



# Finance (No. 2) Act 1975

## 1975 CHAPTER 45

### PART III

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

### CHAPTER I

#### GENERAL

#### 25 Charge of income tax for 1975-76

Income tax for the year 1975-76 shall be charged at the basic rate of 35 per cent.; and

- (a) in respect of so much of an individual's total income as exceeds £4,500 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 £1,000 at the additional rates of 10 per cent, for the first £1,000 of the excess and 15 per cent, for the remainder;

except that, in the case of an individual who shows that, at any time within that year, his age or that of his wife living with him was sixty-five years or more, income tax at the additional rate of 10 per cent, shall not be charged in respect of the first £500 of the excess mentioned in paragraph (b) above.

TABLE

<i>Part of excess over £4,500</i>	<i>Higher rate</i>
The first £500	40 per cent.
The next £1,000	45 per cent.
The next £1,000	50 per cent.
The next £1,000	55 per cent.

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<i>Part of excess over £4,500</i>	<i>Higher rate</i>
The next £2,000	60 per cent.
The next £2,000	65 per cent.
The next £3,000	70 per cent.
The next £5,000	75 per cent.
The remainder	83 per cent.

**26 Charge of corporation tax for financial year 1974**

Corporation tax shall be charged for the financial year 1974 at the rate of 52 per cent.

**27 Corporation tax: other rates and fractions**

- (1) The fraction by which, under section 93(2) of the Finance Act 1972, chargeable gains are to be reduced before they are for the purposes of corporation tax included in the profits of an authorised unit trust or investment trust shall, as from 1st April 1974, be seventy-one one-hundred-and-fourths (instead of the fraction specified in section 10(1)(b) of the Finance Act 1974).
- (2) The small companies rate for the financial year 1974 shall be 42 per cent, and for that year the fraction mentioned in section 95(2) of the Finance Act 1972 (marginal relief for small companies) shall be one-sixth.

**28 Rate of advance corporation tax for financial year 1975**

The rate of advance corporation tax for the financial year 1975 shall be thirty-five sixty-fifths.

**29 Relief for interest: limit for 1975-76**

In paragraph 5(1) of Schedule 1 to the Finance Act 1974 (limit on relief for interest on certain loans for purchase or improvement of land used as an only or main residence) the references to £25,000 shall have effect for the year 1975-76 as well as for the year 1974-75.

**30 Alteration of personal reliefs**

- (1) In section 8 of the Taxes Act (personal relief)—
  - (a) for the reference in subsection (1)(a) (married) to £865 there shall be substituted a reference to £955 ; and
  - (b) for the references in subsection (1)(b) (single) and (2) (wife's earned income) to £625 there shall be substituted references to £675.
- (2) In section 14 of the Taxes Act (additional relief for widows and others in respect of children) for the references to £180 there shall be substituted references to £280.
- (3) In section 18 of the Taxes Act (relief for blind persons)—
  - (a) for any reference to £100 or £130 there shall be substituted a reference to £180; and

- (b) for any reference to £200 or £260 there shall be substituted a reference to £360.

### **31 Age allowance**

- (1) After subsection (1) of section 8 of the Taxes Act there shall be inserted the following subsections—

“(1A) Subject to subsection (1B) below, subsection (1) above shall have effect—

- (a) in relation to a claim by a person who proves that he or his wife was at any time within the year of assessment of the age of sixty-five or upwards, as if the sum specified in paragraph (a) were £1,425 ; and  
(b) in relation to a claim by a person who proves that he was at any time within the year of assessment of the age of sixty-five or upwards, as if the sum specified in paragraph (b) were £950.

(1B) Where the claimant's total income for the year of assessment exceeds £3,000, subsection (1A) above shall not apply except in a case where the deduction to be allowed under subsection (1) above will be increased by virtue of this subsection; and in such a case shall apply as if the sums mentioned in it were reduced by two-thirds of the excess of that total income over £3,000.”

- (2) Section 7 of the Taxes Act shall cease to have effect.  
(3) In section 5 of the Taxes Act for the words " sections 7 to 21 " there shall be substituted the words " sections 8 to 21 ".  
(4) In section 34(3) of the Finance Act 1971 for the reference to section 7 of the Taxes Act there shall be substituted a reference to section 8(1B) of that Act.  
(5) In paragraph 3(3) of Schedule 4 to the Finance Act 1971 for the reference to section 7 of the Taxes Act there shall be substituted a reference to section 8(1A) of that Act.

### **32 Interim benefit for unmarried or separated parents with children**

For the purposes of the Income Tax Acts payments of benefit under section 16 of the Child Benefit Act 1975 (interim benefit for unmarried or separated parents with children) or any corresponding provision having effect in Northern Ireland shall be deemed to be payments on account of allowances under the Family Allowances Act 1965 or the Family Allowances Act (Northern Ireland) 1966, as the case may be.

### **33 Exemption of non-contributory invalidity pension**

In section 219(1)(a) of the Taxes Act (which, as amended by Schedule 2 to the Social Security (Consequential Provisions) Act 1975, charges to income tax benefits under certain provisions of the Social Security Act 1975 or the Social Security (Northern Ireland) Act 1975 except unemployment benefit, sickness benefit, invalidity benefit, attendance allowance, maternity benefit and death grant), after the words " attendance allowance " there shall be inserted the words " non-contributory invalidity pension, ".

### **34 Stock dividends**

- (1) Subject to subsections (9) to (11) below, this section applies to the following share capital, that is to say—

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- (a) any share capital issued by a company resident in the United Kingdom in consequence of the exercise by any person of an option conferred on him to receive in respect of shares in the company (whether the last-mentioned shares were issued before or after the coming into force of this section) either a dividend in cash or additional share capital; and
  - (b) any bonus share capital issued by a company so resident in respect of any shares in the company of a relevant class (whether the last-mentioned shares were issued before or after the coming into force of this section).
- (2) For the purposes of subsection (1)(b) above a class of shares is a relevant class if—
- (a) shares of that class carry the right to receive bonus share capital in the company of the same or a different class ; and
  - (b) that right is conferred by the terms on which shares of that class were originally issued or by those terms as subsequently extended or otherwise varied.
- (3) Where a company issues any share capital to which this section applies in a case in which two or more persons are entitled thereto, the following provisions of this section and paragraph 3 of Schedule 8 to this Act shall have effect as if the company had issued to each of those persons separately a part of that share capital proportionate to his interest therein on the due date of issue.
- (4) Subject to the following provisions of this section, where a company issues any share capital to which this section applies in a case in which an individual is beneficially entitled to that share capital, that individual shall be treated as having received on the due date of issue income of an amount which, if reduced by an amount equal to income tax thereon at the basic rate for the year of assessment in which that date fell, would be equal to the appropriate amount in cash (as defined in paragraph 1 of Schedule 8 to this Act), and—
- (a) no assessment shall be made on the individual in respect of income tax at the basic rate on the said income but he shall be treated as having paid tax at the basic rate on it or, if his total income is reduced by any deductions, on so much of the said income as is part of his total income as so reduced ;
  - (b) no repayment shall be made of income tax treated by virtue of paragraph (a) above as having been paid; and
  - (c) the said income shall be treated for the purposes of sections 52 and 53 of the Taxes Act as not brought into charge to income tax.
- (5) Where a company issues any share capital to which this section applies to the personal representatives of a deceased person as such during the administration period, the amount of income which, if the case had been one in which an individual was beneficially entitled to that share capital, that individual would have been treated under subsection (4) above as having received shall be deemed for the purposes of Part XV of the Taxes Act to be part of the aggregate income of the estate of the deceased.
- The preceding provisions of this subsection shall be construed as if contained in Part XV of the Taxes Act; and in section 432(7) of that Act there shall be added at the end the words " and section 34(5) of the Finance (No. 2) Act 1975 (stock dividends) ".
- (6) Where a company issues any share capital to which this section applies to trustees in respect of any shares in the company held by them (or by them and one or more other persons) in a case in which a dividend in cash paid to the trustees in respect of those shares would have been to any extent income to which section 16 of the Finance

