forward by that company under section 393(1) to be set against the profits of its qualifying trade for the accounting period of that company following that in which or at the end of which the cessation takes place of the qualifying trade carried on by company A.

(5) The Treasury may, in relation to the surrender of a loss under subsection (3) and the resulting claim under subsection (4), make provision by regulations corresponding, subject to such adaptations or other modifications as appear to them to be appropriate, to that made by Part 8 of Schedule 18 to FA 1998 (company tax returns: claims for group relief).

(6) In this section—
   (a) references to the trade carried on by a film production company in relation to a film are to the trade that it is treated as carrying on under Schedule 4, and
   (b) references to a qualifying film are to a film that meets the conditions for film tax relief (see section 38).

Films: withdrawal of existing reliefs

46 Films: withdrawal of existing reliefs (corporation tax) U.K.

(1) Sections 40A to 40D of F(No.2)A 1992 (treatment of expenditure on production or acquisition of film) do not apply—
  (a) to production expenditure on a film that commences principal photography on or after 1st April 2006;
  (b) to acquisition expenditure—
    (i) on a film that commences principal photography on or after 1st April 2006, or
    (ii) that is incurred on or after 1st October 2007 on a film (whenever made).

(2) Section 41 of that Act (preliminary expenditure) does not apply to expenditure incurred after the date on which this Act is passed.

(3) Section 42 of that Act and section 48 of F(No.2)A 1997 (special reliefs for British films) do not apply—
  (a) to production expenditure on a film that commences principal photography on or after 1st April 2006;
  (b) to acquisition expenditure—
    (i) on a film that commences principal photography on or after 1st April 2006, or
    (ii) that is incurred on or after 1st October 2007.

(4) References in this section to expenditure on the acquisition of a film, or to sums received from the disposal of a film, are to expenditure on the acquisition of, or sums received from the disposal of, the original master version of the film.

(5) For this purpose—
  (a) "original master version" means the original negative, tape or disc;
  (b) references to the original master version of a film include the original master version of the film soundtrack (if any);
  (c) references to the original master version include any rights in the original master version that are held or acquired with it.

47 Films: withdrawal of existing reliefs (income tax) U.K.

(1) Sections 134 and 135 of ITTOIA 2005 (treatment of expenditure on production or acquisition of film) do not apply—
  (a) to production expenditure on a film that commences principal photography on or after 1st April 2006;
  (b) to acquisition expenditure—
    (i) on a film that commences principal photography on or after 1st April 2006, or
    (ii) that is incurred on or after 1st October 2007 on a film (whenever made).

(2) Section 137 of that Act (preliminary expenditure) does not apply to expenditure incurred after the date on which this Act is passed.

(3) Sections 138 to 144 of that Act (special reliefs for British films) do not apply—
- (a) to production expenditure on a film that commences principal photography on or after 1st April 2006;
- (b) to acquisition expenditure—
  - (i) on a film that commences principal photography on or after 1st April 2006, or
  - (ii) that is incurred on or after 1st October 2007.

(4) References in this section to expenditure on the acquisition of a film, or to sums received from the disposal of a film, are to expenditure on the acquisition of, or sums received from the disposal of, the original master version of the film.

(5) For this purpose—
- (a) "original master version" means the original negative, tape or disc;
- (b) references to the original master version of a film include the original master version of the film soundtrack (if any);
- (c) references to the original master version include any rights in the original master version that are held or acquired with it.

Corporation tax treatment of sound recordings

48 Sound recordings: revenue nature of expenditure U.K.

(1) If a company carrying on a trade incurs expenditure on the production or acquisition of the original master version of a sound recording, the expenditure is treated for corporation tax purposes as expenditure of a revenue nature.

(2) If expenditure is treated under this section as revenue in nature, sums received by the company from the disposal of the original master version of the sound recording—
- (a) are treated for corporation tax purposes as receipts of a revenue nature, and
- (b) are brought into account in calculating the profits of the relevant period in which they are received.

(3) For this purpose sums received from the disposal of the original master version include—
- (a) sums received from the disposal of any interest or right in or over the original master version (including an interest or right created by the disposal), and
- (b) insurance, compensation or similar money derived from the original master version.

49 Sound recordings: allocation of expenditure U.K.

(1) This section applies in calculating for the purposes of corporation tax the profits or losses of a company from a trade where—
- (a) the trade consists of or includes the exploitation of original master versions of sound recordings, and
- (b) the original master versions do not constitute trading stock of the trade as defined by section 100(2) of ICTA.

(2) Expenditure that is—

(a) incurred on the production or acquisition of the original master version of a sound recording, and

(b) expenditure of a revenue nature (whether as a result of section 48 or otherwise),

must be allocated to relevant periods in accordance with this section.

(3) The company must allocate to a relevant period so much of the expenditure as is just and reasonable having regard to—

(a) the amount of the expenditure that remains unallocated at the beginning of the period,

(b) the proportion that the estimated value of the original master version of the sound recording that is realised in that period (whether by way of income or otherwise) bears to the aggregate of the value so realised and the estimated remaining value of the original master version at the end of the period, and

(c) the need to bring the whole of the expenditure into account over the time during which the value of the original master version is expected to be realised.

(4) The company may also allocate to a relevant period a further amount, so long as the total amount allocated does not exceed the value of the original master version of the sound recording realised in that period (whether by way of income or otherwise).

50 Sound recordings: interpretation U.K.

For the purposes of sections 48 and 49 (corporation tax treatment of sound recordings)—

(a) "sound recording" does not include a film soundtrack;

(b) "original master version" means the master tape or master audio disc of the recording;

(c) references to the original master version of a sound recording include any rights in the original master version that are held or acquired with it; and

(d) "relevant period" means—

(i) a period for which accounts of the trade are made up, or

(ii) if no accounts of the trade are made up for a period, an accounting period of the company.

Supplementary provisions

51 Corporation tax: films and sound recordings as intangible fixed assets U.K.

(1) In Schedule 29 to FA 2002 (corporation tax: gains and losses from intangible fixed assets), for paragraph 80 (exclusion of films and sound recordings) substitute—

"**Assets excluded: certain films**

80A (1) This Schedule does not apply to an intangible fixed asset held by a film production company to the extent that it represents production expenditure on a film to which Schedule 4 of the Finance Act 2006 applies.

Expressions used in this sub-paragraph have the same meaning as in Chapter 3 of Part 3 of the Finance Act 2006.

(2) Except as regards royalties, this Schedule does not apply to an intangible fixed asset held by a company to the extent that it represents expenditure by the company—

(a) on the production of the original master version of a film that commenced principal photography before 1st April 2006;

(b) on the acquisition before 1st October 2007 of the original master version of a film that commenced principal photography before 1st April 2006.

(3) In sub-paragraph (2)—

(a) "film" has the same meaning as in Chapter 3 Part 3 of the Finance Act 2006;

(b) "original master version" means the original negative, tape or disc;

(c) references to the original master version of a film include the original master version of the film soundtrack (if any);

(d) references to the original master version include any rights in the original master version that are held or acquired with it.

Assets excluded except as regards royalties: sound recordings

80B (1) Except as regards royalties, this Schedule does not apply to an intangible fixed asset held by a company to the extent that it represents expenditure by the company on the production or acquisition of the master version of a sound recording.

(2) For this purpose—

(a) "sound recording" does not include a film soundtrack;

(b) "master version" means master tape or master audio disc of the recording;

(c) references to the master version include any rights in the master version that are held or acquired with it.".

(2) In determining for the purposes of that Schedule whether an asset representing production expenditure on a film was created before or after 1st April 2002, the asset shall be treated as created when the film was completed.

52 Films: application of provisions to certain films already in production U.K.

(1) The Treasury may make provision by regulations for the application of the provisions of this Chapter, and of any enactment amended by this Chapter, in relation to films that commenced principal photography before 1st April 2006 but are not completed before 1st January 2007.

(2) The regulations may provide for such adaptations and modifications of the provisions of this Chapter, of any enactment amended by this Chapter and of any other provision of the Corporation Tax Acts, as appear to the Treasury appropriate for that purpose.

(3) The regulations may—

(a) provide that the provisions of this Chapter (or any specified provisions of this Chapter) shall have effect as if they had been in force at all material times;
(b) require or authorise the making or amendment of returns, or the making of assessments, in relation to past accounting periods or tax years (whether before or after the commencement of this Chapter);
(c) authorise the making of any such return, amendment or assessment notwithstanding any limitation on the time within which a return, amendment or assessment may normally be made.

(4) No regulations shall be made under this section unless a draft of them has been laid before and approved by a resolution of the House of Commons.

53 Films and sound recordings: commencement and power to alter dates U.K.

(1) The provisions of this Chapter come into force on such day as the Treasury may appoint by order.

(2) The Treasury may by order amend any provision of this Chapter that refers to 1st April 2006, the date on which this Act is passed or 1st October 2007 so as to substitute a reference to a later date.

Subordinate Legislation Made

P3 S. 53(1) power fully exercised: 1.1.2007 appointed by {S.I. 2006/3399}, art. 2

VALID FROM 19/07/2006

Chapter 4 U.K.

Charities

54 Transactions with substantial donors U.K.

(1) After section 506 of ICTA insert—

"506A Transactions with substantial donors

(1) This section applies to the following transactions—
(a) the sale or letting of property by a charity to a substantial donor,
(b) the sale or letting of property to a charity by a substantial donor,
(c) the provision of services by a charity to a substantial donor,
(d) the provision of services to a charity by a substantial donor,
(e) an exchange of property between a charity and a substantial donor,
(f) the provision of financial assistance by a charity to a substantial donor,
(g) the provision of financial assistance to a charity by a substantial donor, and
(h) investment by a charity in the business of a substantial donor.

(2) For the purposes of this section a person is a substantial donor to a charity in respect of a chargeable period if—

(a) the charity receives relievable gifts of at least £25,000 from him in a period of 12 months in which the chargeable period wholly or partly falls, or

(b) the charity receives relievable gifts of at least £100,000 from him in a period of six years in which the chargeable period wholly or partly falls;

and if a person is a substantial donor to a charity in respect of a chargeable period by virtue of paragraph (a) or (b), he is a substantial donor to the charity in respect of the following five chargeable periods.

(3) A payment made by a charity to a substantial donor in the course of or for the purposes of a transaction to which this section applies shall be treated for the purposes of section 505 as non-charitable expenditure.

(4) If the terms of a transaction to which this section applies are less beneficial to the charity than terms which might be expected in a transaction at arm's length, the charity shall be treated for the purposes of section 505 as incurring non-charitable expenditure equal to that amount which the Commissioners for Her Majesty's Revenue and Customs determine as the cost to the charity of the difference in terms.

(5) A payment by a charity of remuneration to a substantial donor shall be treated for the purposes of section 505 as non-charitable expenditure unless it is remuneration, for services as a trustee, which is approved by—

(a) the Charity Commission,

(b) another body with responsibility for regulating charities by virtue of legislation having effect in respect of any Part of the United Kingdom, or

(c) a court.

506B Section 506A: exceptions

(1) Section 506A shall not apply to a transaction within section 506A(1)(b) or (d) if the Commissioners for Her Majesty's Revenue and Customs determine that the transaction—

(a) takes place in the course of a business carried on by the substantial donor,

(b) is on terms which are no less beneficial to the charity than those which might be expected in a transaction at arm's length, and

(c) is not part of an arrangement for the avoidance of any tax.

(2) Section 506A shall not apply to the provision of services to a substantial donor if the Commissioners determine that the services are provided—

(a) in the course of the actual carrying out of a primary purpose of the charity, and

(b) on terms which are no more beneficial to the substantial donor than those on which services are provided to others.

(3) Section 506A shall not apply to the provision of financial assistance to a charity by a substantial donor if the Commissioners determine that the assistance—

(a) is on terms which are no less beneficial to the charity than those which might be expected in a transaction at arm's length, and

(b) is not part of an arrangement for the avoidance of any tax.

(4) Section 506A shall not apply to investment by a charity in the business of a substantial donor where the investment takes the form of the purchase of shares or securities listed on a recognised stock exchange.

(5) A disposal at an undervalue to which section 587B applies shall not be a transaction to which section 506A applies (but may be taken into account in the application of section 506A(2)).

(6) A disposal at an undervalue to which section 257(2) of the 1992 Act (gifts of chargeable assets) applies shall not be a transaction to which section 506A applies (but may be taken into account in the application of section 506A(2)).

(7) In the application of section 506A payments by a charity, or benefits arising to a substantial donor from a transaction, shall be disregarded in so far as they—

(a) relate to a donation by the donor, and

(b) do not exceed the relevant limit in relation to the donation for the purposes of section 339 or section 25 of the Finance Act 1990.

(8) A company which is wholly owned by a charity within the meaning of section 339(7AB) shall not be treated as a substantial donor in relation to the charity which owns it (or any of the charities which own it).

(9) A registered social landlord or housing association shall not be treated as a substantial donor in relation to a charity with which it is connected; and for that purpose—

(a) "registered social landlord or housing association" means a body entered on a register maintained under—

(i) section 1 of the Housing Act 1996,

(ii) section 57 of the Housing (Scotland) Act 2001, or

(iii) Article 14 of the Housing (Northern Ireland) Order 1992, and

(b) a body and a charity are connected if (and only if)—

(i) the one is wholly owned, or subject to control, by the other, or

(ii) both are wholly owned, or subject to control, by the same person.

506C Sections 506A and 506B: supplemental

(1) A gift is "relievable" for the purposes of section 506A(2) if relief is available in respect of it under—

(a) section 83A,

(b) section 339,

(c) sections 587B and 587C,

(d) section 25 of the Finance Act 1990 (individual gift aid),
(e) section 257 of the 1992 Act (gifts of chargeable assets),
(f) section 63 of the Capital Allowances Act (gifts of plant and machinery),
(g) sections 713 to 715 of ITEPA 2003 (payroll giving),
(h) section 108 of ITTOIA 2005 (gifts of trading stock), or
(i) sections 628 and 630 of ITTOIA 2005 (gifts from settlor-interested trusts).

(2) A charity is treated as incurring expenditure in accordance with section 506A(4) at such time (or times) as the Commissioners determine.

(3) Section 506A applies to a transaction entered into in a chargeable period with a person who is a substantial donor in respect of that period, even if it was not until after the transaction was entered into that he first satisfied the definition of "substantial donor" in respect of that period.

(4) Either or both of subsections (3) and (4) of section 506A may be applied to a single transaction; but any amount of non-charitable expenditure which a charity is treated as incurring under section 506A(3) in respect of a transaction shall be deducted from any amount which it would otherwise be treated as incurring under section 506A(4) in respect of the transaction.

(5) Two or more connected charities shall be treated as a single charity for the purposes of section 506A and 506B and this section; and for this purpose "connected" means connected in a matter relating to the structure, administration or control of a charity.

(6) Where remuneration is paid otherwise than in money, section 506A(5) shall apply as to a payment in money of the amount that would, under Part 3 of ITEPA 2003, be the cash equivalent of the remuneration as a benefit.

(7) In sections 506A and 506B and this section—
(a) a reference to a substantial donor or other person includes a reference to a person connected with him within the meaning of section 839,
(b) "financial assistance" includes, in particular—
(i) the provision of a loan, guarantee or indemnity, and
(ii) entering into alternative finance arrangements within the meaning of section 46 of the Finance Act 2005, and
(c) a reference to a gift of a specified amount includes a reference to a non-monetary gift of that value.

(8) On an appeal against an assessment the Special Commissioners may review a decision of the Commissioners in connection with section 506A.

(9) The Treasury may by regulations vary a sum, or a period of time, specified in section 506A(2)."

(2) This section shall have effect in relation to transactions occurring on or after 22nd March 2006; and for that purpose a person may satisfy the definition of "substantial donor" by reference to gifts made at any time.

(3) But this section shall not have effect in relation to a transaction entered into in pursuance of a contract made before 22nd March 2006 (otherwise than in pursuance of a variation on or after that date).

55 Non-charitable expenditure U.K.

(1) For section 505(3) to (8) of ICTA (charities: exemption: non-qualifying expenditure) substitute—

"(3) In subsections (4) to (7)—

(a) "charitable expenditure" has the meaning given by section 506,

(b) "relief" means relief or exemption under—

(i) subsection (1) above,

(ii) section 56(3)(c) above,

(iii) section 761(6) below,

(iv) section 256 of the 1992 Act (charities), or

(v) section 46 of the Finance Act 2000 (small trades),

(c) "relievable income and gains" means income and gains which would be eligible for relief or exemption under any of those provisions (disregarding subsections (4) to (6)), and

(d) "total income and gains" means the aggregate of—

(i) relievable income and gains,

(ii) income and gains, other than relievable income and gains, chargeable to tax, and

(iii) donations, legacies and other similar receipts that are not chargeable to tax.

(4) If a charity incurs (or is treated as incurring) non-charitable expenditure in a chargeable period, relief shall be disallowed in respect of such amount of relievable income and gains as equals the amount of the non-charitable expenditure.

(5) If in a chargeable period a charity's non-charitable expenditure exceeds its total income and gains the excess shall be treated as non-charitable expenditure of the previous period for the purposes of subsection (4); and any necessary adjustments shall be made, whether by making assessments or otherwise.

(6) Subsection (5) may apply to a chargeable period wholly or partly as a result of the application of that subsection in respect of a later period; but no excess of non-charitable expenditure shall be treated as non-charitable expenditure of a chargeable period which ended more than six years before the end of the period in which the expenditure was actually incurred.

(7) Where an amount of a charity's relievable income and gains is disallowed for relief by subsection (4) (whether or not as a result of the application of subsection (5))—

(a) the charity may by notice to the Board specify which items of income or gains are to be disallowed, but

(b) if the Board requires the charity to give a notice under paragraph (a) and the charity fails to comply within the period of 30 days beginning with the date on which the requirement is imposed, the Board shall determine which items to disallow."

(2) In section 506 of ICTA (section 505: supplemental)—

(a) in subsection (1) for the definitions of "qualifying expenditure" and "non-qualifying expenditure" substitute—

""charitable expenditure" means (subject to subsections (3) to (5) below) expenditure which is exclusively for charitable purposes.",

(b) in subsection (2) omit "and subsection (1) above,"

(c) in subsection (3) for "qualifying expenditure" substitute " charitable expenditure ",

(d) in subsection (4) for "non-qualifying expenditure" substitute " non-charitable expenditure ",

(e) in subsection (5) for "non-qualifying expenditure" substitute " non-charitable expenditure ",

(f) omit subsection (6), and

(g) for the heading, substitute " Charitable and non-charitable expenditure ".

(3) Part III of Schedule 20 to ICTA (apportionment of non-qualifying expenditure to earlier chargeable periods) shall cease to have effect.

(4) In section 256(1) of TCGA 1992 (charities) for "section 505(3)" substitute " section 505(4) ".

(5) This section shall have effect in relation to chargeable periods beginning on or after 22nd March 2006; and—

(a) section 505(5) and (6) of ICTA as substituted by subsection (1) above may cause an amount to be treated as non-charitable expenditure of a chargeable period beginning before that date, but

(b) the amount of relief or exemption to be disallowed in respect of a chargeable period beginning before that date shall not exceed the amount which would have been disallowed in respect of that period if sections 505 and 506 of ICTA (and Part III of Schedule 20) had not been amended by this section.

56 Trade profits U.K.

(1) In section 505 of ICTA (charities: exemptions) after subsection (1A) insert—

"(1B) For the purpose of subsection (1)(e)—

(a) where a trade is exercised partly in the course of the actual carrying out of a primary purpose of the charity and partly otherwise, each part shall be treated as a separate trade (for which purpose reasonable apportionment of expenses and receipts shall be made), and

(b) where the work in connection with the trade is carried out partly but not mainly by beneficiaries, the part in connection with which work is carried on by beneficiaries and the other part shall be treated as separate trades (for which purpose reasonable apportionment of expenses and receipts shall be made)."

(2) Subsection (1) shall have effect in respect of chargeable periods beginning on or after 22nd March 2006.

57 Gift aid relief for companies wholly owned by one or more charities U.K.

(1) Section 339 of ICTA (charges on income: donations to charity) is amended as follows.

(2) In subsection (1)(a) (distributions, other than those within section 209(4), not qualifying donations) after "distribution" insert " (but see subsections (1A) and (1B) below) ".

(3) After subsection (1) insert—

"(1A) In determining whether a payment is to be regarded as a distribution for the purposes of subsection (1)(a) above, the words in section 209(5) from "; and any amount" to the end are to be disregarded.

(1B) A payment (other than a dividend) made by a company which is wholly owned by a charity is not to be regarded as a distribution for the purposes of subsection (1)(a) above.".

(4) The amendments made by this section have effect in relation to payments made on or after 1st April 2006.

58 Extension of restrictions on gift aid payments by close companies U.K.

(1) Section 339 of ICTA (charges on income: donations to charity) is amended as follows.

(2) In subsection (3B) (payment made by a close company not qualifying donation if subject to repayment etc) for "close company" substitute " company ".

(3) In subsection (3E) (payment made by a close company not qualifying donation if it involves acquisition of property by charity, otherwise than by way of gift, from the company or a connected person) for "close company" substitute " company ".

(4) The amendments made by this section have effect in relation to payments made on or after 1st April 2006.

VALID FROM 19/07/2006

CHAPTER 5 U.K.

PERSONAL TAXATION

Cars

59 Cars with a CO_2 emissions figure U.K.

(1) Section 139 of ITEPA 2003 (car with a CO_2 emissions figure: the appropriate percentage) is amended as follows.

(2) In subsection (1) (appropriate percentage dependent on whether emissions figure exceeds lower threshold) for the words from "whether" to the end of the subsection substitute "whether—

(a) the car is a qualifying low emissions car for that year, or

(b) the car's CO_2 emissions figure exceeds the lower threshold for that year."

(3) After subsection (1) insert—

"(1A) A car is a qualifying low emissions car for any year if—

(a) it has a low CO_2 emissions figure for that year, and

(b) it is not an electrically propelled vehicle, within the meaning of section 140.

(1B) If the car is a qualifying low emissions car for the year, the appropriate percentage is 10%.".

(4) For subsection (2) (emissions figure does not exceed lower threshold) substitute—

"(2) If—

(a) the car is not a qualifying low emissions car for the year, but

(b) its CO_2 emissions figure does not exceed the lower threshold for the year,

the appropriate percentage for the year is 15% ("the basic percentage").".

(5) After subsection (3) insert—

"(3A) A car has a low CO_2 emissions figure for a year if its CO_2 emissions figure does not exceed the limit for that year in the following Table—

TABLE

Tax year	*Limit (in g/km)*
2008-09 and subsequent tax years	120".

(6) In the Table in subsection (4) (the lower threshold)—

(a) in the entry relating to 2005-06 and subsequent tax years, for "and subsequent tax years" substitute " , 2006-07 or 2007-08 ", and

(b) after that entry insert—

"2008-09 and subsequent tax years	135".

(7) After subsection (5) (rounding down of emissions figures to nearest multiple of 5) insert—

"(5A) Subsection (5) does not apply for the purpose of determining whether a car has a low CO_2 emissions figure for a year.".

(8) In section 170 of ITEPA 2003 (orders etc relating to the Chapter) before subsection (3) (order varying lower threshold) insert—

"(2A) The Treasury may by order provide for a limit different from that specified in the Table in section 139(3A) (car with a low CO_2 emissions figure) to apply for tax years beginning on or after 6th April 2009 or such later date as may be specified in the order.".

(9) If a qualifying low emissions car is a car which, within the meaning of regulations under section 170(4) of ITEPA 2003,—

(a) is capable of being propelled by petrol and road fuel gas,

(b) is capable of being propelled by electricity and petrol, or

(c) is propelled solely by road fuel gas,

no reduction in the appropriate percentage is to be made by virtue of any such regulations made before 22nd March 2006.

(10) Subsections (2) to (5) and (7) to (9) have effect for the tax year 2008-09 and subsequent tax years.

Mobile telephones and computers

60 Mobile telephones U.K.

(1) In section 266(2) of ITEPA 2003 (exemption of non-cash vouchers for exempt benefits), insert at the end "or

(d) section 319 (mobile telephones)."

(2) In section 267(2) of that Act (exemption of credit-tokens used for exempt benefits), after paragraph (f) insert—

"(g) section 319 (mobile telephones)."

(3) For section 319 of that Act (employment income: exemption for mobile telephones) substitute—

"**319 Mobile telephones**

(1) No liability to income tax arises by virtue of section 62 (general definition of earnings) or Chapter 10 of Part 3 (taxable benefits: residual liability to charge) in respect of the provision of one mobile telephone for an employee without any transfer of property in it.

(2) In this section "mobile telephone" means telephone apparatus which—

(a) is not physically connected to a land-line, and

(b) is not used only as a wireless extension to a telephone which is physically connected to a land-line,

or any thing which may be used in such apparatus for the purpose of gaining access to, or using, a public electronic communications service.

(3) In this section the reference to the provision of a mobile telephone includes a reference to the provision, together with the mobile telephone provided, of access to, or the use of, a public electronic communications service by means of one mobile telephone number.

(4) For the purposes of subsection (2) "telephone apparatus" means wireless telegraphy apparatus designed or adapted for the primary purpose of transmitting and receiving spoken messages and used in connection with a public electronic communications service."

(4) This section has effect for the year 2006-07 and subsequent years of assessment.

(5) But the amendment made by subsection (3) does not cause any liability to income tax to arise in respect of the provision of a mobile telephone for an employee, or a member of an employee's family or household, if the mobile telephone was first provided to him before 6th April 2006.

61 Computer equipment U.K.

(1) Omit section 320 of ITEPA 2003 (employment income: limited exemption for computer equipment).

(2) This section has effect for the year 2006-07 and subsequent years of assessment.

(3) But it does not cause any liability to income tax to arise in respect of the provision of computer equipment by making it available to an employee, or a member of an employee's family or household, if the computer equipment was first made available to him before 6th April 2006.

Eye care

62 Exemption for employees' eye tests and special glasses U.K.

(1) Part 4 of ITEPA 2003 (employment income: exemptions) is amended as follows.

(2) In Chapter 11 (miscellaneous exemptions), before section 321 (and the cross-heading "*Awards and gifts*") insert—

"Eye tests and special corrective appliances

320A **Eye tests and special corrective appliances**

(1) No liability to income tax arises in respect of the provision for an employee of—

(a) an eye and eyesight test, or

(b) special corrective appliances that an eye and eyesight test shows are necessary,

if conditions A and B are met.

(2) Condition A is that the provision of the test or appliances is required by regulations made under the Health and Safety at Work etc. Act 1974.

(3) Condition B is that tests and appliances of the kind mentioned in subsection (1) are made available generally to those employees of the employer in question for whom they are required to be provided by the regulations."

(3) In section 266 (exemption of non-cash vouchers for exempt benefits), at the end of subsection (3) insert ", or

(f) section 320A (eye tests and special corrective appliances)."

(4) In section 267 (exemption of credit-tokens used for exempt benefits), at the end of subsection (2) insert ", and

(h) section 320A (eye tests and special corrective appliances)."

(5) This section has effect for the year 2006-07 and subsequent years of assessment.

Vouchers and tokens

63 Power to exempt use of vouchers or tokens to obtain exempt benefits U.K.

In Chapter 4 of Part 3 of ITEPA 2003 (taxable benefits: vouchers and credit-tokens), after section 96 insert—

"96A Power to exempt use of non-cash vouchers or credit-tokens to obtain exempt benefits

(1) The Treasury may by regulations provide for exemption from any liability that would otherwise arise by virtue of this Chapter in respect of—

(a) non-cash vouchers which are or can be used to obtain specified exempt benefits, or which evidence an employee's entitlement to specified exempt benefits;

(b) credit-tokens which are used to obtain specified exempt benefits.

(2) In this section—

"exempt benefit" means a benefit the direct provision of which is exempted from liability to income tax by a provision of Part 4 (employment income: exemptions), and

"specified" means specified in the regulations.

(3) Regulations under this section may operate by amending section 266 (exemption of non-cash vouchers for exempt benefits) or section 267 (exemption of credit-tokens used for exempt benefits)."

Holocaust victims

64 Payments to or in respect of victims of National-Socialist persecution U.K.

(1) In section 369 of ITTOIA 2005 (charge to tax on interest), in subsection (3) (non-exhaustive list of exemptions), in paragraph (e) (exemptions under sections 749 to 756)—

(a) for "756" substitute " 756A ", and

(b) for "and interest on certain foreign currency securities)" substitute " , certain foreign currency securities and interest on certain deposits of victims of National-Socialist persecution) ".

(2) After section 756 of ITTOIA 2005 (which securities and loans are foreign currency ones for section 755) insert—

"756A Interest on certain deposits of victims of National-Socialist persecution

(1) No liability to income tax arises in respect of interest which is paid—

(a) to or in respect of a victim of National-Socialist persecution,

(b) under a qualifying compensation scheme, and

(c) for a qualifying purpose in respect of a qualifying deposit of the victim.

(2) A scheme is a qualifying compensation scheme if—

(a) it is constituted (whether under the law of any part of the United Kingdom or elsewhere) by an instrument in writing, and

(b) the purpose of the scheme, or one of its purposes, is to make payments of interest to or in respect of victims of National-Socialist persecution for qualifying purposes in respect of qualifying deposits.

(3) Interest is paid for a qualifying purpose in respect of a deposit if—

(a) it is paid for meeting a liability in respect of interest on the deposit, or

(b) it is paid for compensating for the effects of inflation on the deposit.

(4) In relation to a victim of National-Socialist persecution, a deposit is a qualifying deposit if it was made—

(a) by, or on behalf of, the victim, and

(b) on or before 5th June 1945.

(5) In this section "deposit" has the meaning given by section 481(3) of ICTA.".

(3) In section 783 of ITTOIA 2005 (general disregard of exempt income for income tax purposes)—

(a) for subsection (2) (exception to general disregard) substitute—

"(2) There are exceptions to this in the following cases.

(2A) Interest on deposits in ordinary accounts with the National Savings Bank which is exempt under this Part from every charge to income tax is not to be ignored for the purpose of providing information.

(2B) Interest paid to or in respect of victims of National-Socialist persecution which is so exempt is not to be ignored for the purposes of sections 17 and 18 of TMA 1970 (information provisions relating to interest).", and

(b) in subsection (3) (subsection (2) without prejudice to other exceptions) for "This express exception to subsection (1) is" substitute " These express exceptions to subsection (1) are ".

(4) After section 268 of TCGA 1992 (decorations for valour or gallant conduct) insert—

"268A Victims of National-Socialist persecution

(1) A gain accruing on a disposal is not a chargeable gain if it accrues on—

(a) a disposal of the right to receive the whole or any part of a qualifying payment in respect of National-Socialist persecution, or

(b) a disposal of an interest in any such right.

(2) A payment is a qualifying payment in respect of National-Socialist persecution if it is payable as mentioned in paragraphs (a) to (c) of section 756A(1) of ITTOIA 2005 (income tax exemption for payments to or in respect of victims of National-Socialist persecution).

(3) In this section "interest", in relation to any right, means an interest as a co-owner of the right.

(4) It does not matter—
(a) whether the right is owned jointly or in common, or
(b) whether or not the interests of the co-owners are equal.".

(5) If at any time before claims could have been made under any qualifying compensation scheme—
(a) a person beneficially entitled to a qualifying deposit has died, and
(b) no information in respect of that deposit was contained in any account relating to that deceased person under any provision of IHTA 1984,

that deposit is to be ignored for all purposes of IHTA 1984.

(6) For this purpose "qualifying compensation scheme" and "qualifying deposit" have the same meaning as in section 756A of ITTOIA 2005.

(7) Subsection (2) has effect (and is deemed always to have had effect)—
(a) for the year 1996-97, and
(b) subsequent years of assessment.

(8) Subsection (4) has effect (and is deemed always to have had effect) in relation to disposals made on or after 6th April 1996; but no loss accruing on a disposal made before 6th April 2006 is, as a result of that subsection, to cease to be an allowable loss.

(9) In relation to any time before 6th April 2005 (the commencement of ITTOIA 2005)—
(a) the section inserted by subsection (2) is to be treated as if it were inserted into ICTA (and as if, in subsection (5) of that section, "of ICTA" were omitted), and
(b) any reference to that section in any enactment is to be read accordingly.

(10) In relation to the year 2005-06 or any earlier year of assessment, all such adjustments are to be made as are required to give effect to the exemptions conferred as a result of this section.

(11) But the adjustments are to be made only if the person entitled to the exemption makes a claim for the exemption on or before 31st January 2012.

(12) The adjustments may be made by discharge or repayment of tax, the making of an assessment or otherwise.

CHAPTER 6 U.K.

THE LONDON OLYMPIC GAMES AND PARALYMPIC GAMES

65 London Organising Committee U.K.

(1) In this section "LOCOG" means the private company limited by guarantee incorporated on 22nd October 2004 with the Company Number 05267819 and with the name The London Organising Committee of the Olympic Games Limited.

(2) LOCOG shall be exempt from corporation tax.

(3) Section 349(1) of ICTA (annual payments: deductions of tax) shall not apply to payments to LOCOG.

(4) A claim may be made for any repayment of income tax required as a result of an exemption conferred by this section.

(5) The Treasury may by regulations provide for subsections (2) to (4) to apply to a wholly-owned subsidiary of LOCOG (within the meaning of section 736 of the Companies Act 1985 (c. 6)) as they apply to LOCOG.

(6) Subsection (7) applies if it appears to the Treasury—
- (a) that LOCOG has been or may have been, or is or may be, directly or indirectly connected with another person, or
- (b) has been or may have been, or is or may be, acting in association or co-operation with another person (whether by virtue of part-ownership, partnership, membership of a group or consortium or in any other way).

(7) The Treasury may make regulations—
- (a) restricting the application of a provision of this section to a specified extent;
- (b) removing or restricting an exemption or relief under an enactment relating to corporation tax, income tax or capital gains tax;
- (c) preventing a loss or expense of a specified kind from being used or treated in a specified way for purposes of corporation tax, income tax or capital gains tax;
- (d) wholly or to a specified extent preventing an allowance from being claimed for purposes of corporation tax, income tax or capital gains tax;
- (e) providing for a transfer of property to be disregarded, or treated in a specified way, for purposes of corporation tax, income tax or capital gains tax;
- (f) providing for specified action taken by LOCOG or the other person to have, or not to have, a specified effect for purposes of corporation tax, income tax or capital gains tax;
- (g) providing for an enactment relating to the treatment of groups of companies for purposes of corporation tax, income tax or capital gains tax to be wholly or partly disapplied or to be applied with modifications;
- (h) making any other provision which appears to the Treasury to be expedient for the purpose of preventing this section from being used or relied upon otherwise than in connection with the functions of LOCOG under the Host City Contract;

and provision made under any of paragraphs (b) to (h) may relate to LOCOG or to the other person mentioned in subsection (6).

(8) If it appears to the Treasury that LOCOG has undertaken, is undertaking or may undertake activities other than in pursuance of the Host City Contract, the Treasury may make regulations restricting the application of a provision of this section to a specified extent.

(9) Regulations under subsection (5) may include provision of a kind similar to that which may be made under subsection (7) or (8).

VALID FROM 19/07/2006

66 Section 65: supplementary U.K.

(1) Regulations under section 65(5) to (8)—

(a) may make provision which applies generally or only in specified cases or circumstances,

(b) may make different provision for different cases or circumstances,

(c) may have retrospective effect, and

(d) may include incidental, consequential or transitional provision.

(2) Regulations under section 65 shall be made by statutory instrument.

(3) Regulations under section 65(5)—

(a) shall be subject to annulment in pursuance of a resolution of the House of Commons, or

(b) if they include provision by virtue of section 65(9), may not be made unless a draft has been laid before and approved by resolution of the House of Commons.

(4) Regulations under section 65(7) or (8) may not be made unless a draft has been laid before and approved by resolution of the House of Commons.

(5) In section 65 "the Host City Contract" has the meaning given by section 1 of the London Olympic Games and Paralympic Games Act 2006.

(6) Section 65 shall be treated as having come into force on 22nd October 2004.

(7) The Treasury may by order made by statutory instrument repeal section 65 and this section.

VALID FROM 19/07/2006

67 International Olympic Committee U.K.

(1) The Treasury may make regulations—

(a) providing for the International Olympic Committee to be treated for the purposes of corporation tax as not having a permanent establishment in the United Kingdom;

(b) providing for the International Olympic Committee not to be chargeable to income tax or capital gains tax;

(c) disapplying section 349(1) and (2) of ICTA (annual payments: deductions of tax) to payments to the International Olympic Committee.

(2) The Treasury may make regulations—

(a) providing for a specified person or class of person appearing to the Treasury to be owned or controlled by the International Olympic Committee to be treated for the purposes of corporation tax as not having a permanent establishment in the United Kingdom;

(b) providing for a specified person or class of person appearing to the Treasury to be owned or controlled by the International Olympic Committee not to be chargeable to income tax or capital gains tax;

(c) disapplying section 349(1) and (2) of ICTA to payments to a specified person or class of person appearing to the Treasury to be owned or controlled by the International Olympic Committee.

(3) Regulations under this section—

(a) may make provision which applies generally or only in specified cases or circumstances,

(b) may make different provision for different cases or circumstances,

(c) may have retrospective effect, and

(d) may include incidental, consequential or transitional provision.

(4) Regulations under this section—

(a) shall be made by statutory instrument, and

(b) shall be subject to annulment in pursuance of a resolution of the House of Commons.

(5) A claim may be made for any repayment of income tax required as a result of an exemption conferred under this section.

VALID FROM 19/07/2006

68 Competitors and staff U.K.

(1) The Treasury may make regulations—

(a) exempting specified classes of person from income tax in respect of specified classes of income arising from participation in London Olympic events;

(b) providing for specified classes of activity undertaken in connection with London Olympic events to be disregarded for purposes of corporation tax, income tax or capital gains tax;

(c) providing for specified classes of activity in connection with London Olympic events to be disregarded in determining for fiscal purposes whether a person has a permanent establishment in the United Kingdom;

(d) disapplying section 349(1) of ICTA (annual payments: deductions of tax) in consequence of provision made under paragraphs (a) to (c) above.

(2) The regulations may specify classes of person wholly or partly by reference to—

(a) residence outside the United Kingdom, determined in such manner as the regulations may provide;

(b) documents issued or authority given by such persons exercising functions in connection with the London Olympics as the regulations may provide.

(3) Regulations under this section—

(a) may make provision which applies generally or only in specified cases or circumstances,

(b) may make different provision for different cases or circumstances, and

(c) may include incidental, consequential or transitional provision.

(4) Regulations under this section—
(a) shall be made by statutory instrument, and
(b) shall be subject to annulment in pursuance of a resolution of the House of Commons.

(5) In this section "London Olympic event" and "the London Olympics" have the meaning given by section 1 of the London Olympic Games and Paralympic Games Act 2006.

VALID FROM 19/07/2006

CHAPTER 7 U.K.

CHARGEABLE GAINS

Capital losses

69 Restriction on a company's allowable losses U.K.

(1) Section 8 of TCGA 1992 (company's total profits to include chargeable gains) is amended as follows.

(2) In subsection (2) (exclusion of loss as allowable loss)—
(a) for "does not include a loss" substitute "does not include—
(a) a loss", and
(b) at the end insert ", or
(b) a loss accruing to a company in disqualifying circumstances (see subsection (2A))".

(3) After subsection (2) insert—

"(2A) For the purposes of subsection (2)(b), a loss accrues to a company in disqualifying circumstances if—
(a) it accrues to the company directly or indirectly in consequence of, or otherwise in connection with, any arrangements, and
(b) the main purpose, or one of the main purposes, of the arrangements is to secure a tax advantage.

(2B) For the purposes of subsection (2A)—
"arrangements" includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable), and
"tax advantage" has the meaning given by section 184D.

(2C) For the purposes of subsection (2A) it does not matter—
(a) whether the loss accrues at a time when there are no chargeable gains from which it could otherwise have been deducted, or
(b) whether the tax advantage is secured for the company or for any other company.".

(4) In section 834(1) of ICTA (interpretation of the Corporation Tax Acts), in the definition of "allowable loss", at the end insert " or a loss accruing to a company in disqualifying circumstances (within the meaning of section 8(2)(b) of the 1992 Act) ".

(5) The amendments made by this section have effect in relation to any loss accruing on any disposal that is made on or after 5th December 2005.

70 Restrictions on companies buying losses or gains U.K.

(1) TCGA 1992 is amended as follows.

(2) After section 184 insert—

"Restrictions on buying losses or gains etc

184A Restrictions on buying losses: tax avoidance schemes

(1) This section applies for the purposes of corporation tax in respect of chargeable gains if—

(a) at any time ("the relevant time") there is a qualifying change of ownership in relation to a company ("the relevant company") (see section 184C),

(b) a loss (a "qualifying loss") accrues to the relevant company or any other company on a disposal of a pre-change asset (see subsection (3)),

(c) the change of ownership occurs directly or indirectly in consequence of, or otherwise in connection with, any arrangements the main purpose, or one of the main purposes, of which is to secure a tax advantage (see section 184D), and

(d) the advantage involves the deduction of a qualifying loss from any chargeable gains (whether or not it also involves anything else).

(2) A qualifying loss accruing to a company is not to be deductible from chargeable gains accruing to the company unless the gains accrue to the company on a disposal of a pre-change asset.

(3) In this section a "pre-change asset" means an asset which was held by the relevant company before the relevant time (but see also sections 184E and 184F).

(4) In this section "arrangements" includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable).

(5) For the purposes of this section it does not matter—

(a) whether a qualifying loss accrues before, after or at the relevant time,

(b) whether a qualifying loss accrues at a time when there are no chargeable gains from which it could be deducted (or could otherwise have been deducted), or

(c) whether the tax advantage is secured for the company to which a qualifying loss accrues or for any other company.

184B Restrictions on buying gains: tax avoidance schemes

(1) This section applies for the purposes of corporation tax in respect of chargeable gains if—

(a) at any time ("the relevant time") there is a qualifying change of ownership in relation to a company ("the relevant company") (see section 184C),

(b) a gain (a "qualifying gain") accrues to the relevant company or any other company on a disposal of a pre-change asset (see subsection (3)),

(c) the change of ownership occurs directly or indirectly in consequence of, or otherwise in connection with, any arrangements the main purpose, or one of the main purposes, of which is to secure a tax advantage, and

(d) the advantage involves the deduction of a loss from a qualifying gain (whether or not it also involves anything else).

(2) In the case of a qualifying gain accruing to a company, a loss accruing to the company is not to be deductible from the gain unless the loss accrues to the company on a disposal of a pre-change asset.

(3) In this section a "pre-change asset" means an asset which was held by the relevant company before the relevant time (but see also sections 184E and 184F).

(4) In this section "arrangements" includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable).

(5) For the purposes of this section it does not matter—

(a) whether a qualifying gain accrues before, after or at the relevant time,

(b) whether a qualifying gain accrues at a time when there are no losses which could be deducted (or could otherwise have been deducted) from the gain, or

(c) whether the tax advantage is secured for the company to which a qualifying gain accrues or for any other company.

184C Sections 184A and 184B: meaning of "qualifying change of ownership"

(1) For the purposes of sections 184A and 184B, there is a qualifying change of ownership in relation to a company at any time if any one or more of the following occur at that time—

(a) the company joins a group of companies (see subsections (2) to (5)),

(b) the company ceases to be a member of a group of companies,

(c) the company becomes subject to different control (see subsections (6) to (9)).

(2) Whether a company is a member of a group of companies at any time is determined in accordance with section 170.

(3) But, apart from in the excepted case, nothing in section 170(10) or (10A) is to prevent all the companies of one group from being regarded as joining another group when the principal company of the first group becomes a member of the other group at any time.

(4) The excepted case is the case where—
- (a) the persons owning the shares of the principal company of the first group immediately before that time are the same as the persons owning the shares of the principal company of the other group immediately after that time,
- (b) the principal company of the other group was not the principal company of any group immediately before that time, and
- (c) immediately after that time the principal company of the other group had assets consisting entirely (or almost entirely) of shares of the principal company of the first group.

(5) For this purpose, references to shares of a company are to the shares comprised in the issued share capital of the company.

(6) The general rule is that a company becomes subject to different control at any time if any one or more of the following occur—
- (a) a person has control of the company at that time (whether alone or together with one or more others) and the person did not previously have control of the company,
- (b) a person has control of the company at that time together with one or more others and the person previously had control of the company alone,
- (c) a person ceases to have control of the company at that time (whether the person had control alone or together with one or more others).

(7) The general rule is subject to the following exceptions.

(8) A company does not become subject to different control in any case where it joins a group of companies and the case is the excepted case mentioned above.

(9) A company ("the subsidiary") does not become subject to different control at any time in any case where—
- (a) immediately before that time the subsidiary is the 75 per cent. subsidiary of another company, and
- (b) (although there is a change in the direct ownership of the subsidiary) that other company continues immediately after that time to own it as a 75 per cent. subsidiary.

184D Sections 184A and 184B: meaning of "tax advantage"

For the purposes of sections 184A and 184B, "tax advantage" means—
- (a) relief or increased relief from corporation tax,
- (b) repayment or increased repayment of corporation tax,
- (c) the avoidance or reduction of a charge to corporation tax or an assessment to corporation tax, or
- (d) the avoidance of a possible assessment to corporation tax.

184E Sections 184A and 184B: "pre-change assets": basic rules

(1) If—

(a) a company other than the relevant company makes a disposal of an asset, and

(b) the asset has been disposed of at any time after the relevant time by a disposal to which section 171(1) does not apply (a "non-section 171(1) transfer"),

the asset ceases to be regarded as a pre-change asset for the purposes of sections 184A and 184B (but see also subsections (10) and (11)).

(2) But (without affecting the generality of the provision made by the following subsection) if, on a non-section 171(1) transfer,—

(a) an asset would cease to be regarded as a pre-change asset as a result of subsection (1), and

(b) the company making the non-section 171(1) transfer retains any interest in or over the asset,

that interest is to be regarded as a pre-change asset for the purposes of sections 184A and 184B.

(3) If—

(a) the relevant company or any other company holds an asset ("the new asset") at or after the relevant time,

(b) the value of the new asset derives in whole or in part from a pre-change asset, and

(c) the new asset is not acquired by the company concerned as a result of a non-section 171(1) transfer,

the new asset is also to be regarded as a pre-change asset for the purposes of sections 184A and 184B.

(4) For this purpose the cases in which the value of an asset may be derived from any other asset include any case where—

(a) assets have been merged or divided,

(b) assets have changed their nature, or

(c) rights or interests in or over assets have been created or extinguished.

(5) If a pre-change asset is "the old asset" for the purposes of section 116 (reorganisations, conversions and reconstructions), "the new asset" for the purposes of that section is also to be regarded as a pre-change asset for the purposes of sections 184A and 184B.

(6) If a pre-change asset is the "original shares" for the purposes of sections 127 to 131 (reorganisation or reduction of share capital), the "new holding" for the purposes of those sections is also to be regarded as a pre-change asset for the purposes of sections 184A and 184B.

(7) The following subsection applies if, as a result of the application of a relevant deferral provision in the case of a disposal of a pre-change asset ("the original disposal"),—

(a) a gain or loss that would otherwise accrue to a company does not so accrue, or

(b) any part of any such gain is treated as forming part of a single chargeable gain which does not accrue to the company on the original disposal,

and a gain or loss does, wholly or partly in consequence of the application of that provision in the case of the original disposal, accrue to the company or any other company on a subsequent occasion.

(8) So much of the gain or loss accruing on the subsequent occasion as accrues in consequence of the application of the relevant deferral provision in the case of the original disposal is to be regarded for the purposes of sections 184A and 184B as accruing on a disposal of a pre-change asset (so far as it would not otherwise be so regarded).

(9) A "relevant deferral provision" means any of the following—

(a) section 139 (reconstruction involving transfer of business),

(b) section 140 (postponement of charge on transfer of assets to non-resident company),

(c) section 140A (transfer of a UK trade),

(d) section 140E (merger leaving assets within UK tax charge),

(e) sections 152 and 153 (replacement of business assets),

(f) section 187 (postponement of charge on deemed disposal under section 185).

(10) If—

(a) a pre-change asset of the relevant company is transferred to another company ("the transferee company"),

(b) any of sections 139, 140A and 140E apply to the companies in the case of the asset, and

(c) the transfer of the asset is made directly or indirectly in consequence of, or otherwise in connection with, the arrangements mentioned in section 184A or 184B,

the asset is to be regarded as a "pre-change asset" in the hands of the transferee company for the purposes of sections 184A and 184B.

(11) In such a case, subsection (1) applies as if the reference in paragraph (a) of that subsection to the relevant company were to the transferee company.

184F Sections 184A and 184B: "pre-change assets": pooling rules

(1) This section applies, in the case of any pre-change asset of the relevant company or any pre-change asset of any company which is acquired on a disposal to which section 171(1) applies, if—

(a) the pre-change asset consists of a holding of securities which falls as a result of any provision of Chapter 1 of Part 4 to be regarded as a single asset ("the pre-change pooled asset"), and

(b) as a result of any disposal or acquisition at any time after the relevant time, any securities ("the other securities") would (but for this section) be regarded as forming part of the pre-change pooled asset.

(2) None of the other securities are to be regarded for the purposes of this Act as forming part of the pre-change pooled asset.

(3) But this does not prevent the other securities from being regarded, as a result of any provision of that Chapter, as forming part of or constituting a different, single asset ("the other pooled asset").

(4) Securities of the same class as the other securities which are disposed of at or after the relevant time—
(a) are to be identified first with the other securities or securities forming part of the other pooled asset,
(b) are to be identified next with securities forming part of the pre-change pooled asset (if the number of securities disposed of exceeds the number identified in accordance with paragraph (a)), and
(c) subject to paragraphs (a) and (b), are to be identified in accordance with the provisions applicable apart from those paragraphs.

(5) The above identification rules apply even if some or all of the securities disposed of are otherwise identified—
(a) by the disposal, or
(b) by a transfer or delivery giving effect to it;

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

(6) Chapter 1 of Part 4 has effect subject to this section.

(7) In this section—

"pre-change asset" means an asset which is pre-change asset for the purposes of section 184A or 184B,

"securities" does not include relevant securities as defined in section 108 but, subject to that, means—
(a) shares or securities of a company, and
(b) any other assets where they are of a nature to be dealt in without identifying the particular assets disposed of or acquired.

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

(3) In Schedule 7A (restriction on set-off of pre-entry losses), in paragraph 1(1) (application of Schedule), at the end insert " , but this Schedule shall have no effect in any case where section 184A (restrictions on buying losses: tax avoidance schemes) has effect in relation to those losses ".

(4) Section 177B and Schedule 7AA (restrictions on setting losses against pre-entry gains) shall cease to have effect.

(5) In section 213 (insurance companies: spreading of gains and losses under section 212)—
(a) in subsection (8H) for "that the net amount is" to the end substitute " that the net amount would still arise even if losses accruing after the date on which the company or transferee joined the group of companies were disregarded ", and

(b) in subsection (8I) for "paragraph 1" to the end substitute " section 184C as if those references were contained in that section; and in subsection (8A)(b) above "group" has the same meaning as in that section ".

The amendments made by this subsection have effect where the accounting period for which the net amount represents an excess of losses over gains is an accounting period ending on or after 5th December 2005.

(6) The amendments made by this section, other than subsection (5), have effect for calculating the amount to be included in respect of chargeable gains in a company's total profits for any accounting period ending on or after 5th December 2005.

(7) But, in respect of any such accounting period, those amendments do not have effect in relation to the deduction of any loss from chargeable gains that accrue on any disposal made before 5th December 2005 unless that loss accrues on a disposal made on or after that date.

(8) For the purposes of those amendments, it does not matter whether a qualifying change of ownership in relation to a company occurs—

(a) before 5th December 2005, or

(b) on or after that date.

(9) The following subsection applies so long as each of the following conditions is met—

(a) at any time ("the relevant time") before 5th December 2005 there is a qualifying change of ownership in relation to a company ("the relevant company") for the purposes of section 184A or 184B of TCGA 1992,

(b) the change of ownership occurs because the relevant company ceases to be a member of a group of companies at the relevant time (whether or not it also occurs for any other reason),

(c) the principal company of that group has control of the relevant company at the relevant time and at all subsequent times,

(d) the principal company of that group does not, at or after the relevant time, join another group otherwise than in the excepted case, and

(e) a qualifying loss for the purposes of section 184A of TCGA 1992, or a qualifying gain for the purposes of section 184B of that Act, accrues to the relevant company or any other company on a disposal made before 5th December 2005.

