



# Finance Act 1972

## 1972 CHAPTER 41

### PART IV

#### INCOME TAX AND CORPORATION TAX

#### **62 Charge of income tax for 1972-73**

Income tax for the year 1972-73 shall be charged at the standard rate of 38.75 per cent. and, in the case of an individual whose total income exceeds £3,000, at such higher rates in respect of the excess over £2,000 as Parliament may hereafter determine.

#### **63 Surtax rates for 1971-72**

- (1) Subject to subsection (2) below, income tax for the year 1971-72 shall be charged, in the case of an individual whose total income exceeded £3,000, at rates in respect of the excess of that income over £2,000 which respectively exceed the standard rate by the amounts by which the higher rates for the year 1970-71 exceeded the standard rate for that year.
- (2) An individual whose total income for the year 1971-72 did not exceed £3,500 shall be entitled to have the surtax chargeable by virtue of subsection (1) above reduced to an amount equal to 40 per cent. of the difference between his total income and £3,000.

#### **64 Charge of corporation tax for financial year 1971**

Corporation tax shall be charged for the financial year 1971 at the rate of 40 per cent.

#### **65 Alterations of personal reliefs**

- (1) The deductions from tax to be made under section 8 of the Taxes Act (personal relief) shall be increased by the substitution—
  - (a) in subsection (1)(a) (married) of £600 for £465;
  - (b) in subsection (1)(b) (single) of £460 for £325 ; and

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(c) in subsection (2) (wife's earned income relief) of £460 for £325; and accordingly that section shall have effect for the year 1973-74 and subsequent years of assessment as if in the third column of the Table set out in section 33(2) of the Finance Act 1971 the amounts to be deducted from total income under section 8 were £775, £595 and £595 instead of £600, £420 and £420, and that Table shall have effect as if the amounts substituted by paragraphs (a) to (c) above were also substituted in the second column for the amounts shown as previous deductions under section 8; and paragraph 5 of Schedule 6 to the Finance Act 1971 shall have effect with corresponding substitutions.

- (2) In section 7 of the Taxes Act (relief for persons over sixty-five with small incomes)—
- (a) for the references to £530 and £825 (income limits for exemption) there shall be substituted references to £634 and £929 ; and
  - (b) for the reference to £345 (excess over those limits beyond which relief by reduction of tax is excluded) there shall be substituted a reference to £245.
- (3) In section 6 of the Taxes Act (relief for small incomes)—
- (a) for the references to £450 (income limit for full relief) there shall be substituted references to £550; and
  - (b) for the reference to £750 (income limit for marginal relief) there shall be substituted a reference to £805.

## 66 Income tax rates for 1973-74

Income tax for the year 1973-74 shall, unless Parliament otherwise determines, be charged at the basic rate of 30 per cent.; and

- (a) in respect of so much of an individual's total income as exceeds £5,000 at such higher rates as are specified in the Table below; and
- (b) in respect of so much of the investment income included in an individual's total income as exceeds £2,000 at the additional rate of 15 per cent.

TABLE

<i>Part of excess over £5,000</i>	<i>Higher rate</i>
The first £1.000	40 per cent.
The next £1,000	45 per cent.
The next £1,000	50 per cent.
The next £2,000	55 per cent.
The next £2,000	60 per cent.
The next £3,000	65 per cent.
The next £5,000	70 per cent.
The remainder	75 per cent.

## 67 Capital allowances

- (1) In relation to expenditure incurred after 19th July 1971 and before 22nd March 1972 section 42 of the Finance Act 1971 (first-year allowances) shall have effect as if—

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- (a) in subsection (1) 80 per cent. were substituted for 60 per cent.;
  - (b) in subsection (2)(b) the words " for industrial purposes ", in subsection (4) paragraphs (ii) and (iii), and, in subsection (6), the definition of " industrial purposes " were omitted; and
  - (c) in the definition of " mobile equipment" for the words " in or about a building or structure used for industrial purposes " there were substituted the words " in or about premises used for the purposes of a trade, or on agricultural, forestry or amenity land or ".
- (2) In relation to expenditure incurred after 21st March 1972—
- (a) that section shall have effect as if in subsection (1) the words "the whole" were substituted for the words " 60 per cent. " and subsections (2) to (6) were omitted ;
  - (b) paragraph 8 of Schedule 8 to that Act shall have effect as if at the end there were added the following sub-paragraph—
    - “(5) Where a first-year allowance in respect of a person's expenditure on the provision of a ship falls to be withheld or withdrawn by virtue of section 41(2) of this Act, that person's ownership of the ship shall be disregarded in determining for the purposes of this paragraph whether the ship is new.”;
  - (c) section 177(3A) of the Taxes Act shall have effect as if the words " within section 42(2)(b) of that Act" were omitted and after the word " disclaimed " there were inserted the words " or postponed " ; and
  - (d) section 1(2) of the Capital Allowances Act 1968 (initial allowances for industrial buildings and structures, etc.) shall have effect as if for the words " three-twentieths " there were substituted the words " two-fifths " ;
- and accordingly subsection (1)(b) of section 15 of the Finance Act 1970 shall not apply to expenditure so incurred.
- (3) At the end of section 84(1) and of section 95(6) of the Capital Allowances Act 1968 there shall be added the words " unless it is so met by a grant made under Part I of the Industry Act 1972 or such grant made under an enactment of the Parliament of Northern Ireland as may be declared by the Treasury by order made by statutory instrument to correspond to a grant made under the said Part I.
- A statutory instrument made under this section shall be subject to annulment in pursuance of a resolution of the Commons House of Parliament. "
- (4) Expenditure shall not be treated for the purposes of this section as having been incurred after the date on which it was in fact incurred by reason only of section 1(6) of the Capital Allowances Act 1968 (expenditure incurred before trade began) or section 5(1) of that Act (purchase of unused buildings) or so much of section 50(4) of the Finance Act 1971 as relates to expenditure incurred before trade began.