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Act 1973 (charge to additional rate of certain income of discretionary trusts) applies, then—

- (a) there shall be ascertained the amount of income which, if the case had been one in which an individual was beneficially entitled to that share capital, that individual would have been treated under subsection (4) above as having received; and
- (b) income of that amount shall be treated as having arisen to the trustees on the due date of issue and as if it had been chargeable to income tax at the basic rate; and
- (c) paragraphs (a) to (c) of subsection (4) above shall, with the substitution of "income" for "total income" and all other necessary modifications, apply to that income as they apply to income which an individual is treated as having received under that subsection.

In section 17(3)(b) of the Finance Act 1973 (amounts to be set off in connection with payments under discretionary trusts) after "above" there shall be inserted "or under section 34(6) of the Finance (No. 2) Act 1975".

- (7) Schedule 8 to this Act shall have effect for supplementing this section, which is there referred to as the principal section.
- (8) For the purposes of this section and Schedule 8 to this Act—
  - (a) "bonus share capital", in relation to a company, means share capital issued by the company otherwise than wholly for new consideration or such part of any share capital so issued as is not properly referable to new consideration;
  - (b) "the due date of issue", in relation to any share capital issued by a company, means the earliest date on which the company was required to issue that share capital;
  - (c) an option to receive either a dividend in cash or additional share capital is conferred on a person not only where he is required to choose one or the other, but also where he is offered the one subject to a right, however expressed, to choose the other instead, and a person's abandonment of, or failure to exercise, such a right is to be treated as an exercise of the option; and
  - (d) section 237 of the Taxes Act (supplemental provisions about company distributions), excluding the proviso in subsection (1) and subsections (5) and (6), shall apply as it applies for the purposes of Part X of the Taxes Act.
- (9) This section shall be deemed to have come into force on 6th April 1975, but shall not apply to—
  - (a) any share capital issued by a company which falls within subsection (1)(a) or (b) above but of which the due date of issue preceded that date; or
  - (b) any share capital issued by a company in respect of shares in the company which confer on the holder a right to convert or exchange them into or for shares in the company of a class which is not a relevant class for the purposes of subsection (1)(b) above where the due date of issue of the share capital so issued precedes the earlier of the following dates, namely—
    - (i) the day next after the earliest date after 5th August 1975 on which conversion or exchange of the shares could be effected by an exercise of that right; and
    - (ii) 6th April 1976 or, in the case of share capital issued by an investment trust (within the meaning of Chapter VI of Part XII of the Taxes Act), 6th April 1977.

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- (10) Where, in a case within subsection (4) above, the share capital in question is issued in respect of shares in the company issued before 6th April 1975 which confer on the holder a right to convert or exchange them into or for shares in the company of a different class, this section shall not apply to so much (if any) of any bonus share capital issued by the company after 5th April 1976 in connection with an exercise of that right as would have been issued if that right had been exercised so as to effect the conversion or exchange of the shares on the earliest possible date after 5th April 1975; and subsections (5) and (6) above shall, where applicable, have effect accordingly.
- (11) Where any bonus share capital falling within subsection (1)(b) above (whether issued before or after the coming into force of this section) is after 5th April 1975 converted into or exchanged for shares in the company in question of a different class, then—
- (a) this section shall not apply to any shares in the company issued, in connection with the conversion or exchange, in consideration of the cancellation, extinguishment or acquisition by the company of that bonus share capital; but
  - (b) sub-paragraphs (a) and (b) of paragraph 6 of Schedule 8 to this Act shall apply to any shares in the company issued, in connection with the conversion or exchange, in consideration of the cancellation, extinguishment or acquisition by the company of so much of that bonus share capital as caused an individual to be treated under subsection (4) above as having received an amount of income on the due date of issue (or would have done so if the case had been one in which an individual was beneficially entitled to that share capital).

### **35 Benefits in kind: insurance against cost of medical treatment**

- (1) Where a person incurs expense in or in connection with the provision for any employee, by reason of his employment, of insurance against the cost of medical treatment in circumstances such that section 196(1) of the Taxes Act (benefits in kind to be taken into account) would not, apart from this section, apply to the expense (whether because of the rate of the employee's emoluments or for any other reason), then, irrespective of the rate of those emoluments, Chapter II of Part VIII of the Taxes Act (expenses allowances to directors and others) shall have effect in relation to the expense as if—
- (a) the employee (if not so employed) were employed by the person incurring the expense in an employment to which that Chapter applies; and
  - (b) section 201 (exclusion of charities and non-trading bodies) were omitted.
- (2) Where expense in or in connection with the provision of insurance against the cost of medical treatment is incurred by a person in respect of two or more employees as members of a group or class, then, for the purposes of subsection (1) above and of Chapter II of Part VIII of the Taxes Act in its application (whether or not by virtue of that subsection) to that expense, the expense incurred in respect of any one of those employees shall be taken to be such part of that expense as is just and reasonable.
- (3) Notwithstanding anything in this section or Chapter II of Part VIII of the Taxes Act, that Chapter shall not apply in relation to expense incurred wholly in or in connection with the provision for an employee of insurance against the cost of medical treatment outside the United Kingdom the need for which arises while he is outside the United Kingdom for the purpose of performing the duties of his employment.
- (4) For the purposes of this section—

- (a) " employee " means the holder of any office or employment such that any emoluments thereof would fall to be assessed under Schedule E, and related expressions shall be construed accordingly ;
  - (b) medical treatment includes all forms of treatment for, and all procedures for diagnosing, any physical or mental ailment, infirmity or defect, and the cost of medical treatment includes the cost of being an inpatient, whether or not in a private room, for the purpose of medical treatment;
  - (c) any such provision as is mentioned in subsection (1) above which is made for an employee by his employer shall be deemed to be made for the employee by reason of his employment; and
  - (d) any reference to the provision of insurance for an employee includes a reference to the provision of it for the spouse or family of that employee.
- (5) This section has effect for the year 1976-77 and subsequent years of assessment.