(10) Section 184A or 184B of TCGA 1992 applies in relation to that qualifying loss or gain as if, for the purposes of that section, a "pre-change asset" included an asset held before the relevant time by any company which, immediately before the relevant time, was a member of the same group of companies as the relevant company.

(11) Subsections (9) and (10) are to be read as if contained in section 184C of TCGA 1992.

71 Other avoidance involving losses accruing to companies U.K.

(1) After section 184F of TCGA 1992 (as inserted by section 70 above) insert—

"184G Avoidance involving losses: schemes converting income to capital

(1) This section applies for the purposes of corporation tax in respect of chargeable gains if conditions A to D are satisfied.

(2) Condition A is that—

(a) any receipt arises to a company ("the relevant company") on a disposal of an asset, and

(b) the receipt arises directly or indirectly in consequence of, or otherwise in connection with, any arrangements.

(3) Condition B is that—

(a) a chargeable gain (the "relevant gain") accrues to the relevant company on the disposal, and

(b) losses accrue (or have accrued) to the relevant company on any other disposal of any asset (whether before or after or as part of the arrangements).

(4) Condition C is that, but for the arrangements, an amount would have fallen to be taken into account wholly or partly instead of the receipt in calculating the income chargeable to corporation tax—

(a) of the relevant company, or

(b) of a company which, at any qualifying time, is a member of the same group as the relevant company.

(5) Condition D is that—

(a) the main purpose of the arrangements, or

(b) one of the main purposes of the arrangements,

is to secure a tax advantage that involves the deduction of any of the losses from the relevant gain (whether or not it also involves anything else).

(6) If the Board consider, on reasonable grounds, that conditions A to D are or may be satisfied, they may give the relevant company a notice in respect of the arrangements (but see also section 184I).

(7) If, when the notice is given, conditions A to D are satisfied, no loss accruing to the relevant company at any time is to be deductible from the relevant gain.

(8) A notice under this section must—

(a) specify the arrangements,

(b) specify the accounting period in which the relevant gain accrues, and

(c) inform the relevant company of the effect of this section.

(9) If relevant gains accrue in more than one accounting period, a single notice under this section may specify all the accounting periods concerned.

(10) In this section—

"arrangements" includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable),

"group", in relation to companies, means a group determined in accordance with section 170,

"qualifying time", in relation to any arrangements, means any time which falls in the period—

(a) beginning with the time at which the arrangements are made, and

(b) ending with the time at which the matters (other than any tax advantage) intended to be secured by the arrangements are secured,

"tax advantage" has the meaning given by section 184D.

184H Avoidance involving losses: schemes securing deductions

(1) This section applies for the purposes of corporation tax in respect of chargeable gains if conditions A to D are satisfied.

(2) Condition A is that—

(a) a chargeable gain (the "relevant gain") accrues to a company ("the relevant company") directly or indirectly in consequence of, or otherwise in connection with, any arrangements, and

(b) losses accrue (or have accrued) to the relevant company on any disposal of any asset (whether before or after or as part of the arrangements).

(3) Condition B is that the relevant company, or a company connected with the relevant company, incurs any expenditure—

(a) which is allowable as a deduction in calculating its total profits chargeable to corporation tax but which is not allowable as a deduction in computing its gains under section 38, and

(b) which is incurred directly or indirectly in consequence of, or otherwise in connection with, the arrangements.

(4) Condition C is that the main purpose, or one of the main purposes, of the arrangements is to secure a tax advantage that involves both—

(a) the deduction of the expenditure in calculating total profits, and

(b) the deduction of any of the losses from the relevant gain,

whether or not it also involves anything else.

(5) Condition D is that the arrangements are not excluded arrangements. For this purpose arrangements are excluded arrangements if—

(a) the arrangements are made in respect of land or any estate or interest in land,

(b) the arrangements fall within section 779(1) or (2) of the Taxes Act (sale and lease-back: limitation on tax reliefs),

(c) the person to whom the payment mentioned in that subsection is payable is not a company connected with the relevant company, and

(d) the arrangements are made between persons dealing at arm's length.

(6) If the Board consider, on reasonable grounds, that conditions A to D are or may be satisfied, they may give the company a notice in respect of the arrangements (but see also section 184I).

(7) If, when the notice is given, conditions A to D are satisfied, no loss accruing to the company at any time is to be deductible from the relevant gain.

(8) A notice under this section must—

(a) specify the arrangements,

(b) specify the accounting period in which the relevant gain accrues, and

(c) inform the relevant company of the effect of this section.

(9) If relevant gains accrue in more than one accounting period, a single notice under this section may specify all the accounting periods concerned.

(10) In this section—

"arrangements" includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable),

"tax advantage" has the meaning given by section 184D.

(11) For the purposes of this section it does not matter whether the tax advantage is secured for the relevant company or for any other company.

184I Notices under sections 184G and 184H

(1) Subsection (2) applies if—

(a) the Board give a notice under section 184G or 184H (a "relevant notice") to a company that specifies an accounting period, and

(b) the notice is given before the company has made its company tax return for that accounting period.

(2) If the company makes its return for that period before the end of the applicable 90 day period (see subsection (12)), it may—

(a) make a return that disregards the notice, and

(b) at any time after making the return and before the end of the applicable 90 day period, amend the return for the purpose of complying with the provision referred to in the notice.

(3) If a company has made a company tax return for an accounting period, the Board may give the company a relevant notice in relation to that period only if a notice of enquiry has been given to the company in respect of its return for that period.

(4) After any enquiries into the return for that period have been completed, the Board may give the company a relevant notice only if requirements A and B are met.

(5) Requirement A is that at the time the enquiries into the return were completed, the Board could not have been reasonably expected, on the basis of information made available—

(a) to them before that time, or

(b) to an officer of theirs before that time,

to have been aware that the circumstances were such that a relevant notice could have been given to the company in relation to that period.

(6) For the purposes of requirement A, paragraph 44(2) and (3) of Schedule 18 to the Finance Act 1998 (information made available) applies as it applies for the purposes of paragraph 44(1).

(7) Requirement B is that—

(a) the company or any other person was requested to produce or provide information during an enquiry into the return for that period, and

(b) if the request had been duly complied with, the Board could reasonably have been expected to give the company a relevant notice in relation to that period.

(8) If—

(a) a company makes a company tax return for an accounting period, and

(b) the company is subsequently given a relevant notice that specifies that period,

it may amend the return for the purpose of complying with the provision referred to in the notice at any time before the end of the applicable 90 day period.

(9) If the relevant notice is given to the company after it has been given a notice of enquiry in respect of its return for the period, no closure notice may be given in relation to its company tax return until—

(a) the end of the applicable 90 day period, or

(b) the earlier amendment of its company tax return for the purpose of complying with the provision referred to in the notice.

(10) If the relevant notice is given to the company after any enquiries into the return for the period are completed, no discovery assessment may be made as regards the chargeable gain to which the notice relates until—

(a) the end of the applicable 90 day period, or

(b) the earlier amendment of the company tax return for the purpose of complying with the provision referred to in the notice.

(11) Subsections (2)(b) and (8) do not prevent a company tax return for a period becoming incorrect if—

(a) a relevant notice is given to the company in relation to that period,

(b) the return is not amended in accordance with subsection (2)(b) or (8) for the purpose of complying with the provision referred to in the notice, and

(c) the return ought to have been so amended.

(12) In this section—

"the applicable 90 day period", in relation to a relevant notice, means the period of 90 days beginning with the day on which the notice is given,

"closure notice" means a notice under paragraph 32 of Schedule 18 to the Finance Act 1998,

"company tax return" means the return required to be delivered pursuant to a notice under paragraph 3 of that Schedule, as read with paragraph 4 of that Schedule,

"discovery assessment" means an assessment under paragraph 41 of that Schedule,

"notice of enquiry" means a notice under paragraph 24 of that Schedule.".

(2) In Schedule 18 to FA 1998 (company tax returns, assessments, etc), in paragraph 25(1) (scope of enquiry), after "relief)" insert " or a notice under section 184G or

184H of the Taxation of Chargeable Gains Act 1992 (avoidance involving capital losses) ".

(3) In paragraph 42 of that Schedule (restrictions on power to make discovery assessment etc), in sub-paragraph (2A), after "1988" insert " or section 184G or 184H of the Taxation of Chargeable Gains Act 1992 ".

(4) The amendments made by this section have effect in relation to chargeable gains accruing on any disposal that is made on or after 5th December 2005.

72 Repeal of s.106 of TCGA 1992 U.K.

(1) Section 106 of TCGA 1992 (disposal of shares and securities by company within prescribed period of acquisition) shall cease to have effect.

(2) In consequence of that repeal—
- (a) in section 104(2)(b) of TCGA 1992 (share pooling: general interpretative provisions) omit ", 106",
- (b) in section 105 of that Act (disposal on or before day of acquisition of shares and other unidentified assets)—
  - (i) in subsection (2)(b) for "any of the provisions of section 106 or" substitute " section ", and
  - (ii) in subsection (2)(c) omit "106,",
- (c) in section 108(8) of that Act (identification of relevant securities) omit "shall have effect subject to section 106 but",
- (d) in section 110(1)(b) of that Act (section 104 holdings: indexation allowance) for "sections 105 and 106" substitute " section 105 ", and
- (e) in Schedule 15 to FA 2000 (corporate venture scheme), in paragraph 93(6) (identification of shares on a disposal), for "Sections 104 to 106" substitute " Sections 104, 105 ".

(3) The amendments made by this section have effect in relation to any disposal that is made on or after 5th December 2005.

Insurance policies and annuities

73 Policies of insurance and non-deferred annuities U.K.

(1) TCGA 1992 is amended as follows.

(2) For section 204 (policies of insurance) substitute—

"204 Policies of insurance and non-deferred annuities

(1) A gain accruing on a disposal of, or of an interest in, the rights conferred by a non-life policy of insurance is not a chargeable gain (but see subsection (2)).

(2) If a disposal is of, or of an interest in, the rights conferred by a non-life policy of insurance of the risk of—
- (a) any kind of damage to assets, or
- (b) the loss or depreciation of assets,

the exemption under subsection (1) does not apply so far as those rights relate to chargeable assets.

(3) For this purpose "chargeable assets" means assets on the disposal of which a chargeable gain—

(a) may accrue, or

(b) might have accrued.

(4) Nothing in subsections (1) and (2) prevents sums received under a non-life policy of insurance of the risk of—

(a) any kind of damage to assets, or

(b) the loss or depreciation of assets,

from being sums derived from the assets for the purposes of this Act (and, in particular, for the purposes of section 22).

(5) A gain accruing on a disposal of, or of an interest in, the rights conferred by a contract for an annuity is not a chargeable gain if the annuity is—

(a) a non-deferred annuity, or

(b) an annuity granted (or deemed to be granted) under the Government Annuities Act 1929.

(6) If any investments or other assets are, in accordance with a policy issued in the course of life assurance business carried on by an insurance company, transferred to the policy holder—

(a) the policy holder's acquisition of the assets, and

(b) the disposal of the assets to the policy holder,

are to be taken for the purposes of this Act to be for a consideration equal to the market value of the assets.

(7) In this section "interest", in relation to any rights, means an interest as a co-owner of the rights.

(8) It does not matter—

(a) whether the rights are owned jointly or in common, or

(b) whether or not the interests of the co-owners are equal.

(9) In this section a "non-deferred annuity" means an annuity—

(a) which is not granted under a contract for a deferred annuity, and

(b) which is granted in the ordinary course of a business of granting annuities on the life of any person,

and it does not matter whether the annuity includes instalments of capital.

(10) In this section a "non-life policy of insurance" means—

(a) a contract made in the course of a capital redemption business, as defined in section 458(3) of the Taxes Act, and

(b) any other policy of insurance which is not a policy of insurance on the life of any person.".

(3) In section 237 (superannuation funds, annuities and annual payments)—

(a) at the end of paragraph (a), insert " or ", and

(b) omit paragraph (b) (exemption for disposals of non-deferred annuities etc).

(4) The amendments made by this section have effect in relation to disposals made on or after 5th December 2005.

Capital gains tax

74 Exception to "bed and breakfasting" rules etc U.K.

(1) TCGA 1992 is amended as follows.

(2) In section 106A (identification of securities: general rules for capital gains tax), after subsection (5) (acquisition of securities within 30 days after disposing of securities of same class) insert—

"(5A) Subsection (5) above shall not require securities to be identified with securities which the person making the disposal acquires at a time when—
(a) he is neither resident nor ordinarily resident in the United Kingdom, or
(b) he is resident or ordinarily resident in the United Kingdom but is Treaty non-resident.".

(3) In section 288 (interpretation), after subsection (7A) (meaning of "surrender" in application of Act to Scotland) insert—

"(7B) For the purposes of this Act, a person is Treaty non-resident at any time if, at that time, he falls to be regarded as resident in a territory outside the United Kingdom for the purposes of double taxation relief arrangements having effect at that time.".

(4) In consequence of the amendment made by subsection (3)—
(a) in section 10A (temporary non-residents), omit subsection (9A) (meaning of "Treaty non-resident"), and
(b) in section 83A (trustees both resident and non-resident in a year of assessment), omit subsection (5) (meaning of "Treaty non-resident").

(5) The amendment made by subsection (2) has effect in relation to any acquisition made at any time on or after 22nd March 2006.

(6) The amendments made by subsections (3) and (4) have effect in relation to any time on or after 22nd March 2006.

CHAPTER 8 U.K.

AVOIDANCE: MISCELLANEOUS

VALID FROM 19/07/2006

Film partnerships

75 Interest relief: film partnership U.K.

(1) The amount of interest on a loan in respect of which an individual ("the borrower") is eligible for relief for a year of assessment under sections 353 and 362 of ICTA (interest on loan to buy into partnership) shall, where this section applies, be restricted to 40% of the interest that would otherwise be eligible for relief.

(2) This section applies where—

(a) the partnership ("the film partnership") carries on a trade,

(b) the profits or losses of the trade are computed in accordance with Chapter 9 of Part 2 of ITTOIA 2005 (films, etc),

(c) the loan is secured on an asset or activity of another partnership ("the investment partnership"),

(d) the borrower is or has been a member of the investment partnership, and

(e) at a time in the year of assessment the proportion of the profits of the investment partnership to which the borrower is entitled is less than the proportion of the partnership's capital contributed by him at that time.

(3) For the purposes of subsection (2)(c) a loan is secured on an asset or activity of a partnership if there is any arrangement—

(a) under which an asset of the partnership may be used or relied upon wholly or partly to guarantee repayment of any part of the loan, or

(b) by virtue of which any part of the loan is expected to be repaid (directly or indirectly) out of assets or income held by or accruing to the partnership.

(4) For the purposes of subsection (2)(e) the reference to profits excludes any amount that would not be taken into account as, or for the purpose of calculating, income for the purposes of the Tax Acts.

(5) In subsection (2)(e) the reference to the partnership's capital is a reference to—

(a) anything that is, or in accordance with generally accepted accounting practice would be, accounted for as partners' capital or partners' equity, and

(b) amounts lent to the partnership by the partners.

(6) For the purposes of subsection (2)(e) the reference to the proportion of the partnership's capital contributed by the borrower includes, in particular, a reference to—

(a) any amount paid by the borrower to acquire an interest in the investment partnership if or in so far as the borrower retains the interest at that time,

(b) any amount made available by the borrower (directly or indirectly) to another person who acquires an interest in the investment partnership if or in so far as that other person retains the interest at that time,

(c) any amount lent by the borrower to the investment partnership,

(d) any amount made available by the borrower (directly or indirectly) to another person who lends it to the investment partnership, and

(e) an amount made available in any other way prescribed by regulations made by the Commissioners for Her Majesty's Revenue and Customs.

(7) Regulations under subsection (6)(e)—

(a) may make provision having retrospective effect,

(b) may make provision generally or only in relation to specified cases or circumstances,

(c) may make different provision for different cases or circumstances,

(d) may make transitional, consequential or incidental provision,

(e) shall be made by statutory instrument, and

(f) shall not be made unless a draft has been laid before and approved by resolution of the House of Commons.

(8) In subsections (2) to (6) a reference to the borrower or another partner includes a reference to a person connected with him within the meaning of section 839(2) of ICTA.

(9) This section shall have effect in relation to the payment of interest accruing on or after 10th March 2006.

VALID FROM 19/07/2006

Financial instruments

76 Avoidance involving financial arrangements U.K.

Schedule 6 (which makes provision in relation to tax avoidance involving financial arrangements) has effect.

VALID FROM 19/07/2006

Intangible fixed assets

77 Treating assets as "existing assets" etc U.K.

(1) Schedule 29 to FA 2002 (gains and losses of a company from intangible fixed assets) is amended as follows.

(2) In paragraph 13 (credits in respect of intangible fixed assets: introduction), in sub-paragraph (1) (credits brought into account under Part 3), after paragraph (a) (receipts recognised in determining profit or loss), insert—

"(aa) receipts in respect of royalties so far as the receipts do not give rise to a credit under paragraph 14 (see paragraph 14A),".

(3) After paragraph 14 (receipts recognised as they accrue) insert—

14A "**Receipts in respect of royalties so far as not dealt with under paragraph 14**

(1) So far as a receipt in respect of any royalty does not give rise to a credit under paragraph 14 (whether in the period of account in which it is received or in a subsequent period of account), a credit shall be brought into account for tax purposes.

(2) The amount of the credit to be brought into account for tax purposes is equal to so much of the amount of the receipt as does not give rise to a credit under paragraph 14.

(3) The credit shall be brought into account for tax purposes in the accounting period in which the receipt is recognised for accounting purposes.".

(4) In paragraph 82 (assets excluded to extent specified: research and development), in sub-paragraph (2) (provisions of Schedule not applying to asset so far as representing expenditure on research and development)—

(a) in paragraph (a) (Part 2 not to apply subject to exception relating to paragraph 14), at the end insert " or 14A (receipts in respect of royalties so far as not dealt with under paragraph 14) ", and

(b) in paragraph (b) (Part 3 not to apply subject to exception for paragraph 14), for "paragraph 14" substitute " paragraphs 14 and 14A ".

(5) In paragraph 83 (assets excluded to extent specified: election to exclude capital expenditure on computer software), in sub-paragraph (3) (effect of election)—

(a) in paragraph (a) (Part 2 not to apply subject to exception relating to paragraph 14), at the end insert " or 14A (receipts in respect of royalties so far as not dealt with under paragraph 14) ", and

(b) in paragraph (b) (Part 3 not to apply subject to exception for paragraph 14), for "paragraph 14" substitute " paragraphs 14 and 14A ".

(6) In paragraph 118 (application of Schedule to assets created or acquired after commencement, that is to say, on or after 1st April 2002)—

(a) in sub-paragraph (4) (application of sub-paragraph (1) subject to other paragraphs), at the end insert "and

(c) paragraph 127A (assets whose value derives from existing assets treated as existing assets), and

(d) paragraph 127B (assets acquired in connection with disposals of existing assets treated as existing assets).", and

(b) in sub-paragraph (6) (nothing in paragraph 118 restricts application of Schedule in accordance with paragraph 119), at the end insert " , but see sub-paragraph (5) of that paragraph. ".

(7) In paragraph 119 (application of Schedule to royalties), at the end insert—

"(5) Nothing in this paragraph shall be read as authorising or requiring an amount to be brought into account in connection with the realisation of an existing asset within the meaning of Part 4.".

(8) After paragraph 127 (certain assets acquired on transfer of business treated as existing assets) insert—

127A "**Assets whose value derives from existing assets treated as existing assets**

(1) This paragraph applies where—
(a) a company acquires an intangible fixed asset ("the acquired asset") after commencement from a person ("the transferor") who at the time of the acquisition is a related party in relation to the company,
(b) the acquired asset is created, whether by the transferor or any other person, after commencement,
(c) the value of the acquired asset derives in whole or in part from any other asset ("the other asset"),
(d) the other asset has not at any time on or after 5th December 2005 been a chargeable intangible asset in the hands of the company or a related party in relation to the company or the transferor, and
(e) the existing asset condition is met.

(2) The existing asset condition is that, after commencement,—
(a) the other asset has been an existing asset in the hands of the transferor at a time when the transferor was a related party in relation to the company, or
(b) the other asset has been an existing asset in the hands of any other person at a time when the other person was a related party in relation to the company or the transferor.

(3) Where this paragraph applies the acquired asset shall be treated for the purposes of this Schedule as an existing asset in the hands of the company, but only so far as its value derives from the other asset.

(4) If only part of the value of the acquired asset so derives—
(a) this Schedule has effect as if there were a separate asset representing the part of the value not so derived, and
(b) the enactments that apply where this Schedule does not apply have effect as if there were a separate asset representing the part of the value so derived.

Any apportionment necessary for this purpose shall be made on a just and reasonable basis.

(5) For the purposes of this paragraph the cases in which the value of an asset may be derived from any other asset include any case where—
(a) assets have been merged or divided,
(b) assets have changed their nature, or
(c) rights or interests in or over assets have been created or extinguished.

(6) For the purposes of this paragraph the time at which an asset is created or acquired is the time at which it would be regarded as created or acquired for the purposes of paragraph 118 (application of Schedule to assets created or acquired after commencement).

127B **Assets acquired in connection with disposals of existing assets treated as existing assets**

(1) This paragraph applies where—

(a) a person disposes of an asset which, at the time of the disposal, is an existing asset in the hands of the person,

(b) a company which at the time of the disposal is a related party in relation to the person acquires an intangible fixed asset directly or indirectly in consequence of, or otherwise in connection with, the disposal, and

(c) the intangible fixed asset that is acquired would, apart from this paragraph, at the time of the acquisition be a chargeable intangible asset in the hands of the company.

(2) Where this paragraph applies the intangible fixed asset that is acquired shall be treated for the purposes of this Schedule as an existing asset in the hands of the company.

(3) For the purposes of this paragraph—

(a) "asset", in relation to any disposal, means any asset for the purposes of the Taxation of Chargeable Gains Act 1992,

(b) a person "disposes of" an asset if, for the purposes of that Act, the person makes a part disposal of the asset or any other disposal of the asset,

(c) the time at which a disposal of an asset is made is the time at which it is made for the purposes of that Act.

(4) For the purposes of this paragraph it does not matter—

(a) whether the asset that the person disposes of is the same asset as the one that the company acquires,

(b) whether the asset that is acquired is acquired at the time of the disposal or at any other time, or

(c) whether the asset that is acquired is acquired by merging two or more assets or is acquired in any other way.".

(9) In paragraph 143 (index of defined expressions), in the entry relating to existing asset, in the second column, for "paragraph 127" substitute " paragraphs 127 to 127B ".

(10) The amendments made by this section have effect in relation to the debits or credits to be brought into account for any accounting period beginning on or after 5th December 2005 (and, in relation to the debits or credits to be brought into account for any such period, shall be deemed always to have had effect).

(11) For this purpose an accounting period beginning before, and ending on or after, that date is treated as if—

(a) so much of that period as falls before that date, and

(b) so much of that period as falls on or after that date,

were separate accounting periods.

VALID FROM 19/07/2006

International matters

78 Controlled foreign companies and treaty non-resident companies U.K.

(1) Section 90 of FA 2002 (controlled foreign companies and treaty non-resident companies) is amended as follows.

(2) In subsection (2) (application of subsection (1), which inserted section 747(1B) of ICTA (disregard of section 249 of FA 1994 for most purposes of Chapter 4 of Part 17 of ICTA (controlled foreign companies))), for paragraph (b) (exclusion for companies which were non-resident immediately before 1st April 2002) substitute—

"(b) does not apply to a company ("the non-resident company") that—

(i) by virtue of section 249 of the Finance Act 1994 was treated as resident outside the United Kingdom, and not resident in the United Kingdom, immediately before that date, and

(ii) has not subsequently ceased to be so treated,

unless condition A or B is met in relation to the non-resident company at any time on or after 22nd March 2006.".

(3) After that subsection insert—

"(3) Condition A is met in relation to the non-resident company at any time on or after 22nd March 2006 if—

(a) immediately before 22nd March 2006 the non-resident company does not own directly or indirectly any company as a subsidiary company, and

(b) at any time on or after that date the non-resident company becomes the direct or indirect owner of a UK resident company as a subsidiary company.

(4) Condition B is met in relation to the non-resident company at any time on or after 22nd March 2006 if—

(a) immediately before 22nd March 2006 the non-resident company owns directly or indirectly any company as a subsidiary company (which may be a UK resident company),

(b) at any time ("the relevant time") on or after that date the non-resident company becomes the direct or indirect owner of any UK resident company as a subsidiary company (or, as the case may be, another UK resident company), and

(c) directly or indirectly in consequence of, or otherwise in connection with, the ownership mentioned in paragraph (b) there is a qualifying change in activities.

(5) There is a qualifying change in activities if, at the relevant time or any subsequent time,—

(a) there is a major change in the nature, conduct or scale of the non-resident company's activities, or

(b) there is a major change in the nature, conduct or scale of the activities of the group of companies of which the non-resident company is a member.

(6) In this section references to directly or indirectly owning a company are references to owning it—

(a) directly or through another company or companies, or

(b) partly directly and partly through another company or companies.

(7) In this section references to ownership are to be read as references to beneficial ownership.

(8) In this section "UK resident company", in relation to any time, means any company which is resident in the United Kingdom at that time.".

79 Transfer of assets abroad U.K.

Schedule 7 (which makes amendments of, or relating to, Chapter 3 of Part 17 of ICTA (transfer of assets abroad)) has effect.

Pre-owned assets

80 Restriction of exemption from charge to income tax U.K.

(1) Schedule 15 to FA 2004 (charge to income tax on benefits received by former owner of property) is amended as follows.

(2) In paragraph 11 (exemptions from charge)—

(a) in sub-paragraph (9) (meaning of "the relevant property") for "sub-paragraphs (1) to (8)" substitute " this paragraph ", and

(b) at the end insert—

"(11) Sub-paragraph (12) applies where at any time—

(a) the relevant property has ceased to be comprised in a person's estate for the purposes of IHTA 1984, or

(b) he has directly or indirectly provided any consideration for the acquisition of the relevant property,

and at any subsequent time the relevant property or any derived property is comprised in his estate for the purposes of IHTA 1984 as a result of section 49(1) of that Act (treatment of interests in possession).

(12) Where this sub-paragraph applies, the relevant property and any derived property—

(a) are not to be treated for the purposes of sub-paragraphs (1) and (2) as comprised in his estate at that subsequent time, and

(b) are not to be treated as falling within sub-paragraph (5) in relation to him at that subsequent time.

(13) For the purposes of sub-paragraphs (11) and (12) references, in relation to the relevant property, to any derived property are to other property—

(a) which derives its value from the relevant property, and
(b) whose value, so far as attributable to the relevant property, is not substantially less than the value of the relevant property.”.

(3) In paragraph 21 (election for application of inheritance tax provisions where paragraph 3 (land) or 6 (chattels) would otherwise apply)—
(a) in sub-paragraph (2)(b) (application of the gifts with reservation rules), in sub-paragraph (i) at the end insert “ , but only so far as the chargeable person is not beneficially entitled to an interest in possession in the property ”,
(b) in sub-paragraph (2)(b) for sub-paragraph (ii) and the “and” before it substitute—
“(ii) section 102(3) and (4) of that Act shall apply, but only so far as the chargeable person is not beneficially entitled to an interest in possession in the property, and
(iii) if the chargeable person is beneficially entitled to an interest in possession in the property, sections 53(3) and (4) and 54 of IHTA 1984 (which deal with cases of property reverting to the settlor etc) shall not apply in relation to the chargeable proportion of the property.”, and
(c) in sub-paragraph (3) (meaning of “the chargeable proportion”), after paragraph (a)(ii) insert—
“(iii) in the case of property in which the chargeable person is beneficially entitled to an interest in possession, to the date of his death or (if his interest comes to an end on an earlier date) that earlier date, and”.

(4) In paragraph 22 (election for application of inheritance tax provisions where paragraph 8 (intangible property) would otherwise apply), in sub-paragraph (2)(b) (application of the gifts with reservation rules)—
(a) in sub-paragraph (i) at the end insert “ , but only so far as the chargeable person is not beneficially entitled to an interest in possession in the property concerned ”, and
(b) for sub-paragraph (ii) and the “and” before it substitute—
“(ii) section 102(3) and (4) of that Act shall apply, but only so far as the chargeable person is not beneficially entitled to an interest in possession in the property concerned, and
(iii) if the chargeable person is beneficially entitled to an interest in possession in the property concerned, sections 53(3) and (4) and 54 of IHTA 1984 (which deal with cases of property reverting to the settlor etc) shall not apply in relation to that property.”.

(5) The amendments made by this section have effect—
(a) for the part of the year 2005-06 beginning with 5th December 2005, and
(b) for the year 2006-07 and subsequent years of assessment.

(6) If—

(a) paragraph 11 of Schedule 15 to FA 2004 ceases, in consequence of the amendments made by this section, to apply to a person in relation to any property, and

(b) that person dies before the day on which this Act is passed without making an election under paragraph 21 or 22 of that Schedule in relation to that property,

his personal representatives (within the meaning of IHTA 1984) may make any election under paragraph 21 or 22 of that Schedule that he might have made.

(7) If—

(a) in consequence of the amendments made by this section a person makes an election under paragraph 21 or 22 of Schedule 15 to FA 2004,

(b) that person dies before the day on which this Act is passed, and

(c) an amount of inheritance tax would (but for this subsection) fall due before that day,

that amount is to be treated instead as falling due at the end of the period of 14 days beginning with that day.

(8) This section is deemed to have come into force on 5th December 2005.

VALID FROM 19/07/2006

CHAPTER 9 U.K.

MISCELLANEOUS PROVISIONS

Leasing of plant or machinery

81 Leases of plant or machinery U.K.

(1) Schedule 8 (which makes provision in relation to leases of plant or machinery) has effect.

(2) Schedule 9 (which makes miscellaneous amendments relating to such leases) has effect.

Sale of lessors

82 Sale etc of lessor companies etc U.K.

Schedule 10 (which makes provision about the sale etc of lessor companies etc) has effect.

83 Restrictions on use of losses etc: leasing partnerships U.K.

(1) In section 403 of ICTA (amounts which may be surrendered by way of group relief), in subsection (4) (section 403 subject to certain exceptions), at the end insert “ and section 785ZA (restrictions on use of losses: leasing partnerships) ”.

(2) After section 785 of ICTA (meaning of expressions for purposes of sections 781 to 784 (assets leased to traders and others)) insert—

"785ZA Restrictions on use of losses: leasing partnerships

(1) This section applies for corporation tax purposes if—
- (a) a company carries on a business in respect of which the company is within the charge to corporation tax,
- (b) the company carries on the business in partnership with other persons in an accounting period of the partnership,
- (c) the business ("the leasing business") is, on any day in that period, a business of leasing plant or machinery,
- (d) the company incurs a loss in its notional business in any accounting period comprised (wholly or partly) in the accounting period of the partnership, and
- (e) the interest of the company in the leasing business during the accounting period of the partnership is not determined on an allowable basis (see subsections (2) to (4)).

(2) The interest of the company in the leasing business during the accounting period of the partnership is determined on an allowable basis if (and only if) the following condition is met.

(3) The condition is met if, for the purposes of section 114(2),—
- (a) the company's share in the profits or loss of the leasing business for that period is determined wholly by reference to a single percentage, and
- (b) the company's share in any relevant capital allowances for that period is determined wholly by reference to the same percentage.

(4) For the purposes of this condition "profits" does not include chargeable gains.

(5) The following restrictions apply in respect of so much of the loss incurred by the company in its notional business as derives from any relevant capital allowances ("the restricted part of the loss").

(6) Apart from by way of set off against any relevant leasing income, relief is not to be given to the company under any relevant loss relief provision in respect of the restricted part of the loss.

(7) If the leasing business is a trade, relief is not to be given to the company under section 393A(1) in respect of the restricted part of the loss.

(8) The restricted part of the loss is not available for set off by way of group relief in accordance with section 403.

(9) For the purpose of determining how much of a loss derives from any relevant capital allowances, the loss is to be calculated on the basis that any relevant capital allowances are the final amounts to be deducted.

785ZB Section 785ZA: definitions

(1) This section applies for the purposes of section 785ZA.

(2) "Business of leasing plant or machinery" has the same meaning as in Part 3 of Schedule 10 to the Finance Act 2006 (sale etc of lessor companies etc).

(3) "Lease" has the same meaning as in section 785A.

(4) "Notional business", in relation to a company, means the business—
- (a) from which the company's share in the profits or loss of the leasing business is treated under section 114(2) as deriving for the purposes of the charge to corporation tax, and
- (b) which is treated under that provision as carried on alone by the company for those purposes.

(5) "Plant or machinery" has the same meaning as in Part 2 of the Capital Allowances Act.

(6) "Relevant capital allowance" means an allowance under Part 2 of the Capital Allowances Act in respect of expenditure incurred on the provision of plant or machinery wholly or partly for the purposes of the leasing business.

(7) "Relevant leasing income" means any income of the company's notional business deriving from any lease—
- (a) which is a lease of plant or machinery, and
- (b) which was entered into before the end of the accounting period of the company in which the loss in its notional business was incurred.

(8) "Relevant loss relief provision" means any of the following provisions—
- (a) section 392A (Schedule A losses),
- (b) section 392B (losses from overseas property businesses),
- (c) section 393 (trade losses),
- (d) section 396 (Case VI losses).".

(3) After section 261 of CAA 2001 (special leasing: life assurance business) insert—

"**261A Special leasing: leasing partnerships**

(1) This section applies for corporation tax purposes if—
- (a) a company carries on a business in partnership with other persons in a chargeable period of the partnership,
- (b) the business ("the leasing business") is, on any day in that period, a business of leasing plant or machinery,
- (c) the company is entitled to an allowance under section 19 (special leasing of plant or machinery) for any chargeable period comprised (wholly or partly) in the chargeable period of the partnership, and
- (d) the interest of the company in the leasing business during the chargeable period of the partnership is not determined on an allowable basis.

(2) Subsections (3) to (6) of section 260 do not apply in relation to the allowance.

(3) For the purposes of this section—
   (a) "business of leasing plant or machinery" has the same meaning as in Part 3 of Schedule 10 to FA 2006 (sale etc of lessor companies etc), and
   (b) section 785ZA of ICTA applies for determining whether the interest of the company in the leasing business during the chargeable period of the partnership is determined on an allowable basis.".

(4) The amendments made by this section have effect in relation to any business carried on by a company in partnership in any accounting period of the partnership ending on or after 5th December 2005.

(5) But, in relation to any accounting period of the partnership beginning before 5th December 2005 and ending on or after that date, those amendments have effect only if—
   (a) the company starts to carry on the business in partnership on or after that date, or
   (b) a relevant change in the interest of the company in the business occurs on or after that date.

(6) A relevant change in the interest of the company in the business occurs at any time if—
   (a) immediately before that time its interest in the business during any accounting period of the partnership is determined on an allowable basis (within the meaning given by section 785ZA of ICTA), and
   (b) immediately after that time its interest in the business during that period is not so determined.

84 Disposal of plant or machinery subject to lease where income retained U.K.

(1) CAA 2001 is amended as follows.

(2) In section 66 (list of provisions outside Chapter 5 of Part 2 about disposal values), after the entry relating to section 222 of CAA 2001, insert—

"sections 228K to 228M	Disposal of plant or machinery subject to lease where income retained".

(3) After section 228J (plant or machinery subject to further operating lease) insert—

"Disposal of plant or machinery subject to lease where income retained

228K Disposal of plant or machinery subject to lease where income retained

(1) This section applies for corporation tax purposes if—
   (a) on any day ("the relevant day") a person ("the lessor") carries on a business of leasing plant or machinery (the "leasing business"),
   (b) on the relevant day the lessor sells or otherwise disposes of any relevant plant or machinery subject to a lease to another person,

(c) the lessor remains entitled immediately after the disposal to some or all of the rentals under the lease in respect of the plant or machinery which are payable on or after the relevant day, and

(d) the lessor is required to bring a disposal value of the plant or machinery into account under this Part.

(2) The disposal value to be brought into account is determined as follows.

(3) If the amount or value of the consideration for the disposal exceeds the limit that would otherwise be imposed on the amount of the disposal value by section 62 (general limit) or 239 (limit on disposal value where additional VAT rebate)—

(a) that limit is not to apply, and

(b) the whole of the amount or value of the consideration for the disposal is to be the disposal value to be brought into account.

(4) In any other case, the disposal value to be brought into account is the sum of—

(a) the amount or value of the consideration for the disposal, and

(b) the value of the rentals under the lease in respect of the plant or machinery (see subsections (7) and (8)) which are payable on or after the relevant day and to which the lessor remains entitled immediately after the disposal,

but subject to the limit imposed on the amount of the disposal value by section 62 or 239.

(5) If—

(a) any of the rentals under the lease are receivable by the lessor on or after the relevant day, and

(b) the value of any of those rentals is represented in the amount of the disposal value under subsection (4)(b),

the amount of those rentals that is equal to their value as so represented is left out of account in calculating the income of the lessor's leasing business for corporation tax purposes.

(6) If, in determining under subsection (5) the amount of any rental to be so left out of account, it is necessary to apportion the amount of the rental, the apportionment is to be made on a just and reasonable basis.

(7) For the purposes of this section, the value of any rentals under the lease in respect of the plant or machinery is taken to be the amount of the net present value of the rentals (see section 228L).

(8) If any land or other asset which is not plant or machinery is subject to the lease, the value of any rentals under the lease in respect of the plant or machinery is taken to be so much of the amount of the net present value of the rentals as, on a just and reasonable basis, relates to the plant or machinery.

(9) This section is supplemented by—

(a) section 228L (which provides rules for determining the net present value of the rentals), and

(b) section 228M (which defines other expressions used in this section).

228L Determining the net present value of the rentals for purposes of s.228K

(1) For the purposes of section 228K, the amount of the net present value of the rentals is calculated as follows—

Step 1

Find the amount ("RI") of each rental payment—

(a) which is payable at any time during the term of the lease, and

(b) which is payable on or after the relevant day.

Step 2

For each rental payment find the day ("the payment day") on which it becomes payable.

Step 3

For each rental payment find the number of days in the period ("P") which—

(a) begins with the relevant day, and

(b) ends with the payment day.

Step 4

Calculate the net present value of each payment ("NPVRI") by applying the following formula—

$$\frac{RI}{(1+T)^{i}}$$

where—

T is the temporal discount rate, and

i is the number of days in P divided by 365.

Step 5

Add together each amount of NPVRI determined under step 4.

(2) For the purposes of this section the "term" of a lease has the meaning given in Chapter 6A of this Part.

(3) For the purposes of this section the "temporal discount rate" is 3.5% or such other rate as may be specified by regulations made by the Treasury.

(4) The regulations may make such provision as is mentioned in subsection (3)(b) to (f) of section 178 of FA 1989 (power of Treasury to set rates of interest).

(5) Subsection (5) of that section (power of Commissioners to specify rate by order in certain circumstances) applies in relation to regulations under this section as it applies in relation to regulations under that section.

228M Other definitions for the purposes of s.228K

(1) This section applies for the purposes of section 228K.

(2) "Business of leasing plant or machinery"—
(a) has the same meaning as in Part 2 of Schedule 10 to FA 2006 (sale etc of lessor companies etc) (if the business is carried on otherwise than in partnership), or
(b) has the same meaning as in Part 3 of that Schedule (if the business is carried on in partnership).

(3) "Lease" includes—
(a) an underlease, sublease, tenancy or licence, and
(b) an agreement for any of those things.

(4) "Relevant plant or machinery", in relation to a business of leasing plant or machinery, means plant or machinery on whose provision expenditure is incurred wholly or partly for the purposes of the business.".

(4) In Schedule 1 (abbreviations and defined expressions), in Part 1 (abbreviations), insert at the end—

"FA 2006	The Finance Act 2006 (c. 25)".

(5) The amendments made by this section have effect in relation to any disposal made on or after 5th December 2005.

(6) But any rentals that are receivable by the lessor before 22nd March 2006 are to be left out of account in calculating the income of the lessor's leasing business for corporation tax purposes.

85 Restrictions on effect of elections under section 266 of CAA 2001 U.K.

(1) CAA 2001 is amended as follows.

(2) In section 266 (election where predecessor and successor are connected persons), in subsection (7) (sections 104, 108 and 265 not to apply if election is made), at the end insert " (but see section 267A) ".

(3) In section 267 (effect of election), at the end insert—

"(6) This section is subject to section 267A.".

(4) After that section insert—

"267A Restriction on effect of election

(1) This section applies for corporation tax purposes if—
(a) on any day ("the relevant day") a person ("the predecessor") carries on a business of leasing plant or machinery,
(b) on the relevant day another person ("the successor") succeeds to the business, and

(c) the predecessor and the successor make an election under section 266.

(2) Neither—

(a) section 266(7), nor

(b) the provisions of section 267,

have effect in relation to any plant or machinery which, in determining whether the business is a business of leasing plant or machinery on the relevant day, is qualifying leased plant or machinery.

(3) In this section "business of leasing plant or machinery"—

(a) has the same meaning as in Part 2 of Schedule 10 to FA 2006 (sale etc of lessor companies etc) (if the business is carried on otherwise than in partnership), or

(b) has the same meaning as in Part 3 of that Schedule (if the business is carried on in partnership).".

(5) The amendments made by this section have effect in relation to any succession occurring on or after 5th December 2005.

Insurance companies and policyholders

86 Insurance companies U.K.

Schedule 11 (which makes provision about insurance companies) has effect.

87 Qualifying policies: altering method for calculating benefits U.K.

(1) Schedule 15 to ICTA (provisions for determining whether an insurance policy is a "qualifying policy" for the purposes of the Tax Acts) is amended as follows.

(2) In paragraph 18 (variations), in sub-paragraph (3) (paragraph does not apply by reason of certain variations), at the end insert ", or

(d) any variation which alters the method for calculating the benefits secured by the policy.".

(3) In paragraph 22 (certificates from body issuing policy), in sub-paragraph (3) (sub-paragraph (2) does not apply by reason of certain variations), at the end insert "; or

(c) any variation which alters the method for calculating the benefits secured by the policy.".

(4) In the case of a variation effected as part of, or in connection with, an insurance business transfer scheme, the amendments made by this section are deemed always to have had effect.

(5) In any other case, the amendments made by this section have effect in relation to variations effected on or after 7th October 2005.

(6) In this section an "insurance business transfer scheme" means—

(a) a scheme falling within section 105 of the Financial Services and Markets Act 2000 (c. 8),

(b) a scheme sanctioned by a court under Part 1 of Schedule 2C to the Insurance Companies Act 1982 (c. 50), or

(c) a scheme sanctioned by a court under section 49 of that Act or under any earlier enactment corresponding to that section,

and for the purposes of this subsection any reference to an enactment is a reference to the enactment as it had effect from time to time.

Settlements

88 Settlements, etc: chargeable gains U.K.

Schedule 12 (which amends TCGA 1992 in respect of settlors and trustees of settlements and makes other minor and consequential amendments) shall have effect.

89 Settlements, etc: income U.K.

Schedule 13 (which amends ICTA and ITTOIA 2005 in respect of settlors and trustees of settlements and makes other minor and consequential amendments) shall have effect.

90 Special trusts tax rates not to apply to social landlords' service charge income U.K.

(1) Section 686 of ICTA (accumulation and discretionary trusts: special rates of tax) is amended as follows.

(2) In subsection (2), after paragraph (b) insert—

“(ba) is not income from service charges held on trust (or, in Scotland, held in trust) by a relevant housing body; and”.

(3) After subsection (6) insert—

“(6ZA) In this section—

“relevant housing body” means—

(a) a local authority,
(b) a registered social landlord,
(c) a Northern Ireland housing association,
(d) a charitable housing association,
(e) a charitable housing trust,
(f) a housing action trust established under Part 3 of the Housing Act 1988,
(g) the Housing Corporation, or
(h) the Northern Ireland Housing Executive; and

“service charge” has the meaning given by section 18(1) of the Landlord and Tenant Act 1985.

(6ZB) In subsection (6ZA)—

“charitable housing association” means a society, body or company which—

(a) satisfies the conditions in section 5(1)(a) and (b) of the Housing Act 1985, and

(b) is registered in a register kept under section 3 of the Charities Act 1993 or section 3 of the Charities and Trustee Investment (Scotland) Act 2005;

"charitable housing trust" means a corporation or body which—

(a) satisfies the condition in section 6(a) or (b) of the Housing Act 1985, and

(b) is registered in a register kept under section 3 of the Charities Act 1993 or section 3 of the Charities and Trustee Investment (Scotland) Act 2005;

"Northern Ireland housing association" means a body which is registered in the register maintained under Article 14 of the Housing (Northern Ireland) Order 1992; and

"registered social landlord" means a body which is registered in a register maintained under section 1 of the Housing Act 1996 or section 57 of the Housing (Scotland) Act 2001."

(4) This section has effect for the year 2006-07 and subsequent years of assessment.

Investment reliefs

91 Venture capital schemes U.K.

(1) Schedule 14 contains amendments of the provisions relating to—

the enterprise investment scheme,

venture capital trusts, and

the corporate venturing scheme.

(2) Those amendments have effect as mentioned in that Schedule.

Employment-related securities

92 Avoidance using options etc U.K.

(1) Section 420 of ITEPA 2003 (meaning of securities etc) is amended as follows.

(2) In subsection (1)(f), insert at the beginning " options and ".

(3) In subsection (5)(e), insert at the beginning " securities ".

(4) In subsection (8), in the definition of "securities option", after "acquire securities" insert " other than a right to acquire securities which is acquired pursuant to a right or opportunity made available under arrangements the main purpose (or one of the main purposes) of which is the avoidance of tax or national insurance contributions ".

(5) This section has effect in relation to options acquired on or after 2nd December 2004; but subsection (4) also has effect in relation to an option acquired before that date where something is done on or after that date as part of the arrangements under which it was made available.

93 Corporation tax relief for shares acquired under EMI option U.K.

(1) Schedule 23 to FA 2003 (corporation tax relief for employee share acquisition) is amended as follows.

(2) In paragraph 21 (amount of relief in case of restricted shares), after sub-paragraph (4) insert—

"(4A) But if the option is a qualifying option, the amount mentioned in sub-paragraph (4) is increased by (or, if that amount is nil, is taken to be) the amount equal to any difference between—

(a) the amount that would have counted as employment income of the employee under section 476 of the Income Tax (Earnings and Pensions) Act 2003 in respect of the acquisition apart from the EMI code, and

(b) the amount (if any) that in fact counts as such income in accordance with the EMI code."

(3) In paragraph 22C (amount of relief in case of convertible shares), after sub-paragraph (4) insert—

"(4ZA) But if the option is a qualifying option, the amount mentioned in sub-paragraph (4) is increased by (or, if that amount is nil, is taken to be) the amount equal to any difference between—

(a) the amount that would have counted as employment income of the employee under section 476 of the Income Tax (Earnings and Pensions) Act 2003 (as modified by section 437 of that Act) in respect of the acquisition apart from the EMI code, and

(b) the amount (if any) that in fact counts as such income in accordance with the EMI code."

(4) In paragraph 30 (minor definitions) insert at the appropriate places—

""the EMI code" has the meaning given by section 527(3) of the Income Tax (Earnings and Pensions) Act 2003;", and

""qualifying option" has the same meaning as in the EMI code (see section 527(4) of the Income Tax (Earnings and Pensions) Act 2003);".

(5) In paragraph 31 (index of defined expressions) insert at the appropriate places—

"the EMI code	paragraph 30", and
"qualifying option	paragraph 30".

(6) This section applies in relation to an acquisition of shares made on or after 1st September 2003 (and for this purpose shares are acquired when the recipient acquires a beneficial interest in the shares and not, if different, the time the shares are conveyed or transferred).

PAYE

94 PAYE: retrospective notional payments U.K.

(1) ITEPA 2003 is amended as follows.

(2) In section 222 (payments by employer on account of tax where deduction not possible)—

(a) in subsection (1)(c), for "date on which the employer is treated as making the notional payment" substitute " relevant date ",

(b) in subsection (2), for "date mentioned in subsection (1)(c)" substitute " relevant date ", and

(c) after subsection (3) insert—

"(4) In this section "the relevant date" means—

(a) if the employer is treated by virtue of any Act as making the notional payment before the date on which the Act is passed, that date, and

(b) in any other case, the date on which the employer is treated as making the notional payment."

(3) In section 684(2) (PAYE regulations), in item 1—

(a) for "time of the payment" substitute " relevant time ", and

(b) after paragraph (b) insert—

""The relevant time" is—

(a) if the payment is a notional payment for the purposes of section 710 and the person is treated by virtue of any Act as making it at a time before the date on which the Act is passed, that date, and

(b) in any other case, the time when the payment is made."

(4) In section 710 (notional payments: accounting for tax)—

(a) in subsection (7), after "means" insert " (subject to subsection (7A)) ", and

(b) after that subsection insert—

"(7A) In a case where the notional payment is treated by virtue of any Act as made before the date on which the Act is passed—

(a) the reference in sub-paragraph (i) of paragraph (a) of subsection (7) to the time when the notional payment is made is to the date on which the Act is passed,

(b) the reference in sub-paragraph (ii) of that paragraph to any occasion falling within the same income tax period is to any occasion falling before the end of the income tax period next after that in which that date falls, and

(c) the reference in paragraph (b) of that subsection to the income tax period in which the notional payment was made is to the income tax period next after that in which that date falls."

(5) The provisions of ITEPA 2003 amended by this section have effect in relation to notional payments treated by virtue of this Act as made before the date on which this Act is passed as if for the references to the date on which the Act is passed in—

(a) section 222(4)(a),
(b) paragraph (a) of the definition of "the relevant time" in section 684(2), and
(c) section 710(7A)(a), (b) and (c),

there were substituted references to such date as the Commissioners for Her Majesty's Revenue and Customs may by order made by statutory instrument appoint.

Subordinate Legislation Made

P4 S. 94(5) power fully exercised: 6.4.2007 appointed by {S.I. 2007/1081}, art. 2

Alternative finance arrangements

95 Profit share agency U.K.

(1) In section 46(1) of FA 2005 (alternative finance arrangements: definition) for "or 49." substitute " , 49 or 49A. "

(2) In section 49 of FA 2005 (profit share return)—

(a) for subsection (2) substitute—

"(2) Amounts paid or credited as mentioned in subsection (1)(c) by a financial institution under arrangements falling within this section are profit share return for the purposes of this Chapter.", and

(b) in the heading for "profit share return" substitute " deposit ".

(3) After section 49 of FA 2005 insert—

"49A Alternative finance arrangements: profit share agency

(1) Subject to section 52, arrangements fall within this section if they are arrangements under which—

(a) a person ("the principal") appoints a financial institution as his agent,
(b) the agent uses money provided by the principal with a view to producing a profit,
(c) the principal is entitled, to a specified extent, to profits resulting from the use of the money,
(d) the agent is entitled to any additional profits resulting from the use of the money (and may also be entitled to a fee to be paid by the principal), and
(e) payments in pursuance of the entitlement specified in paragraph (c) equate, in substance, to the return on an investment of the money at interest.

(2) Amounts paid or credited by a financial institution in accordance with an entitlement of the kind specified in subsection (1)(c) are profit share return for the purposes of this Chapter.

(3) The principal shall not be treated for the purposes of the Tax Acts as entitled to profits to which the agent is entitled in accordance with subsection (1)(d)."

(4) After section 50(2) of FA 2005 (treatment of alternative finance arrangements: companies) insert—

"(2A) Where a company is a party to arrangements falling within section 49A, Chapter 2 of Part 4 of FA 1996 (loan relationships) has effect in relation to the arrangements as if—

(a) the arrangements were a loan relationship to which the company is a party,

(b) the amount provided under the arrangements were—

(i) in relation to a company which is the principal under the arrangements, the amount of a loan made by the company to the agent, and

(ii) in relation to a company which is the agent under the arrangements, the amount of a loan made to it by the principal, and

(c) profit share return payable to or by the company under the arrangements were interest payable under that loan relationship."

(5) In section 52 of FA 2005 (provision not at arm's length)—

(a) in subsection (1)(a) for "or section 49," substitute " , 49 or 49A, ",

(b) in subsection (3) for "or section 49." substitute " , 49 or 49A. ", and

(c) in subsection (5) for "49," substitute " 49 or 49A, ".