## **68 Restriction of capital allowances in respect of machinery and plant**

- (1) Chapter I of Part III of the Finance Act 1971 shall not apply to capital expenditure on the provision of second-hand machinery or plant incurred by any person on or after 14th June 1972 if—
- (a) the machinery or plant belonged to him at any time before 27th October 1970 or fell to be treated as belonging to him at any such time for the purposes of any provision of Chapter II of Part I of the Capital Allowances Act 1968 ; or

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- (b) capital expenditure on providing the machinery or plant was incurred by another person before the said 27th October and the machinery or plant continues after the date of the transaction under which the first-mentioned expenditure is incurred to be used for the purposes of a trade carried on by that other person.
- (2) Where on or after 14th June 1972 a person disposes of any machinery or plant to another person who is connected with him and the disposal value falls to be treated under subsection (6) of section 44 of the said Act of 1971 as equal to the open market value of the machinery or plant, the proviso to that subsection shall have effect as if the reference to the capital expenditure incurred by the person there mentioned were a reference to that capital expenditure or to the capital expenditure on the provision of the machinery or plant incurred by any other person who is connected with him, whichever is the greater.
- (3) Paragraph 3 of Schedule 8 to the said Act of 1971 shall be amended as follows—
- (a) in sub-paragraph (1) the words " which has been in use for the purposes of a trade carried on by the seller " shall be omitted ;
  - (b) in sub-paragraph (2) for the words " which has been in use for the purposes of a trade carried on by the person to whom the machinery or plant belongs " there shall be substituted the words " belonging to another person ";
  - (c) in sub-paragraph (3) the words " which has been in use for the purposes of his trade " shall be omitted;
- and paragraph (b) of each of those sub-paragraphs shall have effect as if the reference to the machinery or plant continuing to be used for the purposes of a trade carried on by the person there mentioned included a reference to its being used after the date of the sale, the making of the contract or the assignment of the benefit of the contract (as the case may be) for the purposes of a trade carried on by that person or another person who is connected with him (other than the buyer, the person entering into the contract or the assignee) without having been used since that date for the purposes of any other trade except that of leasing machinery or plant.
- (4) In a case in which no disposal value falls to be brought into account as mentioned in sub-paragraph (1) of the said paragraph 3, that sub-paragraph shall have effect as if for the reference to the disposal value to be so brought into account there were substituted a reference to an amount equal to whichever of the following is the smallest—
- (a) the open market value of the machinery or plant;
  - (b) the capital expenditure incurred by the seller on the provision of the machinery or plant;
  - (c) the capital expenditure so incurred by any person who is connected with the seller.
- (5) The said sub-paragraph (1) shall not by virtue of paragraph (a) or (b) thereof deny a first-year allowance if the machinery or plant has not before the sale been used for the purposes of a trade by the seller or any person connected with him but for the purposes of that allowance there shall be disregarded so much (if any) of the expenditure as exceeds whichever is the smallest of the amounts mentioned in subsection (4)(a), (b) and (c) above.
- (6) Subsections (4) and (5) above shall apply in relation to sub-paragraphs (2) and (3) of the said paragraph 3 as they apply in relation to sub-paragraph (1) of that paragraph but taking references—

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- (a) to the sale as references to the making of the contract and to the assignment of the benefit of the contract respectively;
  - (b) to the seller as references to the person to whom the machinery or plant belongs and to the assignor respectively.
- (7) Neither sub-paragraph (1) nor sub-paragraph (2) of the said paragraph 3 shall apply in relation to a sale or contract if the machinery or plant has never been used before the sale or the making of the contract and the business or part of the business of the seller or owner was the manufacture or supply of machinery or plant of that class and the sale was effected or the contract was made in the ordinary course of that business.
- (8) In paragraph 4 of Schedule 8 to the said Act of 1971, sub-paragraph (1)(b) and sub-paragraph (2)(b), together with the word " and " preceding the latter, shall be omitted.
- (9) Subsections (3) to (7) above apply in relation to cases where the incurring of the capital expenditure, the making of the contract or the assignment of the benefit of the contract mentioned in the said paragraph 3(1), (2) or (3) occurs on or after 14th June 1972, and subsection (8) above has effect from that date.
- (10) This section shall be construed as if contained in Chapter I of Part III of the said Act of 1971 ; and in this section " open market value " in relation to any machinery or plant means an amount equal to the price which the machinery or plant would have fetched if sold in the open market and references to persons connected with each other shall be construed in accordance with section 533 of the Taxes Act.