### **36 Benefits in kind: vouchers other than cash vouchers**

- (1) Subject to subsection (2) below, where a voucher provided for an employee by reason of his employment is received by the employee, then, for the purposes of the Income Tax Acts—
- (a) he shall be treated as having received in the relevant year of assessment an emolument from his employment of an amount equal to the expense incurred by the person providing the voucher in or in connection with the provision of the voucher and the money, goods or services for which it is capable of being exchanged; and
  - (b) any money, goods or services obtained by the employee or any other person in exchange for the voucher shall be disregarded.

For the purposes of this subsection the relevant year of assessment, in relation to a voucher, is the one in which the said expense is- incurred by the person providing the voucher or, if different and later, the one in which the voucher is received by the employee.

- (2) Where a voucher provided for an employee by reason of his employment is exchanged by him for goods or services such that, if he had purchased those goods or services for money, the money expended by him would have qualified for relief under section 189 of the Taxes Act (relief for necessary expenses), subsection (1) above shall not apply in relation to that voucher.
- (3) Where a voucher provided for an employee by reason of his employment is appropriated to him (whether by attaching it to a card held for him or in any other way), subsection (1) above shall have effect as if the employee had received the voucher at the time when it was so appropriated.
- (4) In this section " voucher " does not include a cash voucher within the meaning of section 37 of this Act but, subject to that, means any voucher, stamp or similar document capable of being exchanged (whether singly or together with other such vouchers, stamps or documents, and whether immediately or only after a time) for money, goods or services (or for any combination of two or more of those things).
- (5) For the purposes of this section—
- (a) " employee " and related expressions have the meaning given by section 35(4) (a) of this Act;

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- (b) where a person incurs expense in or in connection with the provision by him of vouchers for two or more employees as members of a group or class, the expense incurred in respect of any one of them shall be taken to be such part of that expense as is just and reasonable;
  - (c) a voucher provided for an employee by his employer shall be deemed to be provided for him by reason of his employment; and
  - (d) any reference to a voucher being provided for or received by an employee includes a reference to it being provided for or received by the spouse or family of that employee.
- (6) This section has effect for the year 1976-77 and subsequent years of assessment.

**37 Benefits in kind: cash vouchers to be taxed under P.A.Y.E**

- (1) Where a cash voucher provided for an employee by reason of his employment is received by the employee, then, subject to subsection (5) below, for the purposes of the Income Tax Acts (and in particular section 204(1) of the Taxes Act (pay as you earn))—
- (a) he shall be treated as being paid by his employer, at the time when he receives the voucher, an emolument of his employment of an amount equal to the sum of money for which the voucher is capable of being exchanged as mentioned in subsection (3) below; and
  - (b) any money obtained by the employee or any other person in exchange for the voucher shall be disregarded.
- (2) Where a cash voucher provided for an employee by reason of his employment is appropriated to him (whether by attaching it to a card held for him or in any other way), subsection (1) above and subsection (5) below shall have effect as if the employee had received the voucher at the time when it was so appropriated.
- (3) In this section "cash voucher" (subject to subsection (4) below) means any voucher, stamp or similar document capable of being exchanged (whether singly or together with other such vouchers, stamps or documents, and whether immediately or only after a time) for a sum of money greater than, equal to or not substantially less than the expense incurred in providing the voucher by the person who provides it (whether or not it is also capable of being exchanged for goods or services), except that it does not include—
- (a) any document intended to enable a person to obtain payment of the sum mentioned in the document, being a sum which if paid to him directly would not have been chargeable to income tax under Schedule E; or
  - (b) a savings certificate the accumulated interest payable in respect of which is exempt from tax (or would be so exempt if certain conditions were satisfied).
- (4) Where a voucher, stamp or similar document is capable of being exchanged (as aforesaid) for a sum of money substantially less than the expense incurred in providing the voucher by the person who provides it, and the difference or part of the difference represents the cost to that person of providing benefits in connection with sickness, personal injury or death, then in determining whether the voucher, stamp or document is a cash voucher within the meaning of this section the expense incurred by him in providing it shall be treated as reduced by that difference or part.
- (5) Subsection (1) above shall not apply to a cash voucher received by an employee if, at the time when the voucher is received, the scheme under which it was issued is a



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scheme approved by the Board for the purposes of this subsection ; and the Board shall not approve a scheme for those purposes unless satisfied that it is practicable for income tax to be deducted in accordance with regulations under section 204 of the Taxes Act from all payments made in exchange for vouchers issued under the scheme.

- (6) Subsection (5)(a), (c) and (d) and subsection (6) of section 36 of this Act shall apply for the purposes of this section (the references in the said subsection (5)(c) and (d) to a voucher being for this purpose read as references to a cash voucher).

### **38 Workers supplied by agencies**

- (1) Subject to the provisions of this section, where—
- (a) an individual (in this section called " the worker") renders or is under an obligation to render personal services to another person (in this section called " the client") and is subject to, or to the right of, supervision, direction or control as to the manner in which he renders those services ; and
  - (b) the worker is supplied to the client by or through a third person (in this section called " the agency "), and renders or is under an obligation to render those services under the terms of a contract between the worker and the agency (in this section called " the relevant contract"); and
  - (c) remuneration receivable under or in consequence of that contract would not, apart from this section, be chargeable to income tax under Schedule E,
- then, for all the purposes of the Income Tax Acts, the services which the worker renders or is under an obligation to render to the client under that contract shall be treated as if they were the duties of an office or employment held by the worker, and all remuneration receivable under or in consequence of that contract shall be treated as emoluments of that office or employment and shall be assessable to income tax under Schedule E accordingly.
- (2) Subsection (1)(b) above includes cases in which the third person is an unincorporated body of which the worker is a member.
- (3) Subsection (1) above shall apply whether or not the worker renders or is under an obligation to render the services in question as a partner in a firm or member of an unincorporated body; and where, in any case in which that subsection applies, the worker is a partner in a firm or a member of such a body, remuneration receivable under or in consequence of the relevant contract shall be treated for all the purposes of the Income Tax Acts as income of the worker and not as income of the firm or body.
- (4) For the purposes of this section any remuneration which the client pays or provides by reason of the worker being a person who renders or is under an obligation to render the services in question shall be treated as receivable in consequence of the relevant contract.
- (5) Subsection (1) above shall not apply—
- (a) if the services in question are services as an actor, singer, musician or other entertainer or as a fashion, photographic or artist's model; or
  - (b) if the services in question are rendered wholly in the worker's own home or at other premises which are neither under the control or management of the client nor premises at which the worker is required, by reason of the nature of the services, to render them ; or
  - (c) if in rendering the services the worker is or would be a sub-contractor within the meaning of section 69(2) of this Act.