(6) In the heading to section 54 of FA 2005 "Section 49" becomes "Sections 49 and 49A".

(7) In the definition of "profit share return" in section 57 of FA 2005 for "section 49(2)" substitute " sections 49(2) and 49A(2) ".

(8) In paragraph 1(b) of Schedule 2 to FA 2005 after "49" insert " or 49A ".

(9) In section 148 of FA 2003 (meaning of "permanent establishment") after subsection (5A) insert—

"(5B) Where profit share return is paid, in accordance with arrangements to which section 49A of FA 2005 applies (alternative finance arrangements: profit share agency), to a company that is not resident in the United Kingdom, the company is not regarded as having a permanent establishment in the United Kingdom merely by virtue of anything done for the purposes of the arrangements by the other party to the arrangements or by any other person acting for the company in relation to the arrangements."

(10) In section 127(1) of FA 1995 (persons not treated as UK representatives) renumber paragraph (cc) as paragraph (ca) and insert after it—

"(cb) where the income consists of profit share return in accordance with arrangements to which section 49A of FA 2005 applies (alternative finance arrangements: profit share agency), the other party to the arrangements or any other person acting for the non-resident in relation to the arrangements;".

(11) Section 56 of FA 2005 (commencement and transitional) shall have effect in relation to the commencement of this section—

(a) as if references to Chapter 5 of Part 2 of that Act were references to this section,

(b) as if references to 6th April 2005 were references to—

(i) 1st April 2006 in relation to corporation tax, and

(ii) 6th April 2006 in relation to income tax, and

(c) as if references to section 49 were references to section 49A.

96 Diminishing shared ownership U.K.

(1) In section 46(1) of FA 2005 (alternative finance arrangements: definition) after "47" insert " , 47A, ".

(2) In section 47 of FA 2005 (alternative finance return)—

(a) omit subsection (5),

(b) in subsections (6) and (7) after "is to be taken" insert " for the purposes of this Chapter ", and

(c) in the heading for "alternative finance return" substitute " purchase and re-sale ".

(3) After section 47 of FA 2005 insert—

"47A Alternative finance arrangements: diminishing shared ownership

(1) Subject to section 52, arrangements fall within this section if under them—

(a) a financial institution acquires a beneficial interest in an asset, and

(b) another person ("the eventual owner")—

(i) also acquires a beneficial interest in the asset,

(ii) is to make payments to the financial institution amounting in aggregate to the consideration paid for the acquisition of its beneficial interest,

(iii) is to acquire the financial institution's beneficial interest (whether or not in stages) as a result of those payments,

(iv) is to make other payments to the financial institution (whether in pursuance of a lease forming part of the arrangements, or otherwise),

(v) has the exclusive right to occupy or otherwise use the asset,

(vi) is exclusively entitled to any income, profit or gain arising from or attributable to the asset (including, in particular, any increase in the asset's value).

(2) For the purposes of subsection (1)(a) it is immaterial—

(a) whether or not the financial institution acquires its beneficial interest from the eventual owner,

(b) whether the eventual owner or another person other than the financial institution also has a beneficial interest in the asset, and

(c) whether or not the financial institution also has a legal interest in the asset.

(3) Subsection (1)(b)(v) does not prevent the eventual owner from granting an interest or right in relation to the asset to someone other than—

(a) the financial institution,

(b) a person controlled by the financial institution within the meaning of section 840 of ICTA, and

(c) a person controlled by a person who also controls the financial institution, in each case within the meaning of section 840 of ICTA;

provided that the grant is not required by the financial institution or by arrangements to which the financial institution is party.

(4) Subsection (1)(b)(vi) does not prevent the financial institution from having responsibility for, or a share in any loss arising out of, any reduction in the asset's value (and subsection (1)(b)(ii) is subject to this subsection).

(5) Payments by the eventual owner under arrangements to which this section applies are alternative finance return for the purposes of this Chapter except in so far as they amount to—

(a) payments of the kind described in subsection (1)(b)(ii), or

(b) payments in respect of any arrangement fee or legal or other costs or expenses which the eventual owner is required under the arrangements to pay.

(6) Arrangements to which this section applies shall not be treated as a partnership for the purposes of the Taxes Acts (within the meaning of the Taxes Management Act 1970).”

(4) In section 50 of FA 2005 (treatment of alternative finance arrangements: companies) —

(a) in subsection (1) after “section 47” insert “ or 47A ”,

(b) at the beginning of subsection (1)(b) add “ in the case of arrangements within section 47, ”, and

(c) after subsection (1)(b) insert—

“(ba) in the case of arrangements within section 47A, the consideration paid by the financial institution for the acquisition of its beneficial interest were the amount of a loan made (as the case requires) to the company by, or by the company to, the other party to the arrangements,”.

(5) In section 52 of FA 2005 (provision not at arm's length)—

(a) in subsection (1)(a) after “47” insert “ , 47A ”,

(b) in subsection (3) after “47” insert “ , 47A ”, and

(c) in subsection (4) for “47,” substitute “ 47 or 47A, ”.

(6) In section 53 of FA 2005 (sale and purchase of asset)—

(a) in subsection (1) after “47” insert “ or 47A ”,

(b) after subsection (2) add—

“(3) In the application of this section to section 47A a reference to the effective return is a reference to the alternative finance return.”, and

(c) in the heading after “47” insert “ or 47A ”.

(7) In the definition of “alternative finance return” in section 57 of FA 2005 for “section 47(5)” substitute “ sections 47(6) and (7) and 47A(5) ”.

(8) This section shall have effect in relation to alternative finance arrangements entered into on or after—

(a) 1st April 2006 in relation to corporation tax, and

(b) 6th April 2006 in relation to income tax.

97 Beneficial loans to employees U.K.

(1) For the purposes of Chapter 7 of Part 3 of ITEPA 2003 (taxable benefits: loans) a reference to a loan includes a reference to an arrangement which—

(a) is an alternative finance arrangement to which section 47 or 47A FA 2005 applies, or

(b) would be an alternative finance arrangement to which one of those sections applied if one of the parties were a financial institution.

(2) In the application of that Chapter by virtue of subsection (1)—

(a) a reference to interest shall be treated as including a reference to alternative finance return, and

(b) a reference to the amount outstanding shall be taken to be—

(i) in the case of arrangements to which section 47 applies, a reference to the purchase price minus such part of the aggregate payments made as does not represent alternative finance return, and

(ii) in the case of arrangements to which section 47A applies, a reference to the amount of the financial institution's original beneficial interest minus such part of the aggregate payments made as does not represent alternative finance return.

(3) This section shall have effect in relation to arrangements entered into on or after 22nd March 2006.

98 Regulations U.K.

(1) The Treasury may by order amend Chapter 5 of Part 2 to FA 2005 (alternative finance arrangements) so as to introduce provision relating to arrangements which in the Treasury's opinion—

(a) equate in substance to a loan, deposit or other transaction of a kind that generally involves the payment of interest, but

(b) achieve a similar effect without including provision for the payment of interest.

(2) An order under subsection (1) may, in particular—

(a) include provision of a kind similar to provision already made by Chapter 5 of Part 2;

(b) make other provision about the treatment for the purposes of the Tax Acts of arrangements to which the order applies;

(c) make provision generally or only in relation to specified cases or circumstances;

(d) make different provision for different cases or circumstances;

(e) include consequential provision (which may include provision amending a provision of the Tax Acts);

(f) include incidental or transitional provision.

(3) An order under subsection (1)—

(a) shall be made by statutory instrument, and

(b) shall not be made unless a draft has been laid before and approved by resolution of the House of Commons.

Nuclear decommissioning

99 Amendment of section 29 of the Energy Act 2004 U.K.

(1) Section 29 of the Energy Act 2004 (c. 20) (disregard for tax purposes of cancellation etc of decommissioning provisions) is amended as follows.

(2) In subsection (1)—

(a) in paragraph (a), for "relevant company" substitute " BNFL company ";

(b) for paragraphs (b) and (c) substitute—

"(b) that provision—

(i) relates to decommissioning or cleaning-up which the NDA acquires or has acquired responsibility for securing by virtue of a direction under section 3, but

(ii) is not provision recognised in order to reflect the terms or effect of a management contract between the company and the NDA;

and

(c) the responsibility referred to in paragraph (b)(i)—

(i) includes the financial responsibility under section 21, or

(ii) would do so but for the fact that the amount of the financial responsibility is for the time being subject to a limit imposed by a capping agreement."

(3) For subsections (3) and (4) substitute—

"(3) This subsection applies to a credit or debit if it arises from—

(a) the recognition in the accounts of the company for a relevant period beginning on or after 1st April 2005 of—

(i) the relevant provision, or

(ii) an asset that, in accordance with generally accepted accounting practice, is recognised in connection with the relevant provision in order to reflect the acquisition of financial responsibility referred to in subsection (1) (a "matching asset");

(b) an adjustment made in the accounts of the company for such a period of—

(i) the relevant provision, or

(ii) a matching asset;

or

(c) the removal from the accounts of the company for such a period of—

(i) the relevant provision,

(ii) a matching asset, or

(iii) an asset or liability recognised in order to reflect the terms or effect of a contract falling within subsection (3A).

(3A) A contract falls within this subsection if—

(a) it is a contract made before 1st April 2005 and having effect between two or more BNFL companies under which a party to the contract assumed responsibility for securing decommissioning or cleaning-up; and

(b) the rights and obligations under the contract are extinguished by reason of a transfer made under a nuclear transfer scheme."

(4) In subsection (5)—

(a) for the definition of "BNFL company" substitute—

""BNFL company" means—

(a) BNFL,

(b) a company that immediately before 1st April 2005 was a wholly-owned subsidiary of BNFL, or

(c) a wholly-owned subsidiary of a company falling within paragraph (b);";

(b) after that definition insert—

""capping agreement" means an agreement under subsection (9) of section 21, entered into on 1st April 2005, the sole or main effect of which is to impose a limit on the NDA's financial responsibility under that section;

"management contract" has the same meaning as in section 27;";

(c) for the definition of "relevant company" substitute—

""relevant period", in relation to a company, means an accounting period during the whole of which the company is publicly owned;".

(5) After that subsection insert—

"(5A) Where a company ceases to be publicly owned otherwise than at the end of an accounting period—

(a) the accounting period during which it ceases to be publicly owned is treated for the purposes of corporation tax as ending when it so ceases; and

(b) its profits and losses are to be computed accordingly for those purposes."

(6) The amendments made by this section have effect in relation to accounting periods of a BNFL company ending on or after 22nd March 2006.

"BNFL company" has the same meaning as in section 29 of the Energy Act 2004 (c. 20) as amended by this section.

100 Amendment of section 30 of the Energy Act 2004 U.K.

(1) Section 30 of the Energy Act 2004 (disregard for tax purposes of decommissioning provisions recognised by Nuclear Decommissioning Authority) is amended as follows.

(2) In subsection (1)—

(a) for paragraph (b) substitute—

"(b) that responsibility—

(i) includes the financial responsibility under section 21, or

(ii) would do so but for the fact that the amount of the financial responsibility is for the time being subject to a limit imposed by a capping agreement;";

(b) in paragraph (c) omit "on the coming into force of the direction mentioned in paragraph (a),";

(c) at the end of that paragraph insert "; and

(d) the provision is recognised—

(i) in order to reflect the coming into force of the direction mentioned in paragraph (a), or

(ii) in consequence of the variation or removal of a limit on the NDA's financial responsibility under section 21 imposed by a capping agreement."

(3) For subsection (3) substitute—

"(3) In computing the profits, gains or losses of the NDA for the purposes of corporation tax, no amount shall be brought into account in connection with—

(a) the recognition made in the accounts of the NDA of—

(i) the relevant provision, or

(ii) an asset that, in accordance with generally accepted accounting practice, is recognised in order to reflect a limit on the NDA's financial responsibility under section 21 imposed by a capping agreement;

(b) any adjustment made in those accounts (including the removal from the accounts of an asset falling within paragraph (a)(ii)) in consequence of a variation or removal of the limit mentioned in paragraph (a)(ii)."

(4) In subsection (4), for the words after "in connection with" substitute " an adjustment not falling within paragraph (b) of that subsection ".

(5) In subsection (5), after the definition of "BNFL company" insert—

""capping agreement" has the same meaning as in section 29;".

(6) The amendments made by this section have effect in relation to accounting periods of the Nuclear Decommissioning Authority ending on or after 22nd March 2006.

Accounting practice

101 Securitisation companies U.K.

(1) Section 83 of FA 2005 (application of accounting standards to securitisation companies) is amended as follows.

(2) In subsection (1)(b) (periods of account in relation to which old UK GAAP is to apply) for "1st January 2007" substitute " 1st January 2008 ".

(3) In subsection (3) (meaning of "note-issuing company")—

(a) omit "and" at the end of paragraph (c);

(b) after paragraph (d) insert—

", and

(e) if it has any business apart from the activity mentioned in paragraph (a) (and any incidental activities) it consists in one or both of the following—

(i) acquiring, holding and managing assets forming the whole or part of the security for the capital market arrangement;

(ii) acting as guarantor in respect of loan relationships, derivative contracts, finance leases or other liabilities of other companies where the whole, or substantially the whole, of the company's rights in respect of the guarantee (including any right of subrogation) form the whole or part of the security for the capital market arrangement.".

(4) In subsection (5) (meaning of "intermediate borrowing company")—

(a) in paragraph (a) after "asset-holding company", and

(b) in paragraph (b) after "note-issuing company",

insert " (or another intermediate borrowing company) ".

(5) In section 84 of that Act (power to make provision as to application of Corporation Tax Acts in relation to securitisation companies)—

(a) in subsection (3)(d)—

(i) at the end of sub-paragraph (i) insert " , and ", and

(ii) omit sub-paragraph (ii) and the word "and" following it;

(b) in subsection (5), omit paragraph (a).

(6) The amendments in this section shall be deemed always to have had effect, subject as follows.

(7) A company that would have been a securitisation company for the purposes of section 83 of FA 2005 if the amendments in this section had not been made, being either—

(a) a note-issuing company that—

(i) had become party as debtor to the capital market investment before 22nd March 2006, or

(ii) had before that date entered into a binding arrangement to become a party as debtor to the capital market investment, or

(b) another description of securitisation company by virtue of its connection with a company within paragraph (a),

may elect to be taxed as if the amendments in subsection (3) had not been made.

(8) Any such election must be made not later than 31st March 2007 and has effect for all relevant periods of account.

102 Accountancy change: spreading of adjustment U.K.

(1) Schedule 15 to this Act (accountancy change: spreading of adjustment) has effect.

(2) In that Schedule—

Part 1 makes provision for income tax purposes, and

Part 2 makes provision for corporation tax purposes.

(3) In section 21B of ICTA (corporation tax: application to Schedule A business of other rules applicable to Case 1 of Schedule D) for "section 44 of and Schedule 6 to the Finance Act 1998" substitute " section 64 of and Schedule 22 to the Finance Act 2002 ".

VALID FROM 19/07/2006

PART 4 U.K.

REAL ESTATE INVESTMENT TRUSTS

Introduction

103 Real Estate Investment Trusts U.K.

(1) This Part enables a company which carries on property rental business (within the meaning of section 104) and which satisfies the requirements of sections 106 to 108 to opt to—

(a) benefit from exemptions from corporation tax on profits and gains in accordance with sections 119 and 124, and

(b) have liabilities to tax imposed on the company and the recipients of distributions made by the company in accordance with sections 112, 121 and 122.

(2) This Part makes similar provision in relation to groups of companies (sections 134 to 136 and Schedule 17).

(3) A company or group to which this Part applies may be referred to as a Real Estate Investment Trust.

104 Property rental business U.K.

(1) In this Part "property rental business" means business that is or forms part of—

(a) a Schedule A business (within the meaning of section 832(1) of ICTA), or

(b) an overseas property business (within the meaning of section 70A(4) of ICTA).

(2) But—

(a) business of a kind listed in Part 1 of Schedule 16 is not property rental business, and

(b) business is not property rental business if or in so far as it gives rise to income or profits of a kind listed in Part 2 of that Schedule.

105 Other key concepts U.K.

(1) In this Part "entry" means the time when this Part begins to apply to a company.

(2) In this Part "cessation" means the time when this Part ceases to apply to a company.

(3) In this Part, in relation to a company—

(a) "C (pre-entry)" means the company before this Part begins to apply to it,

(b) "C (tax-exempt)" means the company in so far as it carries on tax-exempt business (within the meaning of section 107(2)) while this Part applies to it,

(c) "C (residual)" means the company in so far as it carries on non-tax-exempt business while this Part applies to it, and

(d) "C (post-cessation)" means the company after this Part has ceased to apply to it.

106 Conditions for company U.K.

(1) A company may give notice for this Part to apply to it in accordance with section 109 only if it satisfies Conditions 1 to 3 below.

(2) In order for this Part to apply to a company in respect of an accounting period, Conditions 1 to 6 below must be satisfied in relation to the company throughout the accounting period.

(3) Condition 1 is that the company—

(a) is resident in the United Kingdom, and

(b) is not resident in another place in accordance with the law of that place relating to taxation.

(4) Condition 2 is that section 236 of the Financial Services and Markets Act 2000 Financial Services and Markets Act 2000 (c. 8) (open-ended investment companies) does not apply to the company.

(5) Condition 3 is that the shares forming the company's ordinary share capital are listed on a recognised stock exchange.

(6) Condition 4 is that the company—

(a) is not a close company (within the meaning of section 414 of ICTA), or

(b) is a close company only by virtue of having as a participator (within the meaning of section 417 of ICTA) a limited partnership which is a collective investment scheme within the meaning of section 235 of the Financial Services and Markets Act 2000;

and for the purposes of paragraph (a) a company shall be treated as a close company if it is prevented from being a close company only by section 414(5) or 415(4)(a) of ICTA.

(7) Condition 5 is that—

(a) each share issued by the company either—

(i) forms part of the company's ordinary share capital, or

(ii) is a non-voting fixed-rate preference share (within the meaning of paragraph 2 of Schedule 25 to ICTA (acceptable distribution policy)), and

(b) there is no more than one class of ordinary share issued by the company.

(8) Condition 6 is that in the case of any loan to which the company is party—
   (a) the loan creditor is not entitled to an amount by way of interest which depends to any extent on the results of all or part of the company's business or on the value of any of the company's assets,
   (b) the loan creditor is not entitled to an amount by way of interest which exceeds a reasonable commercial return on the consideration lent, and
   (c) the loan creditor is entitled on repayment to an amount which either does not exceed the consideration lent or is reasonably comparable with the amount generally repayable (in respect of an equal amount of consideration) under the terms of issue of securities listed on a recognised stock exchange.

107 Conditions for tax-exempt business U.K.

(1) In order to be a company to which this Part applies in respect of an accounting period—
   (a) the company must throughout the accounting period have a property rental business in respect of which Conditions 1 to 3 below are satisfied (whether or not it also has other business), and
   (b) Condition 4 below must be satisfied in relation to that property rental business in respect of that accounting period.

(2) Property rental business of a company is "tax-exempt business" for the purposes of this Part in respect of an accounting period if—
   (a) Conditions 1 to 3 are satisfied throughout the accounting period in relation to the business, and
   (b) Condition 4 is satisfied in respect of the accounting period in relation to the business.

(3) Condition 1 is that the property rental business involves at least three properties.

(4) Condition 2 is that no one property represents more than 40% of the total value of the properties involved in the property rental business.

(5) Condition 3 is that the property rental business must not involve property that would fall in accordance with generally accepted accounting practice to be described as owner-occupied.

(6) For the purposes of Conditions 1 to 3—
   (a) a reference to a property involved in a business is a reference to an estate, interest or right by the exploitation of which the business is conducted,
   (b) a property is a single property if it is designed, fitted or equipped for the purpose of being rented, and it is rented or available for rent, as a commercial or residential unit (separate from any other commercial or residential unit),
   (c) assets must be valued in accordance with international accounting standards (within the meaning of section 50(2) of FA 2004),
   (d) where international accounting standards offer a choice of valuation between cost basis and fair value, fair value must be used, and
   (e) no account shall be taken of liabilities secured against or otherwise relating to assets (whether generally or specifically).

(7) For the purpose of Condition 3—

(a) no account shall be taken of the fact that a property may fall to be described as owner-occupied by reason only of the provision by the company of services to an occupant who is in exclusive occupation of the property and is not connected with the company (within the meaning given by section 839 of ICTA),

(b) if the shares of one company are stapled to the shares of another, the two shall be treated as a single company, and

(c) for this purpose shares of one company are stapled to shares of another if in consequence of the nature of the rights attaching to the shares of the one company (including any terms or conditions attaching to the right to transfer the shares) it is necessary or advantageous for a person who has, disposes of or acquires shares of that company also to have, to dispose of or to acquire a holding of shares of the other company.

(8) Condition 4 is that at least 90% of the profits of the property rental business arising in the accounting period are distributed—

(a) by way of dividend, and

(b) on or before the filing date for the company's tax return for the accounting period (see paragraph 14 of Schedule 18 to FA 1998).

(9) But—

(a) Condition 4 shall be disregarded if and in so far as compliance with it would be unlawful by virtue of—

(i) an enactment (including Northern Ireland legislation and an Act of the Scottish Parliament), or

(ii) an enactment of a jurisdiction outside the United Kingdom where the enactment is prescribed, or is of a kind prescribed, for the purposes of this paragraph in regulations made by the Commissioners for Her Majesty's Revenue and Customs, and

(b) a distribution that is withheld in order to prevent or reduce a charge to tax arising under regulations under section 114 shall be treated for the purposes of Condition 4 as having been made.

108 Conditions for balance of business U.K.

(1) In order to be a company to which this Part applies in respect of an accounting period Conditions 1 and 2 below must be satisfied in respect of the company.

(2) Condition 1 is that in the accounting period the profits arising from tax-exempt business are at least 75% of the company's total profits; and for that purpose—

(a) "total profits" means profits arising from tax-exempt business plus profits arising from non-tax-exempt business, and

(b) "profits" means profits before deduction of tax and excluding realised and unrealised gains and losses on the disposal of property, calculated in accordance with international accounting standards.

(3) Condition 2 is that at the beginning of the accounting period the value of the assets involved in tax-exempt business is at least 75% of the total value of assets held by the company; and for that purpose—

(a) an asset is involved in tax-exempt business if it is property involved in the relevant property rental business within the meaning given by section 107(6)(a),

(b) assets must be valued in accordance with international accounting standards,
(c) where international accounting standards offer a choice of valuation between cost basis and fair value, fair value must be used, and
(d) no account shall be taken of liabilities secured against or otherwise relating to assets (whether generally or specifically).

Entering Real Estate Investment Trust Regime

109 Notice U.K.

(1) If a company (which satisfies the requirement in section 106(1)) gives a notice under this section specifying an accounting period from the beginning of which this Part is to apply to the company, this Part shall apply to the company from the beginning of that accounting period.

(2) A notice—
(a) must be given in writing to the Commissioners for Her Majesty's Revenue and Customs,
(b) must be given before the beginning of the specified accounting period,
(c) must be accompanied by a statement by the company that Conditions 1 to 6 in section 106 are reasonably expected to be satisfied in respect of the company throughout the specified accounting period, and
(d) must contain such other information, and be accompanied by such other documents, as may be prescribed by regulations made by the Commissioners for Her Majesty's Revenue and Customs.

110 Duration U.K.

Once this Part has begun to apply to a company, it shall continue to apply unless and until it ceases to apply in accordance with any of sections 128 to 130.

111 Effects of entry U.K.

(1) Property rental business of C (pre-entry) shall be treated for the purposes of corporation tax as ceasing at entry.

(2) Assets which immediately before entry are involved in property rental business of C (pre-entry) shall be treated for the purposes of corporation tax as being sold by C (pre-entry) immediately before entry and re-acquired by C (tax-exempt) immediately after entry.

(3) The sale and re-acquisition deemed under subsection (2) shall be treated as being for a consideration equal to the market value of the assets.

(4) For the purposes of CAA 2001—
(a) the sale and re-acquisition deemed under subsection (2)—
(i) shall not give rise to allowances or charges, and
(ii) shall not make it possible to make an election under section 198 or 199 of that Act (apportionment),
(b) subsection (3) above shall not apply, and

(c) anything done by or to C (pre-entry) before entry in relation to an asset which is deemed under subsection (2) to be sold and re-acquired shall be treated after entry as having been done by or to C (tax-exempt).

(5) For the purposes of corporation tax, on entry one accounting period of the company shall end and another shall begin.

(6) For the purposes of subsection (2) an asset is involved in property rental business if it is property involved in the business within the meaning given by section 107(6)(a).

(7) A gain accruing by reason of this section shall not be a chargeable gain.

Modifications etc. (not altering text)

C2 S. 111 applied (with modifications) (1.1.2007) by The Real Estate Investment Trusts (Joint Ventures) Regulations 2006 (S.I. 2006/2866), **reg. 7(2)**
S. 111 applied (1.1.2007) by The Real Estate Investment Trusts (Joint Ventures) Regulations 2006 (S.I. 2006/2866), **reg. 13(3)** (subject to reg. 14)
S. 111 continued (with modifications) (1.1.2007) by The Real Estate Investment Trusts (Joint Ventures) Regulations 2006 (S.I. 2006/2866), **reg. 14(4)(5)**
S. 111 continued (with modifications) (1.1.2007) by virtue of The Real Estate Investment Trusts (Joint Ventures) Regulations 2006 (S.I. 2006/2866), **reg. 14(6)(7)**

C3 S. 111 applied (with modifications) (31.12.2007) by The Real Estate Investment Trusts (Joint Venture Groups) Regulations 2007 (S.I. 2007/3425), **reg. 13(2)**
S. 111 modified (31.12.2007) by The Real Estate Investment Trusts (Joint Venture Groups) Regulations 2007 (S.I. 2007/3425), **reg. 14**
S. 111 applied (with modifications) (31.12.2007) by The Real Estate Investment Trusts (Joint Venture Groups) Regulations 2007 (S.I. 2007/3425), **reg. 23(2)**
S. 111 modified (31.12.2007) by The Real Estate Investment Trusts (Joint Venture Groups) Regulations 2007 (S.I. 2007/3425), **reg. 24(2)**

112 Entry charge U.K.

(1) A company to which this Part applies shall be chargeable to corporation tax under Case VI of Schedule D on an amount of notional income calculated in accordance with subsection (3).

(2) The notional income shall be treated as arising to C (residual) on entry.

(3) The notional income is—

$$\frac{\text{MarketValue}}{\text{TaxRate}} \times 2\%$$

where—

(a) Market Value means the aggregate market value of assets treated as sold and re-acquired under section 111(2) (ignoring any asset of negative market value), and

(b) Tax Rate means the percentage rate at which C (residual) is chargeable to tax on profits.

(4) No loss, deficit, expense or allowance may be set off against notional income or tax arising under this section.

(5) The company may elect to have the notional income treated as arising in four instalments, the first on the date of entry and the other three on the first three anniversaries of that date; and for this purpose subsection (3) shall apply as if the percentage referred to were—

(a) 0.50% for the first instalment,

(b) 0.53% for the second instalment,

(c) 0.56% for the third instalment, and

(d) 0.60% for the fourth instalment.

(6) If a company makes an election under subsection (5)—

(a) notice of the election must be given to the Commissioners for Her Majesty's Revenue and Customs with the notice under section 109,

(b) the election is irrevocable, and

(c) if this Part ceases to apply to a company before the third anniversary of entry, any remaining instalments shall become chargeable immediately.

(7) The Treasury may by regulations amend a percentage specified in subsection (5) in order to reflect a change in interest rates; but regulations under this subsection shall not have effect in relation to elections made before the regulations come into force.

Modifications etc. (not altering text)

C4 S. 112 applied (with modifications) (1.1.2007) by The Real Estate Investment Trusts (Joint Ventures) Regulations 2006 (S.I. 2006/2866), **regs. 7(3)**, **8(3)**

S. 112 applied (with modifications) (1.1.2007) by The Real Estate Investment Trusts (Joint Ventures) Regulations 2006 (S.I. 2006/2866), **reg. 13(4)** (subject to reg. 14)

S. 112 continued (with modifications) (1.1.2007) by The Real Estate Investment Trusts (Joint Ventures) Regulations 2006 (S.I. 2006/2866), **reg. 14**{(4)}(5){(6)}(7)

S. 112 applied (with modifications) (1.1.2007) by The Real Estate Investment Trusts (Joint Ventures) Regulations 2006 (S.I. 2006/2866), **reg. 15(3)**

C5 S. 112 modified (31.12.2007) by The Real Estate Investment Trusts (Joint Venture Groups) Regulations 2007 (S.I. 2007/3425), **reg. 14**

S. 112 applied (with modifications) (31.12.2007) by The Real Estate Investment Trusts (Joint Venture Groups) Regulations 2007 (S.I. 2007/3425), **reg. 15(3)**

S. 112 applied (with modifications) (31.12.2007) by The Real Estate Investment Trusts (Joint Venture Groups) Regulations 2007 (S.I. 2007/3425), **reg. 23(3)**

S. 112 modified (31.12.2007) by The Real Estate Investment Trusts (Joint Venture Groups) Regulations 2007 (S.I. 2007/3425), **reg. 24(2)**

S. 112 applied (with modifications) (31.12.2007) by The Real Estate Investment Trusts (Joint Venture Groups) Regulations 2007 (S.I. 2007/3425), **reg. 25(3)**

S. 112 applied (with modifications) (31.12.2007) by The Real Estate Investment Trusts (Joint Venture Groups) Regulations 2007 (S.I. 2007/3425), **reg. 13(3)**

Assets etc

113 Ring-fencing of tax-exempt business U.K.

(1) For the purposes of corporation tax, the business of C (tax-exempt) shall be treated as a separate business (distinct from—
- (a) any business carried on by C (pre-entry),
- (b) any business carried on by C (residual), and
- (c) any business carried on by C (post-cessation)).

(2) For the purposes of corporation tax C (tax-exempt) shall be treated as a separate company (distinct from—
- (a) C (pre-entry),
- (b) C (residual), and
- (c) C (post-cessation)).

(3) In particular—
- (a) a loss incurred by C (tax-exempt) may not be set off against profits of C (residual),
- (b) a loss incurred in respect of C (residual) may not be set off against profits of C (tax-exempt),
- (c) a loss incurred in respect of C (pre-entry) may not be set off against profits of C (tax-exempt) (but this section does not prevent a loss of that kind from being set off against profits of C (residual)),
- (d) a loss incurred by C (tax-exempt) may not be set off against profits arising to C (post-cessation) (in respect of business of any kind), and
- (e) receipts accruing after entry but relating to business of C (pre-entry) shall not be treated as receipts of C (tax-exempt).

(4) In subsection (3) a reference to a loss includes a reference to a deficit, expense, charge or allowance.

(5) Section 392B of ICTA (ring-fencing of losses from overseas property business) shall not apply to business of C (tax-exempt).

(6) Paragraphs 5B and 5C of Schedule 28AA to ICTA (transfer pricing: exemption for small and medium enterprises) shall not apply to a company to which this Part applies (whether to C (tax-exempt) or to C (residual)).

114 Maximum shareholding U.K.

(1) The Treasury may make regulations that apply to a company to which this Part applies if it makes a distribution to or in respect of a person who—
- (a) is beneficially entitled (directly or indirectly) to 10% or more of the dividends paid by the company,
- (b) is beneficially entitled (directly or indirectly) to 10% or more of the company's share capital, or
- (c) controls (directly or indirectly) 10% or more of the voting rights in the company.

(2) The regulations may, in particular—

(a) cause a sum to be charged to tax, in accordance with the regulations, (whether by reference to a person's interest, to a rate of tax or otherwise);
(b) provide that a charge does not arise, or is reduced, if the company takes or does not take action of a specified kind.

115 Profit: financing-cost ratio U.K.

(1) The Treasury may make regulations that apply to a company to which this Part applies where the result of the sum specified in subsection (2) is less than 1.25 in respect of an accounting period.

(2) That sum is—

$$\frac{\text{Profits} + \text{FinancingCosts}}{\text{FinancingCosts}}$$

where—

(a) Profits means the amount of the profits of C (tax-exempt) arising in the accounting period (before the offset of capital allowances), and

(b) Financing Costs means the amount of the financing costs incurred in that period in respect of the business of C (tax-exempt).

(3) The regulations may cause a sum to be charged to tax, in accordance with the regulations, by reference to that part of the financing costs as a result of which the result of the sum specified in subsection (2) is less than 1.25.

(4) In subsections (2)(b) and (3) "financing costs" means the cost of debt finance; and in calculating the costs of debt finance in respect of an accounting period the matters to be taken into account include—
(a) costs giving rise to debits in respect of debtor relationships of the company under Chapter 2 of Part 4 of FA 1996 (loan relationships), other than debits in respect of exchange losses from such relationships (within the meaning of section 103(1A) and (1B) of that Act),
(b) any exchange gain or loss from a debtor relationship within the meaning of that Chapter in relation to debt finance,
(c) any credit or debit falling to be brought into account under Schedule 26 to FA 2002 (derivative contracts) in relation to debt finance,
(d) the financing cost implicit in a payment under a finance lease, and
(e) any other costs arising from what would be considered, in accordance with generally accepted accounting practice, to be a financing transaction.

Modifications etc. (not altering text)

C6 S. 115 applied (with modifications) (1.1.2007) by The Real Estate Investment Trusts (Joint Ventures) Regulations 2006 (S.I. 2006/2866), **reg. 6(4)**

C7 S. 115 applied (with modifications) (31.12.2007) by The Real Estate Investment Trusts (Joint Venture Groups) Regulations 2007 (S.I. 2007/3425), **reg. 12**

116 Minor or inadvertent breach U.K.

(1) The Treasury may make regulations about the application of this Part to a company if a requirement in section 106(5) or (6), 107 or 108 is not satisfied (whether generally or in respect of an accounting period).

(2) A company which gave a notice under section 109 shall notify the Commissioners for Her Majesty's Revenue and Customs as soon as reasonably practicable if a requirement in section 106(5) or (6), 107 or 108 ceases to be satisfied in relation to the company.

(3) The regulations may, in particular—
- (a) provide for this Part to cease to apply to a company at a time specified by or determined in accordance with the regulations (which may be before the breach of a requirement);
- (b) provide for this Part to continue to apply to a company with specified modifications;
- (c) provide for sums to be charged to tax, or otherwise treated, in accordance with the regulations;
- (d) make provision by reference to the extent of a failure to satisfy a requirement;
- (e) make provision by reference to the number of requirements not satisfied;
- (f) limit the number of occasions on which a provision of the regulations may be relied upon by a company in respect of a specified period;
- (g) include other provision for preventing tax avoidance;
- (h) confer a discretion on the Commissioners.

(4) This section is subject to section 129.

117 Cancellation of tax advantage U.K.

(1) This section applies if the Commissioners for Her Majesty's Revenue and Customs think that a company to which this Part applies has tried to obtain a tax advantage for itself or another person.

(2) The Commissioners may give a notice to the company specifying the tax advantage.

(3) If the Commissioners give a notice to the company under subsection (2)—
- (a) a tax advantage obtained by the company shall be counteracted, in accordance with the notice, by an adjustment by way of—
  - (i) an assessment;
  - (ii) the cancellation of a right of repayment;
  - (iii) a requirement to return a repayment already made;
  - (iv) the computation or recomputation of profits or gains, or liability to tax, on a basis specified by the Commissioners in the notice, and
- (b) the Commissioners may (in addition to the adjustment under paragraph (a)) assess the company to such additional amount of corporation tax under Case VI of Schedule D as they think is equivalent to the value of the tax advantage.

(4) For the purposes of this section “tax advantage” has the meaning given by section 709 of ICTA (and includes, in particular, entering into arrangements the sole or main purpose of which is to avoid or reduce a charge to tax under section 112).

(5) But a company does not obtain a tax advantage by reason only of this Part applying to it, unless it does anything (whether before or during the application of this Part) which in the Commissioners' opinion is wholly or principally designed—

(a) to create or inflate or apply a loss, deduction or expense (whether or not suffered or incurred by the company), or

(b) to have another effect of a kind specified for the purposes of this subsection by regulations made by the Treasury.

(6) Where a notice is given to a company under subsection (2), the company may appeal to the Special Commissioners.

(7) An appeal must be instituted by notice given in writing to the Commissioners for Her Majesty's Revenue and Customs during the period of 30 days beginning with the date on which the notice under subsection (2) is given to the company.

Modifications etc. (not altering text)

C8 S. 117 applied (1.1.2007) by The Real Estate Investment Trusts (Joint Ventures) Regulations 2006 (S.I. 2006/2866), **reg. 7(4)**

S. 117 applied (1.1.2007) by The Real Estate Investment Trusts (Joint Ventures) Regulations 2006 (S.I. 2006/2866), **reg. 13(5)** (subject to reg. 14)

118 Funds awaiting re-investment U.K.

(1) This section applies where a company to which this Part applies—

(a) disposes of an asset used wholly and exclusively for the purposes of tax-exempt business, and

(b) holds the proceeds in cash.

(2) Profits or losses arising from a loan relationship entered into in connection with the proceeds—

(a) shall be disregarded for the purposes of section 120, and

(b) shall be treated for all tax purposes as arising from a loan relationship entered into in connection with business of C (residual).

(3) For the purposes of section 108—

(a) the proceeds shall, during the period of 24 months beginning with the date of the disposal, be treated for the purposes of Condition 2 as assets held in connection with the tax-exempt business, but

(b) any income derived from the proceeds is income from non-tax-exempt business.

(4) For the purposes of this section proceeds are held in cash if—

(a) held on deposit (whether or not in sterling),

(b) invested in stocks or bonds of any of the descriptions included in Part 1 of Schedule 11 to FA 1942 (gilts), or

(c) held or invested in such other form as the Commissioners for Her Majesty's Revenue and Customs may specify for the purposes of this section in regulations.

(5) In the case of the disposal of an asset which for one or more periods of at least a year has been used partly for the purposes of the business of C (tax-exempt) and partly for the purposes of C (residual), this section shall apply to such part of the proceeds as may reasonably be attributed to the tax-exempt business (having regard to the extent to which, and the length of the periods during which, the asset was used for the different purposes).

Profits

119 Corporation tax U.K.

(1) Profits arising from the business of C (tax-exempt) shall not be charged to corporation tax.

(2) Profits arising from the business of C (residual) which are charged to corporation tax shall be charged at a rate determined without reference to section 13 of ICTA (small companies rate).

Modifications etc. (not altering text)

C9 S. 119 applied (with modifications) (1.1.2007) by The Real Estate Investment Trusts (Joint Ventures) Regulations 2006 (S.I. 2006/2866), **reg. 13(1)(2)** (subject to reg. 14)

C10 S. 119(1) applied (1.1.2007) by The Real Estate Investment Trusts (Joint Ventures) Regulations 2006 (S.I. 2006/2866), **reg. 7(5)**

C11 S. 119(1) applied (with modifications) (31.12.2007) by The Real Estate Investment Trusts (Joint Venture Groups) Regulations 2007 (S.I. 2007/3425), **reg. 13(5)**
S. 119(1) applied (with modifications) (31.12.2007) by The Real Estate Investment Trusts (Joint Venture Groups) Regulations 2007 (S.I. 2007/3425), **reg. 23(5)**

120 Calculation of profits U.K.

(1) This section provides for the calculation of profits for the purposes of sections 107(8), 115(2), 119(1) and 123(c).

(2) Section 21A of ICTA (calculation of profits of Schedule A business) shall apply (to profits of any kind).

(3) Paragraph 2(3) of section 15(1) ICTA (Schedule A: disregard of credits and debits from loan relationships and derivative contracts) shall not apply in respect of—
  (a) a loan relationship if or in so far as it relates to tax-exempt business,
  (b) a hedging derivative contract if or in so far as it relates to tax-exempt business, or
  (c) embedded derivatives if or in so far as the host contract is entered into for the purposes of tax-exempt business.

(4) For the purposes of subsection (3)—
  (a) a derivative contract is hedging in relation to a company if or in so far as it is acquired as a hedge of risk in relation to an asset,
  (b) a designation of a contract as wholly or partly hedging for the purposes of a company's accounts shall be conclusive, and

(c) "embedded derivatives" and "host contract" have the meanings given by paragraph 2(3) of Schedule 26 to FA 2002 (derivative contracts).

(5) Profits shall be computed without regard to items giving rise to credits or debits which would be within Schedule 26 to FA 2002 (derivative contracts) but for paragraph 4(2)(b) (exclusion of share-based and unit-trust-based contracts).

(6) Income and expenditure relating partly to tax-exempt business and partly to non-tax-exempt business shall be apportioned reasonably.

(7) Section 3(1) of CAA 2001 (claims for capital allowances) shall not apply; and any allowance which the company could claim under that section shall be made automatically and reflected in the calculation of profits.

Modifications etc. (not altering text)

C12 S. 120 applied (1.1.2007) by The Real Estate Investment Trusts (Joint Ventures) Regulations 2006 (S.I. 2006/2866), **reg. 7(5)**

S. 120 applied (with modifications) (1.1.2007) by The Real Estate Investment Trusts (Joint Ventures) Regulations 2006 (S.I. 2006/2866), **reg. 13(1)(2)** (subject to reg. 14)

121 Distributions: liability to tax U.K.

(1) A distribution received by a shareholder of a company to which this Part applies in respect of profits of C (tax-exempt) shall be treated—

(a) in the case of a shareholder within the charge to corporation tax, as profits of a Schedule A business, and

(b) in the case of a shareholder within the charge to income tax, as the profits of a UK property business (within the meaning of section 264 of ITTOIA 2005).

(2) A distribution received by a shareholder who is not resident in the United Kingdom—

(a) if the shareholder is a company within the charge to corporation tax, shall be chargeable to tax as profits of a Schedule A business,

(b) if the shareholder is a person other than a company within the charge to corporation tax, shall be chargeable to tax as profits of a UK property business (within the meaning of section 264 of ITTOIA 2005), and

(c) in either case, shall not be chargeable to tax by virtue of section 42A of ICTA (non-resident landlords).

(3) Subsection (1) shall not apply in relation to a shareholder if and in so far as he—

(a) is a dealer in respect of distributions (within the meaning of section 95 of ICTA),

(b) is a dealer in securities who is charged to tax under Part 2 of ITTOIA 2005 (trading income) in respect of distributions made by companies,

(c) is an individual member of Lloyd's (within the meaning given by section 184(1) of FA 1993) and the distribution is made in respect of assets forming part of—

(i) a premium trust fund of his (within the meaning given by section 174 of FA 1993), or

(ii) an ancillary trust fund of his (within the meaning given by section 176 of FA 1993), or

(d) is a corporate member of Lloyd's (within the meaning given by section 230(1) of FA 1994) and the distribution is made in respect of assets forming part of—
(i) a premiums trust fund belonging to it (within the meaning given by section 222 of FA 1994), or
(ii) an ancillary trust fund belonging to it (within the meaning given by section 223 of FA 1994).

(4) Section 114(1)(a) of ICTA (partnerships with companies as members) does not disapply subsection (1) above.

(5) Sections 231 of ICTA and 397 of ITTOIA 2005 (tax credits in respect of qualifying distributions) shall not apply to distributions made by a company to which this Part applies in respect of profits of C (tax-exempt).

(6) Distributions from companies to which this Part applies and distributions from principal companies of groups to which this Part applies shall be treated, for the purposes of subsection (1), as the profits of a single business (irrespective of whether the shareholder receives different distributions in different capacities) which is separate from—
(a) any other Schedule A business carried on by the shareholder,
(b) any other UK property business (within the meaning of section 264 of ITTOIA 2005) carried on by the shareholder,
(c) any overseas property business (within the meaning of section 70A(4) of ICTA) carried on by the shareholder, and
(d) any overseas property business (within the meaning of section 265 of ITTOIA 2005) carried on by the shareholder.

(7) In the case of a shareholder which is a partnership, subsection (6) applies to receipts by a partner of a share of any distribution as it applies to receipts by a shareholder.

(8) In subsection (1)—
(a) the reference to a company to which this Part applies includes a reference to C (post-cessation), and
(b) "profits" includes gains.

122 Distributions: deduction of tax U.K.

(1) The Treasury may make regulations providing for the assessment, collection and recovery of tax where—
(a) a company to which this Part applies makes a distribution of profits of C (tax-exempt), and
(b) tax is or may become chargeable in respect of the distribution (whether by virtue of section 121(1) or otherwise).

(2) Regulations under this section may, in particular—
(a) require a company to deduct tax at the basic rate before payment of distributions;
(b) specify classes of shareholder to whom distributions may be made without deduction of tax;
(c) make provision about the calculation of payments of tax to be made by a company;

(d) require a company to account for tax deducted;
(e) apply an enactment (with or without modification) in respect of cases where tax is deducted or treated as deducted from income;
(f) specify the time at which a distribution is to be treated as made by a company;
(g) specify periods in respect of which payments of tax are to be made;
(h) specify times at which payments of tax are to be made;
(i) make provision about the making of claims and determinations in respect of over-payment or under-payment (which may include provision for appeals);
(j) include provision requiring the payment of interest in respect of late payments of tax (which may—
(i) provide for payment without deduction of tax;
(ii) allow interest paid as a deduction from profits of the company's tax-exempt business);
(k) require a company to provide a shareholder with a certificate containing specified information;
(l) make provision about the repayment to a shareholder of sums deducted and paid to the Commissioners in respect of tax;
(m) make provision for the payment of interest in respect of repayments under paragraph (l);
(n) require notices to be given by or to a company;
(o) require a company to make returns;
(p) require a company to make records available to the Commissioners for inspection.

(3) A reference in subsection (2) to a distribution in respect of profits of tax-exempt business includes a distribution made after this Part has ceased to apply to a company.

(4) A distribution which is treated as having been made by virtue of section 107(9)(b) shall also be treated as having been made for the purposes of regulations under this section.

(5) In this section “profits” includes gains.

123 Attribution of distributions U.K.

Distributions made by a company to which this Part applies shall be attributed—
(a) first, to payments in satisfaction of Condition 4 of section 107,
(b) secondly, if or in so far as the company determines, to distribution of amounts which derive from activities of a kind in respect of which corporation tax is chargeable in relation to income,
(c) thirdly, to distribution of profits of the property rental business,
(d) fourthly, to distribution of gains accruing to C (tax-exempt) which by virtue of section 124 are not chargeable gains, and
(e) fifthly, to other distributions.

Capital gains

124 Corporation tax U.K.

(1) A gain accruing to a company to which this Part applies on the disposal of an asset shall not be a chargeable gain if—

(a) the asset was used wholly and exclusively for the purposes of the business of C (tax-exempt), or

(b) the asset was used partly for the purposes of the business of C (tax-exempt) and partly for the purposes of the business of C (residual) during one or more periods of (in aggregate) less than a year, but was otherwise used wholly and exclusively for the purposes of the business of C (tax-exempt).

(2) Where a gain accrues to a company to which this Part applies on the disposal of an asset which for one or more periods of (in aggregate) at least a year has been used partly for the purposes of the business of C (tax-exempt) and partly for the purposes of the business of C (residual), such part of the gain as may reasonably be attributed to the business of C (tax-exempt) (having regard to the extent to which, and the length of the periods during which, the asset was used for the different purposes) shall not be a chargeable gain.

(3) Corporation tax shall be charged in respect of gains accruing to C (residual) at a rate determined without reference to section 13 of ICTA (small companies rate).

Modifications etc. (not altering text)

C13 S. 124 applied (with modifications) (1.1.2007) by The Real Estate Investment Trusts (Joint Ventures) Regulations 2006 (S.I. 2006/2866), **reg. 13(6)** (subject to reg. 14)

C14 S. 124(1) applied (with modifications) (1.1.2007) by The Real Estate Investment Trusts (Joint Ventures) Regulations 2006 (S.I. 2006/2866), **reg. 7(6)**

C15 S. 124(1)(2) applied (with modifications) (31.12.2007) by The Real Estate Investment Trusts (Joint Venture Groups) Regulations 2007 (S.I. 2007/3425), **reg. 13(7)**

S. 124(1)(2) applied (with modifications) (31.12.2007) by The Real Estate Investment Trusts (Joint Venture Groups) Regulations 2007 (S.I. 2007/3425), **reg. 23(7)**

C16 S. 124(2) applied (with modifications) (1.1.2007) by The Real Estate Investment Trusts (Joint Ventures) Regulations 2006 (S.I. 2006/2866), **reg. 7(6)**

125 Movement of assets out of ring-fence U.K.

(1) Subsection (2) applies when an asset which has been used wholly and exclusively for the purposes of the business of C (tax-exempt) begins to be used (otherwise than by being disposed of in the course of trade) wholly and exclusively for the purposes of the business of C (residual).

(2) The asset shall be treated as having been at that time—

(a) disposed of by C (tax-exempt), and

(b) immediately re-acquired by C (residual).

(3) The sale and re-acquisition deemed under subsection (2) shall be treated as being for a consideration equal to the market value of the asset.

(4) For the purposes of CAA 2001—

(a) the sale and re-acquisition deemed under subsection (2)—
  (i) shall not give rise to allowances or charges, and
  (ii) shall not make it possible to make an election under section 198 or 199 of that Act (apportionment),
(b) subsection (3) above shall not apply, and
(c) anything done by or to C (tax-exempt) before the deemed sale and re-acquisition shall be treated after the deemed sale and re-acquisition as having been done by or to C (residual).

(5) Subsection (6) applies when an asset which has been used wholly and exclusively for the purposes of the business of C (tax-exempt) is disposed of in the course of trade for the purposes of the business of C (residual).

(6) Where this subsection applies—
(a) the deemed sale and re-acquisition under section 111(2) shall be disregarded, and
(b) the asset shall be treated as having been disposed of in the course of the business of C (residual).

(7) Subsection (6) shall be taken to apply, in particular, where—
(a) a property acquired by a company to which this Part applies has been developed since acquisition,
(b) the cost of the development exceeds 30% of the fair value of the property (determined in accordance with international accounting standards) at entry or at acquisition, whichever is the later, and
(c) the company disposes of the property within the period of three years beginning with the completion of the development.

(8) Where subsection (6) applies in relation to an asset held at entry, the company may make a claim for repayment of a proportion of the tax paid under section 112 calculated as follows—

$$\frac{\text{AssetMarketValue}}{\text{AggregateMarketValue}} \times \text{TaxPaid}$$

where—

(a) Asset Market Value means market value of the asset at entry,

(b) Aggregate Market Value means the aggregate market value of assets treated as sold and re-acquired under section 111(2) (ignoring any asset of negative market value), and

(c) Tax Paid means tax paid under section 112.

Modifications etc. (not altering text)

C17 S. 125 applied (with modifications) (1.1.2007) by The Real Estate Investment Trusts (Joint Ventures) Regulations 2006 (S.I. 2006/2866), **reg. 7(6)**
S. 125 applied (1.1.2007) by The Real Estate Investment Trusts (Joint Ventures) Regulations 2006 (S.I. 2006/2866), **reg. 13(7)** (subject to reg. 14)

C18 S. 125 applied (with modifications) (31.12.2007) by The Real Estate Investment Trusts (Joint Venture Groups) Regulations 2007 (S.I. 2007/3425), **reg. 13(8)**
S. 125 applied (with modifications) (31.12.2007) by The Real Estate Investment Trusts (Joint Venture Groups) Regulations 2007 (S.I. 2007/3425), **reg. 23(8)**

126 Movement of assets into ring-fence U.K.

(1) This section applies where an asset which has been used wholly and exclusively for the purposes of the business of C (residual) begins to be used wholly and exclusively for the purposes of the business of C (tax-exempt).

(2) The asset shall be treated as having been—
(a) disposed of by C (residual), and
(b) immediately re-acquired by C (tax-exempt).

(3) The sale and re-acquisition deemed under subsection (2) shall be treated as being for a consideration equal to the market value of the asset.

(4) For the purposes of CAA 2001—
(a) the sale and re-acquisition deemed under subsection (2)—
(i) shall not give rise to allowances or charges, and
(ii) shall not make it possible to make an election under section 198 or 199 of that Act (apportionment),
(b) subsection (3) above shall not apply, and
(c) anything done by or to C (residual) before the deemed sale and re-acquisition shall be treated after the deemed sale and re-acquisition as having been done by or to C (tax-exempt).