## **69 Restriction of balancing allowances on sale of industrial buildings and structures**

- (1) This section has effect where—
- (a) the relevant interest in a building or structure is sold subject to a subordinate interest; and
  - (b) a balancing allowance would, apart from this section, fall to be made to the person who is entitled to the relevant interest immediately before the sale (" the relevant person ") under section 3 of the Capital Allowances Act 1968 by virtue of the sale; and
  - (c) either—
    - (i) the relevant person, the person to whom the relevant interest is sold and the grantee of the subordinate interest, or any two of them, are connected with each other within the terms of section 533 of the Taxes Act, or
    - (ii) it appears with respect to the sale or to the grant of the subordinate interest, or with respect to transactions including the sale or grant, that the sole or main benefit which, but for this section, might have been expected to accrue to the parties or any of them was the obtaining of an allowance under Chapter I of Part I of the said Act of 1968.
- (2) For the purposes of section 3 of the said Act of 1968 the net proceeds to the relevant person of the sale—
- (a) shall be taken to be increased by an amount equal to any premium receivable by him for the grant of the subordinate interest; and
  - (b) where no rent, or no commercial rent, is payable in respect of the subordinate interest, shall be taken to be what those proceeds would have been if a commercial rent had been payable and the relevant interest had been sold in

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the open market (increased by any amount to be added under paragraph (a) of this subsection) ;

but the net proceeds of sale shall not by virtue of this subsection be taken to be greater than such amount as will secure that no balancing allowance falls to be made.

- (3) Where subsection (2) above operates, in relation to a sale, to deny or reduce a balancing allowance in respect of any expenditure the residue of that expenditure immediately after the sale shall be calculated for the purposes of Chapter I of Part I of the said Act of 1968 as if that balancing allowance had been made or, as the case may be, had not been reduced.

- (4) In this section—

" subordinate interest " means any interest in or right over the building or structure in question (whether granted by the relevant person or by somebody else);

" premium " includes any capital consideration except so much of any sum as corresponds to any amount of rent or profits falling to be computed by reference to that sum under section 80 of the Taxes Act (premium treated as rent or Schedule D profits);

" capital consideration " means consideration which consists of a capital sum or would be a capital sum if it had taken the form of a money payment;

" rent " includes any consideration which is not capital consideration;

" commercial rent " means such rent as may reasonably be expected to have been required in respect of the subordinate interest in question (having regard to any premium payable for the grant of the interest) if the transaction had been at arm's length.

- (5) Where the terms on which a subordinate interest is granted are varied before the sale of the relevant interest any capital consideration for the variation shall be treated for the purposes of this section as a premium for the grant of the interest, and the question whether any and, if so, what rent is payable in respect of the interest shall be determined by reference to the terms as in force immediately before the sale.
- (6) This section shall be construed as if contained in Chapter I of Part I of the said Act of 1968 and applies where the relevant interest is sold on or after 14th June 1972.

## **70 Disabled persons' vehicle maintenance grant**

A grant made under section 33(3) of the Health Services and Public Health Act 1968 (cost of maintenance etc. of vehicles belonging to disabled persons) or under any corresponding enactment of the Parliament of Northern Ireland to any person owning a vehicle shall not be treated as income for any purpose of the Income Tax Acts.

## **71 Temporary disregard of increase in certain pensions and allowances**

So much of any pension or allowance—

- (a) payable under the National Insurance Act 1965 or the National Insurance (Industrial Injuries) Act 1965 or any corresponding enactment of the Parliament of Northern Ireland; or
- (b) payable under any Order in Council, Royal Warrant, order or scheme in respect of death due to service in the armed forces of the Crown or the merchant navy or to war injuries ;

as is attributable to any general increase taking effect in the year 1972-73 shall be left out of account for all the purposes of income tax charged for that year but not for the purpose of furnishing information relating to any person's income for that year.

## **72 Terminal grants to Members of Parliament**

A grant made in pursuance of a resolution of the House of Commons to a person ceasing to be a Member of that House on a dissolution of Parliament shall be exempt from income tax under Schedule E as an emolument, but without prejudice to its being taken into account, to the extent permitted by section 188(3) of the Taxes Act, under section 187 of that Act.

## **73 Compensation for premature retirement, etc.**

The exclusion, by virtue of section 188(1)(d) of the Taxes Act, of certain benefits from the charge to tax under section 187 of that Act (payments on retirement or removal from office or employment) shall not apply to any compensation paid for loss of office or employment or for loss or diminution of emoluments unless the loss or diminution is due to ill-health ; but this section shall not be taken to apply to any payment properly regarded as a benefit earned by past service.

## **74 Occupational pension schemes**

- (1) The date on which—
  - (a) section 22 of the Finance Act 1970 (exemptions and reliefs for certain statutory schemes) comes into force ; and
  - (b) section 209 of the Taxes Act (the provision replaced by section 22) and section 211(5) of that Act cease to have effect;shall, instead of being a date appointed under paragraph 3 of Schedule 3 to the Finance Act 1971, be 6th April 1973 ; and on that date section 210 of the Taxes Act (disallowance of certain contributions) shall cease to have effect.
- (2) Accordingly, in paragraph 3(1) of Schedule 3 to the Finance Act 1971 for the words preceding the paragraphs there shall be substituted the words " On 6th April 1973 " .
- (3) In section 22(2) of the Finance Act 1970 for the words " Any contribution " there shall be substituted the words " Any ordinary annual contribution " and for the words " for which the contribution is paid " the words " in which the contribution is paid " .