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- (6) Where an individual enters into arrangements with another person with a view to the rendering of personal services by the individual, being arrangements such that, if and when he renders any such services as a result of the arrangements, those services will be treated under subsection (1) above as if they were the duties of an office or employment held by him, then for all purposes of the Income Tax Acts any remuneration receivable under or in consequence of the arrangements shall be treated as emoluments of an office or employment held by the individual and shall be assessable to income tax under Schedule E accordingly.
- (7) Where—
- (a) any services which an individual renders or is under an obligation to render under a contract are treated under subsection (1) above as the duties of an office or employment held by him ; or
  - (b) any remuneration receivable under or in consequence of arrangements to which subsection (6) above applies is treated under that subsection as emoluments of an office or employment held by an individual,
- section 15 of the Taxes Management Act 1970 (return of employees etc.) shall apply as if that individual were employed—
- (i) in a case within paragraph (a) above, by the person or each of the persons from whom he receives any remuneration under or in consequence of the contract; and
  - (ii) in a case within paragraph (b) above, by the other party to the arrangements, and section 16 of that Act (return of payments made to persons other than employees) shall not apply to any payments made to that individual under or in consequence of that contract or under those arrangements.
- (8) In this section " remuneration ", in relation to an individual, does not include anything in respect of which he would not have been chargeable to tax under Schedule E if it had been receivable in connection with an office or employment held by him but, subject to that, includes every form of payment and all perquisites, benefits and profits whatsoever.
- (9) The preceding provisions of this section shall have effect for the year 1976-77 and subsequent years of assessment.
- (10) In assessing to income tax under Case I or Case II of Schedule D any profits or gains arising or accruing in the year 1975-76 or any earlier year of assessment from any trade, profession or vocation not permanently discontinued before 6th April 1976, being profits or gains which, if subsections (1) to (8) above had had effect for that year, would have been assessable to tax under Schedule E, the trade, profession or vocation shall be treated for all the purposes of the Income Tax Acts as having been permanently discontinued on 5th April 1976:

Provided that where only part of those profits or gains would, if those subsections had had effect for that year, have been assessable to tax under Schedule E, that part shall be treated as arising or accruing from a separate trade, profession or vocation, and only that separate trade, profession or vocation shall be treated under this subsection as having been permanently discontinued as aforesaid.

**39 Increase in deductions to be made from payments to subcontractors in the construction industry**

Section 29 of the Finance Act 1971 (which requires deductions to be made from payments to certain sub-contractors in the construction industry) shall have effect in relation to payments made on or after 1st September 1975 with the substitution in subsection (4) (amount of deduction) for " 30 per cent. " of " 35 per cent. ".

**40 Amendment of Finance Act 1975, Schedule 2, paragraph 19**

At the beginning of sub-paragraph (1) of paragraph 19 of Schedule 2 to the Finance Act 1975 there shall be inserted the words " Subject to sub-paragraph (1A) below " and after that sub-paragraph there shall be inserted the following sub-paragraph :

“(1A) Except where the deficiency mentioned in sub-paragraph (1) above occurs in connection with a contract for a life annuity made after 26th March 1974, the deduction allowable under that sub-paragraph shall be made only for the purpose of ascertaining the individual's excess liability, that is to say, the excess (if any) of his liability to income tax over what it would be if all income tax were chargeable at the basic rate to the exclusion of any other rate.”.

**41 Securities bought with borrowed money**

In relation to interest paid or income arising after 29th April 1975 section 76(3) of the Finance Act 1972 (securities bought with borrowed money where borrower is a close company which is not a trading company) shall have effect with the omission of the words " which is not a trading company " and with the addition, at the end, of the following proviso—

“Provided that subsection (2) above shall not by virtue of this subsection apply—

- (a) in the case of a debt or liability incurred by a close company in connection with the acquisition by it of any securities, or an interest in any securities, if the proceeds accruing to the company from the redemption of the securities, or from a disposal of them or of the interest in them, are treated as a receipt of its trade ; or
- (b) in the case of a debt or liability incurred by a close company in connection with the acquisition by it of Treasury Bills.”

**42 Insurance companies: effect for tax purposes of identification or exchange of long term assets**

- (1) The provisions of this section apply to any insurance company which carries on or has carried on long term business, and shall have effect for all purposes of the Corporation Tax Acts.
- (2) A profit or loss shall not be taken to have arisen in respect of any asset of the company by reason only that—
  - (a) the asset has at any time on or after the base date been identified under arrangements made for the purposes of section 23(3) of the Insurance Companies Act 1974 as attributable to the company's long term business; or

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- (b) the asset is not among the assets of the company which have at any time on or after that date been identified under those arrangements as so attributable.
- (3) Subject to subsection (5) below, a profit or loss shall not be taken to arise in respect of any asset of the company by reason only that at any time after the base date the asset was or is exchanged for other assets of the company so as to become or cease to be part of the long term assets.
- (4) Subject to subsection (6) below, if an asset of the company which has at any time after 29th April 1975 been exchanged as mentioned in subsection (3) above is—
  - (a) within the period of one year beginning with the date of that exchange ("the relevant exchange") exchanged again for other assets of the company so as to cease to be or, as the case may be, become part of the long term assets; or
  - (b) within the period of six months beginning with the date of the relevant exchange disposed of by the company,
 then any income arising in respect of the asset after the relevant exchange, and any profit, gain or loss accruing to the company on a disposal of the asset made after the relevant exchange, shall be treated as if the relevant exchange had not taken place.
- (5) If an insurance company to which this section applies by notice in writing given to the inspector so elects, then, where in the relevant period any relevant asset of the company was or is exchanged as mentioned in subsection (3) above—
  - (a) that subsection shall not apply in relation to that asset as regards that exchange ; and
  - (b) the company shall be treated as if the asset had been disposed of at market value by the company at the time of the exchange.

In this and the following subsection—

" the relevant period ", in relation to a notice under this subsection, means the period of six years from the end of the accounting period of the company in which the notice is given or, if the notice is given within one year after the passing of this Act and so requires, the period beginning with the day after the base date and ending six years after the end of the accounting period of the company in which the day after the base date fell;

" relevant asset ", in relation to an insurance company, means an asset of the company such that, if it were sold, the proceeds would be taken into account in any computation of profits of the company in accordance with the provisions of the Taxes Act applicable to Case I of Schedule D.

- (6) Where an insurance company has given a notice under subsection (5) above, subsection (4) above shall, as regards relevant assets disposed of by the company in the relevant period, have effect as if paragraph (b) and the reference to any profit, gain or loss accruing to the company on a disposal made after the relevant exchange were omitted.
- (7) If at any time after the base date an insurance company to which this section applies disposed or disposes of an asset which—
  - (a) was or is part of the long term assets at the time of the disposal, but without having been continuously part of those assets since its acquisition by the company; or
  - (b) was or is not part of the long term assets at the time of the disposal, but without having been continuously not part of those assets since its acquisition by the company,

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the asset shall be treated, in a case falling within paragraph (a) above, as if it had been continuously part of the long term assets from the time of its acquisition by the company to the time of the disposal, or, in a case falling within paragraph (b) above, as if it had been continuously not part of the long term assets from the time of its acquisition by the company to the time of its disposal; and if the disposal is one as respects which subsection (4) above applies, this subsection shall apply as if the relevant exchange (within the meaning of that subsection) had not taken place.