Modifications etc. (not altering text)

C19 S. 126 applied (with modifications) (1.1.2007) by The Real Estate Investment Trusts (Joint Ventures) Regulations 2006 (S.I. 2006/2866), **reg. 7(6)**
S. 126 applied (1.1.2007) by The Real Estate Investment Trusts (Joint Ventures) Regulations 2006 (S.I. 2006/2866), **reg. 13(7)** (subject to reg. 14)

C20 S. 126 applied (with modifications) (31.12.2007) by The Real Estate Investment Trusts (Joint Venture Groups) Regulations 2007 (S.I. 2007/3425), **reg. 13(8)**
S. 126 applied (with modifications) (31.12.2007) by The Real Estate Investment Trusts (Joint Venture Groups) Regulations 2007 (S.I. 2007/3425), **reg. 23(8)**

VALID FROM 19/07/2007

[F1 126A Demergers U.K.

(1) This section applies if—
(a) C (tax-exempt) disposes of an asset to a 75% subsidiary (“S”) of C (residual),
(b) C (residual) disposes of its interest in S to another company (“P”),
(c) on the date when it acquires the interest in S, P gives a notice under section 109 (as modified by paragraph 8 of Schedule 17) which specifies an

accounting period which begins within the period of six months beginning with the date of the disposal of the asset, and

(d) this Part begins to apply to the group of which S is a member from the beginning of the specified accounting period.

(2) P may give a notice under section 109 (as modified by paragraph 8 of Schedule 17) in accordance with subsection (1)(c) even if it does not expect to satisfy Conditions 3 to 6 of section 106 throughout the accounting period specified in the notice.

(3) Where this section applies—

(a) sections 111 and 112 shall not apply to the group of which S is a member in relation to the asset disposed of by C (tax-exempt) or in relation to business conducted by the exploitation of that asset, and

(b) section 125 shall not apply to the disposal of the asset by C (tax-exempt).

(4) But if, at the end of the period of six months mentioned in subsection (1)(c), Conditions 3 to 6 of section 106 are not satisfied in relation to P, subsection (3) shall be treated as not having had effect.]

Textual Amendments

F1 S. 126A inserted (with effect as mentioned in s. 52(2) of the amending Act) by Finance Act 2007 (c. 11), s. 52, **Sch. 17 para. 11**

127 Interpretation U.K.

Sections 124 to 126 shall be construed as one with TCGA 1992.

Leaving Real Estate Investment Trust Regime

128 Termination by notice: company U.K.

(1) If a company to which this Part applies gives a notice under this section specifying a date at the end of which this Part is to cease to apply to the company, this Part shall cease to apply to the company at the end of that date.

(2) A notice must be given in writing to the Commissioners for Her Majesty's Revenue and Customs.

(3) The date specified under subsection (1) must be after the date on which the Commissioners receive the notice.

129 Termination by notice: Commissioners U.K.

(1) If the Commissioners for Her Majesty's Revenue and Customs give a company to which this Part applies a notice in writing under this subsection, this Part shall cease to apply to the company.

(2) The Commissioners may give a company a notice only if—

(a) the company has relied on a provision of regulations under section 116 on a specified number of occasions in a specified period,

(b) the company has been given a specified number of notices under section 117 in a specified period, or

(c) the Commissioners think that a breach of a requirement in section 107 or 108, or an attempt by the company to obtain a tax advantage, is so serious that this Part should cease to apply to it.

(3) In subsection (2) "specified" means specified in regulations made by the Treasury.

(4) A notice under subsection (1) must state the reason for it.

(5) Where a notice is given to a company, this Part shall be taken to have ceased to apply to the company at the end of the accounting period before the accounting period during which the event occurs (or the last event occurs) which caused the Commissioners to give the notice.

(6) Where a notice is given to a company, the company may appeal to the Special Commissioners.

(7) An appeal must be instituted by notice given in writing to the Commissioners for Her Majesty's Revenue and Customs during the period of 30 days beginning with the date on which the notice is given to the company.

130 Automatic termination for breach of requirement U.K.

(1) Where Condition 1, 2, 5 or 6 of section 106 is not satisfied in respect of an accounting period of a company to which this Part applies, this Part shall be taken to have ceased to apply to the company at the end of the previous accounting period.

(2) A company which gave a notice under section 109 shall notify the Commissioners for Her Majesty's Revenue and Customs as soon as is reasonably practicable if Condition 1, 2, 5 or 6 of section 106 ceases to be satisfied in relation to the company.

131 Effects of cessation U.K.

(1) The business of C (tax-exempt) shall be treated for the purposes of corporation tax as ceasing immediately before cessation.

(2) Assets which immediately before cessation are involved in the business of C (tax-exempt) shall be treated for the purposes of corporation tax as being sold by C (tax-exempt) immediately before cessation and re-acquired immediately after cessation by C (post-cessation).

(3) The sale and re-acquisition deemed under subsection (2) shall be treated as being for a consideration equal to the market value of the asset.

(4) For the purposes of CAA 2001—

(a) the sale and re-acquisition deemed under subsection (2)—

(i) shall not give rise to allowances or charges, and

(ii) shall not make it possible to make an election under section 198 or 199 of that Act (apportionment),

(b) subsection (3) above shall not apply, and

(c) anything done by or to C (tax-exempt) before cessation in relation to an asset which is deemed to be sold and re-acquired shall be treated after cessation as having been done by or to C (post-cessation).

(5) For the purposes of corporation tax, on cessation an accounting period of C (residual) shall end and an accounting period of C (post-cessation) shall begin.

(6) For the purposes of subsection (2) an asset is involved in the business of C (tax-exempt) if it is property involved in the business within the meaning given by section 107(6)(a).

Modifications etc. (not altering text)

C21 S. 131 applied (with modifications) (1.1.2007) by The Real Estate Investment Trusts (Joint Ventures) Regulations 2006 (S.I. 2006/2866), **reg. 7(2)**
S. 131 applied (1.1.2007) by The Real Estate Investment Trusts (Joint Ventures) Regulations 2006 (S.I. 2006/2866), **reg. 13(3)** (subject to reg. 14)

C22 S. 131 applied (with modifications) (31.12.2007) by The Real Estate Investment Trusts (Joint Venture Groups) Regulations 2007 (S.I. 2007/3425), **reg. 13(9)**
S. 131 applied (with modifications) (31.12.2007) by The Real Estate Investment Trusts (Joint Venture Groups) Regulations 2007 (S.I. 2007/3425), **reg. 23(9)**

132 Early exit by notice U.K.

(1) This section applies where this Part—
  (a) ceases to apply to a company by reason of section 128, and
  (b) had applied to the company for a continuous period immediately before cessation of less than ten years.

(2) If the company disposes of a tax-exempt asset during the post-cessation period, liability to corporation tax shall be determined without regard to—
  (a) any deemed disposal under section 111(2) that resulted in a gain,
  (b) any deemed disposal under section 131(3), or
  (c) any deemed disposal under section 125(2).

(3) In subsection (2)—
  (a) "tax-exempt asset" means an asset that was involved (within the meaning of section 107(6)(a)) in the business of C (tax-exempt), and
  (b) "the post-cessation period" means the period of two years beginning with the date of cessation.

Modifications etc. (not altering text)

C23 S. 132(2)(3) applied (with modifications) (31.12.2007) by The Real Estate Investment Trusts (Joint Venture Groups) Regulations 2007 (S.I. 2007/3425), **reg. 16**
S. 132(2)(3) applied (with modifications) (31.12.2007) by The Real Estate Investment Trusts (Joint Venture Groups) Regulations 2007 (S.I. 2007/3425), **reg. 26**

133 Early exit U.K.

(1) This section applies where this Part—
  (a) ceases to apply to a company by reason of section 129 or 130, and
  (b) had applied to the company for a continuous period immediately before cessation of less than ten years.

(2) The Commissioners for Her Majesty's Revenue and Customs may direct—

- (a) that a provision of this Part shall have effect in relation to the company with a specified modification, or
- (b) that a provision of an enactment relating to corporation tax shall apply, not apply or apply with modifications in relation to the company.

(3) A direction under subsection (2)(a) may, in particular—

- (a) alter the time at which this Part is taken to cease to apply to the company in accordance with section 129 or 130;
- (b) disapply or alter the effect of section 119(1) or 124(1)).

(4) A direction under subsection (2)(b) may, in particular, prevent all or a specified part of a loss, deficit or expense from being set off or otherwise used at all or in a specified manner.

(5) A company in respect of which a direction is given under this section may appeal to the Special Commissioners.

Groups

134 Group Real Estate Investment Trusts U.K.

(1) A group of companies may become a group to which this Part applies; and for that purpose the provisions of this Part apply to a group of companies in the same way as to a company, subject to the modifications set out in Schedule 17.

(2) For the purposes of this Part a company ("the principal company") and all its 75% subsidiaries form a group; and if any of those subsidiaries have 75% subsidiaries the group includes them and their 75% subsidiaries, and so on.

(3) But a group does not include—

- (a) a company (other than the principal company) which is not an effective 51% subsidiary of the principal company,
- (b) an insurance company,
- (c) an insurance subsidiary, or
- (d) an open-ended investment company.

(4) In this section—

- (a) "effective 51% subsidiary" has the meaning given by section 170 of TCGA 1992 (groups of companies),
- (b) "75% subsidiary" has the meaning given by section 838 of ICTA (subsidiaries),
- (c) "insurance company" has the meaning given by section 431(2) of ICTA, and
- (d) "insurance subsidiary" means a company in which 75% or more of the ordinary shares are held by one or more insurance companies.

(5) A company cannot be a member of more than one group; and if a company would be a member of more than one group, section 170(6) of TCGA 1992 (capital gains tax: groups) shall apply to determine the group of which it is a member.

(6) Subsection (5) is subject to section 138.

135 Transfer within group U.K.

After section 171(2)(d) of TCGA 1992 (transfer within a group: exclusions) insert—

"; or

(da) a disposal by or to a company to which Part 4 of the Finance Act 2006 applies (Real Estate Investment Trusts);".

136 Availability of group reliefs U.K.

(1) In the application of a provision specified in subsection (2) to a group to which this Part applies G (property rental business) shall be treated as a separate group (distinct from—

(a) G (pre-entry),
(b) G (residual), and
(c) G (post-cessation)).

(2) The provisions mentioned in subsection (1) are—

(a) sections 171 and 171A of TCGA 1992 (actual or notional transfer of assets within group),
(b) sections 179A and 179B of TCGA 1992 (reallocation or roll-over of gain within a group),
(c) Chapter 4 of Part X of ICTA (corporation tax: group relief),
(d) Schedule 9 to FA 1996 (loan relationships),
(e) Schedule 26 to FA 2002 (derivative contracts), and
(f) Schedule 29 to FA 2002 (intangible assets).

Miscellaneous

137 Insurance companies U.K.

In section 212(1) of TCGA 1992 (annual deemed disposal of holdings of certain assets) after paragraph (b) insert—

", or

(c) shares in a company to which Part 4 of the Finance Act 2006 applies (Real Estate Investment Trusts),".

138 Joint ventures U.K.

(1) The Treasury may by regulations provide for this Part to apply in relation to property rental business ("the joint venture") carried on—

(a) jointly by a company to which this Part applies and another person, or
(b) by a person in which a company to which this Part applies has an interest.

(2) The regulations may, in particular, modify or disapply a provision of this Part in its application—

(a) by virtue of this section, or

(b) in relation to a company to which this Part applies where the company also carries on business in relation to which this Part applies by virtue of this section.

(3) The regulations may, in particular, make application of this Part conditional on—

(a) a company to which this Part applies having a minimum percentage interest of a specified kind in the joint venture;

(b) an election by a company to which this Part applies.

139 Manufactured dividends U.K.

(1) This section applies to a manufactured dividend if and to the extent that it is representative of a dividend paid by a company to which this Part applies in respect of profits of C (tax-exempt).

(2) Schedule 23A to ICTA shall have effect with the substitution of the following for paragraph 2(2)—

"(2) Sub-paragraphs (2A) to (2C) apply if and to the extent that a manufactured dividend is representative of a dividend in respect of profits of the tax-exempt business of a company to which Part 4 of the Finance Act 2006 applies.

(2A) The Tax Acts shall have effect in relation to the recipient, and persons claiming title through or under him, as if the manufactured dividend were a dividend to which section 121 of that Act applied.

(2B) In relation to the dividend manufacturer—

(a) if the dividend manufacturer is a company and the manufactured dividend is paid in the course of a trade carried on in the United Kingdom, it shall be treated as an expense of the trade;

(b) if the manufactured dividend is paid in connection with investment business, it shall be treated for the purposes of section 75 of this Act as expenses of management;

(c) in the case of a company carrying on life assurance business, in so far as the manufactured dividend is referable to basic life assurance and general annuity business (or is or would be, if received by the company, be treated as referable to business of that kind by virtue of section 432A) it shall be treated for the purposes of section 76 as if it were an expense payable falling to be brought into account at Step 3 of section 76(7);

(d) regulations under section 122 of FA 2006 shall apply (with any necessary modifications) to the dividend manufacturer (whether or not a company) as if he were a company to which Part 4 of the Finance Act 2006 applied, unless—

(i) the dividend manufacturer is not resident in the United Kingdom, and

(ii) the manufactured dividend is paid otherwise than in the course of a trade carried on through a branch or agency in the United Kingdom.

(2C) The Treasury may by regulations provide, in a case where sub-paragraph (2B)(d)(i) and (ii) above apply, for a United Kingdom recipient of the manufactured dividend (within the meaning of paragraph 4(3A) below) to be liable to account for tax which the dividend manufacturer would have been required to deduct in accordance with regulations under section 122 of the Finance Act 2006.

(2D) Sub-paragraph (2E) shall apply for the purposes of—

(a) this paragraph, and

(b) regulations under section 122 of the Finance Act 2006.

(2E) The gross amount of a manufactured dividend to which sub-paragraphs (2A) and (2B) apply shall be taken to be equal to the gross amount of the dividend of which it is representative and which is paid by the company to which Part 4 of the Finance Act 2006 applies."

(3) For the purposes of sections 736B of ICTA (deemed manufactured payments: stock lending), regulations under section 122 shall be treated, in so far as they apply to a dividend manufacturer, as if they were regulations made under Schedule 23A.

(4) For the purposes of section 737A of ICTA (deemed manufactured payments: sale and repurchase of securities) regulations under section 122 shall be treated, in so far as they apply to a dividend manufacturer, as dividend manufacturing regulations (within the meaning of section 737A(6)).

(5) After section 737C(3) of ICTA (amount of deemed manufactured dividend) insert—

"(3A) But if and to the extent that the dividend mentioned in section 737A(2)(a) or (2A)(a) is a dividend paid by a company to which Part 4 of the Finance Act 2006 applies in respect of profits of its tax-exempt business—

(a) the amount of the deemed manufactured dividend shall be taken to be an amount equal to the gross amount of the dividend mentioned in section 737A(2)(a) or (2A)(a);

(b) any deduction which, by virtue of paragraph 2 of Schedule 23A (as amended by section 139 of the Finance Act 2006), is required to be made out of the gross amount of the manufactured dividend shall be deemed to have been made;

(c) the repurchase price of the securities shall be treated, for the purposes of section 730A, as increased by the gross amount of the deemed manufactured dividend."

(6) In section 737D(2) of ICTA (manufactured payments: relief) after "any" insert " manufactured dividend, ".

(7) In this section "dividend manufacturer" and "manufactured dividend" have the meaning given by Schedule 23A to ICTA.

140 Penalties for failure to give notice, etc U.K.

At the end of the second column of the Table in section 98(5) of TMA 1970 (penalties) add—

"Section 106 of FA 2006 as modified by Schedule 17 to that Act.

Section 116 of FA 2006.

Regulations under section 116 of FA 2006.

Regulations under section 122 of FA 2006.

Section 130 of FA 2006."

141 Effect of deemed disposal and re-acquisition U.K.

A deemed disposal and re-acquisition of an asset under this Part shall have effect for the purposes of any subsequent disposal of the asset (whether actual or deemed).

142 Interpretation U.K.

In this Part—

(a) a reference to an asset includes a reference to—
  (i) part of an asset, and
  (ii) an interest in, or right in relation to, an asset,

(b) a reference to assets used in business of a company includes a reference to assets—
  (i) which were acquired for the purpose of that business and which are not being used in another business,
  (ii) which are available for use in that business, or
  (iii) which are in any other way held in respect of, or associated or connected with, that business,

(c) "company" has the meaning given by section 170(9) of TCGA 1992,

(d) "international accounting standards" has the meaning given by section 50(2) of FA 2004,

(e) "market value" has the same meaning as in TCGA 1992 (see sections 272 and 273 and Schedule 11), and

(f) "profits" means income (except where the context otherwise requires).

143 Housing investment trusts: repeal U.K.

Section 160 of, and Schedule 30 to, FA 1996 (housing investment trusts) shall cease to have effect (and accordingly—

(a) sections 508A and 508B of ICTA shall cease to have effect,

(b) the amendments of section 842(1)(a) and (e) of ICTA effected by paragraph 2(2) of Schedule 30 shall cease to have effect, and

(c) section 842(1AA) of ICTA shall cease to have effect).

General

144 Regulations U.K.

Regulations under this Part—

(a) may make provision which applies generally or only in specified cases or circumstances,

(b) may make different provision for different cases or circumstances, and

(c) may include incidental, consequential or transitional provision.

145 Commencement U.K.

(1) A notice under section 109 may be given in respect of an accounting period beginning on or after 1st January 2007.

(2) Section 143 shall have effect in relation to accounting periods beginning on or after the day on which this Act is passed.

VALID FROM 19/07/2006

PART 5 U.K.

OIL

New basis for determining market value

146 New basis for determining the market value of oil U.K.

(1) In OTA 1975, in Schedule 3 (petroleum revenue tax: miscellaneous provisions) before paragraph 2 (definition of market value of oil) insert—

"**Determination of market value: the notional delivery day for a quantity of oil**

1A (1) This paragraph has effect for determining, for the purposes of this Schedule, the day which is the "notional delivery day" in the case of any particular quantity of oil of any particular kind whose market value falls to be determined in accordance with the provisions of this Schedule in the case of any chargeable period.

(2) The notional delivery day need not be a day in the chargeable period.

(3) In the case of a quantity of oil which, at the end of the chargeable period, —

(a) has neither been disposed of nor relevantly appropriated in the period, or

(b) has been disposed of but not delivered in the period,

the notional delivery day is the last business day of the chargeable period.

(4) In the case of—

(a) a quantity of oil won and disposed of which is delivered on a day in the chargeable period, or

(b) a quantity of oil—

(i) relevantly appropriated on a day in the chargeable period, but

(ii) not disposed of in the chargeable period,

the notional delivery day is to be determined in accordance with sub-paragraphs (5) to (7) below.

(5) If that oil is—

(a) oil transported by ship from the place of extraction to a place in the United Kingdom or elsewhere, or

(b) oil transported by pipeline to a place in the United Kingdom and loaded on to a ship there,

and there is a loading slot for it (see sub-paragraph (8)), the notional delivery day is the middle day of the loading slot.

(6) If sub-paragraph (5) above does not apply to that oil, then—

(a) if it is oil delivered on a day in the chargeable period, the notional delivery day is the date of the delivery, or

(b) if it is oil relevantly appropriated on a day in the chargeable period, the notional delivery day is the date of the appropriation.

(7) The Treasury may by regulations make provision for or in connection with substituting as the notional delivery day in such circumstances as may be prescribed—

(a) in the case of oil transported by ship from the place of extraction to a place in the United Kingdom or elsewhere, the date of completion of load, or

(b) in the case of oil transported by pipeline to a place in the United Kingdom and loaded on to a ship there, the date of the bill of lading.

(8) The "loading slot" for any oil is the period of three days within which the loading of the oil on to the ship is or was to take place—

(a) as duly published by the operator of the facility at which that loading is or was to take place (unless paragraph (b) below applies), or

(b) as subsequently finally duly varied to give effect to any modifications duly notified to that operator by the participator concerned.

(9) In sub-paragraph (8) above, "duly" means in accordance with the arrangements for the time being governing the time and manner of—

(a) publication, or variation, of the final loading schedule for the calendar month in which loading is or was to take place, or

(b) notification of modifications to that schedule,

and, in any case, before the end of the calendar month immediately preceding that in which loading is to take place.

(10) If the Treasury consider that, for the purpose of defining "loading slot", any period of days for the time being specified by or under this Act as the period of days within which loading of oil on to a ship is to take place is, or is to be, no longer appropriate, they may by regulations make provision for, or in connection with,—

(a) varying the number of days in the period,

(b) determining the day that is to be the notional delivery day if the number, as varied, is an even number.

The power conferred by this sub-paragraph includes power to make amendments to, or modifications of, this Schedule.".

(2) Paragraph 2 of that Schedule (definition of market value of oil) is amended as follows.

(3) In sub-paragraph (1) (market value of oil in any calendar month to be determined in accordance with the paragraph) for "any oil in any calendar month" substitute " any particular quantity of oil of any kind on any day ".

(4) After sub-paragraph (1) insert—

"(1A) This paragraph makes different provision according to whether the oil is—
(a) Category 1 oil of any kind, or
(b) Category 2 oil of any kind.

(1B) For the purposes of this Act—
(a) Category 1 oil is oil of any of one or more kinds specified as such in regulations made for the purpose by the Board;
(b) Category 2 oil is oil of any other kind.

(1C) The Board may specify oil of any particular kind as Category 1 oil only if they are satisfied that reports of prices for sales of oil of that kind are published and widely available (whether or not on payment of a fee).".

(5) For sub-paragraph (2) substitute—

"(2) The market value of any particular quantity of Category 1 oil of any kind is the price for which that quantity of oil of that kind might reasonably have been expected to be sold under a contract of sale that meets the following conditions—
(a) the contract is for the sale of the oil at arm's length to a willing buyer;
(b) the contract is for delivery of a single standard cargo of the oil;
(c) the contract specifies a period of three days within which loading of the oil is to take place and that period includes the notional delivery day for the actual oil;
(d) the contract requires the oil to have been subjected to appropriate initial treatment before delivery;
(e) the contract requires the oil to be delivered—
(i) in the case of oil extracted in the United Kingdom, at the place of extraction; or
(ii) in the case of oil extracted from strata in the sea bed and subsoil of the territorial sea of the United Kingdom or of a designated area, at the place in the United Kingdom or another country at which the seller could reasonably be expected to deliver it or, if there is more than one such place, the one nearest to the place of extraction.

The terms as to payment which are to be implied in the contract are those which are customarily contained in contracts for the sale at arm's length of oil of the kind in question.

(2AA) The market value of any particular quantity of Category 2 oil of any kind is the price for which that quantity of oil of that kind might reasonably have been expected to be sold under a contract of sale that meets the following conditions—

(a) the contract is for the sale of the oil at arm's length to a willing buyer;
(b) the contract provides for delivery of the oil on the notional delivery day for the actual oil or within such period that includes that day as is normal under a contract at arm's length for the sale of oil of that kind (or, if there is more than one such period, the shortest of them);
(c) the contract is made on a date such that the period between that date and the notional delivery day for the actual oil is the normal period between contract and delivery in the case of a contract at arm's length for the sale of oil of that kind (or, if there is more than one such period, the shortest of them);
(d) the contract requires the oil to have been subjected to appropriate initial treatment before delivery;
(e) the contract requires the oil to be delivered—
(i) in the case of oil extracted in the United Kingdom, at the place of extraction; or
(ii) in the case of oil extracted from strata in the sea bed and subsoil of the territorial sea of the United Kingdom or of a designated area, at the place in the United Kingdom or another country at which the seller could reasonably be expected to deliver it or, if there is more than one such place, the one nearest to the place of extraction.

The terms as to payment which are to be implied in the contract are those which are customarily contained in contracts for the sale at arm's length of oil of the kind in question.”.

(6) For sub-paragraphs (2A) to (2D) substitute—

“(2E) For the purposes of sub-paragraph (2) or (2AA) above, the price of any quantity of Category 1 or Category 2 oil of any kind shall be determined in such manner, on the basis of such information, and by reference to such factors, as may be prescribed for oil of that Category and kind in regulations made by the Board.

(2F) The provision that may be made by regulations under subsection (2E) above includes provision for or in connection with any or all of the following—
(a) determining the price by reference to prices, or an average of prices, for sales of oil (whether or not oil of the Category or kind in question, and whether the prices are prices under actual contracts, prices that are published and widely available (whether on payment of a fee or otherwise) or prices ascertained or determined in some other way);
(b) the prices to be taken into account;
(c) the descriptions of contracts to be taken into account;
(d) the method to be used for determining an average of prices;
(e) the day or days, or period or periods, by reference to which prices, or any average of prices, is to be determined;
(f) the application of a prescribed price differential, in cases where the price of oil of one kind falls to be determined in whole or in part by reference to prices for oil of some other kind.

(2G) Sub-paragraph (2I) below has effect if, or in so far as, the Board are satisfied that it is impracticable or inappropriate to determine for the purposes of sub-paragraph (2) or (2AA) above the price of any oil in accordance with the provisions of regulations for the time being in force under sub-paragraph (2E) above.

(2H) For that purpose it is immaterial whether the impracticability or inappropriateness is by virtue of—

(a) an insufficiency of contracts or published prices that satisfy the conditions,

(b) an insufficiency of information relating to such contracts or published prices, or

(c) the nature of the market for oil of the kind in question,

or for any other reason.

(2I) Where this sub-paragraph has effect, the price is to be determined—

(a) so far as it is practicable and appropriate to do so by reference to other contracts or published prices (whether or not relating to oil of the same kind) and in accordance with the principles set out in the regulations for determining an average of prices; and

(b) so far as it is not practicable or appropriate to determine it as mentioned in paragraph (a) above, in such other manner as appears to the Board to be appropriate in the circumstances.".

(7) Omit sub-paragraph (3) (which relates to the market value of disposals in a calendar month).

(8) In sub-paragraph (3A) (oil that has been subjected to initial treatment)—

(a) for "sub-paragraphs (1) and (2) above" substitute " sub-paragraph (1) and sub-paragraph (2) or (2AA) above ", and

(b) for "sub-paragraph (2)(a) above" substitute " sub-paragraph (2)(d) or (2AA)(d) above ".

(9) In sub-paragraph (4) (application of sub-paragraphs (2) and (3) in relation to paragraph 2(2) of Schedule 2) for "sub-paragraphs (2) and (3)" substitute " sub-paragraphs (2) and (2AA) ".

(10) After paragraph (4) insert—

"(5) In this paragraph "prescribed" means specified in, or determined in accordance with, regulations.".

(11) Schedule 18 (which makes minor and consequential amendments) has effect.

147 Section 146: commencement and transitional provisions U.K.

(1) The amendments made by section 146 and Schedule 18 have effect in relation to oil delivered or appropriated on or after 1st July 2006 (disregarding section 12A of that Act).

(2) Those amendments also have effect for the purpose of determining for any chargeable period ending on or after 31st December 2006—

(a) the value to be brought into account under section 2(4)(b) of OTA 1975 by reference to a previous chargeable period ending on or after 30th June 2006, and

(b) the value to be brought into account under section 2(5)(d) of that Act.

(3) Subsections (1) and (2) are subject to any express provision in Schedule 18 as to the commencement or application of any provision of that Schedule.

(4) In the following provisions of this section—
- (a) "the last old period" means the chargeable period that ends on 30th June 2006, and
- (b) "the first new period" means the chargeable period that ends on 31st December 2006.

(5) Subsection (6) applies in relation to oil which was won from an oil field before 1st July 2006 and which—
- (a) was loaded on to a ship before 1st July 2006 and transported from the place of extraction to a place in the United Kingdom or elsewhere, or
- (b) was transported by pipeline from the place of extraction to a place in the United Kingdom and there loaded on to a ship before that date.

(6) If the oil is or was disposed of crude by a participator in sales otherwise than at arm's length, but the market value of the oil—
- (a) does not fall to be brought into account for the purposes of section 2(5)(b) of OTA 1975 for the last old period by reason only that the oil was not delivered in that period, and
- (b) would not (apart from this subsection) fall to be brought into account for the purposes of that provision in the first new period by reason only that the date on which the oil is to be regarded by virtue of section 12A of that Act as delivered falls in the last old period,

the date on which the oil is to be taken for the purposes of section 2(5)(b) of that Act to have been delivered is instead to be the first business day of the first new period.

(7) Any power to make regulations that is conferred under or by virtue of any of the amendments made by section 146 or Schedule 18 includes power to make regulations having effect for, or in relation to,—
- (a) the first new period, or
- (b) for the purpose mentioned in subsection (2), the last old period,

notwithstanding that the period in question has begun or ended before the making of the regulations.

(8) Any regulations made by virtue of subsection (7) must be made before 31st December 2006.

Attribution of blended crude oil

148 Crude oil: power to make regulations U.K.

(1) In section 2(5) of OTA 1975 (profits from oil field) for "subsection (5A)" substitute " subsections (5A) and (5B) ".

(2) After section 2(5A) of that Act insert—

"(5B) The Board may by regulations make provision for the purposes of subsection (5)(a) to (c) for determining to which fields and in what proportions blended oil to which subsection (5C) applies is attributable.

(5C) This subsection applies to blended oil within the meaning of section 63(1A) of the Finance Act 1987 (other than light gases) which—

(a) is not gaseous at a temperature of 15 degrees Centigrade and a pressure of one atmosphere, and

(b) is not normally disposed of crude by deliveries in quantities of 25,000 metric tonnes or less.

(5D) Regulations under subsection (5B)—

(a) may apply generally or only to specified cases or circumstances,

(b) may make different provision for different cases or circumstances,

(c) may make incidental, consequential, or transitional provision,

(d) shall be made by statutory instrument, and

(e) may not be made unless a draft has been laid before and approved by resolution of the House of Commons."

(3) Regulations under section 2(5B) of OTA 1975 (inserted by subsection (2) above) may have effect for the purpose of calculating profits in relation to a chargeable period ending at any time on or after 1st July 2006.

Nomination scheme

149 Nomination scheme U.K.

(1) Section 61 of FA 1987 (oil taxation: nominations) shall be amended as follows.

(2) In subsection (1) omit ", supplies and appropriations".

(3) For subsections (3) and (4) substitute—

"(3) If the market value of a relevant delivery ascertained in accordance with Schedule 3 to the principal Act exceeds a participator's delivery proceeds of a relevant delivery (within the meaning given by Schedule 10), the excess shall be brought into account by him in accordance with section 2(5)(e) of the principal Act.

(4) If a relevant delivery is a delivery of blended oil within the meaning of section 63, regulations under section 2(5B) of the principal Act shall apply for the purposes of determining the proportion of the excess attributable to a field.

(4A) For each month in which a participator makes a relevant delivery, his monthly excess is the sum of his excesses (if any) calculated in accordance with subsection (3).

(4B) For each chargeable period of an oil field "the excess of nominated proceeds for the period" means, in relation to a participator in the oil field, that proportion of the sum of his monthly excesses for the chargeable period (if any) which is attributable to the field."

(4) Subsections (6) and (7) shall cease to have effect.

(5) In subsection (8) for "9th February 1987" substitute " 1st July 2006 ".

(6) In subsection (9)—

(a) omit "subsection (7) or", and
(b) after "shall" insert " (unless otherwise expressly provided) ".

(7) This section shall have effect in relation to chargeable periods ending on or after 1st July 2006.

150 Amendment of Schedule 10 to FA 1987 U.K.

(1) Schedule 10 to FA 1987 (oil taxation: nominations) shall be amended as follows.

(2) In paragraph 1—
(a) in sub-paragraph (1)—
(i) omit ", "proposed supply" and "proposed appropriation"",
(ii) for "paragraph 3 below" substitute " paragraph 12A below ", and
(iii) for "paragraphs (a) to (c)" substitute " paragraph (a) ", and
(b) omit sub-paragraph (2).

(3) In paragraph 2 omit—
(a) sub-paragraph (1)(b), (c) and (d), and
(b) the words following sub-paragraph (1)(d).

(4) Omit paragraph 3.

(5) In paragraph 4—
(a) for sub-paragraph (1) substitute—

"(1) If a nomination is made during business hours it shall be effective only if—
(a) it is made within the period of two hours beginning with the transaction base time, and
(b) it satisfies the requirements of paragraph 5.

(1A) If a nomination is made outside business hours it shall be effective only if—
(a) it is made within the period of two hours beginning with the transaction base time, and
(b) it satisfies the requirements of paragraph 5 or 5A.

(1B) For the purposes of this paragraph—
(a) the transaction base time of a proposed transaction is such time on such date as the Board shall prescribe by regulations, and
(b) "business hours" means the period beginning with 09.00 and ending with 17.00 (UK time) on a business day (within the meaning of the Bills of Exchange Act 1882 (c. 61)).",

(b) omit sub-paragraphs (2) and (2A),
(c) in sub-paragraph (3)—
(i) for "transaction base date" substitute " transaction base time ", and
(ii) for "date" in each place substitute " time ", and
(d) omit sub-paragraph (4).

(6) In paragraph 5—

(a) in sub-paragraph (1) for "A nomination of a proposed transaction shall not be effective unless it specifies, in respect to that transaction" substitute " The requirements of this paragraph for a nomination in respect of a proposed transaction are ",
(b) in sub-paragraph (1)(b) omit "in the case of a proposed sale",
(c) in sub-paragraph (1)(c) and (d) omit "or relevantly appropriated",
(d) in sub-paragraph (1)(d) for "supplied" substitute " delivered ",
(e) for sub-paragraph (1)(g) substitute—
"(g) the transaction base time; and",
(f) in sub-paragraph (2) after "A nomination" insert " made under this paragraph ", and
(g) in sub-paragraph (3) after "a nomination" insert " made under this paragraph ".

(7) After paragraph 5 insert—

"5A
(1) The requirements of this paragraph for a nomination in respect of a proposed transaction are—
(a) the name of the participator or of the group of which the participator is a member;
(b) the name of the person to whom the oil is to be sold, or the name of the group of which that person is a member;
(c) the blend or grade of oil to be delivered;
(d) the nominated price of the oil to be delivered;
(e) the nominal volume of the oil;
(f) the proposed delivery month;
(g) the transaction base time; and
(h) such other information as may be prescribed by the Board.

(2) In sub-paragraph (1) "group" has the meaning given by section 53 of the Companies Act 1989.

5B
(1) A nomination of a transaction shall not be effective unless oil is delivered pursuant to a contract at arm's length the terms of which incorporate the information specified in the nomination in accordance with paragraph 5(1) or 5A(1).

(2) But—
(a) a contract need not refer to the transaction base time, and
(b) the nomination shall be effective whether or not delivery takes place in the proposed delivery month specified in the nomination and the contract."

(8) In paragraph 6—
(a) in sub-paragraph (1) omit "Subject to sub-paragraph (3) below,", and
(b) omit sub-paragraphs (2) and (3).

(9) Omit paragraph 7(2) and (5).

(10) After paragraph 7(5) insert—

"(6) The Board may by regulations prescribe that in specified circumstances the nominal volume in relation to a delivery shall be treated as greater or less than the nominal volume ascertained in accordance with the preceding provisions of this paragraph.

(7) Regulations under sub-paragraph (6)—
(a) shall be made by statutory instrument, and
(b) may not be made unless a draft has been laid before and approved by resolution of the House of Commons."

(11) Omit paragraphs 8 to 11.

(12) In paragraph 12(1) omit ", supply or appropriation".

(13) After paragraph 12 insert—

12A "**Interpretation**

For the purposes of section 61 and this Schedule—
(a) a reference to the proposed delivery month in relation to a proposed transaction is a reference to the month in which delivery is to take place,
(b) "relevant delivery" means a delivery of oil under a contract made at arm's length in respect of which there has been no effective nomination, and
(c) "delivery proceeds" means the price received for a relevant delivery."

(14) This section shall have effect in relation to a transaction whenever proposed, but shall not have effect in relation to a proposed transaction with a transaction base date (within the meaning given by regulations under paragraph 4 of Schedule 10 to FA 1987) on or before 30th June 2006.

(15) Regulations under paragraph 4(1B) of Schedule 10 to FA 1987 (inserted by subsection (5) above) may have retrospective effect.

151 Nomination excesses and corporation tax U.K.

(1) After section 493(1) of ICTA (valuation of oil disposed of or appropriated) insert—

"(1A) Where an excess of nominated proceeds in a chargeable period (within the meaning given by section 61 of the Finance Act 1987) is taken into account in computing a person's profits under section 2(5)(e) of the 1975 Act (or would be taken into account if the person were chargeable to tax under that Act in respect of a field)—
(a) for the purposes of subsection (1) the amount of the excess shall be added to the consideration which the person is deemed to have received in respect of oil disposed of by him in the period, and
(b) for the purposes of corporation tax, that amount shall be available to the person as a deduction in computing the profits of any trade to which section 492(1) does not apply."

(2) This section shall have effect in relation to deliveries of oil made on or after 1st July 2006.

Ring fence trades

152 Increase in rate of supplementary charge U.K.

(1) In section 501A of ICTA (supplementary charge in respect of ring fence trades), in subsection (1) (charge of 10 per cent on adjusted ring fence profits), for "10 per cent" substitute " 20 per cent ".

(2) The amendment made by subsection (1) has effect in relation to any accounting period beginning on or after 1st January 2006 (but see also subsection (3)).

(3) For the purpose of calculating the amount of the supplementary charge on a company for an accounting period (a "straddling period") beginning before 1st January 2006 and ending on or after that date—
- (a) so much of the straddling period as falls before 1st January 2006, and so much of the straddling period as falls on or after that date, are treated as separate accounting periods, and
- (b) the company's adjusted ring fence profits for the straddling period are apportioned to the two separate accounting periods in proportion to the number of days in those periods.

(4) The amount of the supplementary charge on the company for the straddling period is the sum of the amounts of supplementary charge that would, in accordance with subsection (3), be chargeable on the company for those separate accounting periods.

(5) In the case of a company's straddling period—
- (a) the Instalment Payments Regulations apply as if the amendment made by subsection (1) had not been made, but
- (b) those Regulations also apply separately, in accordance with the following subsection, in relation to the increase in the amount of any supplementary charge on the company for that period that arises as a result of that amendment.

(6) In that separate application of those Regulations as mentioned in subsection (5)(b), those Regulations have effect as if, for the purposes of those Regulations,—
- (a) the straddling period were an accounting period beginning on 1st January 2006,
- (b) supplementary charge were chargeable on the company for that period, and
- (c) the amount of that charge were equal to the increase in the amount of the supplementary charge for the straddling period that arises as a result of the amendment made by subsection (1).

(7) Any reference in the Instalment Payments Regulations to the total liability of a company is, accordingly, to be read—
- (a) in their application as a result of subsection (5)(a), as a reference to the amount that would be the company's total liability for the straddling period if the amendment made by subsection (1) had not been made, and

(b) in their application as a result of subsection (5)(b), as a reference to the amount of the supplementary charge on the company for the deemed accounting period under subsection (6)(a).

(8) For the purposes of the Instalment Payments Regulations—

(a) a company is to be regarded as a large company as respects the deemed accounting period under subsection (6)(a) if (and only if) it is a large company for those purposes as respects the straddling period, and

(b) any question whether a company is a large company as respects the straddling period is to be determined as it would have been determined if the amendment made by subsection (1) had not been made.

(9) If the Instalment Payments Regulations—

(a) apply in relation to a company's liability to supplementary charge for the deemed accounting period under subsection (6)(a), and

(b) would (but for this subsection) treat any instalment payment in respect of that liability as being due and payable on a date falling on or before 22nd March 2006,

those Regulations have effect as if the payment were due and payable instead at the end of the period of 14 days beginning with that date.

(10) In this section—

"adjusted ring fence profits" has the meaning given by section 501A of ICTA,

"the Instalment Payments Regulations" means the Corporation Tax (Instalment Payments) Regulations 1998 (S.I. 1998/ 3175),

"supplementary charge" means any sum chargeable under section 501A(1) of ICTA as if it were an amount of corporation tax.

153 Election to defer capital allowances U.K.

(1) This section applies if—

(a) a company carries on a ring fence trade in an accounting period beginning on or after 1st January 2006,

(b) relevant expenditure is incurred for the purposes of or in relation to the ring fence trade (see subsections (4) to (7)), and

(c) the relevant expenditure would (but for this section) be treated as incurred for the purposes of CAA 2001 in the period of 12 months ending with 31st December 2005.

(2) The company may elect for the relevant expenditure to be treated instead as if it were incurred on the first day of the company's first accounting period beginning on or after 1st January 2006.

(3) The election—

(a) has effect for the purposes of CAA 2001 other than those of section 45G (expenditure not first-year qualifying expenditure under section 45F if plant or machinery used for less than 5 years in a ring fence trade), and

(b) must be made by notice given to an officer of Revenue and Customs on or before 31st December 2007.

(4) Expenditure is relevant expenditure if it falls within any of Cases A to C.

(5) Expenditure falls within Case A if—

(a) it is first-year qualifying expenditure on the provision of plant or machinery under section 45F of CAA 2001 (expenditure on plant and machinery for use wholly in a ring fence trade), and

(b) no disposal event (see subsection (8)) in relation to the plant or machinery occurs in the relevant period.

(6) Expenditure falls within Case B—

(a) if it is first-year qualifying expenditure under section 416B of CAA 2001 (mineral extraction allowances: expenditure incurred by a company for purposes of a ring fence trade),

(b) if no disposal event in relation to any asset representing the expenditure occurs in the relevant period,

(c) if (or so far as) it is expenditure to which no part of any capital sum received by the company in the relevant period is reasonably attributable under section 425(2) of CAA 2001, and

(d) if no entitlement to a balancing allowance for a chargeable period in respect of the expenditure arises under any of sections 426 to 431 of CAA 2001 as a result of an event that occurs in the relevant period (as well as in that chargeable period).

The reference in paragraph (b) to any asset representing the expenditure is to be read in accordance with section 416B(4) of CAA 2001.

(7) Expenditure falls within Case C if—

(a) it is qualifying expenditure on research and development under Part 6 of CAA 2001 where the ring fence trade is the trade by reference to which the expenditure is qualifying expenditure, and

(b) no disposal event in relation to any asset representing the expenditure occurs in the relevant period.

(8) In this section—

"disposal event"—

(a) in relation to first-year qualifying expenditure under section 45F of CAA 2001, means an event of a kind that requires a disposal value to be brought into account under Part 2 of that Act (whether under section 61(1) or otherwise),

(b) in relation to first-year qualifying expenditure under section 416B of CAA 2001, means an event of a kind that requires a disposal value to be brought into account under section 421 or 422 of that Act,

(c) in relation to qualifying expenditure on research and development under Part 6 of CAA 2001, means an event of a kind that requires a disposal value to be brought into account under section 443(1) of that Act,

"the relevant period", in relation to any expenditure for the purposes of or in relation to a company's ring fence trade, means the period—

(a) beginning with the day on which the expenditure would (but for this section) be treated as incurred for the purposes of CAA 2001, and

(b) ending with the first day of the company's first accounting period beginning on or after 1st January 2006, "ring fence trade" means a ring fence trade in respect of which tax is chargeable under section 501A of ICTA (supplementary charge in respect of ring fence trades).

154 Ring fence expenditure supplement U.K.

(1) Chapter 5 of Part 12 of ICTA (petroleum extraction activities) is amended as follows.

(2) After section 496A (exploration expenditure supplement) insert—

"**496B Ring fence expenditure supplement**

Schedule 19C to this Act (ring fence expenditure supplement) shall have effect.".

(3) Schedule 19B (petroleum extraction activities: exploration expenditure supplement) is amended as follows.

(4) In paragraph 1 (about the Schedule)—

(a) in sub-paragraph (1) (entitlement of company to supplement), in the opening words, after "2004" insert " but before 1st January 2006 ",

(b) in sub-paragraph (2) (condition that expenditure incurred on or after 1st January 2004), after "2004" insert " but before 1st January 2006 ".

(5) In paragraph 3 (accounting periods)—

(a) in sub-paragraph (1), in the definition of "post-commencement period", after "2004" insert " but before 1st January 2006 ",

(b) in sub-paragraph (1), in the definition of "pre-commencement period", after "2004" insert " but before 1st January 2006 ",

(c) at the end insert—

"(3) In the case of an accounting period (a "straddling period") of any qualifying company beginning before 1st January 2006 and ending on or after that date—

(a) so much of the straddling period as falls before 1st January 2006, and

(b) so much of the straddling period as falls on or after that date,

are treated as separate accounting periods for the purposes of this Schedule.

(4) Special provision is made elsewhere in this Schedule in relation to straddling periods (see paragraphs 16, 18A and 22).".

(6) In paragraph 6 (qualifying E&A expenditure), in sub-paragraph (2) (condition that expenditure incurred on or after 1st January 2004), after "2004" insert " but before 1st January 2006 ".

(7) In paragraph 15 (supplement in respect of a post-commencement period), in sub-paragraph (2) (supplement to be treated as a loss for the purposes of Corporation Tax Acts), for "this Schedule)" substitute " this Schedule or Part 4 of Schedule 19C) ".

(8) In paragraph 16 (amount of post-commencement supplement for a post-commencement period), after sub-paragraph (2) (proportionate reduction of supplement if post-commencement period less than 12 months) insert—

"(2A) But, if the post-commencement period is the deemed accounting period under paragraph 3(3) ending before 1st January 2006, sub-paragraph (2) has no effect in relation to the amount of the supplement for that period.".

(9) After paragraph 18 (ring fence losses and non-qualifying losses) insert—

18A "**Special rule for straddling periods**

(1) This paragraph applies in any case where the period of the loss in which a ring fence loss is incurred is the deemed accounting period under paragraph 3(3) ending before 1st January 2006.

(2) The following assumption shall be made for the purpose of calculating the amount of the qualifying E&A loss and the amount of the non-qualifying loss.

(3) The assumption is that the loss made in the trade is taken to be the loss incurred in the accounting period beginning before 1st January 2006 and ending on or after that date (disregarding paragraph 3(3)).

(4) The amount of the non-qualifying loss (found in accordance with that assumption) is then reduced (but not below nil) by the following amount.

(5) The amount is the amount of the ring fence loss in the deemed accounting period beginning on 1st January 2006 determined under paragraph 18 of Schedule 19C for the purposes of Part 4 of that Schedule.".

(10) In paragraph 22 (reductions in respect of utilised ring fence profits), at the end insert—

"(4) If the post-commencement period is the deemed accounting period under paragraph 3(3) ending before 1st January 2006 ("the deemed accounting period"), the amount of the profits of the deemed accounting period is determined as follows.

(5) The amount of the profits of the straddling period is apportioned to the deemed accounting period in proportion to the number of days in the deemed accounting period that fall in the straddling period.

(6) The apportioned amount is taken for the purposes of this paragraph to be the amount of the profits of the deemed accounting period.

(7) In this paragraph "the straddling period", in relation to a qualifying company, means an accounting period of the company beginning before 1st January 2006 and ending on or after that date (disregarding paragraph 3(3)).".

(11) After Schedule 19B insert the Schedule 19C set out in Schedule 19 to this Act.

PART 6 U.K.

INHERITANCE TAX

VALID FROM 19/07/2006

Future rates and bands

155 Rates and rate bands for 2008-09 and 2009-10 U.K.

(1) For the Table in Schedule 1 to IHTA 1984 (rates and rate bands), as it has effect in relation to chargeable transfers made on or after 6th April 2008, there shall be successively substituted—

(a) the 2008-09 Table, which shall apply to any chargeable transfer made on or after 6th April 2008 (but before 6th April 2009), and

(b) the 2009-10 Table, which shall apply to any chargeable transfer made on or after 6th April 2009.

(2) Subsection (1)(b) is without prejudice to the application of section 8 of IHTA 1984 (indexation) by virtue of the difference between the retail prices index for the month of September in 2008 or any later year and that for the month of September in the following year.

(3) The 2008-09 Table is—

“TABLE OF RATES OF TAX

Portion of value		***Rate of tax***
Lower limit (£)	**Upper limit (£)**	**Per cent.**
0	312,000	Nil
312,000		40”

(4) The 2009-10 Table is—

“TABLE OF RATES OF TAX

Portion of value		***Rate of tax***
Lower limit (£)	**Upper limit (£)**	**Per cent.**
0	325,000	Nil
325,000		40”

(5) Section 8(1) of IHTA 1984 (indexation of rate bands) shall not have effect as respects any difference between the retail prices index—

(a) for the month of September 2006 and that for the month of September 2007, or

(b) for the month of September 2007 and that for the month of September 2008.

Trusts

VALID FROM 19/07/2006

156 Rules for trusts etc U.K.

(1) Schedule 20 contains—

(a) amendments of provisions of IHTA 1984 relating to settled property,

(b) amendments of provisions relating to property that, for purposes of that Act, is property subject to a reservation, and

(c) related amendments of provisions relating to chargeable gains.

(2) Those amendments have effect as mentioned in that Schedule.

157 Purchase of interests in foreign trusts U.K.

(1) Section 48 of IHTA 1984 (settled property: excluded property) is amended as follows.

(2) In subsection (3) (circumstances in which settled property situated outside the United Kingdom is excluded property), after paragraph (b) insert— " ; but this subsection is subject to subsection (3B) below. ".

(3) In subsection (3A) (circumstances in which a holding in an authorised unit trust or a share in an open-ended investment company comprised in settled property is excluded property), after paragraph (b) insert— " ; but this subsection is subject to subsection (3B) below. ".

(4) After subsection (3A) insert—

"(3B) Property is not excluded property by virtue of subsection (3) or (3A) above if—

(a) a person is, or has been, beneficially entitled to an interest in possession in the property at any time,

(b) the person is, or was, at that time an individual domiciled in the United Kingdom, and

(c) the entitlement arose directly or indirectly as a result of a disposition made on or after 5th December 2005 for a consideration in money or money's worth.

(3C) For the purposes of subsection (3B) above—

(a) it is immaterial whether the consideration was given by the person or by anyone else, and

(b) the cases in which an entitlement arose indirectly as a result of a disposition include any case where the entitlement arose under a will or the law relating to intestacy.".

(5) If, in consequence of the amendments made by this section, an amount of inheritance tax would (but for this subsection) fall due before the day on which this Act is passed, that amount is to be treated instead as falling due at the end of the period of 14 days beginning with that day.

(6) This section is deemed to have come into force on 5th December 2005.

VALID FROM 06/04/2006

PART 7 U.K.

PENSIONS

158 Taxable property held by investment-regulated pension schemes U.K.

(1) Schedule 21 (taxable property held by investment-regulated pension schemes) has effect.

(2) This section and that Schedule are deemed to have come into force on 6th April 2006.

159 Recycling of lump sums U.K.

(1) In Schedule 29 to FA 2004 (authorised lump sums), after paragraph 3 insert—

"3A (1) Where this paragraph applies in relation to a pension commencement lump sum paid to the member, the pension scheme is to be treated as making to the member an unauthorised payment of the appropriate amount.

(2) Subject to sub-paragraphs (3) and (4), this paragraph applies in relation to a pension commencement lump sum if—

(a) because of the lump sum, the amount of the contributions paid by or on behalf of, or in respect of, the member to the pension scheme, or to any other registered pension scheme, is significantly greater than it otherwise would be, and

(b) the member envisaged at the relevant time that that would be so.

(3) This paragraph does not apply in relation to any lump sum paid to the member on any day if the amount of the lump sum, when added to any other pension commencement lump sum paid to the member within the period of 12 months ending with that day, does not exceed 1% of the standard lifetime allowance on that day.

(4) This paragraph does not apply if the amount by which the contributions paid as mentioned in sub-paragraph (2)(a) is greater than it otherwise would be because of the lump sum does not exceed 30% of the amount of the lump sum.

(5) "The appropriate amount" is so much of—

(a) the amount crystallised by the benefit crystallisation event constituted by the payment of the lump sum, as does not exceed

(b) the amount of the member's lifetime allowance which is available on it.

(6) "The relevant time" is—

(a) if paragraph (a) of sub-paragraph (2) is satisfied before the lump sum is paid, the time when that paragraph is first satisfied, and

(b) otherwise, the time when the lump sum is paid."

(2) This section is deemed to have come into force on 6th April 2006.

160 Inheritance tax U.K.

(1) Schedule 22 (provisions about inheritance tax in relation to registered pension schemes) has effect.

(2) This section and that Schedule are deemed to have come into force on 6th April 2006.

161 Miscellaneous U.K.

(1) Schedule 23 (miscellaneous amendments relating to pension schemes etc) has effect.

(2) This section and that Schedule are deemed to have come into force on 6th April 2006.

VALID FROM 19/07/2006

PART 8 U.K.