## **75 Relief for payment of interest**

- (1) Where a person pays in any year of assessment—
  - (a) annual interest chargeable to tax under Case III of Schedule D; or
  - (b) interest payable in the United Kingdom on an advance from a bank carrying on a bona fide banking business in the United Kingdom or from a person bona fide carrying on a business as a member of a stock exchange in the United Kingdom or bona fide carrying on the business of a discount house in the United Kingdom;and makes a claim to relief under this subsection, then, subject to the following provisions of this section, the amount of the interest shall be deducted from or set off

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against his income for that year of assessment, and income tax shall be discharged or repaid accordingly.

- (2) Where interest is paid at a rate in excess of a reasonable commercial rate relief under this section shall not be given in respect of so much of the interest as represents the excess.
- (3) Relief shall not be given under this section on the first £35 of the interest paid by an individual in any year of assessment except in so far as it is protected interest as defined in Schedule 9 to this Act, that is to say, interest which would have been eligible for relief under section 57, 60 or 190 of the Taxes Act, other than interest on overdrafts.
- (4) Where the whole or part of any sum on which interest is paid by an individual in any year of assessment is outstanding in one or more other years of assessment and—
  - (a) the interest is not protected interest; and
  - (b) the amount (if any) of interest other than protected interest paid by that individual on that and any other sum in that other year or any of those other years is less than £35;
 subsection (2) above shall be applied as if the question whether or to what extent interest paid in any year of assessment is in excess of a reasonable commercial rate had to be decided without regard to whether or at what rate interest is payable in any other year; but the amount on which relief is given under this section shall not be reduced, by virtue of that subsection as so applied, by more than, for each of those other years in which the amount so paid is less than £35, the amount of the difference.
- (5) Where interest other than protected interest is paid after the end of the year of assessment in which it is due the amount on which relief is given under this section shall not be reduced under subsections (3) and (4) above to less than what it would have been had the interest been paid when due.
- (6) For any year in which the agreements set out in Part I of Schedule 12 to the Taxes Act are in force this section shall have effect as if the references to the United Kingdom included references to the Republic of Ireland.
- (7) This section has effect subject to Schedule 10 to this Act.
- (8) The Taxes Act shall have effect subject to the amendments specified in Schedule 11 to this Act; and the enactments mentioned in Part V of Schedule 28 to this Act are hereby repealed to the extent specified in the third column of that Part.

## **76 Securities bought with borrowed money**

- (1) The following provisions of this section shall apply where a person (in this section referred to as " the borrower ") acquires, whether before or after the passing of this Act, any securities, or an interest in any securities, which are redeemable at a specified date (in this section referred to as " the terminal date"); and—
  - (a) he pays interest on a debt or other liability which he has incurred in circumstances which cannot be shown to be unconnected with the acquisition; and
  - (b) the whole or part of the debt or other liability is outstanding in any part of the period of three years ending with the terminal date (in this section referred to as " the terminal period ").
- (2) Subject to subsection (3) below, if—



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- (a) the borrower is for any year of assessment entitled to relief under section 75 of this Act in respect of interest paid on the debt or liability; and
- (b) the total amount on which he is entitled to relief under that section in that year in respect of that and any other interest exceeds £2,000;

then, if the income arising to him from the securities in the terminal period is less than the interest payable by him in respect of so much of the debt or liability as is outstanding in any part of that period, the amount of the difference shall be chargeable to tax under Case VI of Schedule D as if it were income arising to him in the year of assessment in which the securities are redeemed or the securities are or the interest is disposed of by him.

- (3) If the borrower is a close company which is not a trading company, subsection (2) above shall have effect as if—
- (a) the references to a year of assessment were references to an accounting period;
  - (b) the reference to the borrower being entitled to relief under section 75 of this Act were a reference to the borrower being entitled to relief under the Corporation Tax Acts; and
  - (c) paragraph (b) were omitted;
- but subject to subsection (4) below.

- (4) Where a person to whom any part of the company's income is finally apportioned would not be chargeable to tax under subsection (2) above if he, instead of the company, had, to an extent proportionate to that part, acquired and retained the securities, incurred the debt or other liability, and paid the interest on it, and similarly with any other close company any of whose income is finally apportioned to him,—
- (a) the amount finally apportioned to him shall not be increased by virtue of subsection (3) above; and
  - (b) a reduction proportionate to the increase avoided by paragraph (a) above shall be made in the amount on which the company is charged to tax under that subsection, but the reduction shall not diminish the amount finally apportioned to any other person.

- (5) Where under arrangements made between connected persons (within the meaning of section 533 of the Taxes Act) or reciprocal arrangements made between any persons—
- (a) one or more of them (in this subsection referred to as " the holders ") acquire such securities or an interest in such securities as are mentioned in subsection (1) above; and
  - (b) the other or another of them (in this subsection referred to as " the claimant ") pays interest on a debt or other liability which cannot be shown to be unconnected with the holders' acquisition;

then, if subsection (1)(b) above applies to the debt or liability, subsections (2) to (4) above shall apply as if the securities or interest had been acquired and retained by the claimant instead of by the holders.

- (6) In its application to any transaction resulting in a debt or liability falling within subsection (1) of this section, section 496(2) of the Taxes Act (annuity or other annual payment treated as interest) shall have effect as if it required the annuity or payment to be treated as annual interest on that debt or liability.
- (7) For the purposes of this section, where securities of any class are redeemable at different dates they shall be treated as redeemable at the latest of those dates.