- (8) Without prejudice to the preceding subsection, if—
- (a) an insurance company to which this section applies disposes of an asset which, since its acquisition by the company, has on one or more occasions (whether after the base date or not) been exchanged for other assets of the company ; and
  - (b) as regards that occasion or one or more of those occasions the company was assessed to income tax or corporation tax in an amount computed by reference to the value of the asset at the time of the exchange,
- then, in computing for any purpose of the Corporation Tax Acts the profit, gain or loss (if any) arising on the disposal, the asset shall be deemed to have been acquired by the company on the occasion or latest of the occasions mentioned in paragraph (b) above at a cost equal to the value by reference to which the company was so assessed as regards that occasion.
- (9) There shall be made such assessments, reductions of assessments or, on a claim in that behalf, repayments of tax as may in any case be required in order to give effect to subsection (4) or (5) above.
- (10) In this section, unless the context otherwise requires, " asset" includes part of an asset and any reference to a disposal of part of an asset includes a reference to a part disposal of an asset within the meaning of section 22(2)(b) of the Finance Act 1965 ; and where a part of an asset is exchanged or disposed of as mentioned in any of subsections (3) to (8) above, that subsection shall have effect as if that part of the asset and the part not exchanged or disposed of were separate assets.
- (11) For the purposes of this section—
- " the base date ", in relation to an insurance company, means the last day of the financial year of the company which ended next after 7th December 1973 ;
  - " financial year " has the same meaning as it has for the purposes of the Insurance Companies Act 1974 or, in Northern Ireland, the Insurance Companies Act (Northern Ireland) 1968;
  - " insurance company " means a company to which Part II of the Insurance Companies Act 1974 or the Insurance Companies Act (Northern Ireland) 1968 applies;
  - " long term assets ", in relation to an insurance company, means assets representing the fund or funds maintained by the company in respect of its long term business ;
  - " long term business " has the meaning given by section 1(2) of the Insurance Companies Act 1974 or, in Northern Ireland, section 72 of the Insurance Companies Act (Northern Ireland) 1968.
- (12) In relation to any time before 31st August 1974, and in its application to Northern Ireland on or after that date, subsection (2) above shall have effect as if the reference to section 23(3) of the Insurance Companies Act 1974 were a reference to section 7(3) of the Insurance Companies Amendment Act 1973.

### **43 Oil: restriction on carrying forward of losses incurred before the end of 1972**

- (1) In the case of an oil company, as defined in this section, section 177(1) of the Taxes Act (carrying forward of losses) shall have effect subject to the provisions of this section; and in those provisions " the material time " means the end of the year 1972, and references to losses being set off are references to their being set off under the said section 177(1).
- (2) Of the losses which the company incurred before the material time in its trade (other than losses excepted by subsection (5) below)—
  - (a) none shall be capable of being set off against trading income to which this paragraph applies; and
  - (b) the amount capable of being set off against other trading income arising after that time from the trade shall not exceed whichever of the amounts mentioned in subsection (4) below is the greater.
- (3) Subsection (2) (a) above applies to the following trading income, that is to say—
  - (a) trading income arising after the material time from the separate trade consisting of activities falling within paragraph (a) or (b) of section 13(1) of the Oil Taxation Act 1975 (treatment of oil extraction activities etc. as a separate trade); and
  - (b) trading income which would fall within the preceding paragraph if in section 13(6) of that Act, so far as it relates to the operation of the said section 13(1), for the references to 11th July 1974 there were substituted references to 31st December 1972.
- (4) The amounts referred to in subsection (2)(b) above are—
  - (a) the total amount of relevant trading income arising in the period beginning with 1st January 1973 and ending with 11th July 1974 ; and
  - (b) £50 million;

and in this subsection " relevant trading income " means trading income arising from the trade in which the losses mentioned in subsection (2) above were incurred, exclusive of trading income to which paragraph (a) of that subsection applies.
- (5) There shall be excepted from the operation of subsection (2) above any losses which, if section 13(1) of the Oil Taxation Act 1975 had had effect as regards the chargeable period in which they were incurred, would have been treated as incurred in the separate trade consisting of activities falling within paragraph (a) or (b) of the said section 13(1).
- (6) For the purposes of this section a company is an oil company if at the material time it carried on a trade the activities of which, at any time within the period of five years ending with the material time, included the acquisition, in the circumstances mentioned in paragraph (a) or (b) of subsection (7) below, of crude oil or the acquisition, in the circumstances mentioned in paragraph (c) of that subsection, of oil products, in substantial quantities.
- (7) The circumstances referred to in subsection (6) above are that—
  - (a) the oil was extracted under rights exercisable by one or more companies associated with the company; or
  - (b) the oil was extracted under rights exercisable by another company and not less than 20 per cent, of that other company's ordinary share capital was owned directly or indirectly by one or more of the following, that is to say, the company and companies associated with it; or

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- (c) the oil products were acquired from one or more companies associated with the company and not resident in the United Kingdom, and the company was, at the time of the acquisition, associated with a company having rights to extract oil or with a company which (without regard to this paragraph) is or would but for subsection (8) below be an oil company.
- (8) In relation to a company not resident in the United Kingdom references in this section to activities of a trade carried on by the company are only to activities carried on through a branch or agency in the United Kingdom.
- (9) For the purposes of this section—
- (a) two companies are associated with one another if one is under the control of the other or both are under the control of the same person or persons, and "control" has the meaning assigned to it by section 534 of the Taxes Act; and
  - (b) any question whether ordinary share capital is owned by a company directly or indirectly shall be determined as for the purposes of section 532 of the Taxes Act; and
  - (c) rights are exercisable by a company if they are exercisable by that company alone or jointly with another company or companies.
- (10) In this section—
- "oil" does not include coal or anything won or capable of being won under the authority of a licence granted under either the Petroleum (Production) Act 1934 or the Petroleum (Production) Act (Northern Ireland) 1964 but, subject to that, includes any mineral oil or relative hydrocarbon;
  - "oil products" means products which are derived from oil and are wholly or substantially of a hydrocarbon nature;
  - "crude", where the reference is to the acquisition of crude oil, refers to its acquisition without having been refined, and for the purposes of this definition refining does not include the subjecting of oil to any process of which the purpose is to enable it to be safely stored, safely loaded into a tanker or safely accepted by an oil refinery.