STAMP TAXES

Stamp duty and stamp duty land tax: thresholds

162 Raising of thresholds U.K.

(1) In section 55 of FA 2003 (amount of stamp duty land tax chargeable: general) in subsection (2) (calculation of percentage of chargeable consideration), in Table A (bands and percentages for residential property), for "£120,000", in both places, substitute " £125,000 ".

(2) In Schedule 5 to FA 2003 (stamp duty land tax: amount of tax chargeable: rent), in paragraph 2(3) (calculation of tax chargeable in respect of rent), in Table A (bands and percentages for residential property), for "£120,000", in both places, substitute " £125,000 ".

(3) In Schedule 13 to FA 1999 (stamp duty: instruments chargeable and rates of duty), in paragraph 4 (bands and percentages for conveyance or transfer on sale of property other than stock or marketable securities), for "£120,000", in both places, substitute " £125,000 ".

(4) The amendments made by subsections (1) and (2) have effect in relation to any transaction of which the effective date (within the meaning of Part 4 of FA 2003) is after 22nd March 2006.

(5) The amendment made by subsection (3) has effect in relation to instruments executed after 22nd March 2006.

Stamp duty land tax

163 Partnerships U.K.

Schedule 24 (amendments of Schedule 15 to FA 2003) has effect.

164 Leases U.K.

(1) In section 77 of FA 2003 (notifiable transactions), for subsection (2A) substitute—

"(2A) The assignment of a lease is notifiable if there is chargeable consideration for the assignment and either—

(a) the lease is for a term of seven years or more, or

(b) the consideration for the assignment is chargeable at a rate of 1% or higher, or would be so chargeable but for a relief."

(2) In Schedule 5 to FA 2003 (amount of tax chargeable: rent), in paragraph 3 (net present value of rent payable over term of lease), for "in year i" substitute " in respect of year i ".

(3) Subsection (1) has effect in relation to any assignment of which the effective date (within the meaning of Part 4 of FA 2003) is on or after the day on which this Act is passed.

(4) Subsection (2) has effect in relation to any lease granted or treated as granted on or after that day.

(5) Schedule 25 (amendments of Schedule 17A to FA 2003) has effect.

165 Reallocation of trust property as between beneficiaries U.K.

(1) In Schedule 16 to FA 2003 (trusts and powers), after paragraph 7 insert—

"**Reallocation of trust property as between beneficiaries**

8 Where—

(a) the trustees of a settlement reallocate trust property in such a way that a beneficiary acquires an interest in certain trust property and ceases to have an interest in other trust property, and

(b) the beneficiary consents to ceasing to have an interest in that other property,

the fact that he gives consent does not mean that there is chargeable consideration for the acquisition."

(2) Subsection (1) has effect in relation to any acquisition of which the effective date (within the meaning of Part 4 of FA 2003) is on or after the day on which this Act is passed.

166 Unit trust schemes U.K.

(1) Part 4 of FA 2003 (stamp duty land tax) is amended as follows.

(2) Omit section 64A (initial transfer of assets to trustees of unit trust scheme).

(3) In section 101 (unit trust schemes)—

(a) in subsection (1) (application of Part (except for provisions mentioned in subsection (7)) to unit trust schemes) for "provisions" substitute " provision ", and

(b) in subsection (7) (provisions for the purposes of which unit trust schemes not to be treated as companies) omit from "section 53" to "companies), or".

(4) This section has effect in relation to any land transaction of which the effective date is, or is after, 22nd March 2006 (but see subsections (5) and (6)).

(5) This section does not have effect in relation to—

(a) any land transaction which is effected in pursuance of a contract entered into and substantially performed before 2 p.m. on 22nd March 2006 ("the relevant time"), or

(b) any other land transaction which is effected in pursuance of a contract entered into before the relevant time and which is not an excluded transaction.

(6) For this purpose, a land transaction effected in pursuance of a contract is an excluded transaction if—

(a) any provision of the contract has effect by reference to a unit trust scheme and the scheme is not established before the relevant time,

(b) at or after the relevant time the contract is varied in a way that significantly affects the land transaction (see subsection (7)),

(c) the subject-matter of the land transaction is not identified in the contract in a way that would have enabled its acquisition before the relevant time,

(d) rights under the contract are assigned at or after the relevant time,

(e) the land transaction is effected in consequence of the exercise, at or after the relevant time, of any option, right of pre-emption or similar right, or

(f) at or after the relevant time there is an assignment, subsale or other transaction (relating to the whole or part of the contract's subject-matter) as a result of which a person other than the purchaser under the contract becomes entitled to call for a conveyance to him.

(7) For the purposes of subsection (6)(b) the contract is varied in a way that significantly affects the land transaction if (and only if)—

(a) it is varied so as to substitute a different purchaser in relation to the land transaction,

(b) it is varied so as to alter the subject-matter of the land transaction, or

(c) it is varied so as to alter the consideration for the land transaction.

(8) Expressions which are used in Part 4 of FA 2003 and in this section have the same meaning in this section as in that Part.

167 Demutualisation of insurance companies U.K.

(1) Schedule 7 to FA 2003 (stamp duty land tax: group relief etc) is amended as follows.

(2) In paragraph 2 (restrictions on availability of group relief) in sub-paragraph (1) (no relief if arrangements by virtue of which a person has or could have control of purchaser but not vendor) at the end insert— " For another exception to this, see sub-paragraph (3A). ".

(3) In that paragraph after sub-paragraph (3) (arrangements which are within sub-paragraph (2)(a)) insert—

"(3A) Sub-paragraphs (1) and (2)(b) do not apply to arrangements in so far as they are for the purpose of facilitating a transfer of the whole or part of the business of a company to another company in relation to which—

(a) section 96 of the Finance Act 1997 is intended to apply (stamp duty relief: demutualisation of insurance companies), and

(b) the conditions for relief under that section are intended to be met.".

(4) In paragraph 4 (cases in which group relief not withdrawn under paragraph 3)—

(a) after sub-paragraph (6) (the third case where the relief not withdrawn) insert—

"(6A) The fourth case is where—

(a) the purchaser ceases to be a member of the same group as the vendor as a result of the transfer of the whole or part of the vendor's business to another company ("the acquiring company") in relation to which—

(i) section 96 of the Finance Act 1997 applies (stamp duty relief: demutualisation of insurance companies), and

(ii) the conditions for relief under that section are met, and

(b) the purchaser is immediately after that transfer a member of the same group as the acquiring company.", and

(b) in sub-paragraph (7) (re-imposition of the withdrawal of the relief), in the opening words, after "in a case within sub-paragraph (6)" insert " or (6A) ".

(5) The amendments made by this section have effect in relation to any transfer which takes place, or is intended to take place, after 22nd March 2006.

168 Alternative finance U.K.

(1) In sections 71A to 73 of FA 2003 (alternative property finance) for "individual" substitute " person " (and for "an individual" substitute " a person ").

(2) Sections 71A(6), 72(6), 72A(6) and 73(4) shall cease to have effect.

(3) In section 73(3) after "chargeable" insert " on a chargeable consideration that is not less than the market value of the interest and, in the case of the grant of a lease at a rent, the rent. "

(4) After section 73 insert—

"73A Sections 71A to 73: supplemental

Sections 71A to 73 do not apply to arrangements in which the first transaction is exempt from charge by virtue of Schedule 7."

(5) This section shall have effect in relation to arrangements in which the effective date of the first transaction (within the meaning of sections 71A to 73 of FA 2003) is on

or after the date on which this Act is passed; and section 119(1) of FA 2003 shall have effect for determining the effective date for the purposes of this subsection.

Stamp duty

169 Reliefs for certain company acquisitions U.K.

(1) Part 3 of FA 1986 (stamp duty) is amended as follows.

(2) In section 75 (relief for acquisition of target company's undertaking in pursuance of reconstruction scheme)—

(a) in subsection (4) (condition as to registered office etc) omit "that the registered office of the acquiring company is in the United Kingdom and", and

(b) in subsection (5)(c) (condition that any shareholder holds the same proportion of shares in the companies) after "the same" insert " , or as nearly as may be the same, ".

(3) In section 76 (other relief for acquisition of target company's undertaking), in subsection (3) (condition as to registered office etc) omit "that the registered office of the acquiring company is in the United Kingdom and".

(4) In section 77 (relief for acquisition of target company's share capital), in subsection (3) (conditions for relief),—

(a) omit paragraph (a) (condition as to registered office),

(b) in paragraph (g) (condition that the number of shares of any particular class bear to all the shares the same proportion) after "the same proportion" insert " , or as nearly as may be the same proportion, ", and

(c) in paragraph (h) (condition that proportion of shares of any particular class held by any shareholder be the same) after "the same" insert " , or as nearly as may be the same, ".

(5) The amendments made by this section have effect in relation to instruments executed after the day on which this Act is passed.

VALID FROM 19/07/2006

PART 9 U.K.

MISCELLANEOUS PROVISIONS

Landfill tax

170 Rate of landfill tax U.K.

(1) In section 42 of FA 1996 (amount of landfill tax) for the amount specified in subsection (1)(a), and the corresponding amount specified in subsection (2), substitute " £21 ".

(2) The amendments made by this section have effect in relation to taxable disposals made, or treated as made, on or after 1st April 2006.

Climate change levy

171 Climate change levy: rates U.K.

(1) In Schedule 6 to FA 2000 (climate change levy) for the Table in paragraph 42(1) (amount payable by way of levy) substitute—

"TABLE

Taxable commodity supplied	*Rate at which levy payable if supply is neither a half-rate supply nor a reduced-rate supply*
Electricity	£0.00441 per kilowatt hour
Gas supplied by a gas utility or any gas supplied in a gaseous state that is of a kind supplied by a gas utility	£0.00154 per kilowatt hour
Any petroleum gas, or other gaseous hydrocarbon, supplied in a liquid state	£0.00985 per kilogram
Any other taxable commodity	£0.01201 per kilogram"

(2) This section has effect in relation to supplies treated as taking place on or after 1st April 2007.

172 Abolition of half-rate supplies etc U.K.

(1) For the purposes of climate change levy, no supply made on or after 1st April 2006 is a half-rate supply.

(2) Subsections (3) to (6) have effect for determining when a supply is to be regarded as made for the purposes of subsection (1).

(3) A supply—
- (a) of electricity, or
- (b) of gas that is in a gaseous state and is of a kind supplied by a gas utility,

is to be regarded as made at the time when the electricity or gas is actually supplied.

(4) In the case of a supply of a taxable commodity not falling within subsection (3) by a person who is resident in the United Kingdom—
- (a) if the commodity is to be removed, the supply is to be regarded as made at the time of the removal,
- (b) if the commodity is not to be removed, the supply is to be regarded as made when the commodity is made available to the person to whom it is supplied.

This subsection does not apply if subsection (6) (deemed self-supply) applies in the case of the supply.

(5) In the case of a supply of a taxable commodity not falling within subsection (3) by a person who is not resident in the United Kingdom, the supply is to be regarded as made—

(a) when the commodity is delivered to the person to whom it is supplied, or

(b) if earlier, when it is made available in the United Kingdom to that person.

This subsection does not apply if subsection (6) (deemed self-supply) applies in the case of the supply.

(6) In any case where, by virtue of paragraph 23(3) of Schedule 6 to FA 2000, a person is, for the purposes of that Schedule, deemed to make a supply to himself of a quantity of a taxable commodity—

(a) which he has produced, and

(b) which does not fall within subsection (3),

the supply is to be regarded as made at the time when he produced that particular quantity of the taxable commodity.

(7) In paragraph 34 of Schedule 6 to FA 2000 (deemed supplies of commodities other than electricity and certain gas), in sub-paragraph (2) omit the words "(or, in the case of electricity, consumed)" (which are unnecessary, because the paragraph does not apply in the case of electricity).

(8) In consequence of subsection (1), Schedule 6 to FA 2000 (climate change levy) is amended as follows.

(9) In paragraph 37 (supplies of electricity or gas spanning change of rate etc) in sub-paragraph (1)(c) omit "half-rate supplies or".

(10) In paragraph 38 (other supplies spanning change of rate etc) in sub-paragraph (1)(c) omit "half-rate supplies or".

(11) In paragraph 42(1) (amount payable by way of levy)—

(a) in paragraph (a), for "neither a half-rate supply nor" substitute " not ";

(b) omit paragraph (b);

(c) in paragraph (c), for "neither a half-rate supply nor" substitute " not ";

(d) in the Table (and in the Table substituted for it by section 171 of this Act), in the heading to column (2), for "neither a half-rate supply nor" substitute " not ".

(12) Paragraph 43 (half-rate for supplies to horticultural producers) shall cease to have effect.

(13) In paragraph 62 (tax credits) in subsection (1)—

(a) in paragraph (c)—

(i) for "neither a half-rate supply nor" substitute " not ";

(ii) omit "half-rate or";

(b) omit paragraph (d).

(14) In paragraph 101 (civil penalties: incorrect notifications) in sub-paragraph (2)(a)—

(a) at the end of sub-paragraph (ii) insert " or ";

(b) omit sub-paragraph (iii).

(15) In paragraph 147 (interpretation: general) omit the definition of "half-rate supply".

(16) Subsections (8) to (15) come into force on such day as the Treasury may by order made by statutory instrument appoint.

(17) The power to make an order under subsection (16)—
(a) may be exercised so as to bring a provision into force only in such cases as may be described in the order,
(b) may be exercised so as to make different provision for different cases or descriptions of case,
(c) includes power to make incidental, consequential, supplemental or transitional provision or savings.

Subordinate Legislation Made

P5 S. 172(8)-(15) power fully exercised: 1.11.2007 appointed by {S.I. 2007/2901}, art. 2

Commencement Information

I2 S. 172 wholly in force; s. 172(1)-(7)(16)(17) in force at Royal Assent see s. 172(16); s. 172(8)-(15) in force at 1.11.2007 by S.I. 2007/2901, **art. 2**

International tax arrangements

173 International tax enforcement arrangements U.K.

(1) If Her Majesty by Order in Council declares that—
(a) arrangements relating to international tax enforcement which are specified in the Order have been made in relation to any territory or territories outside the United Kingdom, and
(b) it is expedient that those arrangements have effect,

those arrangements have effect (and do so in spite of anything in any enactment or instrument).

(2) For the purposes of subsection (1) arrangements relate to international tax enforcement if they relate to any or all of the following—
(a) the exchange of information foreseeably relevant to the administration, enforcement or recovery of any UK tax or foreign tax;
(b) the recovery of debts relating to any UK tax or foreign tax;
(c) the service of documents relating to any UK tax or foreign tax.

(3) In this section—

"UK tax" means any tax or duty imposed under the domestic law of the United Kingdom, and

"foreign tax" means any tax or duty imposed under the law of the territory, or any of the territories, in relation to which the arrangements have been made.

(4) Where any arrangements have effect by virtue of this section, no obligation of secrecy (whether imposed by statute or otherwise)—
(a) prevents any Minister of the Crown, or person with responsibilities in any government department, from disclosing to the Commissioners for Her Majesty's Revenue and Customs or any authorised Revenue and Customs

official any information which is authorised to be disclosed in accordance with the arrangements to any authorised officer of the authorities of the territory, or any of the territories, in relation to which the arrangements have been made, or

(b) prevents the Commissioners for Her Majesty's Revenue and Customs or any authorised Revenue and Customs official from disclosing to any such authorised officer any information which is authorised to be so disclosed in accordance with the arrangements.

(5) But neither the Commissioners for Her Majesty's Revenue and Customs nor any authorised Revenue and Customs official may disclose any information in pursuance of any arrangements having effect by virtue of this section to any authorised officer of the authorities of the territory, or any of the territories, in relation to which the arrangements have been made unless satisfied that the authorities of the territory concerned are bound by, or have undertaken to observe, rules of confidentiality with respect to the information which are not less strict than those applying to it in the United Kingdom.

(6) An Order in Council made under this section revoking an earlier such Order may contain any transitional provisions that appear appropriate.

(7) An Order under this section is not to be submitted to Her Majesty in Council unless a draft of the Order has been laid before and approved by a resolution of the House of Commons.

(8) Any provisions which—

(a) are included in an Order in Council made under any of the provisions specified in subsection (10),

(b) are in force immediately before the passing of this Act, and

(c) could have been included in an Order in Council under this section had the Order in Council been made after that time,

have effect after that time as if included in an Order in Council under this section.

(9) If any such provisions relate to arrangements covering UK taxes or foreign taxes (or both) other than those in relation to which the Order in Council had effect, the provisions also have effect after the passing of this Act (by virtue of subsection (8)) in relation to those other UK taxes or foreign taxes (or both).

(10) The provisions referred to in subsection (8)(a) are—

(a) sections 788 and 815C of ICTA (international arrangements relating to income tax, corporation tax and capital gains tax and analogous foreign taxes), and

(b) sections 158 and 220A of IHTA 1984 (international arrangements relating to inheritance tax and analogous foreign taxes).

(11) In this section “Revenue and Customs official” has the same meaning as in section 18 of the Commissioners for Revenue and Customs Act 2005 (c. 11) (confidentiality).

174 Arrangements under section 173: information powers U.K.

(1) Subsections (1) to (8) and (8C) to (9) of section 20 of TMA 1970 (powers to call for information relevant to liability to income tax, corporation tax or capital gains tax), and sections 20B, 20BB and 20D of that Act so far as relating to those subsections, have effect as if—

(a) the references in those provisions to tax liability included liability to relevant foreign tax, and

(b) the references to tax included relevant foreign tax,

(but subject to subsection (3)).

(2) "Relevant foreign tax" means any tax or duty—

(a) imposed under the law of a territory in relation to which arrangements having effect by virtue of section 173 have been made, and

(b) covered by the arrangements.

(3) In their application by virtue of subsection (1) the provisions mentioned in that subsection have effect as if—

(a) the reference in section 20(7A) to any provision of the Taxes Acts were to any provision of the law of the territory concerned,

(b) the reference in subsection (2) of section 20B to an appeal were to an appeal, review or similar proceedings under the law of that territory, and

(c) the reference in subsection (6) of that section to the Crown were to that territory.

175 Arrangements under section 173: recovery of debts U.K.

(1) The Treasury may by regulations make provision for the recovery in the United Kingdom of debts relating to any relevant foreign tax pursuant to arrangements having effect by virtue of section 173.

(2) "Relevant foreign tax" means any tax or duty—

(a) imposed under the law of a territory in relation to which such arrangements have been made, and

(b) covered by the arrangements.

(3) Regulations under this section may make provision for the taking of action to recover debts relating to any relevant foreign tax by way of legal proceedings, distress, diligence or otherwise.

(4) Such provision may in particular be made by applying, with any appropriate modifications, any enactment or rule of law that applies in relation to the recovery of any tax or duty imposed under the domestic law of the United Kingdom (including any enactment relating to penalties or interest on unpaid amounts).

(5) The power to make regulations under this section is exercisable by statutory instrument.

(6) A statutory instrument containing regulations under this section is subject to annulment in pursuance of a resolution of the House of Commons.

176 Double taxation agreements: procedure U.K.

In section 788 of ICTA (relief by agreement with other territories), for subsection (10) substitute—

"(10) An Order under this section is not to be submitted to Her Majesty in Council unless a draft of the Order has been laid before and approved by a resolution of the House of Commons."

Disclosure of information

177 Disclosure of information U.K.

(1) After section 352 of the Gambling Act 2005 (c. 19) (disclosure of information: data protection) insert—

"**352A Wrongful disclosure**

(1) Where the Commissioners for Her Majesty's Revenue and Customs provide information to a person under this Act, section 19 of the Commissioners for Revenue and Customs Act 2005 (wrongful disclosure) shall apply to the disclosure of the information by the person as it applies to the disclosure of information in contravention of a provision of that Act.

(2) But section 19 shall not apply to disclosure—

(a) in accordance with this Act,

(b) in accordance with another enactment, or

(c) in circumstances specified in section 18(2)(c), (d), (e) or (h) of that Act.

(3) In subsection (1)—

(a) information provided to a person shall be treated as being provided both to him and to any person on whose behalf he acts or by whom he is employed, and

(b) the reference to disclosure by the person to whom information was provided includes a reference to disclosure by any person acting on behalf of, or employed by, the person to whom the information was provided (or a person to whom it is treated as being provided by virtue of paragraph (a)).

(4) In the application of section 18(2)(c) and (d) of that Act by virtue of subsection (2)(c) above a reference to functions of the Revenue and Customs shall be taken as a reference to functions of the person making the disclosure.

(5) In the application of section 19 of that Act by virtue of subsection (1) above "revenue and customs information" means information provided by the Commissioners (but subject to the express exclusion in section 19(2)).

(6) Section 19 of that Act shall, in so far as it applies by virtue of this section, be treated for the purposes of section 28 of this Act as an offence under this Act."

(2) Section 352A of the Gambling Act 2005 (c. 19) as inserted by subsection (1) above shall come into force on the passing of this Act.

VALID FROM 19/07/2006

PART 10 U.K.

SUPPLEMENTARY PROVISIONS

178 Repeals U.K.

(1) The enactments mentioned in Schedule 26 (which include provisions that are spent or of no practical utility) are repealed to the extent specified.

(2) The repeals specified in that Schedule have effect subject to the commencement provisions and savings contained or referred to in the notes set out in that Schedule.

179 Interpretation U.K.

In this Act—

"ALDA 1979" means the Alcoholic Liquor Duties Act 1979 (c. 4);

"CAA 2001" means the Capital Allowances Act 2001 (c. 2);

"FA", followed by a year, means the Finance Act of that year;

"F(No.2)A", followed by a year, means the Finance (No.2) Act of that year;

"HODA 1979" means the Hydrocarbon Oil Duties Act 1979 (c. 5);

"ICTA" means the Income and Corporation Taxes Act 1988 (c. 1);

"IHTA 1984" means the Inheritance Tax Act 1984 (c. 51);

"ITEPA 2003" means the Income Tax (Earnings and Pensions) Act 2003 (c. 1);

"ITTOIA 2005" means the Income Tax (Trading and Other Income) Act 2005 (c. 5);

"OTA 1975" means the Oil Taxation Act 1975 (c. 22);

"TCGA 1992" means the Taxation of Chargeable Gains Act 1992 (c. 12);

"TMA 1970" means the Taxes Management Act 1970 (c. 9);

"VATA 1994" means the Value Added Tax Act 1994 (c. 23);

"VERA 1994" means the Vehicle Excise and Registration Act 1994 (c. 22).

180 Short title U.K.

This Act may be cited as the Finance Act 2006.

SCHEDULES

VALID FROM 19/07/2006

SCHEDULE 1 U.K.

Section 27

GROUP RELIEF WHERE SURRENDERING COMPANY NOT RESIDENT IN UK

. . . .

VALID FROM 19/07/2006

SCHEDULE 2 U.K.

Section 28

RELIEF FOR RESEARCH AND DEVELOPMENT: SUBJECTS OF CLINICAL TRIALS

. . . .

VALID FROM 19/07/2006

SCHEDULE 3 U.K.

Section 29

CLAIMS FOR RELIEF FOR RESEARCH AND DEVELOPMENT

. . . .

VALID FROM 01/01/2007

SCHEDULE 4 U.K.

Section 37

TAXATION OF ACTIVITIES OF FILM PRODUCTION COMPANY

. . . .

VALID FROM 01/01/2007

SCHEDULE 5 U.K.

Section 42

FILM TAX RELIEF: FURTHER PROVISIONS

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VALID FROM 19/07/2006

SCHEDULE 6 U.K.

Section 76

AVOIDANCE INVOLVING FINANCIAL ARRANGEMENTS

. . . .

VALID FROM 19/07/2006

SCHEDULE 7 U.K.

Section 79

TRANSFER OF ASSETS ABROAD

INCOME AND CORPORATION TAXES ACT 1988

Amendments of ICTA: introductory

1 ICTA is amended as follows.

Section 741: application subject to sections 741B and 741C

2 (1) Section 741 (exemption from sections 739 and 740) is amended as follows.

(2) At the beginning of the section insert " (1) ".

(3) At the end of the section insert—

"(2) This section is subject to sections 741B and 741C (application of this section and section 741A etc).".

(4) In consequence of amendments made by this Schedule, the heading of the section becomes " Exemption from sections 739 and 740 (transactions before 5th December 2005) ".

(5) The amendments made by this paragraph shall be taken to have come into force on 5th December 2005.

Exemption from sections 739 and 740: new provision

3 (1) After section 741 insert—

"741A Exemption from sections 739 and 740 (transactions on or after 5th December 2005)

(1) The individual is not liable to income tax by virtue of section 739 or 740 for the year of assessment by reference to the relevant transactions if he satisfies an officer of the Board—

(a) that Condition A is met, or

(b) in a case where Condition A is not met, that Condition B is met.

(2) Condition A is that it would not be reasonable to draw the conclusion, from all the circumstances of the case, that the purpose of avoiding liability to taxation was the purpose, or one of the purposes, for which the relevant transactions or any of them were effected.

(3) Condition B is that—

(a) all the relevant transactions were genuine commercial transactions, and

(b) it would not be reasonable to draw the conclusion, from all the circumstances of the case, that any one or more of those transactions was more than incidentally designed for the purpose of avoiding liability to taxation.

(4) The intentions and purposes of any person who, whether or not for consideration,—

(a) designs or effects the relevant transactions or any of them, or

(b) provides advice in relation to the relevant transactions or any of them,

are to be taken into account in determining the purposes for which those transactions or any of them were effected.

(5) A relevant transaction is a commercial transaction only if it is effected—

(a) in the course of a trade or business, or

(b) with a view to setting up and commencing a trade or business,

and, in either case, for the purposes of that trade or business.

(6) For that purpose, the making and managing of investments, or the making or managing of investments, is not a trade or business except to the extent that—

(a) the person by whom it is done, and

(b) the person for whom it is done,

are independent persons dealing at arm's length.

(7) In this section—

"commercial transaction" does not include—

(a) a transaction on terms other than those that would have been made between independent persons dealing at arm's length, or

(b) a transaction that would not have been entered into between independent persons dealing at arm's length;

"independent persons" means persons who are not connected with each other (within the meaning given by section 839);

"relevant transactions" means—

(a) the transfer, and

(b) any associated operations;

"revenue" includes taxes, duties and national insurance contributions;

"taxation" includes any revenue for whose collection and management the Commissioners for Her Majesty's Revenue and Customs are responsible.

(8) Any associated operation that would not (apart from this subsection) fall to be taken into account for the purposes of this section must be taken into account for those purposes if, were it to be so taken into account, the conditions in subsection (1) above would be failed by reference to—

(a) that associated operation, or

(b) that associated operation taken together with the transfer or any one or more other associated operations.

(9) The jurisdiction of the Special Commissioners on any appeal includes jurisdiction to review any decision taken by an officer of the Board in exercise of the officer's functions under this section.

(10) This section is subject to sections 741B and 741C (application of section 741 and this section etc).".

(2) The amendment made by this paragraph shall be taken to have come into force on 5th December 2005.

Application of sections 741 and 741A

4 (1) After section 741A insert—

"**741B Application of sections 741 and 741A**

(1) This section makes provision with respect to the application for the year of assessment of—

(a) section 741,

(b) section 741A, or

(c) section 741C,

in the case of the individual and the relevant transactions.

(2) In this section—

"new transaction" means a relevant transaction effected on or after the relevant date;

"old transaction" means a relevant transaction effected before the relevant date;

"the relevant date" means 5th December 2005;

"relevant transactions" means—

(a) the transfer, and

(b) any associated operations.

(3) If all the relevant transactions are old transactions, section 741 is the provision to be applied.

(4) If all the relevant transactions are new transactions, section 741A is the provision to be applied.

(5) If—

(a) any one or more of the relevant transactions are old transactions, and

(b) any one or more of the relevant transactions are new transactions,

section 741C is the provision to be applied.

741C Cases where there are both old transactions and new transactions

(1) This section applies by virtue of section 741B if the case falls within subsection (5) of that section.

(2) Sections 739 and 740 do not apply, unless subsection (3) below applies.

(3) This subsection applies if—

(a) the conditions in section 741(1) are failed by reference to the old transactions or any of them, or

(b) the conditions in section 741A(1) are failed by reference to the new transactions or any of them.

(4) Where subsection (3) above applies, the general rule is that sections 739 and 740 apply as they would have applied apart from any exemption by virtue of sections 741 to 741C.

(5) In any case where subsection (3) above applies by virtue only of paragraph (b) of that subsection, the general rule has effect subject to, and in accordance with, the Rules in subsections (6) to (8) below.

(6) Rule 1 is that, for the purposes of section 739(2) or (3), any income arising before the relevant date must not be brought into account as income of the person resident or domiciled outside the United Kingdom.

(7) Rule 2 is that for the purposes of section 740, where—

(a) a benefit is received by the individual in a year of assessment ending after the relevant date, and

(b) relevant income of years of assessment up to and including that year falls to be determined,

the general rule requires years ending before the relevant date to be brought into account as well as years ending after that date.

(8) Rule 3 is that, for the purposes of section 740, a benefit received by the individual in the year 2005-06 is to be left out of account to the extent that, on a time apportionment basis, it fell to be enjoyed in any part of the year that falls before the relevant date.

(9) This section is to be read as one with section 741B.".

(2) The amendment made by this paragraph shall be taken to have come into force on 5th December 2005.

Just and reasonable apportionment in certain cases

5 (1) After section 741C insert—

"741D Section 739: just and reasonable apportionment in certain cases

(1) This section applies where—
(a) an individual is liable to tax by virtue of section 739 for a year of assessment (the "taxable year"), but
(b) the conditions in subsections (2) to (4) below are met.

(2) Condition 1 is that since the making of the transfer there have been one or more years of assessment when the circumstances were such that, so far as relating to such of the relevant transactions as were effected before the end of the year, the individual—
(a) was not liable to tax by virtue of section 739, or
(b) would not have been liable to tax by virtue of section 739 if there had been any deemed income of his under that section,

because an appropriate exemption applied or, in a case falling within paragraph (b) above, would have applied.

(3) Condition 2 is that the individual is liable to tax under section 739 in the taxable year in consequence of Condition B in section 741A(3) not being met.

(4) Condition 3 is that the income by reference to which the individual is liable to tax for the taxable year is attributable—
(a) partly to relevant transactions by reference to which the appropriate exemption applied for the last exempt year of assessment, and
(b) partly to associated operations not falling within paragraph (a) above ("chargeable operations").

(5) For the purposes of this section, a year of assessment is "exempt" if it is one of the years of assessment mentioned in subsection (2) and there is no earlier year of assessment for which—
(a) the individual was liable to tax by virtue of section 739, or
(b) the individual would have been liable to tax by virtue of section 739, if there had been any deemed income of his under that section.

(6) Where this section applies, the liability of the individual is to be reduced as if it fell to be determined by reference to only so much of the income as appears to an officer of the Board to be justly and reasonably attributable to chargeable operations in all the circumstances of the case.

(7) The facts and matters that may be taken into account in determining for the purposes of subsection (6) above whether income may be regarded as justly and reasonably attributable to chargeable operations include whether, and to what extent, the chargeable operations or any of them directly or indirectly affect any of the following—

(a) the character, description or amount of any income of any person,

(b) any person's power to enjoy any income,

(c) the character, description or amount of any income which a person has power to enjoy.

(8) The jurisdiction of the Special Commissioners on any appeal includes jurisdiction to review any decision taken by an officer of the Board in exercise of the officer's functions under this section.

(9) In this section—

"appropriate exemption" means exemption by virtue of—

(a) paragraph (b) of section 741(1), or

(b) Condition B in section 741A(3);

"relevant transactions" means—

(a) the transfer, and

(b) any associated operations.".

(2) The amendment made by this paragraph shall be taken to have come into force on 5th December 2005.

Section 742: interpretation of the Chapter

6 (1) Section 742 (interpretation of sections 739 to 741) is amended as follows.

(2) In subsection (1) (meaning of "associated operations") for "sections 739 to 741" substitute " this Chapter ".

(3) At the end of subsection (1), insert— " It is immaterial whether the operation is effected before, after, or at the same time as the transfer. ".

(4) After subsection (1) insert—

"(1A) The income that becomes payable to, or has become income of, a person resident or domiciled outside the United Kingdom that is referred to in section 739(1) or (3) or section 740(1) includes any income which becomes payable to, or has become income of, the person by virtue or in consequence of—

(a) the transfer,

(b) one or more associated operations, or

(c) the transfer and one or more associated operations.

(1B) The income which an individual has power to enjoy, as mentioned in section 739(2), includes any income which he has power to enjoy by virtue or in consequence of—

(a) the transfer,

(b) one or more associated operations, or

(c) the transfer and one or more associated operations.”.

(5) The heading to the section accordingly becomes “ Interpretation of this Chapter ”.

(6) The amendments made by this paragraph shall be taken to have come into force on 5th December 2005.

ITTOIA 2005

Gains from contracts for life insurance etc

7 (1) In ITTOIA 2005, section 468 (gains from contracts of life insurance etc: non-UK resident trustees and foreign institutions) is amended as follows.

(2) In subsection (2) (section 740 of ICTA to apply with the modifications in subsection (3) or (4))—

(a) for “Section 740” substitute “ Sections 739 and 740 ”,

(b) for “prevents” substitute “ prevent ”,

(c) for “applies” substitute “ apply ”.

(3) In subsection (3) (cases within subsection (1)(a)) for “section 740 applies” substitute “ sections 739 and 740 apply ”.

(4) In subsection (4) (cases within subsection (1)(b)) for “section 740 applies” substitute “ sections 739 and 740 apply ”.

(5) The amendments made by this paragraph apply in relation to gains treated as arising on or after 5th December 2005.

VALID FROM 19/07/2006

SCHEDULE 8 U.K. Section 81

LONG FUNDING LEASES OF PLANT OR MACHINERY

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VALID FROM 19/07/2006

SCHEDULE 9 U.K.

Section 81

LEASES OF PLANT OR MACHINERY: MISCELLANEOUS AMENDMENTS

. . . .

VALID FROM 19/07/2006

SCHEDULE 10 U.K.

Section 82

SALE ETC OF LESSOR COMPANIES ETC

. . . .

VALID FROM 19/07/2006

SCHEDULE 11 U.K.

Section 86

INSURANCE COMPANIES

. . . .

VALID FROM 06/04/2006

SCHEDULE 12 U.K.

Section 88

SETTLEMENTS: AMENDMENT OF TCGA 1992 ETC

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VALID FROM 06/04/2006

SCHEDULE 13 U.K.

Section 89

SETTLEMENTS: AMENDMENTS TO ICTA AND ITTOIA 2005 ETC

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VALID FROM 19/07/2006

SCHEDULE 14 U.K.

Section 91

INVESTMENT RELIEFS: VENTURE CAPITAL SCHEMES

PART 1 U.K.

LIMITS ON GROSS ASSETS OF ISSUERS OF SHARES OR SECURITIES

Enterprise investment scheme

1 (1) In section 293(6A) of ICTA (enterprise investment scheme: limits on value of gross assets of share-issuing company or its group)—

(a) in paragraph (a) (value must not exceed £15 million immediately before issue of eligible shares), for "£15 million" substitute " £7 million ", and

(b) in paragraph (b) (value must not exceed £16 million immediately after issue of eligible shares), for "£16 million" substitute " £8 million ".

(2) Sub-paragraph (1) has effect in relation to shares issued on or after 6th April 2006, subject to sub-paragraphs (3) and (4).

(3) Sub-paragraph (1) does not have effect in relation to shares issued on or after 6th April 2006 to a person who subscribed for them before 22nd March 2006.

(4) Sub-paragraph (1) does not have effect in relation to shares issued on or after 6th April 2006 to the managers of an investment fund approved for the purposes of section 311 of ICTA by the Commissioners for Her Majesty's Revenue and Customs if—

(a) the fund was approved before 22nd March 2006,

(b) investments in the fund have been accepted before 6th April 2006, and

(c) the shares are issued to the managers as nominee for an individual who has (whether or not before 6th April 2006) invested in the fund.

Venture capital trusts

2 (1) In paragraph 8(1) of Schedule 28B to ICTA (venture capital trusts: limits on value of gross assets of company issuing relevant holding or its group)—

(a) in paragraph (a) (value must not exceed £15 million immediately before issue of relevant holding), for "£15 million" substitute " £7 million ", and

(b) in paragraph (b) (value must not exceed £16 million immediately after issue of relevant holding), for "£16 million" substitute " £8 million ".

(2) Sub-paragraph (1) has effect in relation to relevant holdings issued on or after 6th April 2006, subject to sub-paragraph (3).

(3) Sub-paragraph (1) does not have effect for the purpose of determining whether any shares or securities acquired by a company ("the trust company") by means of the investment of protected money are, for the purposes of section 842AA of ICTA, to be regarded as comprised in qualifying holdings of the company at any time.

(4) In sub-paragraph (3) "protected money" means—
(a) money raised by the issue before 6th April 2006 of shares in or securities of the trust company, or
(b) money derived from the investment by the trust company of any such money.

Corporate venturing scheme

3 (1) In paragraph 22(1) and (2) of Schedule 15 to FA 2000 (corporate venturing scheme: limits on value of gross assets of share-issuing company or its group)—
(a) in paragraph (a) (value must not exceed £15 million immediately before issue of relevant shares), for "£15 million" substitute " £7 million ", and
(b) in paragraph (b) (value must not exceed £16 million immediately after issue of relevant shares), for "£16 million" substitute " £8 million ".

(2) Sub-paragraph (1) has effect in relation to shares issued on or after 6th April 2006, subject to sub-paragraph (3).

(3) Sub-paragraph (1) does not have effect in relation to shares issued on or after 6th April 2006 to a person who subscribed for them before 22nd March 2006.

PART 2 U.K.

RATE OF RELIEF FOR INVESTMENTS IN VENTURE CAPITAL TRUSTS

4 (1) In paragraph 1(5)(a) of Schedule 15B to ICTA (where relief available on shares issued by venture capital trust on or after 6th April 2006, income tax liability reduced by amount not exceeding the sum subscribed multiplied by the lower rate of 20%), for "tax at the lower rate for that year on" substitute " 30 per cent of ".

(2) In paragraph 3(4) of that Schedule (where shares in venture capital trust disposed of by bargain at arm's length within 3 years of their issue, relief given is reduced by reference to consideration for disposal if less than amount subscribed), for "tax at the lower rate for the year of assessment for which the relief was given on" substitute " 30 per cent of ".

(3) Sub-paragraphs (1) and (2) have effect in relation to shares issued on or after 6th April 2006.

PART 3 U.K.

ENTERPRISE INVESTMENT SCHEME: MAXIMUM SUBSCRIPTIONS AND CARRY-BACK OF RELIEF

5 (1) In section 289A(4) of ICTA (which limits the amount eligible to be relieved in the previous year), for "£25,000" substitute " £50,000 ".

(2) Sub-paragraph (1) has effect in relation to shares issued on or after 6th April 2006.

6 (1) In section 290(2) of ICTA (maximum amount eligible for relief in any year), for "£200,000" substitute " £400,000 ".

(2) Sub-paragraph (1) has effect for the year 2006-07 and for subsequent years of assessment.

PART 4 U.K.

LENGTHENING OF PERIODS APPLICABLE TO VENTURE CAPITAL TRUSTS

7 (1) Schedule 15B to ICTA (venture capital trusts: relief from income tax) is amended as follows.

(2) In paragraph 2(3) (no relief for investments linked to loans made within period ending immediately before third anniversary of date on which shares issued), in the definition of "the relevant period", for "third" substitute " fifth ".

(3) In paragraph 3(1)(b) (loss of investment relief for disposal of shares within three years of issue), for "three" substitute " five ".

(4) In paragraph 6(1) (meaning of "eligible shares"), for "three" substitute " five ".

(5) Sub-paragraphs (1) to (4) have effect in relation to shares issued on or after 6th April 2006.

PART 5 U.K.

VENTURE CAPITAL TRUSTS: MEANING OF "INVESTMENTS"

8 (1) In section 842AA of ICTA (venture capital trusts: conditions for approval), after subsection (11) insert—

"(11A) A reference in this section, or in section 842(2)(b) as applied by subsection (11)(a) above, to a company's investments shall be taken to include, so far as it would not otherwise do so,—

(a) money in the company's possession, and

(b) any sum owed to the company by another person if the company has account-holder's rights over that sum.

(11B) For the purposes of subsection (11A)(b) above, a company has "account-holder's rights" over a sum owed to the company if—

(a) the company has a right (whether or not the exercise of the right is subject to conditions) to require the other person to pay out the sum, or amounts out of the sum, to the company or at the company's direction, and

(b) the sum is owed to the company—

(i) as a result of amounts having been paid to the other person by or for the company, or

(ii) as a result of the other person having identified a sum in respect of which the company may exercise such a right.

(11C) Subsection (11A) above does not have effect to cause a company's investments to be taken to include anything to which the company is not beneficially entitled, but for this purpose a company shall be taken to be beneficially entitled to—

(a) sums subscribed for shares issued by it, and

(b) anything to which it is entitled that (directly or indirectly) represents any such sums."

(2) Sub-paragraph (1) has effect for the purposes of determining whether, at a time on or after 6th April 2007, the conditions specified in section 842AA(2) of ICTA are, will be or were fulfilled with respect to a company.

VALID FROM 19/07/2006

SCHEDULE 15 U.K.

Section 102

ACCOUNTANCY CHANGE: SPREADING OF ADJUSTMENT

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VALID FROM 19/07/2006

SCHEDULE 16 U.K.

Section 104

REAL ESTATE INVESTMENT TRUSTS: EXCLUDED BUSINESS AND INCOME

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VALID FROM 19/07/2006

SCHEDULE 17 U.K.

Section 134

GROUP REAL ESTATE INVESTMENT TRUSTS: MODIFICATIONS

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VALID FROM 19/07/2006

SCHEDULE 18 U.K.

Section 146

OIL TAXATION: MARKET VALUE OF OIL

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VALID FROM 19/07/2006

SCHEDULE 19 U.K.

Section 154

SCHEDULE TO BE INSERTED AS SCHEDULE 19C TO ICTA

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SCHEDULE 20 U.K.

Section 156

INHERITANCE TAX: RULES FOR TRUSTS ETC

PART 1 U.K.

“TRUSTS FOR BEREAVED MINORS”, “AGE 18-TO-25 TRUSTS” AND “ACCUMULATION AND MAINTENANCE” TRUSTS

Trusts for bereaved minors and Age 18-to-25 trusts

1 (1) In IHTA 1984, after section 71 insert—

“71A Trusts for bereaved minors

(1) This section applies to settled property (including property settled before 22nd March 2006) if—

(a) it is held on statutory trusts for the benefit of a bereaved minor under sections 46 and 47(1) of the Administration of Estates Act 1925 (succession on intestacy and statutory trusts in favour of issue of intestate), or

(b) it is held on trusts for the benefit of a bereaved minor and subsection (2) below applies to the trusts,

but this section does not apply to property in which a disabled person's interest subsists.

(2) This subsection applies to trusts—

(a) established under the will of a deceased parent of the bereaved minor, or

(b) established under the Criminal Injuries Compensation Scheme,

which secure that the conditions in subsection (3) below are met.

(3) Those conditions are—

(a) that the bereaved minor, if he has not done so before attaining the age of 18, will on attaining that age become absolutely entitled to—

(i) the settled property,

(ii) any income arising from it, and

(iii) any income that has arisen from the property held on the trusts for his benefit and been accumulated before that time,

(b) that, for so long as the bereaved minor is living and under the age of 18, if any of the settled property is applied for the benefit of a beneficiary, it is applied for the benefit of the bereaved minor, and

(c) that, for so long as the bereaved minor is living and under the age of 18, either—

(i) the bereaved minor is entitled to all of the income (if there is any) arising from any of the settled property, or

(ii) no such income may be applied for the benefit of any other person.

(4) Trusts such as are mentioned in paragraph (a) or (b) of subsection (2) above are not to be treated as failing to secure that the conditions in subsection (3) above are met by reason only of—

(a) the trustees' having the powers conferred by section 32 of the Trustee Act 1925 (powers of advancement),

(b) the trustees' having those powers but free from, or subject to a less restrictive limitation than, the limitation imposed by proviso (a) of subsection (1) of that section,

(c) the trustees' having the powers conferred by section 33 of the Trustee Act (Northern Ireland) 1958 (corresponding provision for Northern Ireland),

(d) the trustees' having those powers but free from, or subject to a less restrictive limitation than, the limitation imposed by subsection (1)(a) of that section, or

(e) the trustees' having powers to the like effect as the powers mentioned in any of paragraphs (a) to (d) above.

(5) In this section "the Criminal Injuries Compensation Scheme" means—

(a) the schemes established by arrangements made under the Criminal Injuries Compensation Act 1995,

(b) arrangements made by the Secretary of State for compensation for criminal injuries in operation before the commencement of those schemes, and

(c) the scheme established under the Criminal Injuries Compensation (Northern Ireland) Order 2002.

(6) The preceding provisions of this section apply in relation to Scotland as if, in subsection (2) above, before "which" there were inserted " the purposes of ".

71B Charge to tax on property to which section 71A applies

(1) Subject to subsections (2) and (3) below, there shall be a charge to tax under this section—

(a) where settled property ceases to be property to which section 71A above applies, and

(b) in a case where paragraph (a) above does not apply, where the trustees make a disposition as a result of which the value of settled property to which section 71A above applies is less than it would be but for the disposition.

(2) Tax is not charged under this section where settled property ceases to be property to which section 71A applies as a result of—

(a) the bereaved minor attaining the age of 18 or becoming, under that age, absolutely entitled as mentioned in section 71A(3)(a) above, or

(b) the death under that age of the bereaved minor, or

(c) being paid or applied for the advancement or benefit of the bereaved minor.

(3) Subsections (3) to (8) and (10) of section 70 above apply for the purposes of this section as they apply for the purposes of that section, but—

(a) with the substitution of a reference to subsection (1)(b) above for the reference in subsection (4) of section 70 above to subsection (2)(b) of that section,

(b) with the substitution of a reference to property to which section 71A above applies for each of the references in subsections (3), (5) and (8) of section 70 above to property to which that section applies,

(c) as if, for the purposes of section 70(8) above as applied by this subsection, property—

(i) which is property to which section 71A above applies,

(ii) which, immediately before it became property to which section 71A above applies, was property to which section 71 above applied, and

(iii) which, by the operation of section 71(1B) above, ceased on that occasion to be property to which section 71 above applied,

had become property to which section 71A above applies not on that occasion but on the occasion (or last occasion) before then when it became property to which section 71 above applied, and

(d) as if, for the purposes of section 70(8) above as applied by this subsection, property—

(i) which is property to which section 71A above applies,

(ii) which, immediately before it became property to which section 71A above applies, was property to which section 71D below applied, and

(iii) which, by the operation of section 71D(5)(a) below, ceased on that occasion ("the 71D-to-71A occasion") to be property to which section 71D below applied,

had become property to which section 71A above applies not on the 71D-to-71A occasion but on the relevant earlier occasion.

(4) In subsection (3)(d) above—

(a) "the relevant earlier occasion" means the occasion (or last occasion) before the 71D-to-71A occasion when the property became property to which section 71D below applied, but

(b) if the property, when it became property to which section 71D below applied, ceased at the same time to be property to which section 71 above applied without ceasing to be settled property, "the relevant earlier occasion" means the occasion (or last occasion) when the property became property to which section 71 above applied.

71C Sections 71A and 71B: meaning of "bereaved minor"

In sections 71A and 71B above "bereaved minor" means a person—

(a) who has not yet attained the age of 18, and

(b) at least one of whose parents has died.

71D Age 18-to-25 trusts

(1) This section applies to settled property (including property settled before 22nd March 2006), but subject to subsection (5) below, if—

(a) the property is held on trusts for the benefit of a person who has not yet attained the age of 25,

(b) at least one of the person's parents has died, and

(c) subsection (2) below applies to the trusts.

(2) This subsection applies to trusts—

(a) established under the will of a deceased parent of the person mentioned in subsection (1)(a) above, or

(b) established under the Criminal Injuries Compensation Scheme,

which secure that the conditions in subsection (6) below are met.

(3) Subsection (4) has effect where—

(a) at any time on or after 22nd March 2006 but before 6th April 2008, or on the coming into force of paragraph 3(1) of Schedule 20 to the Finance Act 2006, any property ceases to be property to which section 71 above applies without ceasing to be settled property, and

(b) immediately after the property ceases to be property to which section 71 above applies—

(i) it is held on trusts for the benefit of a person who has not yet attained the age of 25, and
(ii) the trusts secure that the conditions in subsection (6) below are met.

(4) From the time when the property ceases to be property to which section 71 above applies, but subject to subsection (5) below, this section applies to the property (if it would not apply to the property by virtue of subsection (1) above) for so long as—
(a) the property continues to be settled property held on trusts such as are mentioned in subsection (3)(b)(i) above, and
(b) the trusts continue to secure that the conditions in subsection (6) below are met.

(5) This section does not apply—
(a) to property to which section 71A above applies,
(b) to property to which section 71 above, or section 89 below, applies, or
(c) to settled property if a person is beneficially entitled to an interest in possession in the settled property and—
(i) the person became beneficially entitled to the interest in possession before 22nd March 2006, or
(ii) the interest in possession is an immediate post-death interest, or a transitional serial interest, and the person became beneficially entitled to it on or after 22nd March 2006.

(6) Those conditions are—
(a) that the person mentioned in subsection (1)(a) or (3)(b)(i) above ("B"), if he has not done so before attaining the age of 25, will on attaining that age become absolutely entitled to—
(i) the settled property,
(ii) any income arising from it, and
(iii) any income that has arisen from the property held on the trusts for his benefit and been accumulated before that time,
(b) that, for so long as B is living and under the age of 25, if any of the settled property is applied for the benefit of a beneficiary, it is applied for the benefit of B, and
(c) that, for so long as B is living and under the age of 25, either—
(i) B is entitled to all of the income (if there is any) arising from any of the settled property, or
(ii) no such income may be applied for the benefit of any other person.

(7) For the purposes of this section, trusts are not to be treated as failing to secure that the conditions in subsection (6) above are met by reason only of—
(a) the trustees' having the powers conferred by section 32 of the Trustee Act 1925 (powers of advancement),
(b) the trustees' having those powers but free from, or subject to a less restrictive limitation than, the limitation imposed by proviso (a) of subsection (1) of that section,

(c) the trustees' having the powers conferred by section 33 of the Trustee Act (Northern Ireland) 1958 (corresponding provision for Northern Ireland),
(d) the trustees' having those powers but free from, or subject to a less restrictive limitation than, the limitation imposed by subsection (1)(a) of that section, or
(e) the trustees' having powers to the like effect as the powers mentioned in any of paragraphs (a) to (d) above.

(8) In this section "the Criminal Injuries Compensation Scheme" means—
(a) the schemes established by arrangements made under the Criminal Injuries Compensation Act 1995,
(b) arrangements made by the Secretary of State for compensation for criminal injuries in operation before the commencement of those schemes, and
(c) the scheme established under the Criminal Injuries Compensation (Northern Ireland) Order 2002.

(9) The preceding provisions of this section apply in relation to Scotland—
(a) as if, in subsection (2) above, before "which" there were inserted " the purposes of ", and
(b) as if, in subsections (3)(b)(ii) and (4)(b) above, before "trusts" there were inserted " purposes of the ".

71E Charge to tax on property to which section 71D applies

(1) Subject to subsections (2) to (4) below, there shall be a charge to tax under this section—
(a) where settled property ceases to be property to which section 71D above applies, or
(b) in a case where paragraph (a) above does not apply, where the trustees make a disposition as a result of which the value of the settled property to which section 71D above applies is less than it would be but for the disposition.

(2) Tax is not charged under this section where settled property ceases to be property to which section 71D above applies as a result of—
(a) B becoming, at or under the age of 18, absolutely entitled as mentioned in section 71D(6)(a) above,
(b) the death, under the age of 18, of B,
(c) becoming, at a time when B is living and under the age of 18, property to which section 71A above applies, or
(d) being paid or applied for the advancement or benefit of B—
(i) at a time when B is living and under the age of 18, or
(ii) on B's attaining the age of 18.

(3) Tax is not charged under this section in respect of—
(a) a payment of costs or expenses (so far as they are fairly attributable to property to which section 71D above applies), or
(b) a payment which is (or will be) income of any person for any of the purposes of income tax or would for any of those purposes be

income of a person not resident in the United Kingdom if he were so resident,

or in respect of a liability to make such a payment.