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- (8) In this section " security " includes any loan stock or similar security whether of the Government of the United Kingdom or of any other government, or of any public or local authority in the United Kingdom or elsewhere, or of any company, and whether secured or unsecured, and also includes a certificate of deposit as defined in section 55(3) of the Finance Act 1968; and references to an interest in any securities include references to an interest in the proceeds of sale of any securities.
- (9) A debt incurred for the purpose of extinguishing the whole or part of another debt or liability shall be treated for the purposes of this section as incurred for the same purpose as that other, and so on where more than two are successively incurred.
- (10) This section does not apply in relation to any interest paid or income arising before the year 1972-73.

#### **77 Share options-modification of section 186(2) of Taxes Act**

- (1) Where, on or after 11th April 1972, such a right as is mentioned in subsection (1) of section 186 of the Taxes Act is obtained as mentioned therein and the right is capable of being exercised later than seven years after it is obtained, subsection (2) of that section shall not prevent the charging of tax under any other provisions of the Tax Acts in respect of the receipt of the right; but where tax is charged under any of those provisions, it shall be deducted from any tax which, under that section, is chargeable by reference to the gain realised by the exercise, assignment or release of the right.
- (2) For the purpose of any charge to tax enabled to be made by virtue of this section, the value of a right shall be taken to be not less than the market value at the time the right is obtained of the shares which may be acquired by the exercise of the right or of shares for which shares so acquired may be exchanged, reduced by the amount or value (or, if variable, the least amount or value) of the consideration for which the shares may be so acquired.
- (3) Paragraph 6 of Part VII of Schedule 12 to this Act shall apply for the interpretation of this section.

#### **78 Approved share option schemes**

- (1) Where a person, on or after 6th April 1972, exercises a right to acquire shares in a body corporate which he obtained as a director or employee of that or any other body corporate, then, if—
  - (a) the right was obtained by him in pursuance of a scheme approved under Schedule 12 to this Act (whether before or after the right was obtained or exercised); and
  - (b) he satisfies the conditions specified in Part V of that Schedule;
 section 186 of the Taxes Act (charge to tax under Schedule E) shall not apply to any gain realised by him by the exercise and, subject to subsection (2) of this section, tax shall not be chargeable under any other provision of the Tax Acts in respect of the receipt of the right.
- (2) Where such a right is on or after 6th April 1972 obtained by a person as a director or employee of a body corporate in pursuance of a scheme so approved and he satisfies those conditions, but the aggregate of—
  - (a) the amount or value of the consideration (if any) given by him for obtaining the right; and

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- (b) the price at which he may acquire the shares by exercising the right; is less than the market value at the time he obtains the right of the same quantity of issued shares of the same class, he shall be chargeable to tax under Schedule E for the year of assessment in which he obtains the right on the amount of the difference; and the amount so chargeable shall be treated as earned income, whether or not it would otherwise fall to be so treated.
- (3) Where a person who has obtained a right to acquire any shares—
- (a) is chargeable to tax under this section on any amount; and
  - (b) acquires the shares by exercising the right,
- then, on the first disposal of the shares, whether by him or another person, after his acquisition, paragraph 4(1)(a) of Schedule 6 to the Finance Act 1965 (expenditure allowable in computation of chargeable gains) shall apply as if a sum equal to the amount chargeable had formed part of the consideration given by the person making the disposal for his acquisition of the shares.
- (4) Schedule 12 to this Act shall have effect for supplementing this section.

## **79 Share incentive schemes**

- (1) Where a person, on or after 6th April 1972, acquires shares or an interest in shares in a body corporate in pursuance of a right conferred on him or opportunity offered to him as a director or employee of that or any other body corporate, and not in pursuance of an offer to the public, subsections (4) and (7) of this section shall apply unless their application is excluded by subsections (2) and (3) of this section respectively.
- (2) Subsection (4) below does not apply if—
- (a) the acquisition was made in pursuance of a scheme approved (whether before or after the acquisition) under Schedule 12 to this Act and the person making the acquisition satisfies the conditions specified in Part V of that Schedule; or
  - (b) the acquisition was made in pursuance of such arrangements as are mentioned in subsection (8) below; or
  - (c) the acquisition was of shares which were not subject to any restrictions other than restrictions attaching to all shares of the same class, and the majority of shares of that class were acquired otherwise than as mentioned in subsection (1) above.
- (3) Subsection (7) below does not apply if—
- (a) the acquisition was made and the benefit mentioned in that subsection was received in pursuance of a scheme approved (whether before or after the acquisition or receipt) under Schedule 12 to this Act; or
  - (b) the acquisition was made under such arrangements as are mentioned in subsection (8) of this section.
- (4) Where this subsection applies and the market value of the shares at the end of the period mentioned in subsection (6) below exceeds their market value at the time of the acquisition the person making the acquisition shall be chargeable to tax under Schedule E for the year of assessment in which that period ends on an amount equal, except as provided by subsection (5) below, to the excess (or, if his interest is less than the full beneficial ownership, such part of that amount as corresponds to his interest); and the amount so chargeable shall be treated as earned income, whether or not it would otherwise fall to be so treated.