#### **44 Payment of tax: general**

- (1) Section 4 of the Taxes Act (which, in relation to the year 1972-73 and earlier years of assessment, has effect as originally enacted and, in relation to later years of assessment, has effect as amended by paragraph 3 of Schedule 6 to the Finance Act 1971) shall be amended as follows—
- (a) in subsection (1) (income tax: general), for the words from "except that" to the end there shall be substituted the words "or at the expiration of a period of thirty days beginning with the date of the issue of the notice of assessment, whichever is the later";
  - (b) in subsection (2) (income tax under Schedule D charged in respect of the profits or gains of any trade, profession or vocation), for the words "on such other date" and the words "on such other day" there shall be substituted the words "at the expiration of such period" and for the words "the assessment is not made until after the said following 1st July" there shall be substituted the words "the date of the issue of the notice of assessment is later than the 1st June following the end of the year of assessment";
  - (c) in subsection (3) as originally enacted (surtax), for the words from "except that" to the end there shall be substituted the words "or at the expiration of

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a period of thirty days beginning with the date of the issue of the notice of assessment, whichever is the later "; and

- (d) in subsection (3) as substituted by paragraph 3 of Schedule 6 to the Finance Act 1971 (income tax charged at a rate other than the basic rate on certain income), for the words " is treated as having been deducted " there shall be substituted the words " from or on which income tax is treated as having been deducted or paid " and for the words from "except that" to the end there shall be substituted the words " or at the expiration of a period of thirty days beginning with the date of the issue of the notice of assessment, whichever is the later ".
- (2) The following provisions of the Taxes Act, that is to say—  
 section 243(4) (corporation tax: general),  
 section 244(1) (corporation tax: companies trading before financial year 1965),  
 and  
 section 344(2) (corporation tax: building societies),  
 shall each be amended by substituting for the words " one month from the making of the assessment " the words " thirty days from the date of the issue of the notice of assessment".
- (3) In paragraph 9 of Schedule 5 to the Taxes Act (machinery for assessment, charge and payment of income tax under Schedule C and, in certain cases, Schedule D), after the word " Ireland " there shall be inserted the words " within thirty days from the date of the issue of the notice of assessment ".
- (4) In section 20(6) of the Finance Act 1965 (capital gains tax) for the words " the date of making the assessment" there shall be substituted the words " the date of the issue of the notice of assessment ".
- (5) In section 29(5) of the Taxes Management Act 1970 (notice of assessment), after the words " shall state " there shall be inserted the words " the date on which it is issued and ".
- (6) In section 36 of the Finance Act 1971 (construction of references in Income Tax Acts to deduction of tax), after the words " deducted from " there shall be inserted the words " or paid on " and after the words " to deduction " there shall be inserted the words " or payment ".
- (7) This section and sections 45 and 46 below shall not have effect in relation to tax charged by assessments notice of which was issued before the passing of this Act.

#### **45 Payment of tax pending appeal**

- (1) For section 55 of the Taxes Management Act 1970 (recovery of tax not in dispute) there shall be substituted—

**“55 Recovery of tax not postponed.**

- (1) This section applies to an appeal to the Commissioners against—
- (a) an assessment to income tax under Schedule A, Schedule C or Schedule D,
  - (b) an assessment charging income tax at a rate other than the basic rate on income from which income tax has been deducted (otherwise than under section 204 of the principal Act) or from or on which income



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tax is treated as having been deducted or paid or income chargeable under Schedule F,

- (c) an assessment to income tax made under Schedule 20 to the Finance Act 1972 (income tax on company payments) other than an assessment charging tax the time for the payment of which is given by paragraph 4(1) or 9 of that Schedule,
- (d) an assessment to capital gains tax,
- (e) an assessment to corporation tax other than an assessment made under Schedule 14 to the Finance Act 1972 (advance corporation tax) charging tax the time for the payment of which is given by paragraph 3(1) or 9 of that Schedule.

- (2) If no application is made under subsection (3) below, the tax charged by the assessment shall be due and payable as if it were tax charged by an assessment in respect of which no appeal was pending.
- (3) If the appellant has grounds for believing that he is overcharged to tax by the assessment, he may, by notice in writing given to the inspector within thirty days after the date of the issue of the notice of assessment, apply to the Commissioners for a determination of the amount of tax the payment of which should be postponed pending the determination of the appeal.

A notice of application under this subsection shall state the amount in which the appellant believes that he is overcharged to tax and his grounds for that belief.

- (4) If, after any determination of the amount of tax the payment of which should be so postponed, there is a change in the circumstances of the case as a result of which either party has grounds for believing that the amount so determined has become excessive or, as the case may be, insufficient, he may, by notice in writing given to the other party at any time before the determination of the appeal, apply to the Commissioners for a further determination of that amount.

A notice of application under this subsection shall state the amount in which the applicant believes that the amount previously determined has become excessive or, as the case may be, insufficient and his grounds for that belief.

- (5) An application under subsection (3) or (4) above shall be heard and determined in the same way as the appeal; and where any such application is heard and determined by any Commissioners, that shall not preclude them from hearing and determining the appeal or any application or further application under subsection (4) above.
- (6) The amount of tax the payment of which shall be postponed pending the determination of the appeal shall be the amount (if any) in which it appears to the Commissioners, having regard to the representations made and any lawful evidence adduced, that there are reasonable grounds for believing that the appellant is overcharged to tax ; and—
  - (a) in the case of a determination made on an application under subsection (3) above, any tax the payment of which is not so postponed shall be due and payable as if it were tax charged by an assessment notice of which was issued on the date of that determination and in respect of which no appeal was pending ; and

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- (b) in the case of a determination made on an application under subsection (4) above, any tax the payment of which ceases to be so postponed shall be due and payable as if it were tax charged by an assessment notice of which was issued on the date of that determination and in respect of which no appeal was pending, or any tax overpaid shall be repaid, as the case may require.
- (7) If the appellant and the inspector come to an agreement, whether in writing or otherwise, as to the amount of tax the payment of which should be postponed pending the determination of the appeal, the like consequences shall ensue as would have ensued if the Commissioners had made a determination to that effect under subsection (6) above on the date when the agreement was come to, but without prejudice to the making of a further agreement or of a further determination under that subsection.
- (8) Where an agreement is not in writing—
- (a) subsection (7) above shall not apply unless the fact that an agreement was come to, and the terms agreed, are confirmed by notice in writing given by the inspector to the appellant or by the appellant to the inspector, and
  - (b) the reference in that subsection to the time when the agreement was come to shall be construed as a reference to the time of the giving of the notice of confirmation.
- (9) On the determination of the appeal—
- (a) any tax payable in accordance with that determination the payment of which had been postponed, or which had not been charged by the assessment, shall be due and payable as if it were tax charged by an assessment—
    - (i) notice of which was issued on the date on which the inspector issues to the appellant a notice of the total amount payable in accordance with the determination, and
    - (ii) in respect of which no appeal was pending, or
  - (b) any tax overpaid shall be repaid, as the case may require.
- (10) In this section 'inspector' means the inspector or other officer of the Board by whom the notice of assessment was issued; and references in this section to an agreement being come to with an appellant and the giving of notice to or by an appellant include references to an agreement being come to with, and the giving of notice to or by, a person acting on behalf of the appellant in relation to the appeal.
- (11) Section 45(2) above shall not apply to an application under subsection (3) or (4) above; and the transfer of proceedings under this Act from one body of Commissioners to another body of Commissioners shall not affect the validity of a determination under subsection (6) above.”
- (2) Section 55 of the said Act of 1970 as substituted by subsection (1) above shall have effect in relation to tax charged for a year or other period of assessment ending before 6th April 1973 as if for subsection (1)(b) and (c) there were substituted—
- “(b) an assessment to surtax,