(4) Tax is not charged under this section by virtue of subsection (1)(b) above if the disposition is such that, were the trustees beneficially entitled to the settled property, section 10 or section 16 above would prevent the disposition from being a transfer of value.

(5) For the purposes of this section the trustees shall be treated as making a disposition if they omit to exercise a right (unless it is shown that the omission was not deliberate) and the disposition shall be treated as made at the time or latest time when they could have exercised the right.

71F Calculation of tax charged under section 71E in certain cases

(1) Where—

(a) tax is charged under section 71E above by reason of the happening of an event within subsection (2) below, and

(b) that event happens after B has attained the age of 18,

the tax is calculated in accordance with this section.

(2) Those events are—

(a) B becoming absolutely entitled as mentioned in section 71D(6)(a) above,

(b) the death of B, and

(c) property being paid or applied for the advancement or benefit of B.

(3) The amount of the tax is given by—

$$\text{Chargeableamount} \times \text{Relevantfraction} \times \text{Settl}$$

(4) For the purposes of subsection (3) above, the "Chargeable amount" is—

(a) the amount by which the value of property which is comprised in the settlement and to which section 71D above applies is less immediately after the event giving rise to the charge than it would be but for the event, or

(b) where the tax is payable out of settled property to which section 71D above applies immediately after the event, the amount which, after deducting the tax, is equal to the amount on which tax would be charged by virtue of paragraph (a) above.

(5) For the purposes of subsection (3) above, the "Relevant fraction" is three tenths multiplied by so many fortieths as there are complete successive quarters in the period—

(a) beginning with the day on which B attained the age of 18 or, if later, the day on which the property became property to which section 71D above applies, and

(b) ending with the day before the occasion of the charge.

(6) Where the whole or part of the Chargeable amount is attributable to property that was excluded property at any time during the period mentioned in

subsection (5) above then, in determining the "Relevant fraction" in relation to that amount or part, no quarter throughout which that property was excluded property shall be counted.

(7) For the purposes of subsection (3) above, the "Settlement rate" is the effective rate (that is to say, the rate found by expressing the tax chargeable as a percentage of the amount on which it is charged) at which tax would be charged on the value transferred by a chargeable transfer of the description specified in subsection (8) below.

(8) The chargeable transfer postulated in subsection (7) above is one—

(a) the value transferred by which is equal to an amount determined in accordance with subsection (9) below,

(b) which is made at the time of the charge to tax under section 71E above by a transferor who has in the period of seven years ending with the day of the occasion of the charge made chargeable transfers having an aggregate value equal to that of any chargeable transfers made by the settlor in the period of seven years ending with the day on which the settlement commenced, disregarding transfers made on that day, and

(c) on which tax is charged in accordance with section 7(2) above.

(9) The amount referred to in subsection (8)(a) above is equal to the aggregate of—

(a) the value, immediately after the settlement commenced, of the property then comprised in it,

(b) the value, immediately afer a related settlement commenced, of the property then comprised in it, and

(c) the value, immediately after it became comprised in the settlement, of any property which became so comprised after the settlement commenced and before the occasion of the charge under section 71E above (whether or not it has remained so comprised).

71G Calculation of tax charged under section 71E in all other cases

(1) Where—

(a) tax is charged under section 71E above, and

(b) the tax does not fall to be calculated in accordance with section 71F above,

the tax is calculated in accordance with this section.

(2) The amount on which the tax is charged is—

(a) the amount by which the value of property which is comprised in the settlement and to which section 71D above applies is less immediately after the event giving rise to the charge than it would be but for the event, or

(b) where the tax is payable out of settled property to which section 71D above applies immediately after the event, the amount which, after deducting the tax, is equal to the amount on which tax would be charged by virtue of paragraph (a) above.

(3) The rate at which the tax is charged is the rate that would be given by subsections (6) to (8) of section 70 above—

(a) if the reference to section 70 above in subsection (8)(a) of that section were a reference to section 71D above,
(b) if the other references in those subsections to section 70 above were references to section 71E above, and
(c) if, for the purposes of section 70(8) above, property—
(i) which is property to which section 71D above applies,
(ii) which, immediately before it became property to which section 71D above applies, was property to which section 71 applied, and
(iii) which ceased on that occasion to be property to which section 71 above applied without ceasing to be settled property,

had become property to which section 71D above applies not on that occasion but on the occasion (or last occasion) before then when it became property to which section 71 above applied.

71H Sections 71A to 71G: meaning of "parent"

(1) In sections 71A to 71G above "parent" includes step-parent.

(2) For the purposes of sections 71A to 71G above, a deceased individual ("D") shall be taken to have been a parent of another individual ("Y") if, immediately before D died, D had—
(a) parental responsibility for Y under the law of England and Wales,
(b) parental responsibilities in relation to Y under the law of Scotland, or
(c) parental responsibility for Y under the law of Northern Ireland.

(3) In subsection (2)(a) above "parental responsibility" has the same meaning as in the Children Act 1989.

(4) In subsection (2)(b) above "parental responsibilities" has the meaning given by section 1(3) of the Children (Scotland) Act 1995.

(5) In subsection (2)(c) above "parental responsibility" has the same meaning as in the Children (Northern Ireland) Order 1995."

(2) Sub-paragraph (1) shall be deemed to have come into force on 22nd March 2006.

Section 71 of IHTA 1984 not to apply to property settled on or after 22nd March 2006

2 (1) Section 71 of IHTA 1984 (accumulation and maintenance trusts) is amended as follows.

(2) In subsection (1) (settled property to which section applies, subject to subsection (2)), for "subsection" substitute " subsections (1A) to ".

(3) After subsection (1) insert—

"(1A) This section does not apply to settled property at any particular time on or after 22nd March 2006 unless this section—
(a) applied to the settled property immediately before 22nd March 2006, and

(b) has applied to the settled property at all subsequent times up to the particular time.

(1B) This section does not apply to settled property at any particular time on or after 22nd March 2006 if, at that time, section 71A below applies to the settled property."

(4) Where a chargeable transfer to which section 54A of IHTA 1984 applies was made before 22nd March 2006, that section has effect in relation to that transfer as if references in that section to section 71 of IHTA 1984 were to section 71 of IHTA 1984 without the amendments made by sub-paragraphs (2) and (3).

(5) There is no charge to tax under section 71 of IHTA 1984 in a case where settled property ceases, by the operation of the subsection (1B) inserted into that section by this paragraph, to be property to which that section applies.

(6) Sub-paragraphs (1) to (5) shall be deemed to have come into force on 22nd March 2006.

VALID FROM 19/07/2006

Section 71 of IHTA 1984 to cease to apply to certain settled property from 6th April 2008

3 (1) In section 71(1)(a) of IHTA 1984 (section applies to settled property only if one or more persons will become beneficially entitled on or before reaching a specified age not exceeding 25)—
(a) for "twenty-five" substitute " eighteen ", and
(b) omit "or to an interest in possession in it".

(2) Sub-paragraph (1) comes into force on 6th April 2008 but only for the purpose of determining whether, at a time on or after that day, section 71 of IHTA 1984 applies to settled property.

(3) There is no charge to tax under section 71 of IHTA 1984 in a case where—
(a) settled property ceases, on the coming into force of sub-paragraph (1), to be property to which that section applies, but
(b) that section would immediately after the coming into force of sub-paragraph (1) apply to the settled property but for the amendments made by sub-paragraph (1).

Part 2 U.K.

Interests in possession: when settled property is part of beneficiary's estate

Aggregation with person's estate of property in which interest in possession subsists

4 (1) In section 49 of IHTA 1984, after subsection (1) insert—

"(1A) Where the interest in possession mentioned in subsection (1) above is one to which the person becomes beneficially entitled on or after 22nd March 2006, subsection (1) above applies in relation to that interest only if, and for so long as, it is—

(a) an immediate post-death interest,
(b) a disabled person's interest, or
(c) a transitional serial interest.

(1B) Where the interest in possession mentioned in subsection (1) above is one to which the person became beneficially entitled before 22nd March, subsection (1) above does not apply in relation to that interest at any time when section 71A below applies to the property in which the interest subsists.”

(2) Sub-paragraph (1) shall be deemed to have come into force on 22nd March 2006.

“Immediate post-death interests” and “transitional serial interests”

5 (1) In IHTA 1984, after section 49 insert—

“49A Immediate post-death interest

(1) Where a person (“L”) is beneficially entitled to an interest in possession in settled property, for the purposes of this Chapter that interest is an “immediate post-death interest” only if the following conditions are satisfied.

(2) Condition 1 is that the settlement was effected by will or under the law relating to intestacy.

(3) Condition 2 is that L became beneficially entitled to the interest in possession on the death of the testator or intestate.

(4) Condition 3 is that—
(a) section 71A below does not apply to the property in which the interest subsists, and
(b) the interest is not a disabled person's interest.

(5) Condition 4 is that Condition 3 has been satisfied at all times since L became beneficially entitled to the interest in possession.

49B Transitional serial interests

Where a person is beneficially entitled to an interest in possession in settled property, for the purposes of this Chapter that interest is a “transitional serial interest” only—
(a) if section 49C or 49D below so provides, or
(b) if, and to the extent that, section 49E below so provides.

49C Transitional serial interest: interest to which person becomes entitled during period 22nd March 2006 to 5th April 2008

(1) Where a person (“B”) is beneficially entitled to an interest in possession in settled property (“the current interest”), that interest is a transitional serial interest for the purposes of this Chapter if the following conditions are met.

(2) Condition 1 is that—
(a) the settlement commenced before 22nd March 2006, and

(b) immediately before 22nd March 2006, the property then comprised in the settlement was property in which B, or some other person, was beneficially entitled to an interest in possession ("the prior interest").

(3) Condition 2 is that the prior interest came to an end at a time on or after 22nd March 2006 but before 6th April 2008.

(4) Condition 3 is that B became beneficially entitled to the current interest at that time.

(5) Condition 4 is that—

(a) section 71A below does not apply to the property in which the interest subsists, and

(b) the interest is not a disabled person's interest.

49D Transitional serial interest: interest to which person becomes entitled on death of spouse or civil partner on or after 6th April 2008

(1) Where a person ("E") is beneficially entitled to an interest in possession in settled property ("the successor interest"), that interest is a transitional serial interest for the purposes of this Chapter if the following conditions are met.

(2) Condition 1 is that—

(a) the settlement commenced before 22nd March 2006, and

(b) immediately before 22nd March 2006, the property then comprised in the settlement was property in which a person other than E was beneficially entitled to an interest in possession ("the previous interest").

(3) Condition 2 is that the previous interest came to an end on or after 6th April 2008 on the death of that other person ("F").

(4) Condition 3 is that, immediately before F died, F was the spouse or civil partner of E.

(5) Condition 4 is that E became beneficially entitled to the successor interest on F's death.

(6) Condition 5 is that—

(a) section 71A below does not apply to the property in which the successor interest subsists, and

(b) the successor interest is not a disabled person's interest.

49E Transitional serial interest: contracts of life insurance

(1) Where—

(a) a person ("C") is beneficially entitled to an interest in possession in settled property ("the present interest"), and

(b) on C's becoming beneficially entitled to the present interest, the settled property consisted of, or included, rights under a contract of life insurance entered into before 22nd March 2006,

the present interest so far as subsisting in rights under the contract, or in property comprised in the settlement that directly or indirectly represents rights under the contract, is a "transitional serial interest" for the purposes of this Chapter if the following conditions are met.

(2) Condition 1 is that—

(a) the settlement commenced before 22nd March 2006, and

(b) immediately before 22nd March 2006—

(i) the property then comprised in the settlement consisted of, or included, rights under the contract, and

(ii) those rights were property in which C, or some other person, was beneficially entitled to an interest in possession ("the earlier interest").

(3) Condition 2 is that—

(a) the earlier interest came to an end at a time on or after 6th April 2008 ("the earlier-interest end-time") on the death of the person beneficially entitled to it and C became beneficially entitled to the present interest—

(i) at the earlier-interest end-time, or

(ii) on the coming to an end, on the death of the person beneficially entitled to it, of an interest in possession to which that person became beneficially entitled at the earlier-interest end-time, or

(iii) on the coming to an end of the second or last in an unbroken sequence of two or more consecutive interests in possession to the first of which a person became beneficially entitled at the earlier-interest end-time and each of which ended on the death of the person beneficially entitled to it, or

(b) C became beneficially entitled to the present interest—

(i) on the coming to an end, on the death of the person entitled to it, of an interest in possession that is a transitional serial interest under section 49C above, or

(ii) on the coming to an end of the second or last in an unbroken sequence of two or more consecutive interests in possession the first of which was a transitional serial interest under section 49C above and each of which ended on the death of the person beneficially entitled to it.

(4) Condition 3 is that rights under the contract were comprised in the settlement throughout the period beginning with 22nd March 2006 and ending with C's becoming beneficially entitled to the present interest.

(5) Condition 4 is that—

(a) section 71A below does not apply to the property in which the present interest subsists, and

(b) the present interest is not a disabled person's interest."

(2) Sub-paragraph (1) shall be deemed to have come into force on 22nd March 2006.

Disabled persons' trusts: meaning of "disabled person's interest" and "disabled person"

6 (1) After section 89 (trusts for disabled persons) insert—

"**89A Self-settlement by person with condition expected to lead to disability**

(1) This section applies to property transferred by a person ("A") into settlement on or after 22nd March 2006 if—

(a) A was beneficially entitled to the property immediately before transferring it into settlement,

(b) A satisfies the Commissioners for Her Majesty's Revenue and Customs that, when the property was transferred into settlement, A had a condition that it was at that time reasonable to expect would have such effects on A as to lead to A becoming—

(i) a person falling within section 89(4)(a) above,

(ii) in receipt of an attendance allowance mentioned in section 89(4)(b) above, or

(iii) in receipt of a disability living allowance mentioned in section 89(4)(c) above by virtue of entitlement to the care component at the highest or middle rate, and

(c) the property is held on trusts—

(i) under which, during the life of A, no interest in possession in the settled property subsists, and

(ii) which secure that Conditions 1 and 2 are met.

(2) Condition 1 is that if any of the settled property is applied during A's life for the benefit of a beneficiary, it is applied for the benefit of A.

(3) Condition 2 is that any power to bring the trusts mentioned in subsection (1)(c) above to an end during A's life is such that, in the event of the power being exercised during A's life, either—

(a) A or another person will, on the trusts being brought to an end, be absolutely entitled to the settled property, or

(b) on the trusts being brought to an end, a disabled person's interest within section 89B(1)(a) or (c) below will subsist in the settled property.

(4) If this section applies to settled property transferred into settlement by a person, the person shall be treated as beneficially entitled to an interest in possession in the settled property.

(5) For the purposes of subsection (1)(b)(ii) above, assume—

(a) that A will meet the conditions as to residence under section 64(1) of whichever of the 1992 Acts is applicable, and

(b) that there will be no provision made by regulations under section 67(1) and (2) of that Act.

(6) For the purposes of subsection (1)(b)(iii) above, assume—

(a) that A will meet the prescribed conditions as to residence under section 71(6) of whichever of the 1992 Acts is applicable, and

(b) that there will be no provision made by regulations under section 72(8) of that Act.

(7) For the purposes of subsection (3) above, ignore—

(a) power to give directions as to the settled property that is exercisable jointly by the persons who between them are entitled to the entire beneficial interest in the property, and

(b) anything that could occur as a result of exercise of any such power.

(8) In this section "the 1992 Acts" means—

the Social Security Contributions and Benefits Act 1992, and

the Social Security Contributions and Benefits (Northern Ireland) Act 1992.

89B Meaning of "disabled person's interest"

(1) In this Act "disabled person's interest" means—

(a) an interest in possession to which a person is under section 89(2) above treated as beneficially entitled,

(b) an interest in possession to which a person is under section 89A(4) above treated as beneficially entitled,

(c) an interest in possession in settled property (other than an interest within paragraph (a) or (b) above) to which a disabled person becomes beneficially entitled on or after 22nd March 2006, or

(d) an interest in possession in settled property (other than an interest within paragraph (a) or (b) above) to which a person ("A") is beneficially entitled if—

(i) A is the settlor,

(ii) A was beneficially entitled to the property immediately before transferring it into settlement,

(iii) A satisfies Her Majesty's Commissioners for Revenue and Customs as mentioned in section 89A(1)(b) above,

(iv) the settled property was transferred into settlement on or after 22nd March 2006, and

(v) the trusts on which the settled property is held secure that, if any of the settled property is applied during A's life for the benefit of a beneficiary, it is applied for the benefit of A.

(2) Subsections (4) to (6) of section 89 above (meaning of "disabled person" in subsection (1) of that section) have effect for the purposes of subsection (1)(c) above as they have effect for the purposes of subsection (1) of that section.

(3) Section 71D above does not apply to property in which there subsists a disabled person's interest within subsection (1)(c) above (but see also section 71D(5) above)."

(2) In section 89, after subsection (4) insert—

"(5) The reference in subsection (1) above to a disabled person includes, in relation to any settled property, a reference to a person who, when the property was transferred into settlement,—

(a) would have been in receipt of attendance allowance under section 64 of either of the Acts mentioned in subsection (4)(b) above had provision made by regulations under section 67(1) or (2) of that Act (non-satisfaction of conditions for attendance allowance where person is undergoing treatment for renal failure in a hospital or is provided with certain accommodation) been ignored, or

(b) would have been in receipt of disability living allowance by virtue of entitlement to the care component at the highest or middle rate had provision made by regulations under section 72(8) of either of the Acts mentioned in subsection (4)(c) above (no payment of disability living allowance for persons for whom certain accommodation is provided) been ignored.

(6) The reference in subsection (1) above to a disabled person also includes, in relation to any settled property, a reference to a person who satisfies the Commissioners for Her Majesty's Revenue and Customs—

(a) that he would, when the property was transferred into settlement, have been in receipt of attendance allowance under section 64 of either of the Acts mentioned in subsection (4)(b) above—

(i) had he met the conditions as to residence under section 64(1) of that Act, and

(ii) had provision made by regulations under section 67(1) or (2) of that Act been ignored, or

(b) that he would, when the property was transferred into settlement, have been in receipt of a disability living allowance by virtue of entitlement to the care component at the highest or middle rate—

(i) had he met the prescribed conditions as to residence under section 71(6) of either of the Acts mentioned in subsection (4)(c) above, and

(ii) had provision made by regulations under section 72(8) of that Act been ignored."

(3) Sub-paragraph (1) shall be deemed to have come into force on 22nd March 2006.

(4) Sub-paragraph (2) shall be deemed to have come into force on 22nd March 2006, but only in respect of property transferred into settlement on or after that day.

PART 3 U.K.

RELATED AMENDMENTS IN IHTA 1984

VALID FROM 19/07/2006

Commencement

7 The following paragraphs of this Part of this Schedule shall be deemed to have come into force on 22nd March 2006.

Deemed disposition where omission to exercise a right increases value of another person's estate or of settled property not aggregated with a person's estate

8 In section 3(3) of IHTA 1984 (failure to exercise a right treated as disposition if the omission increases the value of another person's estate or the value of

settled property in which no interest in possession subsists), for the words from the beginning to "increased" substitute—

"Where the value of a person's estate is diminished, and the value—

(a) of another person's estate, or

(b) of any settled property, other than settled property treated by section 49(1) below as property to which a person is beneficially entitled,

is increased ".

Potentially exempt transfers: provision in consequence of section 71 of IHTA 1984 not applying to property settled on or after 22nd March 2006

9 (1) Section 3A of IHTA 1984 (potentially exempt transfers) is amended as follows.

(2) In subsection (1)(a) (transfer must be one made on or after 18th March 1986), after "1986" insert " but before 22nd March 2006 ".

(3) After subsection (1) insert—

"(1A) Any reference in this Act to a potentially exempt transfer is also a reference to a transfer of value—

(a) which is made by an individual on or after 22nd March 2006,

(b) which, apart from this section, would be a chargeable transfer (or to the extent to which, apart from this section, it would be such a transfer), and

(c) to the extent that it constitutes—

(i) a gift to another individual,

(ii) a gift into a disabled trust, or

(iii) a gift into a bereaved minor's trust on the coming to an end of an immediate post-death interest.

(1B) Subsections (1) and (1A) above have effect subject to any provision of this Act which provides that a disposition (or transfer of value) of a particular description is not a potentially exempt transfer."

(4) In subsection (2) (extent to which transfer is a gift to another individual), after "subsection (1)(c)" insert " or (1A)(c)(i) ".

(5) After subsection (3) insert—

"(3A) Subject to subsection (6) below, a transfer of value falls within subsection (1A)(c)(ii) above to the extent that the value transferred is attributable to property which, by virtue of the transfer, becomes settled property to which section 89 below applies.

(3B) A transfer of value falls within subsection (1A)(c)(iii) above to the extent that the value transferred is attributable to settled property (whenever settled) that becomes property to which section 71A below applies in the following circumstances—

(a) under the settlement, a person ("L") is beneficially entitled to an interest in possession in the settled property,

(b) the interest in possession is an immediate post-death interest,

(c) on or after 22nd March 2006, but during L's life, the interest in possession comes to an end,

(d) L is beneficially entitled to the interest in possession immediately before it comes to an end, and

(e) on the interest in possession coming to an end, the property—

(i) continues to be held on the trusts of the settlement, and

(ii) becomes property to which section 71A below applies.”

(6) In subsection (7) (application of section in relation to charge to tax under section 52), after “subsection (1)(a)” insert “ or (1A)(a) ”.

Person's “estate” not to include certain interests in possession

10 (1) Section 5 of IHTA 1984 (meaning of “estate”) is amended as follows.

(2) In subsection (1) (person's estate is aggregate of all property to which person beneficially entitled, except that person's estate immediately before death does not include excluded property), for “except that the” substitute “except that—

(a) the estate of a person—

(i) does not include an interest in possession in settled property to which section 71A or 71D below applies, and

(ii) does not include an interest in possession that falls within subsection (1A) below, and

(b) the”.

(3) After subsection (1) insert—

“(1A) An interest in possession falls within this subsection if—

(a) it is an interest in possession in settled property,

(b) the settled property is not property to which section 71A or 71D below applies,

(c) the person is beneficially entitled to the interest in possession,

(d) the person became beneficially entitled to the interest in possession on or after 22nd March 2006, and

(e) the interest in possession is—

(i) not an immediate post-death interest,

(ii) not a disabled person's interest, and

(iii) not a transitional serial interest.”

Life assurance policies entered into before 22nd March 2006

11 (1) After section 46 of IHTA 1984 insert—

“46A Contract of life insurance entered into before 22nd March 2006 which on that day is settled property in which interest in possession subsists

(1) Subsections (2) and (4) below apply where—

(a) a settlement commenced before 22nd March 2006,

(b) a contract of life insurance was entered into before that day,

(c) a premium payable under the contract is paid, or an allowed variation is made to the contract, at a particular time on or after that day,

(d) immediately before that day, and at all subsequent times up to the particular time, there were rights under the contract that—
(i) were comprised in the settlement, and
(ii) were settled property in which a transitionally-protected interest (whether or not the same such interest throughout that period) subsisted,

(e) rights under the contract become, by reference to payment of the premium or as a result of the variation,—
(i) comprised in the settlement, and
(ii) part of the settled property in which the then-current transitionally-protected interest subsists, and

(f) any variation of the contract on or after 22nd March 2006 but before the particular time, so far as it is a variation that—
(i) increased the benefits secured by the contract, or
(ii) extended the term of the insurance provided by the contract,

was an allowed variation.

(2) For the purposes of the provisions mentioned in subsection (3) below—
(a) the rights mentioned in subsection (1)(e) above shall be taken to have become comprised in the settlement, and
(b) the person beneficially entitled to the then-current transitionally-protected interest shall be taken to have become beneficially entitled to his interest in possession so far as it subsists in those rights,

before 22nd March 2006.

(3) Those provisions are—
section 3A(2) above;
section 5(1A) above;
section 49(1A) and (1B) below;
section 51(1A) and (1B) below;
section 52(2A) and (3A) below;
section 53(1A) and (2A) below;
section 54(2A) and (2B) below;
section 54A(1A) below;
section 57A(1A) below;
section 58(1B) and (1C) below;
section 59(1) and (2) below;
section 80(4) below;
section 100(1A) below;
section 101(1A) below;
section 102ZA(1) of the Finance Act 1986 (gifts with reservation); and
sections 72(1A) and (2A) and 73(2A) of the 1992 Act.

(4) If payment of the premium is a transfer of value made by an individual, that transfer of value is a potentially exempt transfer.

(5) In this section—

"allowed variation", in relation to a contract, means a variation that takes place by operation of, or as a result of exercise of rights conferred by, provisions forming part of the contract immediately before 22nd March 2006;

"transitionally-protected interest" means—

(a) an interest in possession to which a person was beneficially entitled immediately before, and on, 22nd March 2006, or

(b) a transitional serial interest.

46B Contract of life insurance entered into before 22nd March 2006 which immediately before that day is property to which section 71 applies

(1) Subsections (2) and (5) below apply where—

(a) a settlement commenced before 22nd March 2006,

(b) a contract of life insurance was entered into before that day,

(c) a premium payable under the contract is paid, or an allowed variation is made to the contract, at a particular time on or after that day,

(d) immediately before that day, and at all subsequent times up to the particular time, there were rights under the contract that—

(i) were comprised in the settlement, and

(ii) were settled property to which section 71 below applied,

(e) rights under the contract become, by reference to payment of the premium or as a result of the variation, comprised in the settlement, and

(f) any variation of the contract on or after 22nd March 2006 but before the particular time, so far as it was a variation that—

(i) increased the benefits secured by the contract, or

(ii) extended the term of the insurance provided by the contract,

was an allowed variation.

(2) If the rights mentioned in subsection (1)(e) above would, but for subsection (1A) of section 71 below, become property to which that section applies, those rights shall become settled property to which that section applies when they become comprised in the settlement.

(3) Subsection (5) below also applies where—

(a) a settlement commenced before 22nd March 2006,

(b) a contract of life insurance was entered into before that day,

(c) a premium payable under the contract is paid, or an allowed variation is made to the contract, at a particular time on or after that day when there are rights under the contract—

(i) that are comprised in the settlement and are settled property to which section 71A or 71D below applies,

(ii) that immediately before that day were settled property to which section 71 below applied, and

(iii) that on or after that day, but before the particular time, became property to which section 71A or 71D below applies in circumstances falling within subsection (4) below,

(d) rights under the contract become, by reference to payment of the premium or as a result of the variation, comprised in the settlement, and

(e) any variation of the contract on or after 22nd March 2006 but before the particular time, so far as it was a variation that—
(i) increased the benefits secured by the contract, or
(ii) extended the term of the insurance provided by the contract,
was an allowed variation.

(4) The circumstances referred to in subsection (3)(c)(iii) above are—
(a) in the case of property to which section 71D below applies, that the property on becoming property to which section 71D below applies ceased to be property to which section 71 below applied without ceasing to be settled property;
(b) in the case of property to which section 71A below applies—
(i) that the property on becoming property to which section 71A below applies ceased, by the operation of section 71(1B) below, to be property to which section 71 below applied, or
(ii) that the property, having become property to which section 71D below applied in circumstances falling within paragraph (a) above, on becoming property to which 71A below applies ceased, by the operation of section 71D(5)(a) below, to be property to which section 71D below applied.

(5) If payment of the premium is a transfer of value made by an individual, that transfer of value is a potentially exempt transfer.

(6) In this section “allowed variation”, in relation to a contract, means a variation that takes place by operation of, or as a result of exercise of rights conferred by, provisions forming part of the contract immediately before 22nd March 2006.”

(2) Sub-paragraph (1) shall be deemed to have come into force on 22nd March 2006.

Tax where interest in possession ends, or is treated as ending, during beneficiary's life

12 In section 51 of IHTA 1984 (disposal of interest in possession not a transfer of value, but treated as coming to end of interest), after subsection (1) insert—

“(1A) Where the interest disposed of is one to which the person became beneficially entitled on or after 22nd March 2006, subsection (1) above applies in relation to the disposal only if the interest is—
(a) an immediate post-death interest,
(b) a disabled person's interest within section 89B(1)(c) or (d) below, or
(c) a transitional serial interest.

(1B) Where the interest disposed of is one to which the person became beneficially entitled before 22nd March 2006, subsection (1) above does not apply in relation to the disposal if, immediately before the disposal, section 71A or 71D below applies to the property in which the interest subsists.”

13 (1) Section 52 of IHTA 1984 (tax on termination of interest in possession) is amended as follows.

(2) After subsection (2) insert—

"(2A) Where the interest mentioned in subsection (1) or (2) above is one to which the person became beneficially entitled on or after 22nd March 2006, that subsection applies in relation to the coming to an end of the interest only if the interest is—

(a) an immediate post-death interest,
(b) a disabled person's interest, or
(c) a transitional serial interest."

(3) After subsection (3) insert—

"(3A) Where the interest mentioned in paragraph (a) of subsection (3) above is one to which the person mentioned in that paragraph became beneficially entitled on or after 22nd March 2006, that subsection applies in relation to the transaction only if the interest is—

(a) an immediate post-death interest,
(b) a disabled person's interest, or
(c) a transitional serial interest."

14 (1) Section 53 of IHTA 1984 (exceptions from tax charge under section 52) is amended as follows.

(2) After subsection (1) insert—

"(1A) Tax shall not be chargeable under section 52 above if—

(a) the person whose interest comes to an end became beneficially entitled to the interest before 22nd March 2006,
(b) the interest comes to an end on or after that day, and
(c) immediately before the interest comes to an end, section 71A or 71D below applies to the property in which the interest subsists."

(3) After subsection (2) insert—

"(2A) Where—

(a) a person becomes beneficially entitled on or after 22nd March 2006 to an interest in possession in settled property, and
(b) the interest is not a disabled person's interest,

subsection (2) above applies in relation to the coming to an end of the interest with the omission of the words "or to another interest in possession in the property"."

Non-aggregation with deceased person's estate of property in which he had interest in possession if property reverts to settlor or passes to settlor's spouse or civil partner etc

15 (1) Section 54 of IHTA 1984 (exceptions from charge on death) is amended as follows.

(2) After subsection (2) insert—

"(2A) Where a person becomes beneficially entitled on or after 22nd March 2006 to an interest in possession in settled property, subsections (1) and (2) above apply in relation to the interest only if it is—

(a) a disabled person's interest, or
(b) a transitional serial interest.

(2B) Where—

(a) a person ("B") becomes beneficially entitled on or after 22nd March 2006 to an interest in possession in settled property,

(b) B dies,

(c) the interest in possession, throughout the period beginning with when B becomes beneficially entitled to it and ending with B's death, is an immediate post-death interest,

(d) the settlor died before B's death but less than two years earlier, and

(e) on B's death, the settlor's widow or widower, or surviving civil partner, becomes beneficially entitled to the settled property and is domiciled in the United Kingdom,

the value of the settled property shall be left out of account in determining for the purposes of this Act the value of B's estate immediately before his death."

(3) In subsection (3) (section 53(5) and (6) apply in relation to subsections (1) and (2))—

(a) for "(1) and (2)" substitute " (1), (2) and (2B) ", and

(b) at the end add " , but as if the reference in section 53(5)(a) above to section 53(4)(b) above were to subsection (2)(b) or (2B) above. "

Rate of tax on ending of interest in possession in property settled during settlor's life

16 (1) Section 54A of IHTA 1984 (special rate of charge on coming to end of interest in possession in settled property affected by potentially exempt transfer) is amended as follows.

(2) After subsection (1) insert—

"(1A) Where a person becomes beneficially entitled on or after 22nd March 2006 to an interest in possession in settled property, subsection (1)(b) above applies in relation to the person's death only if the interest is—

(a) a disabled person's interest, or

(b) a transitional serial interest."

(3) In subsection (2) (circumstances in which section applies to a chargeable transfer)—

(a) in paragraph (c), omit ", other than property to which section 71 below applies", and

(b) in paragraph (d)(i), omit "or to which section 71 below applies".

(4) Where a chargeable transfer to which section 54A of IHTA 1984 applies was made before 22nd March 2006, that section has effect in relation to that transfer without the amendments made by sub-paragraph (3).

Property entering maintenance fund after death of person entitled to interest in possession

17 In section 57A of IHTA 1984 (relief where property enters fund for maintenance of historic buildings etc), after subsection (1) insert—

"(1A) Where the interest mentioned in subsection (1)(a) above is one to which the person became beneficially entitled on or after 22nd March 2006, subsection (2) below does not apply unless, immediately before the person's death, the interest was—

(a) an immediate post-death interest,
(b) a disabled person's interest, or
(c) a transitional serial interest."

"Relevant property" not to include property held on trust for a bereaved child

18 In section 58(1)(b) of IHTA 1984 (property to which certain sections apply is not relevant property for purposes of Chapter 3 of Part 3), after "71," insert " 71A, 71D, ".

"Relevant property" to include property held on employee trusts or newspaper trusts if certain interests in possession subsist in the property

19 (1) Section 58 of IHTA 1984 (meaning of "relevant property" in Chapter 3 of Part 3) is amended as follows.

(2) In subsection (1)(b) (which provides that property to which section 86 applies is not relevant property), after "86 below applies" insert " (but see subsection (1A) below) ".

(3) After subsection (1) insert—

"(1A) Settled property to which section 86 below applies is "relevant property" for the purposes of this Chapter if—
(a) an interest in possession subsists in that property, and
(b) that interest falls within subsection (1B) or (1C) below.

(1B) An interest in possession falls within this subsection if—
(a) an individual is beneficially entitled to the interest in possession,
(b) the individual became beneficially entitled to the interest in possession on or after 22nd March 2006, and
(c) the interest in possession is—
(i) not an immediate post-death interest,
(ii) not a disabled person's interest, and
(iii) not a transitional serial interest.

(1C) An interest in possession falls within this subsection if—
(a) a company is beneficially entitled to the interest in possession,
(b) the business of the company consists wholly or mainly in the acquisition of interests in settled property,
(c) the company has acquired the interest in possession for full consideration in money or money's worth from an individual who was beneficially entitled to it,
(d) the individual became beneficially entitled to the interest in possession on or after 22nd March 2006, and
(e) immediately before the company acquired the interest in possession, the interest in possession was neither an immediate post-death interest nor a transitional serial interest."

Certain interests in possession to which a person becomes entitled on or after 22nd March 2006 not to be "qualifying interests in possession" for purposes of Chapter 3 of Part 3 of IHTA 1984

20 (1) Section 59 of IHTA 1984 (settlements without interests in possession: meaning of "qualifying interest in possession") is amended as follows.

(2) For subsection (1) substitute—

"(1) In this Chapter "qualifying interest in possession" means—

(a) an interest in possession—

(i) to which an individual is beneficially entitled, and

(ii) which, if the individual became beneficially entitled to the interest in possession on or after 22nd March 2006, is an immediate post-death interest, a disabled person's interest or a transitional serial interest, or

(b) an interest in possession to which, where subsection (2) below applies, a company is beneficially entitled."

(3) In subsection (2) (cases where interest in possession to which a company is entitled is a "qualifying" interest), after paragraph (b) insert ", and

(c) if the individual became beneficially entitled to the interest in possession on or after 22nd March 2006, the interest is an immediate post-death interest, or a disabled person's interest within section 89B(1)(c) or (d) below or a transitional serial interest, immediately before the company acquires it."

(4) Where a chargeable transfer to which section 54A of IHTA 1984 applies was made before 22nd March 2006, that section has effect in relation to that transfer as if in that section "qualifying interest in possession" has the meaning it would have apart from sub-paragraphs (1) to (3).

(5) In the heading to Chapter 3 of Part 3 of IHTA 1984, at the end add " , AND CERTAIN SETTLEMENTS IN WHICH INTERESTS IN POSSESSION SUBSIST ".

New meaning of "qualifying interest in possession" not to apply in section 72 of IHTA 1984

21 (1) Section 72 of IHTA 1984 (property leaving employee trusts and newspaper trusts) is amended as follows.

(2) In subsection (1) (section 72 applies to property to which section 86 applies if no qualifying interest in possession subsists in it), for "if no qualifying interest in possession subsists in it" substitute "if—

(a) no interest in possession subsists in it to which an individual is beneficially entitled, and

(b) no company-purchased interest in possession subsists in it."

(3) After subsection (1) insert—

"(1A) For the purposes of subsection (1)(b) above, an interest in possession is "company-purchased" if—

(a) a company is beneficially entitled to the interest in possession,

(b) the business of the company consists wholly or mainly in the acquisition of interests in settled property, and

(c) the company has acquired the interest in possession for full consideration in money or money's worth from an individual who was beneficially entitled to it.

(1B) Section 59(3) and (4) above apply for the purposes of subsection (1A)(c) above as for those of section 59(2)(b) above, but as if the references to the condition set out in section 59(2)(a) above were to the condition set out in subsection (1A)(b) above."

No charge under sections 71B, 71E etc where property held on trusts for bereaved child becomes held on trusts for charitable purposes etc

22 In section 76(1) of IHTA 1984 (which provides for tax not to be charged under certain provisions of Chapter 3 of Part 3 where property becomes held for charitable purposes etc), after "71," insert " 71A, 71D, ".

No postponement of commencement date of settlement where property settled on or after 22nd March 2006 unless settlor, or spouse or civil partner, has immediate post-death interest

23 In section 80 of IHTA 1984 (postponement of commencement date of settlement where settlor, or spouse or civil partner or surviving spouse or surviving civil partner, has interest in possession at outset), after subsection (3) insert—

"(4) Where the occasion first referred to in subsection (1) above occurs on or after 22nd March 2006, this section applies—

(a) as though for "an interest in possession" in each place where that appears in subsection (1) above there were substituted " a postponing interest ", and

(b) as though, for the purposes of that subsection, each of the following were a "postponing interest"—

(i) an immediate post-death interest;

(ii) a disabled person's interest."

Protective trusts

24 In section 88 of IHTA 1984 (protective trusts), after subsection (2) insert—

"(3) Where—

(a) settled property became held before 22nd March 2006 on trusts to the like effect as those specified in section 33(1)(i) of the Trustee Act 1925, and

(b) as a result of the failure or determination of those trusts on or after 22nd March 2006, the principal beneficiary is treated by subsection (2)(b) above as beneficially entitled to an interest in possession,

this Act shall apply in relation to that interest in possession as if the principal beneficiary became beneficially entitled to that interest in possession before 22nd March 2006.

(4) Subsection (5) below applies where—

(a) settled property becomes held on or after 22nd March 2006 on trusts to the like effect as those specified in section 33(1)(i) of the Trustee Act 1925,

(b) the interest of the principal beneficiary under those trusts is—
(i) an immediate post-death interest,
(ii) a disabled person's interest within section 89B(1)(c) or (d) below, or
(iii) a transitional serial interest, and
(c) as a result of the failure or determination of those trusts, the principal beneficiary is treated by subsection (2)(b) above as beneficially entitled to an interest in possession.

(5) This Act shall apply—
(a) as if that interest in possession were a continuation of the immediate post-death interest, disabled person's interest or transitional serial interest, and
(b) as if the immediate post-death interest, or disabled person's interest or transitional serial interest, had not come to an end on the failure or determination of the trusts.

(6) Subsection (2) above does not apply in a case where—
(a) settled property becomes held on or after 22nd March 2006 on trusts to the like effect as those specified in section 33(1)(i) of the Trustee Act 1925, and
(b) the interest of the principal beneficiary under those trusts is—
(i) not an immediate post-death interest,
(ii) not a disabled person's interest within section 89B(1)(c) or (d) below, and
(iii) not a transitional serial interest.”

Alterations of capital etc of close company where participator holds shares etc in company as trustee of settled property in which an interest in possession subsists

25 In section 100 of IHTA 1984 (alteration of close company's capital etc where participator is trustee of settlement under which an individual is beneficially entitled to an interest in possession), after subsection (1) insert—

“(1A) Where the interest in possession is one to which the individual became beneficially entitled on or after 22nd March 2006, this section applies only if the interest in possession is—
(a) an immediate post-death interest,
(b) a disabled person's interest, or
(c) a transitional serial interest.”

Close company's interest in possession treated as interest of its participators

26 In section 101 of IHTA 1984 (where close company has interest in possession in settled property, its participators are treated for purposes of IHTA 1984 as the persons entitled to the interest), after subsection (1) insert—

“(1A) Where the interest in possession mentioned in subsection (1) above is one to which the company became entitled on or after 22nd March 2006 (whether or not the company was a close company when it became entitled to the interest), subsection (1) above applies in relation to the interest only if it is—

(a) an immediate post-death interest, or
(b) a transitional serial interest.

(1B) Subsection (1C) below applies where any of the participators mentioned in subsection (1) above ("the prior participator") disposes of rights and interests of his in the company to another person ("the later participator").

(1C) If and so far as the later participator is a participator in the company by virtue of having any of the rights and interests disposed of, subsection (1) above is to be applied to him only as a participator in his own right (in particular, he is not to be treated by virtue of that subsection as having entitlement to the interest in possession as a result of disposal to him of entitlement that the prior participator was treated as having by virtue of that subsection, but this is without prejudice to the application of this Act in relation to the prior participator as the person making the disposal)."

Distributions within two years of person's death out of property settled by his will

27 (1) Section 144 of IHTA 1984 (distribution etc from property settled by will) is amended as follows.

(2) In subsection (1)—
(a) for "This section applies" substitute " Subsection (2) below applies ", and
(b) in paragraph (a), for "(apart from this section)" substitute " (apart from subsection (2) below) ".

(3) After subsection (1) insert—

"(1A) Where the testator dies on or after 22nd March 2006, subsection (1) above shall have effect as if the reference to any interest in possession were a reference to any interest in possession that is—
(a) an immediate post-death interest, or
(b) a disabled person's interest."

(4) In subsection (2), for "this section" (in both places) substitute " this subsection ".

(5) After subsection (2) insert—

"(3) Subsection (4) below applies where—
(a) a person dies on or after 22nd March 2006,
(b) property comprised in the person's estate immediately before his death is settled by his will, and
(c) within the period of two years after his death, but before an immediate post-death interest or a disabled person's interest has subsisted in the property, there occurs an event that involves causing the property to be held on trusts that would, if they had in fact been established by the testator's will, have resulted in—
(i) an immediate post-death interest subsisting in the property, or
(ii) section 71A or 71D above applying to the property.

(4) Where this subsection applies by virtue of an event—

(a) this Act shall have effect as if the will had provided that on the testator's death the property should be held as it is held after the event, but

(b) tax shall not be charged on that event under any provision of Chapter 3 of Part 3 of this Act.

(5) Subsection (4) above also applies where—

(a) a person dies before 22nd March 2006,

(b) property comprised in the person's estate immediately before his death is settled by his will,

(c) an event occurs—

(i) on or after 22nd March 2006, and

(ii) within the period of two years after the testator's death,

that involves causing the property to be held on trusts within subsection (6) below,

(d) no immediate post-death interest, and no disabled person's interest, subsisted in the property at any time in the period beginning with the testator's death and ending immediately before the event, and

(e) no other interest in possession subsisted in the property at any time in the period beginning with the testator's death and ending immediately before 22nd March 2006.

(6) Trusts are within this subsection if they would, had they in fact been established by the testator's will and had the testator died at the time of the event mentioned in subsection (5)(c) above, have resulted in—

(a) an immediate post-death interest subsisting in the property, or

(b) section 71A or 71D above applying to the property."

Interpretation of IHTA 1984

28 In section 272 of IHTA 1984 (general interpretation), in the appropriate place insert—

"“disabled person's interest” has the meaning given by section 89B above;"

"“immediate post-death interest” means an immediate post-death interest for the purposes of Chapter 2 of Part 3 (see section 49A above);"

"“transitional serial interest” means a transitional serial interest for the purposes of Chapter 2 of Part 3 (see section 49B above);".

PART 4 U.K.

RELATED AMENDMENTS IN TCGA 1992

VALID FROM 19/07/2006

29 (1) TCGA 1992 is amended in accordance with the following paragraphs of this Part of this Schedule.

(2) The following paragraphs of this Part of this Schedule shall be deemed to have come into force on 22nd March 2006.

30 (1) Section 72 (death of person entitled to an interest in possession) is amended as follows.

(2) After subsection (1) insert—

"(1A) Where the interest in possession mentioned in subsection (1) above is one to which the person becomes entitled on or after 22nd March 2006, the first sentence of that subsection applies in relation to that interest only if—

(a) immediately before the person's death, the interest falls within subsection (1B) below, or

(b) the person dies under the age of 18 years and, immediately before the person's death, section 71D of the Inheritance Tax Act 1984 (age 18-to-25 trusts) applies to the property in which the interest subsists.

(1B) An interest falls within this subsection if—

(a) the interest is—

(i) an immediate post-death interest, within the meaning given by section 49A of the Inheritance Tax Act 1984,

(ii) a transitional serial interest, within the meaning given by section 49B of that Act, or

(iii) a disabled person's interest within section 89B(1)(c) or (d) of that Act, or

(b) section 71A of that Act (trusts for bereaved minors) applies to the property in which the interest subsists.

(1C) Subsection (1A) above does not have effect in relation to the operation of subsection (1) above as applied by subsection (2) below (but see subsection (2A) below)."

(3) After subsection (2) insert—

"(2A) Where the interest in possession mentioned in subsection (2) above is one to which the person becomes entitled on or after 22nd March 2006—

(a) subsection (2) above, and

(b) the first sentence of subsection (1) above as applied by subsection (2) above,

apply in relation to that interest only if, immediately before the person's death, the interest falls within subsection (1B)(a) above."

31 In section 73 (no chargeable gain on deemed disposal under section 71(1) where person becomes absolutely entitled on death of person entitled to interest in possession), after subsection (2) insert—

"(2A) Where the interest in possession referred to in subsection (1) above is one to which the person becomes entitled on or after 22nd March 2006, subsections (1) and (2) above apply in relation to that interest only if—

(a) immediately before the person's death, the interest falls within section 72(1B), or

(b) the person dies under the age of 18 years and, immediately before the person's death, section 71D of the Inheritance Tax Act 1984 (age 18-to-25 trusts) applies to the property in which the interest subsists."

32 In section 260(2) (disposals where gain may be held over), after paragraph (d) insert—

"(da) by virtue of subsection (2) of section 71B of that Act (trusts for bereaved minors) does not constitute an occasion on which inheritance tax is chargeable under that section,

(db) by virtue of subsection (2) of section 71E of that Act (age 18-to-25 trusts) does not constitute an occasion on which inheritance tax is charged under that section,".

PART 5 U.K.

PROPERTY SUBJECT TO A RESERVATION

33 (1) FA 1986 is amended as follows.

(2) After section 102 (gifts with reservation) insert—

"102ZA Gifts with reservation: termination of interests in possession

(1) Subsection (2) below applies where—

(a) an individual is beneficially entitled to an interest in possession in settled property,

(b) either—

(i) the individual became beneficially entitled to the interest in possession before 22nd March 2006, or

(ii) the individual became beneficially entitled to the interest in possession on or after 22nd March 2006 and the interest is an immediate post-death interest, a disabled person's interest or a transitional serial interest, and

(c) the interest in possession comes to an end during the individual's life.

(2) For the purposes of—

(a) section 102 above, and

(b) Schedule 20 to this Act,

the individual shall be taken (if, or so far as, he would not otherwise be) to dispose, on the coming to an end of the interest in possession, of the no-longer-possessed property by way of gift.

(3) In subsection (2) above "the no-longer-possessed property" means the property in which the interest in possession subsisted immediately before it came to an end, other than any of it to which the individual becomes absolutely and beneficially entitled in possession on the coming to an end of the interest in possession."

(3) In Schedule 20 (supplementary rules about gifts with reservation), after paragraph 4 insert—

"Termination of interests in possession

4A (1) This paragraph applies where—

(a) under section 102ZA of this Act, an individual ("D") is taken to dispose of property by way of gift, and

(b) the property continues to be settled property immediately after the disposal.

(2) Paragraphs 2 to 4 above shall not apply but, subject to the following provisions of this paragraph, the principal section and the following provisions of this Schedule shall apply as if the property comprised in the gift consisted of the property comprised in the settlement on the material date, except in so far as that property neither is, nor represents, nor is derived from, property originally comprised in the gift.

(3) Any property which—

(a) on the material date is comprised in the settlement, and

(b) is derived, directly or indirectly, from a loan made by D to the trustees of the settlement,

shall be treated for the purposes of sub-paragraph (2) above as derived from property originally comprised in the gift.

(4) If the settlement comes to an end at some time before the material date as respects all or any of the property which, if D had died immediately before that time, would be treated as comprised in the gift,—

(a) the property in question, other than property to which D then becomes absolutely and beneficially entitled in possession, and

(b) any consideration (not consisting of rights under the settlement) given by D for any of the property to which D so becomes entitled,

shall be treated as comprised in the gift (in addition to any other property so comprised).

(5) Where, under any trust or power relating to settled property, income arising from that property after the material date is accumulated, the accumulations shall not be treated for the purposes of sub-paragraph (2) above as derived from that property."

(4) Sub-paragraphs (1) to (3) shall be deemed to have come into force on 22nd March 2006, but only as respects cases where an interest in possession comes to an end on or after that day.

VALID FROM 19/07/2006

PART 6 U.K.

CONDITIONAL EXEMPTION: RELIEF FROM CHARGES

34 (1) Section 79 of IHTA 1984 (subsection (3) of which provides for charges to tax where, in the case of settled property designated under section 31 on a claim under

section 79, an event occurs that would be chargeable under section 32 or 32A if the claim had been under section 30) is amended as follows.

(2) After subsection (5) (amount on which tax charged under subsection (3)) insert—

"(5A) Where the event giving rise to a charge to tax under subsection (3) above is a disposal on sale, and the sale—

(a) was not intended to confer any gratuitous benefit on any person, and

(b) was either a transaction at arm's length between persons not connected with each other or a transaction such as might be expected to be made at arm's length between persons not connected with each other,

the value of the property at the time of that event shall be taken for the purposes of subsection (5) above to be equal to the proceeds of the sale."

(3) For subsection (7) (which provides that the "relevant period" mentioned in subsection (6) begins with the latest of certain listed days and ends with the day before the event giving rise to the charge under subsection (3)) substitute—

"(7) In subsection (6) above "the relevant period" means the period given by subsection (7A) below or, if shorter, the period given by subsection (7B) below.

(7A) The period given by this subsection is the period beginning with the latest of—

(a) the day on which the settlement commenced,

(b) the date of the last ten-year anniversary of the settlement to fall before the day on which the property became comprised in the settlement,

(c) the date of the last ten-year anniversary of the settlement to fall before the day on which the property was designated under section 31 above on a claim under this section, and

(d) 13th March 1975,

and ending with the day before the event giving rise to the charge.

(7B) The period given by this subsection is the period equal in length to the number of relevant-property days in the period—

(a) beginning with the day that is the latest of those referred to in paragraphs (a) to (d) of subsection (7A) above, and

(b) ending with the day before the event giving rise to the charge.

(7C) For the purposes of subsection (7B) above, a day is a "relevant-property day" if at any time on that day the property was relevant property."

(4) After subsection (9) insert—

"(9A) Subsection (9B) below applies where the same event gives rise—

(a) to a charge under subsection (3) above in relation to any property, and

(b) to a charge under section 32 or 32A above in relation to that property.

(9B) If the amount of each of the charges is the same, each charge shall have effect as a charge for one half of the amount that would be charged apart from this subsection; otherwise, whichever of the charges is lower in amount shall have effect as if it were a charge the amount of which is nil.”

VALID FROM 06/04/2006

SCHEDULE 21 U.K.

Section 158

TAXABLE PROPERTY HELD BY INVESTMENT-REGULATED PENSION SCHEMES

1 In section 271 of TCGA 1992 (exemptions), after subsection (1A) insert—

“(1B) But subsection (1A) does not prevent such a gain from being treated as a chargeable gain for the purposes of sections 185F to 185I of the Finance Act 2004 (scheme chargeable payments: gains from taxable property).”

2 Part 4 of FA 2004 (pension schemes) is amended as follows.

3 (1) Section 160 (payments by registered pension schemes) is amended as follows.

(2) After subsection (7) insert—

“(7A) Sections 185A to 185I contain provision about the receipt of income and gains from taxable property.”

(3) In subsection (8), after “borrowing” insert “ and the receipt of income and gains from taxable property. ”

4 In section 173 (benefits), after subsection (7) insert—

“(7A) This section does not apply if—
(a) the pension scheme is an investment-regulated pension scheme, and
(b) the asset consists of taxable property.”