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- (5) The amount on which or on part of which the person making the acquisition is chargeable to tax under subsection (4) above shall, in the following cases, be reduced as follows, that is to say—
- (a) where, in accordance with the terms on which the acquisition of the shares was made, the consideration for the acquisition is subsequently increased, the said amount shall be reduced by an amount equal to the increase; and
  - (b) where, in accordance with those terms, the shares are subsequently disposed of for a consideration which is less than their market value at the time of the disposal, the said amount shall be reduced so as to be equal to the excess of that consideration over the market value of the shares at the time of the acquisition ;
- and similarly where the interest acquired is less than the full beneficial ownership; and such assessments, alterations of assessments or repayments of tax shall be made as may be necessary to give effect to the reduction.
- (6) The period referred to in subsection (4) above is a period ending at the earliest of the following times:—
- (a) the expiration of seven years from the acquisition of the shares or interest in the shares;
  - (b) the time when that person ceases to have any beneficial interest in the shares; and
  - (c) in relation only to a person who acquires shares, the time when the shares cease to be subject to any restrictions other than restrictions attaching to all shares of the same class;
- and for the purposes of that subsection and of paragraph (b) above a person whose beneficial interest in shares is reduced shall be treated as ceasing to have an interest in such part of the shares as is proportionate to the reduction.
- (7) Where this subsection applies and the person making the acquisition receives, by virtue of his ownership of or interest in the shares, any benefit not received by the majority of persons who—
- (a) hold shares forming part of the ordinary share capital of the same body corporate; and
  - (b) have acquired the shares otherwise than as mentioned in subsection (1) above;
- and the benefit is not otherwise chargeable to income tax, he shall be chargeable to tax under Schedule E for the year of assessment in which he receives the benefit on an amount equal to the value of the benefit; and the amount so chargeable shall be treated as earned income, whether or not it would otherwise fall to be so treated.
- (8) The arrangements referred to in subsections (2)(b) and (3)(b) of this section are arrangements under which employees of a body corporate receive as part of their emoluments shares or interests in shares of that body or of a body controlling it to an extent determined in advance by reference to the profits of either body.
- (9) Where an amount is chargeable to tax under this section on a person acquiring any shares or interest in shares, then on the first disposal of the shares (whether by him or another person) after his acquisition, paragraph 4(1)(a) of Schedule 6 to the Finance Act 1965 (expenditure allowable in computation of chargeable gains) shall apply as if a sum equal to the amount chargeable had formed part of the consideration given by the person making the disposal for his acquisition of the shares.

- (10) For the purposes of this section, where a person acquires any shares or an interest in shares in a body corporate in pursuance of a right conferred on him or opportunity offered to him as a person connected with a director or employee of that or any other body corporate, the shares or interest shall be deemed to be acquired by the director or employee, and subsection (9) above shall apply with the necessary modifications; and where that person receives a benefit as mentioned in subsection (7) above, the benefit shall be deemed to be received by the director or employee.
- (11) For the purposes of this section a person who disposes of shares or an interest in shares otherwise than by a bargain at arm's length with a person who is not connected with him shall be deemed not to cease to have a beneficial interest in the shares.
- (12) Schedule 12 to this Act shall have effect for supplementing this section.

## **80 Land sold and leased back: taxation of consideration received**

- (1) If, in any case where a person (in this section referred to as " the lessee ") who is a lessee of land under a lease having not more than 50 years to run (in this section referred to as " the original lease ") is entitled in respect of the rent under the lease to a deduction by way of tax relief of a kind to which section 491 of the Taxes Act applies (land sold and leased back: limitation on tax reliefs),—

- (a) the lessee assigns the original lease to another person, or surrenders it to his landlord, for a consideration which apart from this section would not be taxable otherwise than as capital in the hands of the lessee, and
- (b) there is granted or assigned to the lessee another lease (in this section referred to as " the new lease ") of or including the whole or any part of the land which was the subject of the original lease for a term not exceeding 15 years,

then, subject to the following provisions of this section, the provisions of the Taxes Act providing for deductions or allowances by way of tax relief in respect of payments of rent shall apply in relation to the rent under the new lease, and for the purposes of the Tax Acts a proportion of the consideration received by the lessee shall be treated not as a capital receipt but in accordance with subsection (3) below.

- (2) For the purposes of this section—
- (a) if the aggregate of the rent payable under the new lease in respect of any rental period ending on a date falling before the 15th anniversary of the date on which the term of the new lease begins is greater than the aggregate of the rent payable under the new lease in respect of the period of equal duration beginning on the day following that date, then, unless the term of the new lease would be treated as ending on an earlier date by virtue of paragraph (b) below, that term shall be treated as ending on that date ; and
- (b) if under the terms of the new lease either the lessor or the lessee has power to determine the new lease at a time before the expiry of the term for which it was granted or the lessee has power to vary his obligations under the new lease so as to reduce the rent which he would otherwise have to pay or in any other manner beneficial to him, then, unless the term of the new lease would be treated as ending on an earlier date by virtue of paragraph (a) above, that term shall be treated as ending on the earliest date with effect from which, in exercise of that power, the lessor or the lessee could determine the new lease or, as the case may be, the lessee could so vary his obligations;

and in any case where a rentcharge payable by the lessee is secured on the whole or any part of the property which is the subject of the new lease, the rent payable under

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the new lease shall be treated for the purposes of paragraphs (a) and (b) above as equal to the aggregate of the rentcharge and the rent payable under the terms of that lease.