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- (c) an assessment to income tax made under Schedule 9 to the principal Act (income tax on company distributions) other than an assessment charging tax the time for the payment of which is given by paragraph 2(3) of that Schedule”.
- (3) Section 56(9) (statement of case for opinion of the High Court) and section 59(6) (election for county court in Northern Ireland) of the said Act of 1970 shall each be amended by substituting for paragraph (b) of the proviso—
- “(b) if too little tax has been charged, the amount undercharged shall be due and payable at the expiration of a period of thirty days beginning with the date on which the inspector issues to the other party a notice of the total amount payable in accordance with the order or judgment of that Court.”
- (4) In section 48(2) of the said Act of 1970 (application to appeals and other proceedings), for the words " to the omission of section 56(9) below and to any other necessary modifications " there shall be substituted the words " to any necessary modifications, including (except in the case of applications under section 55 below) the omission of section 56(9) below ".

#### **46 Interest on unpaid tax**

- (1) For section 86 of the Taxes Management Act 1970 (interest on overdue tax) there shall be substituted—

**“86 Interest on overdue tax.**

- (1) Any tax charged by an assessment to which this section applies shall carry interest at the prescribed rate from the reckonable date until payment.
- (2) This section applies to—
  - (a) an assessment to income tax under Schedule A, Schedule C, Schedule D or Schedule E,
  - (b) an assessment charging income tax at a rate other than the basic rate on income from which income tax has been deducted (otherwise than under section 204 of the principal Act) or from or on which income tax is treated as having been deducted or paid or income chargeable under Schedule F,
  - (c) an assessment to capital gains tax,
  - (d) an assessment to corporation tax other than an assessment made under Schedule 14 to the Finance Act 1972 (advance corporation tax).
- (3) In this section " reckonable date " means—
  - (a) in relation to any tax the date for the payment of which is given by section 55 above and which, if there had been no appeal, would have become due and payable on an earlier date, that earlier date or the date mentioned in subsection (4) below, whichever is the later, and
  - (b) in relation to any tax not falling within paragraph (a) above, the date on which it becomes due and payable.
- (4) The date referred to in subsection (3)(a) above is the date on which the tax becomes due and payable or the date given by the following Table, whichever is the earlier.

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TABLE

<i>Description of tax</i>	<i>Date applicable</i>
1. Tax charged by an assessment to income tax under Schedule A or an assessment to income tax under Schedule D other than an assessment made under Part III of Schedule 5 to the principal Act (machinery for assessment, charge and payment of income tax under Schedule C and, in certain cases, Schedule D).	1. The 1st July following the end of the year of assessment.
2. Tax charged by an assessment to income tax under Schedule C or an assessment to income tax under Schedule D made under Part III of Schedule 5 to the principal Act.	2. The last day of the six months following the end of the thirty days mentioned in paragraph 9 of the said Schedule 5.
3. Tax charged by an assessment charging income tax as mentioned in subsection (2) (b) above.	3. The 1st January following the end of the year of assessment.
4. Tax charged by an assessment to capital gains tax.	4. The 1st January following the end of the year of assessment.
5. Tax charged by an assessment to corporation tax other than an assessment made under Schedule 14 to the Finance Act 1972.	5. The last day of the six months following— (a) in a case where section 243(4) of the principal Act applies, the end of the nine months there mentioned; (b) in a case where section 244(1) of that Act applies, the end of the interval there mentioned from the end of the accounting period to which the assessment relates ; or (c) in a case where section 344 of that Act applies, the last day on which the tax could have been paid within the time limit imposed by subsection (2)(a) of that section.

(5) Tax charged by an assessment to which this section applies shall carry interest from the reckonable date even if that date is a non-business day within the meaning of section 92 of the Bills of Exchange Act 1882.

(6) Where the amount of interest payable under this section on the tax charged by any assessment does not exceed £10, that interest may, if the Board think fit, be remitted.”

(2) Section 86 of the said Act of 1970 as substituted by subsection (1) above shall have effect in relation to tax charged for the year 1972-73 or an earlier year of assessment as if—

(a) for subsection (2)(b) there were substituted—

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- “(b) an assessment to surtax”, and
- (b) in subsection (3)(a) after the word " or " there were inserted the words " (except in the case of surtax) " .
- (3) Section 87 of the said Act of 1970 (which, in relation to interest on overdue income tax on company distributions, has effect as originally enacted and, in relation to interest on overdue advance corporation tax and overdue income tax on company payments, has effect as substituted by paragraph 10 of Schedule 24 to the Finance Act 1972) shall be amended as follows—
- (a) in subsection (3) as originally enacted, and in subsection (4) as so substituted, for the words " £5 " there shall be substituted the words " £10 " , and
- (b) at the end of the section there shall be added as subsection (8)—
- “(8) Tax assessable as mentioned in subsection (1) above shall carry interest from the date when it becomes due and payable even if that date is a non-business day within the meaning of section 92 of the Bills of Exchange Act 1882.”
- (4) At the end of section 88 of the said Act of 1970 (interest on tax recovered to make good loss due to taxpayer's fault) there shall be added as subsection (6)—
- “(6) Tax charged by an assessment mentioned in subsection (1) above shall carry interest from the date when it ought to have been paid even if that date was a non-business day within the meaning of section 92 of the Bills of Exchange Act 1882.”
- (5) Section 109 of the said Act of 1970 (which, in relation to tax charged in connection with loans and other payments made and shortfalls occurring before 6th April 1973, has effect as originally enacted and, in relation to tax charged in connection with loans made on or after that date, has effect as substituted by paragraph 13 of Schedule 24 to the Finance Act 1972) shall be amended as follows—
- (a) in subsection (4) as originally enacted, for the words " subsection (2) and paragraph (a) of subsection (3) " there shall be substituted the words " subsection (4) and the words ' or the date mentioned in subsection (4) below, whichever is the later ' in subsection (3)(a) " ,
- (b) in subsection (2) as so substituted, for the words " sub sections (2) and (3)(a) of the said section 86 were omitted " there shall be substituted the words " the date given by the Table in subsection (4) of the said section 86 were the last day of the three months following the end of the financial year in which the loan or advance was made " , and
- (c) in subsection (3) as so substituted, for the words " year of assessment " there shall be substituted the words " financial year " .
- (6) After paragraph 7 (6) (a) of Schedule 16 to the Finance Act 1972 (apportionment of income etc. of close companies) there shall be inserted as paragraph (aa)—
- “(aa) shall carry interest as if it were advance corporation tax so payable; and”.