5 After section 174 insert—

“174A Taxable property held by investment-regulated pension schemes

(1) An investment-regulated pension scheme is to be treated as making an unauthorised payment to a member of the pension scheme if—
(a) the pension scheme acquires an interest in taxable property, and
(b) the interest is held by the pension scheme for the purposes of an arrangement under the pension scheme relating to the member.

(2) An investment-regulated pension scheme is to be treated as making an unauthorised payment to a member of the pension scheme if—
(a) an interest in taxable property is held by the pension scheme for the purposes of an arrangement under the pension scheme relating to the member, and
(b) the property is improved.

(3) An investment-regulated pension scheme is to be treated as making an unauthorised payment to a member of the pension scheme if—

(a) an interest in property which is not residential property is held by the pension scheme for the purposes of an arrangement under the pension scheme relating to the member, and

(b) the property is converted or adapted to become residential property.

(4) Schedule 29A makes provision supplementing this section; and in that Schedule—

(a) Part 1 defines "investment-regulated pension scheme",

(b) Part 2 defines "taxable property" (and "residential property"),

(c) Part 3 explains what it means to acquire, and to hold, an interest in taxable property, and

(d) Part 4 contains provision for calculating the amounts of unauthorised payments treated as made by this section and explains when the unauthorised payments are treated as made."

6 After section 185 insert—

"Income and gains from taxable property

185A Income from taxable property

(1) An investment-regulated pension scheme is to be treated as having made a scheme chargeable payment if the pension scheme holds an interest in taxable property in a tax year.

(2) The amount of the scheme chargeable payment depends on whether a person who holds the interest in the property directly receives profits arising from the interest in the tax year.

(3) If a person who holds the interest in the property directly receives such profits in the tax year, the amount of the scheme chargeable payment is the greater of—

(a) an amount equal to the amount of the annual profits from the interest in the property (see section 185B(1)), and

(b) the amount of the deemed profits from the interest in the property for the year (see sections 185B(2) and 185C).

(4) If no person who holds the interest in the property directly receives such profits in the tax year, the amount of the scheme chargeable payment is the amount of the deemed profits from the interest in the property for the year (see sections 185B(2) and 185C).

(5) But where section 185D applies, the amount of the scheme chargeable payment is the amount found under subsection (3) or (4) as apportioned to the pension scheme in accordance with that section.

(6) Section 185E makes provision for credits against income tax charged under section 239 (scheme sanction charge) in respect of a scheme chargeable payment treated as made by virtue of this section.

185B Annual profits and deemed profits

(1) For the purposes of section 185A(3) the amount of the annual profits from the interest in the property is the total amount of profits received from the interest in the tax year—

(a) by each person who holds the interest directly, and

(b) at a time when the property is scheme-held taxable property.

(2) For the purposes of section 185A(3) and (4) the amount of the deemed profits from the interest in the property for the tax year is—

$$\frac{DMV}{10} \times \frac{DTP}{DY}$$

where—

DMV is the deemed market value of the interest in the property for the year (see section 185C),

DTP is the number of days in the year for which the property is scheme-held taxable property, and

DY is the number of days in the year.

(3) In this Part “scheme-held taxable property” means property—

(a) which is taxable property, and

(b) an interest in which is held by the pension scheme.

185C Deemed market value

(1) For the purposes of section 185B(2), where no person who holds the interest in the property directly during the tax year does so by virtue of a lease of residential property, the deemed market value of the interest for the year is—

$$(MV + UP) \times (1 + RPI)$$

where—

MV is the opening market value (see subsection (2)),

UP is the total of any unauthorised payments treated as made by the pension scheme under section 174A in relation to the property in the tax year, other than any such payment treated as made by virtue of the property becoming scheme-held taxable property in the year, and

RPI is the figure expressed as a decimal which represents the percentage increase in the retail prices index between the first day in the tax year on which the property is scheme-held taxable property and the last such day (or, if there is no such increase, is nil).

(2) In subsection (1) "the opening market value" means—

(a) if the property is not scheme-held taxable property immediately before the beginning of the tax year, the market value of the interest in the property immediately after the time during the year when the property first becomes scheme-held taxable property, and

(b) otherwise, the deemed market value of the interest for the previous tax year.

(3) For the purposes of section 185B(2), where a person who holds the interest in the property directly during the tax year does so by virtue of a lease of residential property, the deemed market value of the interest for the year is the relevant rental value of the property calculated in accordance with paragraph 34 of Schedule 29A on the following assumptions—

(a) that the lease was granted when the property first became scheme-held taxable property;

(b) that the term of the lease is 50 years;

(c) that a fully commercial rent is payable for the first five years of that term;

(d) that afterwards the rent is reviewed on an upwards-only basis.

185D Apportionment to pension scheme

(1) This section applies where the pension scheme holds the interest in the property indirectly for the whole of the period in the tax year for which the property is scheme-held taxable property.

(2) The amount that would otherwise be the amount of the scheme chargeable payment is to be apportioned to the pension scheme by applying paragraphs 41 to 43 of Schedule 29A to it as if it were the total taxable amount in relation to an unauthorised payment treated as made—

(a) by the pension scheme,

(b) in connection with the acquisition of the interest in the property, and

(c) at the end of the last day in the tax year on which the property is scheme-held taxable property.

(3) But where—

(a) the amount found in relation to the pension scheme on the day mentioned in paragraph (c) of subsection (2), differs from

(b) the amount that would be found in relation to the pension scheme under that subsection on another day in the tax year on which the property is scheme-held taxable property,

the amount to be apportioned to the pension scheme under this section is the average of the amounts produced by applying subsection (2) in relation to the pension scheme on each day in the tax year on which the property is scheme-held taxable property.

185E Credit for tax paid

(1) This section applies where—

(a) the pension scheme holds the interest in the property indirectly in the tax year,

(b) a person who holds the interest directly receives profits arising from the interest at a time in the tax year when the property is scheme-held taxable property,

(c) tax is payable on those profits by that person (assuming them to be the highest part of the person's income for the tax year in which they are received), and

(d) that tax has been paid.

(2) The amount determined under subsection (3) is to be allowed as a credit against any income tax charged under section 239 in respect of the scheme chargeable payment treated as made by virtue of the pension scheme holding the interest in the property in the tax year.

(3) That amount is a proportion of the tax payable and paid determined by reference to the proportion of the amount that would otherwise be the amount of the scheme chargeable payment that is apportioned to the pension scheme under section 185D.

(4) Where—

(a) by virtue of this section an amount is allowed as a credit against income tax charged under section 239, and

(b) the amount of tax payable and paid by reference to which the amount of the credit was calculated is subsequently varied,

the amount of the credit is to be varied accordingly, and any necessary adjustments are to be made to give effect to the variation (whether by making assessments or otherwise).

185F Gains from taxable property

(1) An investment-regulated pension scheme is to be treated as having made a scheme chargeable payment where—

(a) in a tax year the pension scheme holds an interest in property which is taxable property or which has been taxable property at any time whilst the interest has been held by the pension scheme (a "taxable interest"),

(b) a gain is treated as accruing to the pension scheme in respect of the taxable interest in the tax year, and

(c) the total amount of gains treated as accruing to the pension scheme in respect of taxable interests in the tax year exceeds the total amount of losses treated as accruing to the pension scheme in respect of taxable interests in the tax year.

(2) The amount of the scheme chargeable payment is an amount equal to the difference between—

(a) the total amount of gains treated as accruing to the pension scheme in respect of taxable interests in the tax year, and

(b) the total amount of losses treated as accruing to the pension scheme in respect of taxable interests in the tax year,

(but this is subject to section 185G(10)).

(3) A gain or loss is treated as accruing to a pension scheme in respect of a taxable interest in a tax year if—

(a) by virtue of section 185G a chargeable gain or allowable loss is treated for the purposes of this section as accruing in the tax year to the person who holds the taxable interest directly, or

(b) in the tax year the pension scheme or another vehicle ceases to hold all or part of an interest in a vehicle through which the pension scheme holds the taxable interest indirectly (see section 185H).

185G Disposal by person holding directly

(1) For the purposes of this section the person ("the transferor") who holds the taxable interest directly is to be treated as holding an asset (a "taxable asset") consisting of the interest.

(2) For the purpose of determining—

(a) whether the transferor disposes of the taxable asset,

(b) when such a disposal takes place, and

(c) whether a chargeable gain or allowable loss is treated for the purposes of section 185F as accruing to the transferor on a disposal of the taxable asset in a tax year and, if so, the amount of the chargeable gain or allowable loss,

TCGA 1992 is to be treated as applying to the transferor and the taxable asset, but subject as follows.

(3) TCGA 1992 is to be treated as applying as if—

(a) throughout the tax year the transferor were resident, ordinarily resident and domiciled in the United Kingdom,

(b) no allowable losses accrued to the transferor in any previous tax year,

(c) for the purposes of section 2A (taper relief) of that Act the transferor were not chargeable to corporation tax in respect of any chargeable gain accruing to the transferor from a disposal of the taxable asset and the taxable asset were at all relevant times a non-business asset,

(d) notice under section 16(2A) (losses) of that Act were given by the transferor in relation to the year in respect of any loss treated as accruing to the transferor in the year from a disposal of the taxable asset,

(e) section 45(1) (wasting assets) of that Act did not apply to a disposal of the taxable asset,

(f) for the purposes of section 53 (indexation allowance) of that Act the transferor were not chargeable to corporation tax in respect of any chargeable gain accruing to the transferor from a disposal of the taxable asset,

(g) section 171(1) (transfers within a group) of that Act did not apply to a disposal of the taxable asset (so that no election could be made in relation to such a disposal under section 171A (notional transfers within a group) of that Act), and

(h) sections 222 to 224 (relief on disposal of private residence) of that Act did not apply to a gain on a disposal of the taxable asset by virtue of section 225 (private residence occupied under terms of settlement) of that Act.

(4) Where the taxable asset became taxable property whilst held directly by the pension scheme, TCGA 1992 is to be treated as applying to a disposal of the asset as if—

(a) the asset had been acquired by the transferor at the time it became taxable property, and

(b) the amount deductible under section 38(1)(a) (consideration for acquisition of asset) of that Act in respect of the disposal were the amount of the unauthorised payment treated as made by the pension scheme at that time.

(5) Subsections (6) to (8) apply where the pension scheme holds the taxable asset indirectly.

(6) TCGA 1992 is to be treated as applying to a disposal of the asset as if the amount deductible under section 38(1) of that Act in respect of the disposal were—

(a) the total amount of unauthorised payments treated as made by the pension scheme in respect of the taxable asset up to the time of the disposal, less

(b) the amount found under paragraph (a) to the extent that it has already been taken into account in calculating the gains or losses accruing to the pension scheme in respect of the taxable asset by virtue of this section or section 185H.

(7) The amount that would otherwise be the amount of the consideration for which the disposal is made (or treated as made) is to be scaled down by applying paragraphs 41 to 43 of Schedule 29A to it as if it were the total taxable amount in relation to an unauthorised payment treated as made—

(a) by the pension scheme,

(b) in connection with the acquisition of the interest in the property which constitutes the taxable asset, and

(c) at the time of the disposal.

(8) Subsection (6) is subject to section 42 of TCGA 1992 (part disposals); but in the application of that section in relation to the taxable asset the amount of the consideration for the disposal is to be taken to be that amount apart from subsection (7).

(9) Where the taxable asset was not taxable property for the whole period beginning with—

(a) the time when the pension scheme acquired the asset, or

(b) if later, the time when the asset first became taxable property,

and ending with the disposal, the amount that would otherwise be the amount of any chargeable gain or allowable loss treated as accruing on a disposal of the asset is to be reduced by reference to the proportion of the period for which the asset was not taxable property.

(10) Where—

(a) the taxable asset is a wasting asset consisting of tangible moveable property, and

(b) by virtue of section 185F, a loss is treated as accruing to the pension scheme from a disposal of the asset in a tax year,

the loss is only to be allowed as a deduction from any gains treated as accruing to the pension scheme by virtue of that section from other disposals in the year of taxable assets which are wasting assets consisting of tangible moveable property.

185H Disposal of interest in vehicle

(1) This section applies for the purposes of section 185F where the pension scheme or another vehicle ceases to hold all or part of an interest in a vehicle through which the pension scheme holds the taxable interest indirectly.

(2) The pension scheme is to be treated as disposing of the interest in the vehicle through which the pension scheme holds the taxable interest indirectly.

(3) The amount of the gain or loss treated as accruing to the pension scheme on the disposal of the interest in the vehicle is the difference between—

(a) the deemed consideration received for the disposal of the interest, and

(b) the deemed consideration given for the interest.

(4) The deemed consideration received for the disposal of the interest in the vehicle is the difference between—

(a) the market value of the taxable interest at the time of the disposal, apportioned to the pension scheme in accordance with subsection (5) immediately before that time, and

(b) the market value of the taxable interest at the time of the disposal, apportioned to the pension scheme in accordance with subsection (5) immediately after that time.

(5) An amount mentioned in subsection (4) is to be apportioned to the pension scheme by applying paragraphs 41 to 43 of Schedule 29A to it as if it were the total taxable amount in relation to an unauthorised payment treated as made—

(a) by the pension scheme,

(b) in connection with the acquisition of the taxable interest, and

(c) at the time at which the amount is to be apportioned to the pension scheme in accordance with that subsection.

(6) The deemed consideration given for the interest in the vehicle is—

(a) the total amount of unauthorised payments treated as made by the pension scheme in respect of the taxable interest up to the time of the disposal, less

(b) the amount found under paragraph (a) to the extent that it has already been taken into account in calculating the gains or losses accruing to the pension scheme in respect of the taxable interest by virtue of section 185G or this section.

185I Credit for tax paid

(1) This section applies where by virtue of section 185F a pension scheme is to be treated as making a scheme chargeable payment which is to any extent attributable—

(a) to a chargeable gain treated by virtue of section 185G as accruing to another person on a disposal of a taxable asset, or

(b) to a gain treated by virtue of section 185H as accruing to the pension scheme as a result of another person disposing of an interest in a vehicle through which the pension scheme holds a taxable interest indirectly.

(2) Where—

(a) tax is payable in respect of the disposal by the person who makes the disposal, and

(b) that tax has been paid,

the amount determined under subsection (3) or (4) (as appropriate) is to be allowed as a credit against any income tax charged under section 239 in respect of the scheme chargeable payment.

(3) In a case within paragraph (a) of subsection (1), that amount is a proportion of the amount of tax paid and payable determined by reference to the proportion of the amount of consideration for the disposal that is apportioned under section 185G(7).

(4) In a case within paragraph (b) of subsection (1), that amount is the amount of tax paid and payable apportioned to the pension scheme by applying paragraphs 41 to 43 of Schedule 29A to it as if it were the total taxable amount in relation to an unauthorised payment treated as made—

(a) by the pension scheme,

(b) in connection with an acquisition of the taxable interest by the person disposing of the interest in the vehicle, and

(c) at the time of the disposal.

(5) Where—

(a) by virtue of this section an amount is allowed as a credit against income tax charged under section 239, and

(b) the amount of tax payable and paid by reference to which the amount of the credit was calculated is subsequently varied,

the amount of the credit is to be varied accordingly, and any necessary adjustments are to be made to give effect to the variation (whether by making assessments or otherwise).”

7 In section 186 (relief for income derived from scheme investments), after subsection (2) insert—

“(2A) The exemption provided by subsection (1) does not prevent the income from being charged to tax by virtue of section 185A.”

8 In section 239 (scheme sanction charge), after subsection (5) insert—

"(6) This section is subject to provision made by regulations under section 273ZA (income and gains from taxable property)."

9 In section 241(1) (scheme chargeable payments) insert at the end ", and

(c) a scheme chargeable payment which the pension scheme is to be treated as having made by section 185A (income from taxable property) or 185F (gains from taxable property)."

10 After section 273 insert—

"273ZA Income and gains from taxable property

(1) The Treasury may make regulations in relation to cases where—

(a) an investment-regulated pension scheme holds an interest in taxable property,

(b) the pension scheme is non-UK resident, and

(c) the property is not located in the United Kingdom.

(2) The regulations may make provision for a member of the pension scheme for the purposes of whose arrangement the interest is held to be liable to the scheme sanction charge so far as relating to a scheme chargeable payment treated as made by the pension scheme—

(a) under section 185A (income from taxable property) by virtue of the pension scheme holding the interest in the property, or

(b) under section 185F (gains from taxable property) by virtue of a gain treated as accruing to the pension scheme in respect of the interest in the property.

(3) The regulations may make provision—

(a) for the member to be liable to all of the scheme sanction charge arising by virtue of the scheme chargeable payment or to the charge to such extent as the regulations may provide,

(b) for the charge to be apportioned between members of the pension scheme where the interest in the property is held for the purposes of more than one arrangement under the pension scheme, and

(c) for the scheme administrator not to be liable to the scheme sanction charge or not to be liable to the charge to such extent as the regulations may provide.

(4) The regulations may make provision for cases where—

(a) a member of a pension scheme would otherwise be liable to the scheme sanction charge arising by virtue of a scheme chargeable payment treated as made by the pension scheme under section 185F in a tax year,

(b) the member does not meet such conditions as to residence in the tax year as the regulations may prescribe,

(c) the member meets those conditions in a subsequent tax year, and

(d) such other conditions as the regulations may prescribe are met.

(5) The regulations may make provision for the member—

(a) not to be liable to the scheme sanction charge in the tax year in which the scheme chargeable payment is treated as made, but

(b) to be liable in a subsequent tax year to such extent as the regulations may provide to the scheme sanction charge arising by virtue of the payment.

(6) The regulations may—

(a) amend this Part (apart from this section),

(b) include provision having effect in relation to times before they are made,

(c) contain transitional provisions and savings, and

(d) make different provision for different cases.

(7) For the purposes of this section a pension scheme is non-UK resident if it is established in a country or territory outside the United Kingdom."

11 In section 278 (market value), after subsection (3) insert—

"(3A) For the purposes of this Part the market value of taxable property, or of an interest in taxable property, is to be determined in accordance with section 272 of TCGA 1992.

(3B) Subsection (3A) is subject to any provision made by regulations under paragraph 36(2) of Schedule 29A."

12 In section 280(2) (index of defined expressions), in the table, insert the following entries at the appropriate places—

"acquiring an interest in property (for the purposes of the taxable property provisions)	paragraphs 12 and 27 to 29 of Schedule 29A";
"building (for the purposes of the taxable property provisions)	paragraph 7(2) of Schedule 29A";
"holding an interest in a person (for the purposes of the taxable property provisions)	paragraph 16(2) to (4) of Schedule 29A";
"holding an interest in property (for the purposes of the taxable property provisions)	paragraph 13 of Schedule 29A";
"holding directly an interest in a vehicle (for the purposes of the taxable property provisions)	paragraph 20(3) of Schedule 29A";
"holding directly an interest in property (for the purposes of the taxable property provisions)	paragraphs 14 and 15 of Schedule 29A";

"holding indirectly an interest in a vehicle (for the purposes of the taxable property provisions)	paragraph 20(4) of Schedule 29A";
"holding indirectly an interest in property (for the purposes of the taxable property provisions)	paragraph 16(1) of Schedule 29A";
"investment-regulated pension scheme (for the purposes of the taxable property provisions)	paragraphs 1 to 3 of Schedule 29A";
"residential property (for the purposes of the taxable property provisions)	paragraphs 7(1), 8 and 9 of Schedule 29A";
"scheme-held taxable property	section 185B(3)";
"sums and assets held for the purposes of an arrangement (for the purposes of the taxable property provisions)	paragraph 5 of Schedule 29A";
"taxable property (for the purposes of the taxable property provisions)	paragraphs 6, 10 and 11 of Schedule 29A";
"the taxable property provisions	paragraph 1(3) of Schedule 29A";
"vehicle (in the taxable property provisions)	paragraph 20(2) of Schedule 29A".

13 After Schedule 29 insert—

"SCHEDULE 29A U.K.

Section 174A

TAXABLE PROPERTY HELD BY INVESTMENT-REGULATED PENSION SCHEMES

PART 1 U.K.

INVESTMENT-REGULATED PENSION SCHEMES

Schemes other than occupational pension schemes

1 (1) For the purposes of the taxable property provisions a registered pension scheme which is not an occupational pension scheme is an investment-regulated pension scheme if one or more of its members meets the condition in sub-paragraph (2).

(2) The condition is that either—

(a) the member, or

(b) a person related to the member,

is or has been able (directly or indirectly) to direct, influence or advise on the manner of investment of any of the sums and assets held for the purposes of an arrangement under the pension scheme relating to the member.

(3) In this Part "the taxable property provisions" means—

(a) section 173(7A) (exception from benefit charge where taxable property held by investment-regulated pension scheme),

(b) section 174A and this Schedule,

(c) sections 185A to 185I (income and gains from taxable property),

(d) section 273ZA (member liability for scheme sanction charge where pension scheme non-UK resident), and

(e) paragraphs 37A to 37I of Schedule 36 (transitional provisions).

Occupational pension schemes

2 (1) For the purposes of the taxable property provisions a registered pension scheme which is an occupational pension scheme is an investment-regulated pension scheme if—

(a) there are 50 or fewer members of the pension scheme, and one or more of those members meets the condition in sub-paragraph (2), or

(b) at least 10% of the members of the pension scheme meet that condition.

(2) The condition is that either—

(a) the member, or

(b) a person related to the member,

is or has been able (directly or indirectly) to direct, influence or advise on the manner of investment of any of the sums and assets held for the purposes of the pension scheme.

Separate self-controlled section

3 (1) This paragraph applies in the case of an arrangement under a registered pension scheme if—

(a) the pension scheme is an occupational pension scheme,

(b) the pension scheme is not an investment-regulated pension scheme by virtue of paragraph 2, and

(c) one or more members of the pension scheme meet the condition in sub-paragraph (2).

(2) The condition is that either—

(a) the member, or

(b) a person related to the member,

is or has been able (directly or indirectly) to direct, influence or advise on the manner of investment of any sums or assets which are linked to an arrangement relating to the member.

(3) For the purposes of sub-paragraph (2) sums or assets are linked to an arrangement relating to a member if—

(a) they are held for the purposes of an arrangement under the pension scheme relating to the member, but

(b) they are not held for the purposes of the arrangement merely by virtue of a just and reasonable apportionment of the sums and assets held for the purposes of the pension scheme.

(4) Where this paragraph applies the arrangement is to be treated for the purposes of this Part as if it were an investment-regulated pension scheme.

(5) The Treasury may by regulations—

(a) amend sub-paragraph (3), and

(b) provide for any of the provisions of this Part to apply to the arrangement with modifications.

Related persons

4 (1) For the purposes of this Part of this Schedule a person is related to a member of a pension scheme if—

(a) the person and the member are connected persons, or

(b) the person acts on behalf of the member or a person connected with the member.

(2) Section 839 of ICTA (connected persons) applies for the purposes of sub-paragraph (1).

Arrangements

5 Where sums or assets held for the purposes of an investment-regulated pension scheme—

(a) are held otherwise than for the purposes of the administration or management of the pension scheme, and

(b) would not, apart from this paragraph, be treated as held for the purposes of any arrangement relating to a member under the pension scheme,

for the purposes of the taxable property provisions the sums or assets are to be treated as held for the purposes of the arrangements under the pension scheme by reference to the respective rights under the scheme of the members to which the arrangements relate.

PART 2 U.K.

TAXABLE PROPERTY

Taxable property

6 For the purposes of the taxable property provisions property is taxable property if—
(a) it is residential property (see paragraphs 7 to 10), or
(b) it is tangible moveable property (but subject to paragraph 11).

Residential property

7 (1) Subject as follows, for the purposes of the taxable property provisions "residential property" means—
(a) a building that is used or suitable for use as a dwelling,
(b) any land consisting of, or forming part of, the garden or grounds of such a building (including a building on any such land) which is used or intended for use for a purpose connected with the enjoyment of the building,
(c) hotel or similar accommodation (but see paragraph 14(2)), or
(d) a beach hut,
in the United Kingdom or elsewhere.

(2) For the purposes of the taxable property provisions "building" includes—
(a) a structure, and
(b) part of a building or structure.

8 (1) For the purposes of the taxable property provisions a building used for any of the following purposes is not residential property—
(a) a home or other institution providing residential accommodation for children;
(b) a hall of residence for students;
(c) a home or other institution providing residential accommodation with personal care for persons in need of personal care by reason of old age, disability, past or present dependence on alcohol or drugs or past or present mental disorder;
(d) a hospital or hospice;
(e) a prison or similar establishment.

(2) Where—
(a) a building is used for a purpose specified in sub-paragraph (1),
(b) a building which is not in use was, immediately before it ceased to be in use, used for such a purpose, or
(c) a building which has never been in use is more suitable for use for such a purpose than for use for any other purpose,
no account is to be taken for the purposes of the taxable property provisions of its suitability for use as a dwelling.

9 (1) The Treasury may by order amend this Part of this Schedule to specify descriptions of buildings which are, or are not, to be treated as residential property.

(2) An order under this paragraph which amends this Part of this Schedule in a way that results in buildings becoming treated as not being residential property may provide that the amendment has effect from a date earlier than that on which the order was made.

10 (1) Residential property is not taxable property in relation to a pension scheme if Condition A or B is met.

(2) Condition A is met if the property is (or, if unoccupied, is to be) occupied by an employee who—
(a) is neither a member of the pension scheme nor connected with such a member,
(b) is not connected with the employer, and
(c) is required as a condition of employment to occupy the property.

(3) Condition B is met if the property is (or, if unoccupied, is to be)—
(a) occupied by a person who is neither a member of the pension scheme nor connected with such a member, and
(b) used in connection with business premises held as an investment of the pension scheme.

(4) Section 839 of ICTA (connected persons) applies for the purposes of this paragraph.

Tangible moveable property

11 (1) The Treasury may by order provide that, for the purposes of the taxable property provisions, any specified description of tangible moveable property is treated as not being taxable property.

(2) An order under this paragraph may include provision having effect in relation to times before it is made.

PART 3 U.K.

ACQUISITION AND HOLDING OF TAXABLE PROPERTY

Acquisition

12 (1) For the purposes of the taxable property provisions an investment-regulated pension scheme acquires an interest in property if it comes to hold the interest.

(2) Sub-paragraph (1) applies however the pension scheme comes to hold the interest, whether that is—
(a) by act of the parties to a transaction,
(b) by order of a court or other authority,
(c) by or under any statutory provision, or

(d) by operation of law.

(3) For instances of deemed acquisition, see paragraphs 27 to 29.

Holding

13 (1) For the purposes of the taxable property provisions an investment-regulated pension scheme holds an interest in property if the scheme holds the interest directly or indirectly.

(2) In the taxable property provisions references to a person holding an interest in property include, in the case of—

(a) an investment-regulated pension scheme,

(b) an arrangement under a pension scheme, or

(c) a trust which is not a pension scheme,

references to the interest in the property being held for the purposes of the pension scheme, the arrangement or the trust.

Direct holding

14 (1) For the purposes of the taxable property provisions a person holds an interest in property directly if the person (whether jointly, in common or alone)—

(a) holds the property or any estate, interest, right or power in or over the property,

(b) has the right to use, or participate in arrangements relating to the use of, that property or a description of property to which that property belongs, or

(c) has the benefit of any obligation, restriction or condition affecting the value of any estate, interest, right or power in or over the property,

under the law of any country or territory.

(2) But a person does not hold an interest in residential property consisting of hotel accommodation directly unless—

(a) the person holds part only of the hotel accommodation or any estate, interest, right or power in or over such a part and, as a result, any person has a right to use or occupy that or any other part of the hotel accommodation, or

(b) the person has a right to use, or participate in arrangements relating to the use of, part only of the hotel accommodation or a description of property to which that part belongs.

(3) For the purposes of the taxable property provisions a person holds an interest in property directly if the person is entitled (whether jointly, in common or alone) to receive payments determined by reference to the value of or the income from the property.

(4) Sub-paragraph (3) is subject to paragraph 15.

Exception to direct holding

15 (1) A person does not hold an interest in taxable property directly by virtue of paragraph 14(3) where Conditions A to C are met.

(2) Condition A is that—

(a) the person is entitled to receive the payments by virtue of a policy of life insurance, a contract for a life annuity or a capital redemption policy, and

(b) the policy or contract is issued by an insurance company.

(3) Condition B is that the property—

(a) does not constitute a linked asset, or

(b) has been appropriated by the insurance company to an internal linked fund.

(4) Condition C is that—

(a) where the person is an occupational pension scheme, the policy or contract, either by itself or taken together with one or more associated policies, does not entitle the pension scheme, either alone or together with one or more associated persons, to receive payments representing 10% or more of the market value of or the income from the property,

(b) where the person is a pension scheme other than an occupational pension scheme, the policy or contract, either by itself or taken together with one or more associated policies, does not entitle an arrangement under the pension scheme, either alone or together with one or more associated persons, to receive such payments, or

(c) otherwise, the policy or contract does not entitle the person to receive such payments.

(5) But for the purposes of applying paragraph 14(3) for determining whether a pension scheme holds an interest in taxable property directly or indirectly, this paragraph does not apply if the purpose or one of the purposes for which the person holds rights under the policy or contract is to enable a member of the pension scheme or a person connected with such a member to occupy or use the property.

(6) For the purposes of sub-paragraph (4) "associated policy" means a policy or contract which entitles an associated person to receive payments determined by reference to the value of or the income from the property.

(7) For the definition of "associated person" see paragraph 30.

(8) For the purposes of this paragraph—

"capital redemption policy" means a contract made in the course of a capital redemption business, as defined in section 458(3) of ICTA;

"internal linked fund" has the meaning given by—

(a) the Interim Prudential Sourcebook for Insurers made by the Financial Services Authority under FISMA 2000, or

(b) rules made by the Authority under that Act and having effect for the time being in place of the Sourcebook; and

"linked asset" means an asset of the insurance company which is identified in its records as an asset by reference to the value of which benefits provided for under a policy or contract are to be determined.

(9) For the purposes of this paragraph an annuity is a life annuity if it is—

(a) granted for consideration in money or money's worth in the ordinary course of a business of granting annuities on human life, and

(b) payable for a term ending at a time ascertainable only by reference to the end of a human life,

and for this purpose it does not matter that the annuity may in some circumstances end before or after the life.

Indirect holding

16 (1) For the purposes of the taxable property provisions a person holds an interest in property indirectly if the person does not hold the interest directly but (whether jointly, in common or alone)—

(a) holds an interest in a person who holds the interest in the property directly, or

(b) holds an interest in a person who holds the interest in the property indirectly by virtue of paragraph (a) or this paragraph.

(2) For the purposes of the taxable property provisions a person holds an interest in another person if—

(a) the person holds an interest, right or power in or over that other person, or

(b) the person lends money to that other person to fund the acquisition by that other person of an interest in taxable property.

(3) But sub-paragraph (2)(b) does not apply where—

(a) the loan is an authorised employer loan made by a pension scheme to or in respect of a sponsoring employer (see section 179),

(b) the interest in the property is acquired so that the property may be used for the purposes of a trade, profession or vocation carried on by the sponsoring employer or for the purposes of the sponsoring employer's administration or management, and

(c) after the acquisition, the property is not occupied or used by a member of the pension scheme or a person connected with such a member.

(4) In the taxable property provisions references to a person holding an interest in another person include, in the case of—

(a) an investment-regulated pension scheme,

(b) an arrangement under a pension scheme, or

(c) a trust which is not a pension scheme, references to the interest in the other person being held for the purposes of the pension scheme, the arrangement or the trust.

(5) Paragraphs 17 to 19 explain what it means for a person to hold an interest in another person by virtue of sub-paragraph (2)(a) in a case where that other person is a company, collective investment scheme or trust.

(6) The Treasury may by regulations—
- (a) amend paragraphs 17 to 19, or
- (b) amend this Part of this Schedule for the purposes of explaining what it means for a person to hold an interest, right or power in or over another person in other cases.

(7) This paragraph is subject to paragraphs 20 to 26.

17 (1) For the purposes of paragraph 16 a person holds an interest in a company if—
- (a) the person has, or is entitled to acquire, share capital or voting rights in the company,
- (b) the person has, or is entitled to acquire, a right to receive or participate in distributions of the company,
- (c) the person is entitled to secure that income or assets (whether present or future) of the company will be applied directly or indirectly for the person's benefit, or
- (d) the person, either alone or together with other persons, has control of the company.

(2) In sub-paragraph (1) references to a person being entitled to do anything apply where a person—
- (a) is currently entitled to do it at a future date, or
- (b) will at a future date be entitled to do it.

(3) In sub-paragraph (1) "control" has the meaning given by section 416 of ICTA.

18 (1) For the purposes of paragraph 16 a person holds an interest in a collective investment scheme if the person is a participant in the scheme.

(2) In this Schedule—
- (a) "collective investment scheme" has the meaning given by section 235 of FISMA 2000, and
- (b) "participant", in relation to such a scheme, has the meaning given by subsection (2) of that section.

19 (1) For the purposes of paragraph 16 a pension scheme holds an interest in a trust if Condition A or B is met.

(2) Condition A is that—
- (a) the pension scheme has a relevant interest in the trust,
- (b) the pension scheme, a member of the pension scheme or a person connected with such a member has made a payment to the trust on or after the acquisition of the interest, and
- (c) the payment is not one to which sub-paragraph (7) applies.

(3) Condition B is that—

(a) a member of the pension scheme or a person connected with such a member has a relevant interest in the trust,

(b) the pension scheme has made a payment to the trust on or after the acquisition of the interest, and

(c) the payment is not one to which sub-paragraph (7) applies.

(4) For the purposes of applying paragraph 16 for determining whether a pension scheme holds an interest in property indirectly, a person other than the pension scheme holds an interest in a trust if —

(a) the person has a relevant interest in the trust,

(b) the person has made a payment to the trust on or after the acquisition of the interest, and

(c) the payment is not one to which sub-paragraph (7) applies.

(5) For the purposes of this paragraph a person has a relevant interest in a trust if—

(a) any property which may at any time be comprised in the trust or any derived property is, or will or may become, payable to or applicable for the benefit of the person in any circumstances, or

(b) the person enjoys a benefit deriving directly or indirectly from any property which is comprised in the trust or any derived property.

(6) In sub-paragraph (5) "derived property", in relation to any property, means income from that property or any other property directly or indirectly representing proceeds of, or income from, that property.

(7) This sub-paragraph applies to a payment if—

(a) it is made as part of an arm's length transaction by which property or a benefit is to be provided in return for the payment, and

(b) it is made otherwise than for the purposes of enabling a member of the pension scheme or a person connected with such a member to occupy or use any property.

(8) Section 839 of ICTA (connected persons) applies for the purposes of this paragraph.

(9) This paragraph does not apply in relation to a unit trust scheme within the meaning of section 237(1) of FISMA 2000 (but see paragraph 18).

Exceptions to indirect holding

20 (1) A pension scheme does not hold an interest in property indirectly through a vehicle through which the pension scheme would otherwise hold the interest in the property indirectly where one of the following paragraphs applies in relation to the vehicle, and, in particular—

(a) paragraph 21 makes provision in relation to holding through vehicles which carry on trading activities,

(b) paragraph 22 makes provision in relation to holding through Real Estate Investment Trusts,

(c) paragraphs 23 to 25 make provision in relation to holding through other kinds of vehicles, and

(d) paragraph 26 makes provision in relation to holding through a vehicle which holds the interest in the property directly by virtue of paragraph 14(3) (receipt of payments determined by reference to value of or income from property).

(2) In the taxable property provisions "vehicle", in relation to a pension scheme which holds an interest in taxable property indirectly, means a person through whom the pension scheme holds the interest in the property.

(3) For the purposes of the taxable property provisions a person holds an interest in a vehicle directly if the person holds an interest of the kind mentioned in paragraph 16(2) in the vehicle.

(4) For the purposes of the taxable property provisions a person holds an interest in a vehicle indirectly if the person does not hold the interest directly but—

(a) holds an interest in a person who holds an interest in the vehicle directly, or

(b) holds an interest in a person who holds the interest in the vehicle indirectly by virtue of paragraph (a) or this paragraph.

21 (1) This paragraph applies to a vehicle in which a pension scheme directly or indirectly holds an interest where—

(a) the vehicle's main activity is the carrying on of a trade, profession or vocation,

(b) the pension scheme does not, whether alone or together with one or more associated persons, have control of the vehicle, and

(c) neither a member of the pension scheme nor a person connected with such a member is a controlling director of the vehicle or any other vehicle which holds an interest in the vehicle directly or indirectly.

(2) But this paragraph does not apply if the purpose or one of the purposes for which the pension scheme holds the interest in the vehicle is to enable a member of the pension scheme or a person connected with such a member to occupy or use the property.

(3) In sub-paragraph (1)—

(a) "control" has the same meaning as in section 416 of ICTA (reading references in that section to a company as references to the vehicle and references to associates as including associated persons), and

(b) "controlling director", in relation to a vehicle, means a director to whom paragraph (b) of section 417(5) of that Act applies (reading the reference to associates in that paragraph as including associated persons).

(4) For the purposes of this paragraph a pension scheme or an arrangement under a pension scheme has control of a vehicle if the pension scheme or the arrangement holds such interest as would, if the pension scheme or the arrangement were a person, mean that the person had control of the vehicle.

(5) Section 839 of ICTA (connected persons) applies for the purposes of this paragraph.

(6) For the definition of "associated person" see paragraph 30.

22 (1) This paragraph applies to a vehicle in which a pension scheme directly or indirectly holds an interest where the vehicle is—

(a) a company to which Part 4 of the Finance Act 2006 (Real Estate Investment Trusts) applies, or

(b) a member of a group to which that Part applies.

(2) But this paragraph does not apply if the purpose or one of the purposes for which the pension scheme holds the interest in the vehicle is to enable a member of the pension scheme or a person connected with such a member to occupy or use the property.

(3) Section 839 of ICTA (connected persons) applies for the purposes of sub-paragraph (2).

23 (1) This paragraph applies to a vehicle in which a pension scheme directly or indirectly holds an interest where—

(a) Conditions A to C are met in relation to the vehicle, and

(b) paragraph 24 applies to the pension scheme's interest in the vehicle.

(2) Condition A is that—

(a) the total value of the assets held directly by the vehicle is at least £1 million, or

(b) the vehicle holds directly at least three assets which consist of an interest in residential property,

and no asset held directly by the vehicle which consists of an interest in taxable property has a value which exceeds 40% of the total value of the assets held directly by the vehicle.

(3) Condition B is that, if the vehicle is a company—

(a) it is resident in the United Kingdom and is not a close company, or

(b) it is not resident in the United Kingdom and would not be a close company if it were resident in the United Kingdom.

(4) Condition C is that the vehicle does not have as its main purpose, or one of its main purposes, the direct or indirect holding of an animal or animals used for sporting purposes.

(5) For the purposes of sub-paragraph (2)—

(a) assets must be valued in accordance with generally accepted accounting practice,

(b) no account is to be taken of liabilities secured against or otherwise relating to assets (whether generally or specifically), and

(c) where generally accepted accounting practice offers a choice of valuation between cost basis and fair value, fair value must be used.

(6) The Treasury may by order—

(a) increase the amount for the time being specified in paragraph (a) of sub-paragraph (2), or

(b) increase the percentage for the time being specified in that sub-paragraph.

24 (1) For the purposes of paragraph 23 this paragraph applies to the interest held directly or indirectly by a pension scheme in a vehicle where—

(a) Condition A is met, and

(b) Condition B or C is met.

(2) Condition A is that the pension scheme does not hold the interest in the vehicle for the purpose of enabling a member of the pension scheme or a person connected with such a member to occupy or use the property.

(3) Condition B is that—

(a) the pension scheme is an occupational pension scheme, and

(b) the pension scheme does not, either alone or together with one or more associated persons, directly or indirectly hold an interest in the vehicle to which sub-paragraph (5) applies.

(4) Condition C is that—

(a) the pension scheme is not an occupational pension scheme, and

(b) no arrangement under the pension scheme, either alone or together with one or more associated persons, directly or indirectly holds an interest in the vehicle to which sub-paragraph (5) applies.

(5) This sub-paragraph applies to the following interests—

(a) 10% or more of the share capital or issued share capital of the vehicle;

(b) 10% or more of the voting rights in the vehicle;

(c) a right to receive 10% or more of the income of the vehicle;

(d) such interest in the vehicle as gives an entitlement to 10% or more of the amounts distributed on a distribution in relation to the vehicle;

(e) such interest in the vehicle as gives an entitlement to 10% or more of the assets of the vehicle on a winding-up or in any other circumstances;

(f) such interest in the vehicle as gives rise to income or gains from a specific property.

(6) Section 839 of ICTA (connected persons) applies for the purposes of this paragraph.

(7) For the definition of "associated person" see paragraph 30.

25 (1) This paragraph contains provisions supplementary to paragraph 24.

(2) Where—

(a) paragraph 23(1) does not apply in relation to a vehicle in which the pension scheme directly or indirectly holds an interest merely because Condition C in paragraph 24(4) is not met in relation to an arrangement under the pension scheme, and

(b) accordingly, the pension scheme holds an interest in property indirectly through the vehicle,

the interest in the property is to be treated as held through the vehicle for the purposes of another arrangement under the pension scheme only if that arrangement, either alone or together with one or more associated persons, directly or indirectly holds an interest in the vehicle to which paragraph 24(5) applies.

(3) Sub-paragraph (4) applies for determining the percentage of an interest held by a person in a vehicle at a time when the person holds that interest indirectly.

(4) That percentage is equal to the percentage of the total taxable amount that would be apportioned to the person under paragraphs 41 to 43—

(a) where the person is not the pension scheme, if the person were the pension scheme, and

(b) in any case, if the person were treated as making an unauthorised payment by virtue of the vehicle coming to hold the interest in the property directly at that time.

(5) For the definition of "associated person" see paragraph 30.

26 (1) This paragraph applies to a vehicle in which a pension scheme directly or indirectly holds an interest where—

(a) the vehicle holds the interest in the property directly by virtue of paragraph 14(3) merely because it does not meet Condition C in paragraph 15(4), and

(b) sub-paragraph (2) applies in relation to the pension scheme.

(2) This sub-paragraph applies in relation to the pension scheme if—

(a) where the pension scheme is an occupational pension scheme, the pension scheme is not, either alone or together with one or more associated persons, deemed to be entitled to 10% or more of the market value of or the income from the property, or

(b) where the pension scheme is not an occupational pension scheme, no arrangement under the pension scheme, either alone or together with one or more associated persons, is deemed to be so entitled.

(3) For the purposes of this paragraph the percentage of the market value of or the income from the property to which a person is deemed to be entitled at any time is—

$$IG \times TTA$$

where—

IG is the percentage of the market value of or the income from the property to which the vehicle that holds the interest in the property directly is entitled at that time, and

TTA is the percentage of the total taxable amount that would be apportioned to the person at that time on the assumptions mentioned in sub-paragraph (4).

(4) Those assumptions are—

(a) if the person is not the pension scheme, that the person is the pension scheme, and

(b) in any case, that the person is treated as making an unauthorised payment by virtue of the vehicle coming to hold the interest in the property directly at that time.

(5) For the definition of "associated person" see paragraph 30.

Deemed acquisition

27 Where—

(a) an investment-regulated pension scheme holds an interest in property which is not taxable property, and

(b) that property becomes taxable property otherwise than by reason of its conversion or adaptation as residential property,

the pension scheme is treated for the purposes of the taxable property provisions as acquiring an interest in the property.

28 (1) Subject to paragraph 29, this paragraph applies where—

(a) an investment-regulated pension scheme holds an interest in taxable property indirectly, and

(b) there is an increase in the extent of the interest held directly in a vehicle by the pension scheme or another vehicle.

(2) The pension scheme is to be treated for the purposes of this Schedule as—

(a) having disposed of the interest in the property immediately before the increase in the extent of the interest in the vehicle, and

(b) having re-acquired the interest immediately afterwards.

(3) The extent of the interest held directly in a vehicle by a person is to be determined for the purposes of this paragraph and paragraph 29 in accordance with paragraphs 42 and 43.

29 (1) Where there is an increase in the extent of the interest held directly in the vehicle otherwise than by reason of the acquisition of a further interest in the vehicle, paragraph 28 does not apply unless the condition in sub-paragraph (2) is met.

(2) The condition is that the event by which the extent of the interest held directly in the vehicle increases forms part of a scheme or arrangement the main purpose or one of the main purposes of which is—

(a) to enable the amount of the unauthorised payment treated as arising on the original acquisition of the interest in the property by the pension scheme to be lower than it otherwise would have been, or

(b) to prevent an unauthorised payment from being treated as made on that original acquisition.

(3) Unless that condition is met, the increase in the extent of the interest is also to be disregarded for the purposes of paragraphs 24 to 26.

Associated persons

30 (1) For the purposes of this Part of this Schedule "associated person", in relation to a pension scheme, means—

(a) any member of the pension scheme,

(b) any person connected with such a member,

(c) any arrangement (under that or another pension scheme) relating to a member of the pension scheme,

(d) any arrangement (under that or another pension scheme) relating to a person connected with such a member, and

(e) any associated pension scheme.

(2) For the purposes of sub-paragraph (1) a pension scheme is associated with another pension scheme if members representing at least 10% by value of one pension scheme are members of the other pension scheme or connected with such members.

(3) The percentage by value represented by a member of a pension scheme is—

$$\frac{AM}{AA} \times 100$$

where—

AM is an amount equal to the aggregate of the amount of the sums and the market value of the assets held for the purposes of an arrangement under the pension scheme relating to the member, and

AA is an amount equal to the aggregate of the amount of the sums and the market value of the assets held for the purposes of the pension scheme.

(4) For the purposes of this Part of this Schedule "associated person", in relation to an arrangement under a pension scheme, means—

(a) the member of the pension scheme to which that arrangement relates,

(b) any person connected with such a member,

(c) any arrangement (under that or another pension scheme) relating to a member of the pension scheme to which that arrangement relates, and

(d) any arrangement (under that or another pension scheme) relating to a person connected with such a member.

PART 4 U.K.

AMOUNT AND TIMING OF UNAUTHORISED PAYMENT

Introduction

31 (1) This Part of this Schedule has effect for determining—
(a) the amount of an unauthorised payment treated as made to a member of an investment-regulated pension scheme by virtue of section 174A, and
(b) the time when such a payment is treated as made.

(2) The amount is determined by—
(a) finding the total taxable amount in relation to the unauthorised payment (see paragraphs 32 to 40),
(b) apportioning that amount to the pension scheme (see paragraphs 41 to 43),
(c) in a case to which paragraph 28 applies (acquisition etc of further interest in vehicle), making an adjustment under paragraph 44 to the amount mentioned in paragraph (b), and
(d) apportioning that amount to the member to whom the payment is treated as made in accordance with paragraph 45.

Acquisition: basic rules

32 (1) This paragraph applies to a case within subsection (1) of section 174A (acquisition of an interest in taxable property).

(2) The unauthorised payment is treated as made when the interest in the property is acquired by the pension scheme.

(3) If the interest in the property is acquired because the pension scheme or another person comes to hold the interest directly, the total taxable amount in relation to the unauthorised payment is—
(a) the amount of consideration, in money or money's worth, given directly or indirectly for the interest, plus
(b) the amount of any fees and other costs incurred in connection with the acquisition.

(4) Sub-paragraph (3) is subject to paragraphs 33 to 35.

(5) If the interest in the property is acquired because the pension scheme or another person comes to hold an interest in a person who already holds the interest in the property directly or indirectly, the total taxable amount in relation to the unauthorised payment is—
(a) the market value, at the date the interest in the person is acquired, of the interest in the property held by the person who holds it directly, or
(b) if the interest in the property is a lease at a rent, the amount of consideration that would be treated as given by the person for the

lease by virtue of paragraph 34 if it were assigned to the person at that time.

(6) If the interest in the property is treated as acquired by the pension scheme by virtue of paragraph 27 or 28, the total taxable amount in relation to the unauthorised payment is—

(a) the market value, at the date the interest is treated as acquired, of the interest in the property held by the person who holds it directly, or

(b) if the interest in the property is a lease at a rent, the amount of consideration that would be treated as given by the person for the lease by virtue of paragraph 34 if it were assigned to the person at that time.

(7) This paragraph is subject to paragraph 36.

Acquisition: further provisions

33 (1) This paragraph applies where—

(a) an investment-regulated pension scheme acquires an interest in taxable property because it acquires a chargeable interest in the property within the meaning of section 48(1) of the Finance Act 2003,

(b) the interest is acquired because the pension scheme or another person comes to hold the interest directly, and

(c) the whole or part of the consideration for the interest is consideration other than rent.

(2) The provisions of the Finance Act 2003 listed in sub-paragraph (3) apply for determining the amount of the consideration (or the part that is not rent) as they apply for determining the amount of chargeable consideration for a land transaction for the purposes of Part 4 of that Act.

(3) Those provisions are—

(a) paragraphs 2 to 8 and 9 to 16 of Schedule 4 (chargeable consideration);

(b) section 51 (contingent, uncertain or unascertained consideration);

(c) section 52 (annuities etc: chargeable consideration limited to twelve years' payments).

(4) The Treasury may by regulations provide—

(a) for those provisions to apply with modifications to cases to which this paragraph applies, and

(b) for any other provisions of Part 4 of the Finance Act 2003 to apply (with or without modifications) to such cases.

34 (1) This paragraph applies where—

(a) an investment-regulated pension scheme acquires an interest in taxable property because it acquires a chargeable interest in the property within the meaning of section 48(1) of the Finance Act 2003,

(b) the interest is acquired because the pension scheme or another person comes to hold the interest directly, and

(c) the whole or part of the consideration for the acquisition is rent.

(2) The amount of the consideration (or the part that is rent) is to be taken to be the relevant rental value of the property; and paragraphs 2(4)(a), 3 and 8 of Schedule 5 (rent) to the Finance Act 2003 apply for determining that value.

(3) The following provisions of the Finance Act 2003 apply for the purposes of sub-paragraph (2) for determining the amount of rent payable as they apply for determining the amount of rent payable under a lease to which that Act applies—

(a) paragraphs 2, 5 to 7A, 9 and 16 of Schedule 17A (further provisions relating to leases);

(b) (subject to the provisions mentioned in paragraph (a)) the provisions mentioned in paragraph 33(3).

(4) The Treasury may by regulations provide—

(a) for the provisions mentioned in sub-paragraph (2) or (3) to apply with modifications to cases to which this paragraph applies, and

(b) for any other provisions of Part 4 of the Finance Act 2003 to apply (with or without modifications) to such cases.

(5) For the purposes of this paragraph where on an assignment of a lease the assignee assumes the obligation to pay rent, the assumption counts as consideration for the assignment.

35 (1) This paragraph applies where—

(a) an investment-regulated pension scheme acquires an interest in taxable property because the pension scheme or another person comes to hold the interest directly,

(b) the interest is acquired for less than its market value, and

(c) immediately before the acquisition the interest was held by a registered pension scheme which was not an investment-regulated pension scheme.

(2) This paragraph also applies where—

(a) an investment-regulated pension scheme acquires an interest in taxable property because the pension scheme or another person comes to hold the interest directly,

(b) the interest is acquired for less than its market value, and

(c) tax relief is available under section 188 or 196 in respect of the transfer of the interest.

(3) The amount of the consideration for the interest is treated as—

(a) the market value, at the date the interest is acquired, of the interest in the property held by the person who holds it directly, or

(b) if the interest in the property is a lease at a rent, the amount of consideration that would be treated as given by the person for the lease by virtue of paragraph 34 if it were assigned to the person at that time.

36 (1) The Treasury may by regulations make provision with respect to—

(a) what is to count as consideration for the acquisition of an interest in taxable property, and
(b) the determination of the amount of such consideration.

(2) The Treasury may by regulations make provision with respect to the determination of the market value of an interest held in taxable property.

(3) Regulations under this paragraph may, in particular, make provision for cases where an investment-regulated pension scheme acquires—
(a) an interest in taxable property outside the United Kingdom,
(b) a licence to use or occupy taxable property, or
(c) an interest in taxable property which is tangible moveable property.

(4) Regulations under this paragraph may—
(a) amend this Part of this Schedule, and
(b) include provision having effect in relation to times before they are made.

Post-acquisition unauthorised payments

37 (1) The Treasury may by regulations make provision for an investment-regulated pension scheme which has acquired an interest in taxable property to be treated as making one or more further unauthorised payments where—
(a) the amount of consideration for the acquisition was determined on the basis of a reasonable estimate, and the actual amount of the consideration turns out to be higher than the estimated amount,
(b) in the case of an interest which is a lease, there is a variation in the rent payable under the lease, or
(c) in such a case, the amount of consideration for the acquisition was determined on an assumption about the length of the term of the lease, and the lease continues after the end of the term.