- (3) Subject to the following provisions of this section, the proportion of the consideration received by the lessee as mentioned in subsection (1) above, or of any instalment thereof, which for the purposes of the Tax Acts is to be treated not as a capital receipt but in accordance with this subsection shall be determined by the formula—

$$\frac{16 - n}{15}$$

where " n " is the term of the new lease expressed in years or, if that term is less than a year, where " n " is 1; and that proportion shall be treated for the purposes of those Acts—

- (a) as a receipt of a trade, profession or vocation, if the rent payable by the lessee under the new lease is allowable as a deduction in computing profits or gains or losses of a trade, profession or vocation for the purposes of tax and if the consideration is received by the lessee in the course of that trade, profession or vocation, and
- (b) in any other case, as a profit or gain chargeable under Case VI of Schedule D.
- (4) In any case where the property which is the subject of the new lease does not include the whole of the property which was the subject of the original lease, the consideration received by the lessee shall be treated for the purposes of subsection (3) above as reduced to that portion thereof which is reasonably attributable to such part of the property which was the subject of the original lease as consists of, or is included in, the property which is the subject of the new lease.
- (5) Schedule 3 to the Taxes Act (relief for individuals in respect of premiums taxable under Schedules D and A) shall have effect for the purpose of giving relief, on a claim being made in that behalf, from any increase in an individual's liability to income tax which is attributable to any amount being treated, by virtue of subsection (3) above, as an income receipt for a single year of assessment rather than as a series of such receipts during the term of the new lease; and in the application of that Schedule by virtue of this subsection, for the definitions of " chargeable sum " and " relevant period " there shall be substituted the following definitions:—
- “" chargeable sum " means the amount in respect of which, by virtue of subsection (3) above, the claimant is chargeable for income tax for the year of assessment;
- " relevant period ", in relation to any chargeable sum, means the term of the new lease.”
- (6) Where, by agreement with his landlord, the lessee varies the terms of the original lease in such a manner that, in return for such a consideration as is specified in subsection (1)(a) above, the lessee undertakes to pay, during a period ending not later than 15 years after the date on which the consideration, or if the consideration is paid in instalments, the last instalment thereof, is paid to the lessee, a rent greater than that payable under the original lease, he shall be treated for the purposes of this section as having surrendered the original lease for that consideration and as having been granted a new lease for a term not exceeding 15 years but otherwise on the terms of the original lease as so varied.
- (7) References in this section to the lessee (other than in subsection (1)(a) above) include references to a person who is a partner or associate of the lessee or an associate of a

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partner of the lessee; and for the purposes of this section the expression " associate " shall be construed in accordance with section 494(10) of the Taxes Act.

- (8) Subject to subsection (7) above, expressions used in this section have the meanings assigned to them by section 90 of the Taxes Act (interpretation of Part III), and in subsection (2)(a) above " rental period " means a period in respect of which a payment of rent falls to be made, and for the purposes of that subsection, in a case where the rental period is a quarter or a month, each such period shall be treated as of equal duration.
- (9) The preceding provisions of this section shall not apply if the lessee had, before 22nd June 1971, a right enforceable at law or in equity to the grant of the new lease, but in any case where, apart from this subsection, those provisions would apply, no part of the rent paid under the new lease shall be treated as a payment of capital, and the provisions of the Taxes Act providing for deductions or allowances by way of tax relief in respect of payments of rent shall apply accordingly.

## **81 Premiums for and duration of leases**

- (1) In subsection (6) of section 80 of the Taxes Act (amount payable by instalments) for the words from " shall, if he makes a claim " to the end there shall be substituted the words " may, if he satisfies the Board that he would otherwise suffer undue hardship, be paid at his option by such instalments as the Board may allow over a period not exceeding eight years and ending not later than the time at which the last of the first-mentioned instalments is payable ".
- (2) Section 84 of the Taxes Act (rules for ascertaining duration of leases) shall be amended as follows—
- (a) in subsection (1), paragraph (a) shall be omitted and in paragraph (b) after the words " a date falling before the expiry of the term of the lease " there shall be inserted the words " and the premium was not substantially greater than it would have been (on the assumptions required by subsection (2) below) had the term been one expiring on that date ";
- (b) at the end of subsection (1) there shall be added: "and
- (d) where the tenant, or a person connected with him (within the meaning of section 533 of this Act) is or may become entitled to a further lease or the grant of a further lease (whenever commencing) of the same premises or of premises including the whole or part of the same premises, the term of the lease may be treated as not expiring before the term of the further lease.";
- (c) in subsection (2) for the words " subsection (1)(b) " (in both places) there shall be substituted the words " subsection (1) " and at the end of the subsection there shall be added the words " and where, by the lease or in connection with the granting of it, benefits were conferred other than vacant possession and beneficial occupation of the premises or the right to receive rent at a reasonable commercial rate in respect of them, or payments were made which would not be expected to be made by parties so acting if no other benefits had been so conferred, it shall be further assumed, unless it is shown that the benefits were not conferred or the payments made for the purpose of securing a tax advantage in the application of this Part of this Act, that the benefits would not have been conferred nor the payments made had the lease been for a term ending on the date mentioned in subsection (1)(b) above. ";