(2) Regulations under this paragraph may—
(a) amend section 174A or this Schedule (apart from this paragraph), and
(b) include provision having effect in relation to times before they are made.

(3) References in the taxable property provisions to unauthorised payments treated as made under section 174A include references to payments treated as made under regulations under this paragraph.

Improvement of taxable property

38 (1) This paragraph applies to a case within subsection (2) of section 174A (improvement of taxable property).

(2) An unauthorised payment is treated as made when a payment is made in connection with the improvement works.

(3) The total taxable amount in relation to the unauthorised payment is the amount of the payment mentioned in sub-paragraph (2).

Conversion or adaptation as residential property

39 (1) This paragraph applies to a case within subsection (3) of section 174A (conversion or adaptation as residential property).

(2) The unauthorised payment is treated as made on the occurrence of whichever of the following first occurs after the property has become residential property—
(a) the substantial completion of the works to convert or adapt the property;
(b) the interest in the property ceasing to be held by the pension scheme.

(3) But if the property becomes residential property after the end of the period of three years beginning with the date on which the first payment was made in connection with the works to convert or adapt the property, the unauthorised payment is treated as made when the property becomes residential property.

(4) If the works began before the end of the period of twelve months beginning with the acquisition of the interest in the property by the pension scheme, the total taxable amount in relation to the unauthorised payment is—
(a) the amount of consideration for the interest, determined in accordance with paragraphs 32 to 36, plus
(b) the development costs (see sub-paragraph (7)).

(5) If the works began after the end of that period, the total taxable amount in relation to the unauthorised payment is—
(a) the relevant market value (see sub-paragraph (6)), plus
(b) the development costs (see sub-paragraph (7)).

(6) In this paragraph "the relevant market value" means—
(a) the market value, at the date the works began, of the interest in the property held by the person who holds it directly, or
(b) if the interest in the property is a lease at a rent, the amount of consideration that would be treated as given by the person for the lease by virtue of paragraph 34 if it were assigned to the person at that time.

(7) In this paragraph "the development costs" means the total cost of the works to convert or adapt the property at the time when the unauthorised payment is treated as made.

(8) Where, at the time the unauthorised payment is treated as made—
(a) an amount will be payable for the works only if some uncertain future event occurs, or
(b) an amount will cease to be payable for the works if some uncertain future event occurs,

the development costs are to be determined on the assumption that the amount will be payable or, as the case may be, will not cease to be payable.

(9) Where, at that time, an amount payable for the works—

(a) depends on uncertain future events, or

(b) cannot otherwise be ascertained,

that amount is to be determined for the purposes of sub-paragraph (7) on the basis of a reasonable estimate.

40 (1) This paragraph applies to a case within subsection (3) of section 174A (conversion or adaptation as residential property).

(2) This paragraph applies if —

(a) sub-paragraph (8) of paragraph 39 has effect when an unauthorised payment is treated as made under that paragraph,

(b) an amount estimated under that sub-paragraph later becomes ascertained, and

(c) the ascertained amount is more than the estimated amount.

(3) An unauthorised payment is treated as made when the amount becomes ascertained.

(4) The total taxable amount in relation to the unauthorised payment is the difference between the ascertained amount and the estimated amount.

(5) References in the taxable property provisions to unauthorised payments treated as made under section 174A include references to payments treated as made under this paragraph.

Apportionment to pension scheme

41 (1) This paragraph applies for determining—

(a) whether the amount of an unauthorised payment treated as made by an investment-regulated pension scheme under section 174A consists of the whole of the total taxable amount in relation to the payment, and

(b) if not, how much of the total taxable amount comprises the amount of the unauthorised payment.

(2) The pension scheme is treated as making an unauthorised payment equal to the whole of the total taxable amount where Condition A, B or C is met.

(3) Condition A is that the pension scheme directly holds the interest in the taxable property which gives rise to the unauthorised payment.

(4) Condition B is that—

(a) the pension scheme holds the interest in the property indirectly through one vehicle, and

(b) that vehicle is wholly owned by the pension scheme.

(5) Condition C is that—

(a) the pension scheme holds the interest in the property indirectly through more than one vehicle (a “chain” of vehicles), and

(b) each vehicle in the chain is wholly owned by another vehicle in the chain or by the pension scheme.

(6) Where—

(a) the pension scheme holds the interest in the property indirectly through one vehicle, and

(b) the vehicle is not wholly owned by the pension scheme,

the amount of the unauthorised payment is a proportion of the total taxable amount determined by reference to the extent of the pension scheme's interest in the vehicle.

(7) Where—

(a) the pension scheme holds the interest in the property indirectly through one or more chains of vehicles, and

(b) one or more vehicles in such a chain is not wholly owned by another vehicle in the chain or by the pension scheme,

the amount of the unauthorised payment is the amount or the total of all the amounts found under sub-paragraph (8) for each chain through which the pension scheme owns the interest in the property.

(8) The amount is a proportion of the total taxable amount determined by reference to the extent of the interest held directly by the pension scheme or another vehicle in the chain in each vehicle in the chain—

(a) starting with the vehicle which holds the interest in the property directly, and

(b) ending with the vehicle in which the pension scheme directly holds an interest.

(9) For the purposes of this paragraph a vehicle is wholly owned by a person if no other person directly holds an interest in the vehicle.

(10) This paragraph is subject to paragraph 44.

42 (1) References in this Schedule to the extent of an interest held directly by a person in a vehicle are references to the proportion of the interests of everyone who directly holds an interest in the vehicle which on a just and reasonable apportionment is represented by that interest.

(2) Sub-paragraph (1) is subject to paragraph 43, which explains how to determine the extent of a person's interest in a vehicle for the purposes of the taxable property provisions where the vehicle is a company.

(3) The Treasury may by regulations—

(a) amend paragraph 43, or

(b) amend this Part of this Schedule for the purposes of explaining how to determine the extent of a person's interest in a vehicle in other cases.

(4) Regulations under sub-paragraph (3) may include provision having effect in relation to times before they are made.

43 (1) For the purposes of this Schedule, and except in a case to which sub-paragraph (3) applies, the extent of a person's interest in a company is

determined by reference to whichever of the following gives the person the greatest interest in the company—

(a) the percentage of the share capital or issued share capital of the company owned by the person;

(b) the percentage of the voting rights in the company owned by the person;

(c) the percentage of all the income of the company to which the person has a right;

(d) the percentage of the amounts distributed on a distribution in relation to the company to which the person has a right;

(e) the percentage of the assets of the company to which the person has a right on a winding-up or in any other circumstances;

(f) where the person has a right to a percentage of a particular asset or description of assets of the company, or of the income or gains from such an asset or description (either generally or in particular circumstances), that percentage or the highest of all the percentages found under this paragraph.

(2) For the purposes of sub-paragraph (1) a person is treated as owning or having a right to anything which the person will only acquire—

(a) at some future date,

(b) if the person exercises a right to acquire it, or

(c) if some other uncertain future event occurs or does not occur.

(3) Where—

(a) a person has an interest in a company as a result of lending the company money to fund the acquisition of an interest in taxable property, and

(b) this sub-paragraph gives the person a greater interest in the company than any interest given by sub-paragraph (1),

for the purposes of this Schedule the extent of the person's interest in the company is determined by the proportion that the value of the loan bears to the total value of the assets held directly by the company.

(4) For the purposes of sub-paragraph (3)—

(a) assets must be valued in accordance with generally accepted accounting practice,

(b) no account is to be taken of liabilities secured against or otherwise relating to assets (whether generally or specifically), and

(c) where generally accepted accounting practice offers a choice of valuation between cost basis and fair value, fair value must be used.

Deemed acquisition: adjustment

44 (1) This paragraph applies where an investment-regulated pension scheme is treated as acquiring an interest in taxable property by virtue of paragraph 28 (increase in extent of interest in vehicle).

(2) The amount of the unauthorised payment treated as made by the pension scheme is—

$$UP - UPB$$

Where—

UP is the amount that would have been the amount of the unauthorised payment apart from this paragraph; and

UPB is the amount that would have been the amount of any unauthorised payment treated as made by the pension scheme if it had acquired the interest in the property immediately before the increase in the extent of the interest in the vehicle (assuming the total taxable amount in relation to the unauthorised payment to be that given under paragraph 32(5)).

Apportionment to member

45 (1) This paragraph has effect for determining—

(a) whether the whole of an unauthorised payment treated as made by a pension scheme is to be treated as made to a member of the scheme, and

(b) if not, how much of the unauthorised payment is to be treated as made to the member.

(2) If the interest in the taxable property which gives rise to the unauthorised payment is held by the pension scheme for the purposes of—

(a) the arrangement under the pension scheme relating to the member, and

(b) at least one other arrangement under the pension scheme,

the unauthorised payment is to be apportioned on a just and reasonable basis between all of the arrangements for the purposes of which the interest in the property is held.

(3) Otherwise, the whole of the unauthorised payment is to be treated as made to the member.”

14 (1) Schedule 34 (non-UK schemes: application of certain charges) is amended as follows.

(2) In paragraph 1 (member payment charges)—

(a) in sub-paragraph (3)(a), after “charge” insert “ (except as imposed by virtue of section 174A (taxable property held by investment-regulated pension schemes)) ”, and

(b) in sub-paragraph (4), after “Part” insert “ (apart from the taxable property provisions) ”.

(3) After paragraph 7 insert—

“Unauthorised payment charge: taxable property

7A (1) The Commissioners for Her Majesty's Revenue and Customs may by regulations make provision for a transfer member of a relevant non-UK scheme to be liable to the unauthorised payment charge in the same or similar circumstances to those in which—

(a) a member of a registered pension scheme is liable to that charge by virtue of section 174A and Schedule 29A (taxable property held by investment-regulated pension scheme),

(b) the scheme administrator of such a scheme is liable to the scheme sanction charge by virtue of section 185A (income from taxable property) or 185F (gains from taxable property), or

(c) a member of such a scheme is liable to the scheme sanction charge by virtue of those provisions in consequence of provision made by regulations under section 273ZA.

(2) The regulations may—

(a) make provision for the application of any or all of the taxable property provisions in relation to a transfer member of a relevant non-UK scheme subject to any omissions, additions and other modifications contained in the regulations,

(b) include provision having effect in relation to times before they are made,

(c) contain transitional provisions and savings, and

(d) make different provision for different cases."

15 In Schedule 36 (transitional provisions and savings), after paragraph 37 insert—

"Pre-commencement holdings of taxable property

37A (1) This paragraph applies in relation to an investment-regulated pension scheme if—

(a) on 6th April 2006 the pension scheme holds an interest in taxable property which it acquired before that date, and

(b) immediately before that date the pension scheme was not prohibited from holding the interest in the property,

and, in a case where immediately before that date the interest in the property was held directly by a person other than the pension scheme, if the pension scheme was not prohibited from holding the interest it held in that person at that time.

(2) This paragraph also applies in relation to an investment-regulated pension scheme if—

(a) before 6th April 2006 a contract to acquire an interest in property was entered into by the pension scheme or a person in whom the pension scheme directly or indirectly held an interest when the contract was entered into,

(b) the pension scheme does not acquire the interest in the property before that date,

(c) the property is taxable property on that date, and

(d) immediately before that date the pension scheme would not have been prohibited from holding the interest in the property,

and, in a case where the contract to acquire the interest in the property was entered into by a person in whom the pension scheme directly or indirectly held an interest, if the pension scheme was not prohibited from holding the interest it held in that person immediately before that date.

(3) The taxable property provisions (apart from this paragraph and paragraphs 37B to 37E) do not apply in relation to the pension scheme and the interest in the property.

(4) For the purposes of this Schedule a pension scheme is to be treated as having been prohibited from holding an interest in property, or in a person, immediately before 6th April 2006 if approval could have been withdrawn under section 591B, 620(7) or 650 of ICTA on the basis of the holding of the interest at that time.

(5) This paragraph is subject to paragraphs 37B to 37E.

37B (1) Paragraph 37A ceases to apply to an investment-regulated pension scheme and an interest in taxable property on the relevant date if Condition A, B or C is met.

(2) Condition A is that there is a change in the occupation or use of the property such that, if the change had occurred immediately before 6th April 2006, the pension scheme would have been prohibited from holding the interest in the property at that time.

(3) Condition B is that—

(a) the taxable property is residential property on 6th April 2006, and

(b) improvement works on the property are begun on or after that date.

(4) Condition C is that there is a change in the pension scheme's interest in—

(a) any person who holds the interest in the property directly, or

(b) any person who has entered into a contract to acquire the interest in the property,

such that, if the change had occurred immediately before 6th April 2006, the pension scheme would have been prohibited from holding the interest in the person at that time.

(5) For the purposes of this paragraph the relevant date is—

(a) where Condition A is met, the date on which the change in the occupation or use of the taxable property takes place,

(b) where Condition B is met, the date on which the improvement works are substantially completed, or

(c) where Condition C is met, the date on which the change in the pension scheme's interest in the person takes place,

but where the pension scheme has not acquired the interest in the property by what would otherwise be the relevant date, the relevant date is the date on which it acquires the interest.

(6) Where Condition A, B or C is met the pension scheme is to be treated for the purposes of the taxable property provisions as acquiring the interest in the property on the relevant date.

(7) For the purposes of Schedule 29A the total taxable amount in relation to any unauthorised payment which the pension scheme is treated as having made by reason of the acquisition is—

(a) the market value on the relevant date of the interest in the property held by the person who holds it directly, or

(b) if the interest in the property is a lease at a rent, the amount of consideration that would be treated as given by the person for the lease by virtue of paragraph 34 of Schedule 29A if it were assigned to the person on that date.

(8) Where—

(a) the pension scheme holds the interest in the property directly, and

(b) the interest is not a lease at a rent,

for the purposes of section 185G (gains from taxable property: disposal by person holding directly) the pension scheme is to be treated as having acquired the interest for a consideration equal to its market value on 6th April 2006.

(9) For the purposes of sub-paragraph (3)(b) improvement works are to be taken to have been begun before 6th April 2006 only if—

(a) a binding contract for the works was entered into before that date, or

(b) a substantial amount of the works has been carried out before that date.

(10) For the purposes of this Schedule "improvement works" means, in relation to a property, works which—

(a) materially improve the property, and

(b) are not carried out wholly for the purposes of complying with a statutory requirement or a requirement imposed by a government department, a statutory body or a person holding a statutory office.

(11) For the purposes of sub-paragraph (10)(a) a property is materially improved by works only if—

(a) its market value on the date the works are substantially completed ("MVW") exceeds what would have been its market value on that date if the works had not been carried out ("MV"), and

(b) the amount by which MVW exceeds MV is greater than 20% of MV.

(12) For the purposes of sub-paragraph (10)(b)—

"statutory body" means a body set up by or under an enactment (including an enactment comprised in, or an instrument made under, an Act of the Scottish Parliament);

"statutory office" means a body set up by or under such an enactment; and

"statutory requirement" means a requirement imposed by provision made by or under such an enactment.

(13) This paragraph is subject to paragraph 37D.

37C (1) This paragraph applies where—
(a) on 6th April 2006 an investment-regulated pension scheme holds an interest in taxable property which it acquired before that date, and
(b) immediately before that date the pension scheme was prohibited from holding the interest.

(2) This paragraph also applies where—
(a) on 6th April 2006 an investment-regulated pension scheme holds an interest in taxable property indirectly which it acquired before that date, and
(b) immediately before that date the pension scheme was prohibited from holding the interest it held in the person that held the interest in the property directly at that time.

(3) The pension scheme is to be treated for the purposes of the taxable property provisions as acquiring the interest in the property on 6th April 2006.

(4) For the purposes of Schedule 29A the total taxable amount in relation to any unauthorised payment which the pension scheme is treated as having made by reason of the acquisition is—
(a) the market value on 6th April 2006 of the interest in the property held by the person who holds it directly, or
(b) if the interest in the property is a lease at a rent, the amount of consideration that would be treated as given by the person for the lease by virtue of paragraph 34 of Schedule 29A if it were assigned to the person on that date.

(5) Where—
(a) the pension scheme holds the interest in the property directly, and
(b) the interest is not a lease at a rent,

for the purposes of section 185G (gains from taxable property: disposal by person holding directly) the pension scheme is to be treated as having acquired the interest for a consideration equal to its market value on 6th April 2006.

37D (1) This paragraph applies where—
(a) sub-paragraph (1) or (2) of paragraph 37A applies in relation to a pension scheme and an interest in property,
(b) immediately before 6th April 2006 the pension scheme was a self-invested personal pension scheme or a small self-administered scheme,
(c) on that date the pension scheme holds the interest in the property indirectly or (if sub-paragraph (2) of paragraph 37A applies in relation to the pension scheme and the interest in the property) the pension scheme will hold the interest indirectly once it has been acquired pursuant to the contract,
(d) the property is residential property on that date, and

(e) improvement works on the property were begun after 5th December 2005.

(2) This paragraph also applies where—

(a) sub-paragraph (1) or (2) of paragraph 37A applies in relation to a pension scheme and an interest in property,

(b) immediately before 6th April 2006 the pension scheme was a small self-administered scheme,

(c) on that date the pension scheme holds the interest in the property directly,

(d) the pension scheme acquired the interest before 5th August 1991,

(e) the property is residential property on 6th April 2006, and

(f) improvement works on the property were begun after 5th December 2005.

(3) If the works are completed on or after 6th April 2006, paragraph 37B applies in relation to the pension scheme and the interest in the property as if the works were begun on or after that date.

(4) If the works are completed before that date—

(a) paragraph 37A does not apply in relation to the pension scheme and the interest in the property, and

(b) unless the pension scheme has still to acquire the interest in the property on that date, sub-paragraphs (3) to (5) of paragraph 37C apply in relation to the pension scheme and the interest.

(5) For the purposes of this paragraph improvement works are to be taken to have been begun before 6th December 2005 only if—

(a) a binding contract for the works was entered into before that date, or

(b) a substantial amount of the works has been carried out before that date.

37E (1) This paragraph applies where—

(a) paragraph 37A would otherwise apply in relation to a pension scheme and an interest in property,

(b) immediately before 6th April 2006 the pension scheme was a retirement benefits scheme approved under section 590 of ICTA, and

(c) the pension scheme was approved under that section after 5th December 2005.

(2) Paragraph 37A does not apply in relation to the pension scheme and the interest in the property.

(3) Unless the pension scheme has still to acquire the interest in the property on 6th April 2006, sub-paragraphs (3) to (5) of paragraph 37C apply in relation to the pension scheme and the interest.

Post-commencement acquisitions of taxable property

37F (1) This paragraph applies where on or after 6th April 2006 an investment-regulated pension scheme acquires an interest in taxable property consisting of tangible moveable property because a person in whom the pension scheme directly or indirectly holds an interest comes to hold the interest in the property directly.

(2) The taxable property provisions (apart from this paragraph and paragraph 37G) do not apply in relation to the pension scheme and the interest in the property if the conditions in sub-paragraph (3) are met.

(3) Those conditions are that—

(a) on 6th April 2006 the pension scheme held the interest in the person by virtue of acquiring it before that date,

(b) immediately before that date the pension scheme was not prohibited from holding the interest in the person,

(c) at no time during the period beginning with that date and ending immediately before the acquisition of the interest in the property has the pension scheme's interest in the person been such that, if it had held that interest in the person immediately before 6th April 2006, it would have been prohibited from holding that interest at that time, and

(d) the person acquires the interest in the property so that the property may be used for the purposes of a trade, profession or vocation carried on by the person or for the purposes of its administration or management.

(4) This paragraph is subject to paragraph 37G.

37G (1) Where Condition A or B is met in relation to the pension scheme and an interest in property to which paragraph 37F has applied, the pension scheme is to be treated for the purposes of the taxable property provisions as acquiring the interest in the property on the date on which the Condition is met.

(2) Condition A is that there is a change in the pension scheme's interest in the person who holds the interest in the property directly such that, if the change had occurred immediately before 6th April 2006, the pension scheme would have been prohibited from holding the interest in the person at that time.

(3) Condition B is that the property ceases to be used for the purposes of—

(a) a trade, profession or vocation carried on by the person, or

(b) its administration or management.

(4) For the purposes of Schedule 29A the total taxable amount in relation to any unauthorised payment which the pension scheme is treated as having made by reason of the acquisition is the market value on the relevant date of the interest in the property held by the person.

37H (1) This paragraph applies where on or after 6th April 2006 an investment-regulated pension scheme acquires an interest in taxable property consisting of residential property because a person in whom the pension scheme directly or indirectly holds an interest comes to hold the interest in the property directly.

(2) The taxable property provisions (apart from this paragraph and paragraph 37I) do not apply in relation to the pension scheme and the interest in the property if the conditions in sub-paragraph (3) are met.

(3) Those conditions are that—

(a) on 6th April 2006 the pension scheme held the interest in the person by virtue of acquiring it before that date,

(b) immediately before that date the pension scheme was not prohibited from holding the interest in the person,

(c) immediately before that date the person had a business involving the holding and letting of residential property and held directly five or more assets consisting of interests in residential property for the purposes of that business,

(d) at no time during the period beginning with that date and ending immediately before the acquisition of the interest in the property has the pension scheme's interest in the person been such that, if it had held that interest in the person immediately before 6th April 2006, it would have been prohibited from holding that interest at that time,

(e) the person acquires the interest in the property for the purposes of its property rental business, and

(f) after the acquisition of the interest in the property, the property is not occupied or used by a member of the pension scheme or a person connected with such a member.

(4) This paragraph is subject to paragraph 37I.

(5) Section 839 of ICTA (connected persons) applies for the purposes of this paragraph.

37I (1) Where Condition A, B or C is met in relation to the pension scheme and an interest in property to which paragraph 37H has applied, the pension scheme is to be treated for the purposes of the taxable property provisions as acquiring, on the date on which the Condition is met, each interest in property—

(a) which it holds on that date, and

(b) to which paragraph 37H has applied before that date.

(2) Condition A is that there is a change in the pension scheme's interest in the person who holds the interest in the property directly such that, if the change had occurred immediately before 6th April 2006, the pension scheme would have been prohibited from holding the interest in the person at that time.

(3) Condition B is that the property ceases to be used for the purposes of the person's property rental business.

(4) Condition C is that the property is occupied or used by a member of the pension scheme or a person connected with such a member.

(5) For the purposes of Schedule 29A the total taxable amount in relation to any unauthorised payment which the pension scheme is treated as having made by reason of an acquisition of an interest in property treated as made by virtue of this paragraph is—

(a) the market value on the relevant date of the interest in the property held by the person who holds it directly, or

(b) if the interest in the property is a lease at a rent, the amount of consideration that would be treated as given by the person for the lease by virtue of paragraph 34 of Schedule 29A if it were assigned to the person on that date."

VALID FROM 06/04/2006

SCHEDULE 22 U.K.

Section 160

PENSION SCHEMES: INHERITANCE TAX

. . . .

VALID FROM 06/04/2006

SCHEDULE 23 U.K.

Section 161

PENSION SCHEMES ETC: MISCELLANEOUS

. . . .

VALID FROM 19/07/2006

SCHEDULE 24 U.K.

Section 163

STAMP DUTY LAND TAX: AMENDMENTS OF SCHEDULE 15 TO FA 2003

Introduction

1 Schedule 15 to FA 2003 (stamp duty land tax: partnerships) is amended as follows.

Transfer of chargeable interest to a partnership

2 (1) In paragraph 10 (transfer of chargeable interest to a partnership: general), for sub-paragraphs (2) to (4) substitute—

"(2) The chargeable consideration for the transaction shall (subject to paragraph 13) be taken to be equal to—

$$MV \times (100 - SLP)\%$$

where—

MV is the market value of the interest transferred, and

SLP is the sum of the lower proportions."

(2) In sub-paragraph (6) of that paragraph, omit "(instead of sub-paragraphs (2) to (5))".

3 In paragraph 11 (transfer of chargeable interest to a partnership: chargeable consideration including rent), for sub-paragraphs (2) to (7) substitute—

"(2) Schedule 5 (amount of tax chargeable: rent) has effect with the modifications set out in sub-paragraphs (2A) to (2C).

(2A) In paragraph 2—

(a) for "the net present value of the rent payable over the term of the lease" substitute " the relevant chargeable proportion of the net present value of the rent payable over the term of the lease ", and

(b) for "the net present values of the rent payable over the terms of all the leases" substitute " the relevant chargeable proportions of the net present values of the rent payable over the terms of all the leases ".

(2B) In paragraph 9(2A)—

(a) for "the annual rent" substitute " the relevant chargeable proportion of the annual rent ", and

(b) for "the total of the annual rents" substitute " the relevant chargeable proportion of the total of the annual rents ".

(2C) For paragraph 9(4) substitute—

"(4) Tax chargeable under this Schedule is in addition to any tax chargeable under section 55 as it has effect by virtue of paragraph 10 of Schedule 15.".

(2D) For the purposes of sub-paragraphs (2A) and (2B) the relevant chargeable proportion is—

$$(100 - SLP)\%$$

where SLP is the sum of the lower proportions."

4 (1) In paragraph 13 (transfer of chargeable interest to a partnership consisting wholly of bodies corporate), in sub-paragraph (3), for "sub-paragraphs (2) to (5)" substitute " sub-paragraphs (2) and (5) ".

(2) For sub-paragraphs (4) to (7) of that paragraph substitute—

"(4A) In paragraph 11(2), for "sub-paragraphs (2A) to (2C)" substitute " sub-paragraph (2C) ".

(5) In paragraph 11, omit sub-paragraphs (2A), (2B), (2D) and (8)."

Transfer of chargeable interest from a partnership

5 (1) In paragraph 18 (transfer of chargeable interest from a partnership: general), for sub-paragraphs (2) to (4) substitute—

"(2) The chargeable consideration for the transaction shall (subject to paragraph 24) be taken to be equal to—

$$MV \times (100 - SLP)\%$$

where—

MV is the market value of the interest transferred, and

SLP is the sum of the lower proportions."

(2) In sub-paragraph (6) of that paragraph, omit "(instead of sub-paragraphs (2) to (5))".

6 In paragraph 19 (transfer of chargeable interest from a partnership: chargeable consideration including rent), for sub-paragraphs (2) to (7) substitute—

"(2) Schedule 5 (amount of tax chargeable: rent) has effect with the modifications set out in sub-paragraphs (2A) to (2C).

(2A) In paragraph 2—
(a) for "the net present value of the rent payable over the term of the lease" substitute " the relevant chargeable proportion of the net present value of the rent payable over the term of the lease ", and
(b) for "the net present values of the rent payable over the terms of all the leases" substitute " the relevant chargeable proportions of the net present values of the rent payable over the terms of all the leases ".

(2B) In paragraph 9(2A)—
(a) for "the annual rent" substitute " the relevant chargeable proportion of the annual rent ", and
(b) for "the total of the annual rents" substitute " the relevant chargeable proportion of the total of the annual rents ".

(2C) For paragraph 9(4) substitute—

"(4) Tax chargeable under this Schedule is in addition to any tax chargeable under section 55 as it has effect by virtue of paragraph 18 of Schedule 15.".

(2D) For the purposes of sub-paragraphs (2A) and (2B) the relevant chargeable proportion is—

$$(100 - SLP)\%$$

where SLP is the sum of the lower proportions."

7 (1) In paragraph 24 (transfer of chargeable interest from a partnership consisting wholly of bodies corporate), in sub-paragraph (3), for "sub-paragraphs (2) to (5)" substitute " sub-paragraphs (2) and (5) ".

(2) For sub-paragraphs (4) to (8) of that paragraph substitute—

"(4A) In paragraph 19(2), for "sub-paragraphs (2A) to (2C)" substitute " sub-paragraph (2C) ".

(5) In paragraph 19, omit sub-paragraphs (2A), (2B), (2D) and (8)."

Transfer of chargeable interest from a partnership to a partnership

8 In paragraph 23 (transfer of chargeable interest from a partnership to a partnership), for sub-paragraphs (2) and (3) substitute—

"(2) Paragraphs 10(2) and 18(2) do not apply.

(2A) The chargeable consideration for the transaction shall be taken to be what it would have been if paragraph 10(2) had applied or, if greater, what it would have been if paragraph 18(2) had applied.

(3) Where the whole or part of the chargeable consideration for the transaction is rent—

(a) paragraphs 11 and 19 do not apply;

(b) the tax chargeable in respect of so much of the chargeable consideration as consists of rent shall be taken to be what it would have been if paragraph 11 had applied or, if greater, what it would have been if paragraph 19 had applied;

(c) the disapplication of the 0% band provided for by paragraph 9(2) of Schedule 5 has effect if—

(i) it would have had effect if paragraph 11(2B) of this Schedule had applied, or

(ii) it would have had effect if paragraph 19(2B) of this Schedule had applied."

Transfer of partnership interest: restriction of charge to property-investment partnerships

9 (1) In paragraph 14 (transfer of partnership interest: consideration given and chargeable interest held), for the heading substitute—

"Transfer for consideration of interest in property-investment partnership".

(2) In sub-paragraph (1)(a) of that paragraph, before "partnership" insert " property-investment ".

(3) After sub-paragraph (7) of that paragraph insert—

"(8) In this paragraph—

"property-investment partnership" means a partnership whose sole or main activity is investing or dealing in chargeable interests (whether or not that activity involves the carrying out of construction operations on the land in question);

"construction operations" has the same meaning as in Chapter 3 of Part 3 of the Finance Act 2004 (see section 74 of that Act)."

Prevention of double charge where money etc withdrawn from partnership

10 In paragraph 17A (withdrawal of money etc from partnership after transfer of chargeable interest), after sub-paragraph (7) insert—

"(8) Where—

(a) a qualifying event gives rise to a charge under this paragraph, and

(b) the same event gives rise to a charge under paragraph 14 (transfer for consideration of interest in property-investment partnership),

the amount of the charge under this paragraph is reduced (but not below nil) by the amount of the charge under that paragraph."

Commencement

11 (1) Paragraphs 2 to 8 have effect in relation to any transfer of which the effective date is on or after the day on which this Act is passed.

(2) Paragraph 9 has effect in relation to any transfer that has (or, but for the amendment made by that paragraph, would have) an effective date which is on or after that day.

(3) Paragraph 10 has effect in relation to any qualifying event of which the effective date is on or after that day.

(4) In this paragraph "effective date" has the same meaning as in Part 4 of FA 2003.

VALID FROM 19/07/2006

SCHEDULE 25 U.K. Section 164

STAMP DUTY LAND TAX: AMENDMENTS OF SCHEDULE 17A TO FA 2003

. . . .

SCHEDULE 26 U.K.

Section 178

REPEALS

VALID FROM 19/07/2006

PART 1 U.K.

EXCISE DUTIES

(1) PROVISIONS OF ALDA 1979 OF NO PRACTICAL UTILITY ETC

Short title and chapter	***Extent of repeal***
Alcoholic Liquor Duties Act 1979 (c. 4)	Section 12(4). Section 14. Section 15(4). Section 18(5). Section 21. Section 24. Section 26. Section 32. Section 35. Section 55A. Section 67. Section 69. Section 71. Section 74. Section 82.
Finance Act 1981 (c. 35)	In Schedule 8, paragraphs 13, 17 and 21.
Finance Act 1985 (c. 54)	In Schedule 3, paragraph 2.
Finance Act 1986 (c. 41)	In Schedule 5, paragraph 3(2).
Territorial Sea Act 1987 (c. 49)	In Schedule 1, paragraph 5(2).
Finance Act 1988 (c. 39)	In Schedule 1, paragraphs 6 and 10.
Finance Act 1994 (c. 9)	In Schedule 4, in paragraph 18(1), the words from "(offence" to the end, and paragraphs 23, 25, 28, 36, 42 to 44 and 48. In Schedule 5, paragraph 3(1)(i) and (n).
Finance Act 1995 (c. 4)	In Schedule 2, paragraph 4.
Licensing Act 2003 (c. 17)	In Schedule 6, paragraph 73.

(2) AMUSEMENT MACHINE LICENCE DUTY

Short title and chapter	***Extent of repeal***
Betting and Gaming Duties Act 1981 (c. 63).	Section 22(2)(b). Section 25A.

	In section 26(2)— (a) the definition of "video machine", and (b) in the definition of "two-penny machine", the words from "and "five-penny machine"" to the end. In Schedule 3, paragraph 6. In Schedule 4, paragraphs 2, 3 and 15.

VALID FROM 19/07/2006

PART 2 U.K.

VALUE ADDED TAX

GAMING MACHINES

Short title and chapter	*Extent of repeal*
Betting and Gaming Duties Act 1981 (c. 63)	The word "or" immediately after section 2(2)(b).
Value Added Tax Act 1994 (c. 23)	In section 23(1), the words "to play".

VALID FROM 19/07/2006

PART 3 U.K.

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

(1) ABOLITION OF CORPORATION TAX STARTING RATE AND NON-CORPORATE DISTRIBUTION RATE

Short title and chapter	*Extent of repeal*
Income and Corporation Taxes Act 1988 (c. 1)	Sections 13AA and 13AB. In section 13A(1), the words "or 13AA(8)". Schedule A2.
Finance Act 1998 (c. 36)	In Schedule 18, in paragraph 8(1), in the second step, the words "or 13AA(2)".
Finance Act 1999 (c. 16)	Section 28.
Finance Act 2004 (c. 36)	Section 28. Schedule 3.

These repeals have effect in accordance with section 26 of this Act.

(2) GROUP RELIEF WHERE SURRENDERING COMPANY NOT RESIDENT IN UK

Short title and chapter	*Extent of repeal*
Finance Act 2000 (c. 17)	In Schedule 27, paragraph 3(a).

This repeal has effect in accordance with Schedule 1 to this Act.

(3) RELIEF FOR RESEARCH AND DEVELOPMENT: SUBJECTS OF CLINICAL TRIALS

Short title and chapter	*Extent of repeal*
Finance Act 2002 (c. 23)	In Schedule 12— (a) in paragraph 4(3), the word “or” at the end of paragraph (b); (b) in paragraph 9(2), the word “or” at the end of paragraph (b); (c) in paragraph 17, the word “and” at the end of paragraph (c). In Schedule 13— (a) in paragraph 3(5), the word “or” at the end of paragraph (b); (b) in paragraph 9(3), the word “or” at the end of paragraph (b).

These repeals have effect in accordance with section 28 of this Act.

(4) FILMS

Short title and chapter	*Extent of repeal*
Finance (No.2) Act 1992 (c. 48)	Sections 40A to 43.
Finance (No.2) Act 1997 (c. 58)	Section 48.
Finance Act 2002 (c. 23)	Sections 99 to 101.
Income Tax (Trading and Other Income) Act 2005 (c. 5)	In the heading to Chapter 9 of Part 2, the words “FILMS AND”. In section 130— (a) in subsections (1)(a), (2), (3) and (4), the words “film or” wherever occurring; (b) in subsection (1), paragraph (b) and the word “and” preceding it; (c) subsection (6). Section 131. In section 132— (a) in subsection (1), paragraph (a) and the word “and” following it;

1 These repeals come into force in accordance with the provisions of sections 46 and 47 of this Act.
2 In consequence of the repeals in ITTOIA 2005—
(a) the heading before section 135 of that Act becomes “*Rules for allocating expenditure*”; and
(b) the heading to that section becomes “**Allocation of production or acquisition expenditure to relevant periods**”.

	(b) subsections (2) and (3). Section 134(4). In section 135— (a) in subsection (1)(a), the words "films or"; (b) subsection (1)(d); (c) subsection (6)(b) to (d); (d) subsection (7). Sections 136 to 144.
Finance Act 2005 (c. 7)	Sections 58 to 71. Schedule 3.

1 These repeals come into force in accordance with the provisions of sections 46 and 47 of this Act.
2 In consequence of the repeals in ITTOIA 2005—
(a) the heading before section 135 of that Act becomes "*Rules for allocating expenditure*"; and
(b) the heading to that section becomes "**Allocation of production or acquisition expenditure to relevant periods**".

(5) NON-CHARITABLE EXPENDITURE

Short title and chapter	***Extent of repeal***
Income and Corporation Taxes Act 1988 (c. 1)	In section 506(2), the words "and subsection (1) above". Section 506(6). Part III of Schedule 20.

(6) MOBILE TELEPHONES

Short title and chapter	***Extent of repeal***
Income Tax (Earnings and Pensions) Act 2003 (c. 1)	In section 266(2)(b), the word "or". In section 267(2)(e), the word "and" at the end.
Communications Act 2003 (c. 21)	In Schedule 17, paragraph 175(2).

These repeals have effect in accordance with section 60(4) and (5) of this Act.

(7) COMPUTER EQUIPMENT

Short title and chapter	***Extent of repeal***
Income Tax (Earnings and Pensions) Act 2003 (c. 1)	Section 320.
Communications Act 2003 (c. 21)	In Schedule 17, paragraph 175(3).
Finance Act 2004 (c. 12)	Section 79.

These repeals have effect in accordance with section 61(2) and (3) of this Act.

(8) EXEMPTION FOR EMPLOYEES' EYE TESTS AND SPECIAL GLASSES

Short title and chapter	*Extent of repeal*
Income Tax (Earnings and Pensions) Act 2003 (c. 1)	In section 266(3), the word "or" at the end of paragraph (d).

This repeal has effect for the year 2006-07 and subsequent years of assessment.

(9) CAPITAL LOSSES

Short title and chapter	*Extent of repeal*
Taxation of Chargeable Gains Act 1992 (c. 12)	In section 104(2)(b), the word ", 106". In section 105(2)(c), the word "106,". Section 106. In section 108(8), the words "shall have effect subject to section 106 but". Section 177B and the italic cross-heading before it. Schedule 7AA.
Finance Act 1998 (c. 36)	Section 137(1), (2) and (5). Schedule 24.
Finance Act 2000 (c. 17)	In Schedule 29, paragraphs 8 and 18.
Finance Act 2003 (c. 14)	In Schedule 27, in paragraph 2(3), the words "106(10),".

1 The repeals of—
(a) section 177B of, and Schedule 7AA to, TCGA 1992,
(b) section 137(1), (2) and (5) of, and Schedule 24, to FA 1998, and
(c) paragraph 8 of Schedule 29 to FA 2000,
have effect in accordance with section 70(6) to (11) of this Act.
2 The other repeals have effect in accordance with section 72 of this Act.

(10) POLICIES OF INSURANCE AND NON-DEFERRED ANNUITIES

Short title and chapter	*Extent of repeal*
Taxation of Chargeable Gains Act 1992 (c. 12)	Section 237(b).

This repeal has effect in accordance with section 73 of this Act.

(11) EXCEPTION TO "BED AND BREAKFASTING" RULES ETC

Short title and chapter	*Extent of repeal*
Taxation of Chargeable Gains Act 1992 (c. 12)	Section 10A(9A). Section 83A(5).

These repeals have effect in accordance with section 74(6) of this Act.

(12) Avoidance involving financial arrangements

Short title and chapter	***Extent of repeal***
Income and Corporation Taxes Act 1988 (c. 1)	Sections 43A to 43G. Section 730(3).
Finance Act 1996 (c. 8)	In section 81(2), the word "or" immediately before paragraph (b). In section 103(1), in the definition of "fair value", in paragraphs (a) and (b), the words "in respect of amounts which at that time are not yet due and payable".
Finance Act 2000 (c. 17)	Section 110.
Capital Allowances Act 2001 (c. 2)	In Schedule 2, paragraphs 11 and 12.
Finance Act 2002 (c. 23)	In section 103(4)(a), the words "43A(1),". In Schedule 26, in paragraph 54(1), in the definition of "fair value", in paragraphs (a) and (b), the words "in respect of amounts which at that time are not yet due and payable".
Income Tax (Trading and Other Income) Act 2005 (c. 5)	In Schedule 1, paragraphs 26 to 30.
Finance (No.2) Act 2005 (c. 22)	In Schedule 7, paragraphs 1, 2(6), 17(3) and 23(2).

These repeals have effect in accordance with Schedule 6 to this Act.

(13) Leasing of plant or machinery

Short title and chapter	***Extent of repeal***
Finance Act 2002 (c. 23)	Section 62.
Finance Act 2003 (c. 14)	In Schedule 30, paragraph 4(2).

These repeals have effect in relation to expenditure incurred on or after 1st April 2006.

(14) insurance companies

Short title and chapter	***Extent of repeal***
Income and Corporation Taxes Act 1988 (c. 1)	Section 431A(5). In section 432B(4)(b), the words "and ending before 1st October 2006".
Finance Act 1989 (c. 26)	In section 83ZA— (a) in subsection (7), the words "the aggregate of", paragraph (b) and the word "and" before that paragraph, (b) subsections (10) and (12), and (c) in subsection (15), the word ", (12)".

The repeals in section 83ZA of FA 1989 have effect in accordance with Schedule 11 to this Act.

(15) SETTLEMENTS

Short title and chapter	*Extent of repeal*
Income and Corporation Taxes Act 1988 (c. 1)	Section 220(2). In section 360A(2)(b)— (a) the words "trustee or", and (b) the words from "("settlement"" to the end. In section 360A(2)(c), the words "trustee or". In section 360A(8), the words "trustee or". In section 417(3)(b)— (a) the words "trustee or", and (b) the words from "("settlement"" to the end. In section 417(3)(c)(i), the words "trustee or". In section 686(2)(b), the word "either". Section 720(8)(a). Section 764. At the end of section 839(3)(b), the word "and".
Finance Act 1989 (c. 26)	At the end of section 68(2)(bb), the word "and". Section 68(2)(c). At the end of section 71(4)(bb), the word "and". Section 71(4)(c). Section 110.
Finance Act 1990 (c. 29)	At the end of section 25(9)(b)(iii), the word "or".
Taxation of Chargeable Gains Act 1992 (c. 12)	In section 63(1), the words "an heir of entail in possession of any property in Scotland subject to an entail, whether sui juris or not, or of". In section 63(2)— (a) the words "For the purposes of this Act," (b) the words "heir or" before "liferenter", and (c) the words "the heir of entail next entitled to the entailed property under the entail or, as the case may be,". In section 77(6), the word "or" at the end of paragraph (a). In section 83A(3), the word "or" at the end of paragraph (a). Section 83A(3)(b).

These repeals shall come into force in accordance with the provisions of Schedules 12 and 13 to this Act.

	In section 97(7), the words "the preceding provisions of". In section 98(2), the word "and" at the end of paragraph (a). Section 98(2)(b). In section 169(3)(a), the words from ", although" to the end of the paragraph. In section 217(3), the word "and" at the end of paragraph (a). Section 217(3)(b). In section 283(4), the words "as such (within the meaning of section 701(4) of that Act)". In section 286(3), the word "and" at the end of paragraph (b). In section 286(3), the words following paragraph (c). Paragraph 17(6) of Schedule A1. In paragraph 2(7) of Schedule 1, the words from "settlor" to "intestate and". In paragraph 2(7)(a) of Schedule 1, the words "treated under section 69(1) as". In paragraph 7(5) of Schedule 4A, the word "or" at the end of paragraph (a).
Income Tax (Trading and Other Income) Act 2005 (c. 5)	Section 457(4). Section 568(5).
Finance Act 2005 (c. 7)	Section 42(5)(b).

These repeals shall come into force in accordance with the provisions of Schedules 12 and 13 to this Act.

(16) VENTURE CAPITAL SCHEMES

Short title and chapter	*Extent of repeal*
Finance Act 1998 (c. 36)	Section 73(5). In section 73(6), the words from "; and subsection (5)" to the end. In Schedule 13, paragraph 2.
Finance Act 2000 (c. 17)	In Schedule 18, paragraph 1(4).
Finance Act 2004 (c. 12)	In Schedule 18, paragraph 4.

1 The repeals in section 73 of FA 1998 have effect in accordance with paragraph 2(2) to (4) of Schedule 14 to this Act.
2 The repeal of paragraph 2 of Schedule 13 to FA 1998 has effect in accordance with paragraph 5(2) of Schedule 14 to this Act.
3 The repeal of paragraph 1(4) of Schedule 18 to FA 2000 has effect in accordance with paragraph 7(5) of Schedule 14 to this Act.
4 The repeal of paragraph 4 of Schedule 18 to FA 2004 has effect in accordance with paragraph 6(2) of Schedule 14 to this Act.

(17) ALTERNATIVE FINANCE ARRANGEMENTS

Short title and chapter	*Extent of repeal*

Finance Act 2005 (c. 7)	Section 47(5).

(18) NUCLEAR DECOMMISSIONING

Short title and chapter	*Extent of repeal*
Energy Act 2004 (c. 20)	In section 30(1)(c), the words "on the coming into force of the direction mentioned in paragraph (a),".

This repeal has effect in relation to accounting periods of the Nuclear Decommissioning Authority ending on or after 22nd March 2006.

(19) SECURITISATION COMPANIES

Short title and chapter	*Extent of repeal*
Finance Act 2005 (c. 7)	In section 83(3), the word "and" at the end of paragraph (c). In section 84— (a) subsection (3)(d)(ii) and the word "and" following it; (b) subsection (5)(a).

These repeals have effect in accordance with section 101(6) and (7) of this Act.

VALID FROM 19/07/2006

PART 4 U.K.

REAL ESTATE INVESTMENT TRUSTS

Short title and chapter	*Repeal*
Income and Corporation Taxes Act 1988 (c. 1).	Sections 508A, 508B and 842(1AA).
Finance Act 1996 (c. 8).	Schedule 30.

VALID FROM 19/07/2006

PART 5 U.K.

OIL

(1) NEW BASIS FOR DETERMINING THE MARKET VALUE OF OIL

Short title and chapter	***Extent of repeal***
Oil Taxation Act 1975 (c. 22)	In section 5A(5C), paragraph (a) and the word "and" at the end of paragraph (b). In Schedule 3, paragraph 2(3) and, in paragraph 2A,— (a) in sub-paragraph (1), the words ", or in accordance with those sub-paragraphs as modified by sub-paragraph (3) of that paragraph,";(b) in sub-paragraph (3), the words "(with sub-paragraphs (2)(f) of paragraph 2 applying accordingly)".
Finance Act 1983 (c. 28)	Section 38.
Finance Act 1987 (c. 16)	Section 62(2)(c). In Schedule 11— (a) paragraph 1(3) to (7); (b) paragraphs 3 to 5.
Finance (No. 2) Act 1987 (c. 51)	In section 101— (a) in subsection (5) the words ", subject to subsection (6) below"; and (b) subsection (6). In Schedule 8, paragraph 5.
Finance (No. 2) Act 1992 (c. 48)	In Schedule 15, paragraph 4(1).
Finance Act 1994 (c. 9)	Section 235(1)(d) and (2).

1 The repeal in Schedule 8 to F(No.2)A 1987 has effect for chargeable periods beginning on or after 1st July 2006.
2 The other repeals have effect in accordance with section 146 of this Act.

(2) NOMINATION SCHEME

Short title and chapter	***Extent of repeal***
Finance Act 1987 (c. 16)	In section 61(1) the words ", supplies and appropriations". Section 61(6) and (7). In section 61(9) the words "subsection (7) or".

These repeals shall come into force in accordance with the provisions of sections 149 and 150 of this Act.

	In paragraph 1(1) of Schedule 10 the words ", "proposed supply" and "proposed appropriation"". Paragraph 1(2) of Schedule 10. Paragraph 2(1)(b), (c) and (d) of Schedule 10. The words following paragraph 2(1)(d) of Schedule 10. Paragraph 3 of Schedule 10. Paragraph 4(2), (2A) and (4) of Schedule 10. In paragraph 5(1)(b) of Schedule 10, the words "in the case of a proposed sale". In paragraph 5(1)(c) and (d) of Schedule 10, the words "or relevantly appropriated". In paragraph 6 of Schedule 10— (a) in sub-paragraph (1), the words "Subject to sub-paragraph (3) below," and (b) sub-paragraphs (2) and (3). Paragraphs 8 to 11 of Schedule 10. In paragraph 12(1) of Schedule 10, the words ", supply or appropriation".

These repeals shall come into force in accordance with the provisions of sections 149 and 150 of this Act.

PART 6 U.K.

INHERITANCE TAX

Short title and chapter	*Extent of repeal*
Inheritance Tax Act 1984 (c. 51)	In section 3A(1), the words after paragraph (c). In section 54A(2), in paragraph (c), the words ", other than property to which section 71 below applies" and, in paragraph (d)(i), the words "or to which section 71 below applies". In section 71(1)(a), the words "or to an interest in possession in it".

1 The repeals in sections 3A(1) and 54A(2) of IHTA 1984 shall be deemed to have come into force on 22nd March 2006, but the repeal in section 54A(2) of IHTA 1984 is to be read with paragraph 16(4) of Schedule 20 to this Act.
2 The repeal in section 71(1)(a) of IHTA 1984 comes into force in accordance with paragraph 3(2) of Schedule 20 to this Act.

VALID FROM 19/07/2006

PART 7 U.K.

STAMP TAXES

(1) STAMP DUTY AND STAMP DUTY LAND TAX: THRESHOLDS

Short title and chapter	***Extent of repeal***
Finance Act 2005 (c. 7)	Section 95.

This repeal has effect in accordance with section 162 of this Act.

(2) STAMP DUTY LAND TAX: PARTNERSHIPS

Short title and chapter	***Extent of repeal***
Finance Act 2003 (c. 14)	In Schedule 15— (a) in paragraph 10(6), the words "(instead of sub-paragraphs (2) to (5))"; (b) in paragraph 18(6), the words "(instead of sub-paragraphs (2) to (5))".

These repeals have effect in relation to any transfer of which the effective date (within the meaning of Part 4 of FA 2003) is on or after the day on which this Act is passed.

(3) STAMP DUTY LAND TAX: UNIT TRUST SCHEMES

Short title and chapter	***Extent of repeal***
Finance Act 2003 (c. 14)	Section 64A. In section 101(7), the words from "section 53" to "companies), or".
Finance Act 2004 (c. 12)	In Schedule 39, paragraph 18.

These repeals have effect in accordance with section 166 of this Act.

(4) STAMP DUTY LAND TAX: ALTERNATIVE FINANCE

Short title and chapter	***Extent of repeal***
Finance Act 2003 (c. 14).	Section 71A(6). Section 72(6).

(5) STAMP DUTY: RELIEFS FOR CERTAIN COMPANY ACQUISITIONS

Short title and chapter	***Extent of repeal***

These repeals have effect in accordance with section 169 of this Act.

Finance Act 1986 (c. 41)	In section 75(4), the words "that the registered office of the acquiring company is in the United Kingdom and". In section 76(3), the words "that the registered office of the acquiring company is in the United Kingdom and". Section 77(3)(a).

These repeals have effect in accordance with section 169 of this Act.

VALID FROM 19/07/2006

PART 8 U.K.

MISCELLANEOUS PROVISIONS

(1) CLIMATE CHANGE LEVY: ABOLITION OF HALF-RATE SUPPLIES ETC

Short title and chapter	*Extent of repeal*
Finance Act 2000 (c. 17)	In Schedule 6— (a) in paragraph 34(2), the words "(or, in the case of electricity, consumed)"; (b) in paragraph 37(1)(c), the words "half-rate supplies or"; (c) in paragraph 38(1)(c), the words "half-rate supplies or"; (d) paragraph 42(1)(b); (e) paragraph 43; (f) in paragraph 62(1), in paragraph (c), the words "half-rate or" and paragraph (d); (g) paragraph 101(2)(a)(iii); (h) in paragraph 147, the definition of "half-rate supply".

These repeals have effect in accordance with section 172 of this Act.

(2) INTERNATIONAL TAX ARRANGEMENTS

Short title and chapter	*Extent of repeal*
Inheritance Tax Act 1984 (c. 51)	Section 158(1A). Section 220A.
Finance Act 1987 (c. 16)	Section 70(2).
Income and Corporation Taxes Act 1988 (c. 1)	Section 788(2). Section 815C. Section 816(2) and (2ZA).

Finance Act 2000 (c. 17)	Sections 146 and 147.
Finance Act 2002 (c. 23)	In section 88(2)— (a) in paragraph (a), the words "and 815C(1)", (b) in paragraph (b), the words "and 815C", and (c) paragraphs (d) and (e).
Finance Act 2003 (c. 14)	Section 198.
Commissioners for Revenue and Customs Act 2005 (c. 11)	In Schedule 4, in paragraph 37(b), the words "(2), (2ZA) and".