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- (d) in subsection (3) for the words " subsection (1)" there shall be substituted the words " subsections (1) and (2) ".
- (3) In section 90(1) of the Taxes Act, in the definition of " premium " after the words " superior landlord " there shall be added the words " or to a person connected, within the meaning of section 533 of this Act, with the immediate or a superior landlord ".
- (4) After section 90(2) of the Taxes Act there shall be inserted the following subsections—
- “(2A) Where paragraph (d) of section 84(1) above applies, the premium, or an appropriate part of the premium, payable for or in connection with either lease mentioned in that paragraph may be treated as having been required under the other.
- (2B) References in this section to a sum shall be construed as including the value of any consideration, and references to a sum paid or payable or to the payment of a sum shall be construed accordingly.”
- (5) After section 84(3) of the Taxes Act there shall be inserted the following subsection—
- “(3A) Where an inspector has reason to believe that a person has information relevant to the ascertainment of the duration of a lease in accordance with the preceding provisions of this section, the inspector may by notice in writing require him to give, within a time specified in the notice, such information on the matters specified in the notice as is in his possession ; but a solicitor shall not be so required to do more, in relation to anything done by him on behalf of a client, than state that he is or was acting on behalf of a client and give the name and address of his client. and the subsection so inserted shall be added to the provisions of the Taxes Act specified in the second column of the Table set out in section 98 of the Taxes Management Act 1970 (penalty for failure to furnish information).”;
- (6) Subject to the transitional provisions contained in Schedule 13 to this Act, subsection (1) of this section shall be deemed to have come into force on 11th April 1972 and subsections (2) to (4) on 25th August 1971.

## **82 Appeals against determinations under sections 80 to 82 of Taxes Act**

- (1) Where it appears to the inspector that the determination of any amount on which a person may be chargeable to tax by virtue of section 80, 81 or 82 of the Taxes Act may affect the liability to tax of other persons he may give notice in writing to those persons as well as to the first-mentioned person of the determination he proposes to make and of the rights conferred on them by this section.
- (2) Any person to whom such a notice is given may, within thirty days after the date on which it is given, object to the proposed determination by notice in writing given to the inspector.
- (3) Where notices have been given under subsection (1) above and no notice of objection is duly given under subsection (2) above the inspector shall make the determination as proposed in his notices and the determination shall not be called in question in any proceedings.
- (4) Where a notice of objection is duly given the amount mentioned in subsection (1) above shall be determined in like manner as an appeal and shall be so determined by



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the Special Commissioners or such body of General Commissioners as may be agreed on by the person to be charged and all persons who have given notice of objection.

- (5) All persons to whom notices have been given under subsection (1) above may take part in any proceedings under subsection (4) above and in any appeal arising out of those proceedings and shall be bound by the determination made in the proceedings or on appeal, whether or not they have taken part in the proceedings; and their successors in title shall also be so bound.
- (6) A notice under subsection (1) above may, notwithstanding any obligation as to secrecy or other restriction on the disclosure of information, include a statement of the grounds on which the inspector proposes to make the determination.
- (7) An inspector may by notice in writing require any person to give, within the time specified in the notice, such information as appears to the inspector required for deciding whether to give a notice under subsection (1) above to any person.
- (8) In section 98 of the Taxes Management Act 1970 (penalty for failure to furnish information etc.) the following shall be added in the second column of the Table: "Section 82 of the Finance Act 1972".
- (9) In this section "tax" means income tax, corporation tax or capital gains tax.

### **83 Double taxation relief for underlying tax**

- (1) Subsection (4) of section 498 of the Taxes Act (relief for underlying tax where dividend is paid by overseas company to company resident in the United Kingdom if not less than 10 per cent. of voting power in the company paying the dividend is directly or indirectly controlled by the company receiving it or by that company's parent) shall apply also where the voting power controlled as mentioned in that subsection is less than 10 per cent. if—
  - (a) it has been reduced below that percentage on or after 1st April 1972; or
  - (b) it has been acquired on or after that date in exchange for voting power in another company in respect of which relief under the said subsection (4) was due prior to the exchange,and the company receiving the dividend shows that the conditions specified in subsection (2) below are satisfied.
- (2) The said conditions are—
  - (a) that the reduction below the said percentage (and any further reduction) or, as the case may be, the exchange (and any reduction thereafter) could not have been prevented by any reasonable endeavours on the part of the company receiving the dividend and was due to a cause or causes not reasonably foreseeable by it when control of the relevant voting power was acquired; and
  - (b) no reasonable endeavours on the part of that company could have restored or, as the case may be, increased the voting power to not less than 10 per cent.
- (3) In subsection (2) above references to the company receiving the dividend include references—
  - (a) to any company of which it is a subsidiary within the meaning of section 500(2) of the Taxes Act; and
  - (b) where prior to the reduction or exchange the voting power in question was controlled otherwise than directly by the company receiving the dividend, to

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each other company relevant for determining whether that voting power was controlled as required by the said subsection (4).

- (4) In subsection (2)(a) above " the relevant voting power " means the voting power by virtue of which relief was due under the said subsection (4) prior to the reduction or exchange or, where control of the whole of that voting power was not acquired at the same time, that part thereof of which control was last acquired.
- (5) In any case in which relief in respect of a dividend is due by virtue of the foregoing provisions of this section there shall be taken into account, as if it were tax payable under the law of the territory in which the company paying the dividend is resident, any tax that would be so taken into account under section 508 of the Taxes Act (extension of relief to U.K. and third country taxes) if the company paying the dividend and the company receiving it were related to each other within the meaning of subsection (5) of that section.
- (6) This section has effect with respect to dividends paid (within the meaning of section 527(3) of the Taxes Act) on or after 1st April 1972.