#### **47 Repayment supplement in respect of delayed repayments of certain taxes to persons other than companies**

- (1) Subject to the provisions of this section, where—

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- (a) in the case of income tax, surtax or capital gains tax paid by or on behalf of an individual for a year of assessment for which he was resident in the United Kingdom, a repayment thereof of not less than £25 is (after the passing of this Act) made by the Board or an inspector after the end of the twelve months following that year of assessment; or
- (b) in the case of the special charge under Part IV of the Finance Act 1968, a repayment thereof of not less than £25 is (after the passing of this Act) so made,

the repayment shall be increased under this section by an amount (in this section referred to as a "repayment supplement") equal to interest on the amount repaid at the rate of 9 per cent, per annum for the period (if any) between the relevant time and the end of the tax month in which the order for the repayment is issued.

- (2) In relation to so much (if any) of the last-mentioned period as preceded 6th April 1974, subsection (1) above shall have effect as if the rate of interest there specified were 6 per cent, per annum (instead of the rate there specified or any other rate in force by virtue of subsection (7) below).
- (3) Subsections (1) and (2) above—
  - (a) shall, with the necessary modifications, apply to a payment of the whole or part of a tax credit under section 86 of the Finance Act 1972 as they apply to a repayment falling within subsection (1) of income tax paid in the year of assessment to which the tax credit relates ; and
  - (b) shall apply to a repayment made in consequence of a claim under section 228 of the Income Tax Act 1952 (relief in respect of income accumulated under trusts) as if the repayment were of income tax paid by the claimant for the year of assessment in which the contingency mentioned in that section happened.
- (4) For the purposes of subsection (1) above—
  - (a) if the repayment is of tax that was paid after the end of the twelve months following the year of assessment for which it was payable, the relevant time is the end of the year of assessment in which that tax was paid ;
  - (b) if the repayment is of the special charge, the relevant time, as regards so much of the charge as was paid before the end of the year 1969-70, is the end of that year, and, as regards so much of the charge as was paid in any later year of assessment, is the end of the year of assessment in which it was paid ;
  - (c) in any other case, the relevant time is the end of the twelve months mentioned in that subsection ;

and, subject to subsection (6) below, where a repayment to which subsection (1) above applies is of tax paid in two or more years of assessment, the repayment shall as far as possible be treated for the purposes of this subsection as a repayment of tax paid in a later rather than an earlier year among those years.
- (5) For the purposes of subsections (1) and (4) above income tax deducted by virtue of regulations made under section 204 of the Taxes Act (pay as you earn) from a person's emoluments during any year of assessment shall (without prejudice to subsection (6) below) be treated as paid by him for that and no other year of assessment.
- (6) Where in consequence of an assessment under Schedule E for any year of assessment there is made by the Board or an inspector a repayment of income tax of not less than £25, being an amount which takes account of tax overpaid or remaining unpaid for one or more earlier years of assessment, then—

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- (a) the repayment shall for the purposes of this subsection be attributable to such of the years in question, and in such proportions, as may be determined in accordance with regulations made under and for the purposes of this subsection by the Board; and
  - (b) subsections (1) and (4) above shall have effect in relation to so much of the repayment as is by virtue of paragraph (a) above attributed to any particular year of assessment as if in subsection (1) the words "of not less than £25 " were omitted.
- (7) Without prejudice to subsection (2) above, the Treasury may by order from time to time increase or decrease the rate of interest by reference to which repayment supplements are calculated under subsection (1) above.
- (8) A repayment supplement shall not be payable under this section in respect of a repayment or payment made in consequence of an order or judgment of a court having power to allow interest on the repayment or payment, or in respect of a repayment of a post-war credit within the meaning of the Income Tax (Repayment of Post-War Credits) Act 1959.
- (9) A repayment supplement paid to any person under this section shall not be income of that person for any tax purposes.
- (10) The powers conferred by this section to make regulations or orders shall be exercisable by statutory instrument, and any regulations or order made under this section shall be subject to annulment in pursuance of a resolution of the House of Commons.
- (11) The preceding provisions of this section shall apply in relation to a partnership, or a United Kingdom trust (as defined in section 110(1) of the Finance Act 1972), or, in the case of a United Kingdom estate, the personal representatives of a deceased person as such (within the meaning of section 432(4) of the Taxes Act) as they apply in relation to an individual.
- (12) In this section—  
    " tax month " means the period beginning with the 6th day of any calendar month and ending with the 5th day of the following calendar month ;  
    " United Kingdom estate " has the meaning given by section 432(8) of the Taxes Act.

#### **48 Repayment supplement in respect of delayed repayments of certain taxes to companies**

- (1) This section applies to the following payments made to a company in connection with any accounting period for which the company was resident in the United Kingdom (in this section called " the relevant accounting period "), that is to say—
- (a) a repayment of corporation tax paid by the company for that accounting period (including advance corporation tax paid in respect of distributions made by the company in that accounting period and any sum paid in respect of that period on an assessment under paragraph 7(6)(a) of Schedule 16 to the Finance Act 1972); or
  - (b) a repayment of income tax in respect of a payment received by the company in that accounting period on which the company bore income tax by deduction;  
or

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- (c) a payment of the whole or part of the tax credit comprised in any franked investment income received by the company in that accounting period.
- (2) Subject to the following provisions of this section, where a payment of not less than £100 to which this section applies is (after the passing of this Act) made by the Board or an inspector after the end of the twelve months beginning with the material date, the payment shall be increased under this section by an amount (in this section referred to as a "repayment supplement") equal to interest on the amount paid at the rate of 9 per cent, per annum for each complete tax month contained in the period (if any) beginning with the relevant date and ending at the end of the tax month in which the order for the payment is issued.
- (3) In relation to any complete tax month beginning before 6th April 1974 which is contained in the last-mentioned period, subsection (2) above shall have effect as if the rate of interest there specified were 6 per cent, per annum (instead of the rate there specified or any other rate in force by virtue of subsection (6) below).
- (4) For the purposes of subsection (2) above—
- (a) if the payment is a repayment of corporation tax that was paid on or after the first anniversary of the material date, the relevant date is the anniversary of the material date that occurs next after the date on which that tax was paid;
  - (b) in any other case, the relevant date is the first anniversary of the material date ;
- and where a payment to which this section applies is a repayment of corporation tax paid by a company on different dates, the payment shall as far as possible be treated for the purposes of this subsection as a repayment of tax paid on a later rather than an earlier date among those dates.
- (5) For the purposes of this section—
- (a) a repayment of corporation tax made in consequence of a claim by a company under section 85(3) of the Finance Act 1972 to have the whole or any part of an amount of surplus advance corporation tax arising in the case of any accounting period treated as if it were advance corporation tax paid in respect of distributions made by the company in any earlier accounting period shall be treated as a repayment of corporation tax paid for the accounting period in the case of which that amount of surplus advance corporation tax arose; and
  - (b) a repayment of income tax or corporation tax made on a claim under subsection (5) of section 286 of the Taxes Act (loans to participators etc.) shall be treated as if it were a repayment of corporation tax paid for the accounting period in which the repayment of, or of the part in question of, the loan or advance mentioned in that subsection was made.
- (6) Without prejudice to subsection (3) above, the Treasury may, by order in a statutory instrument subject to annulment in pursuance of a resolution of the House of Commons, from time to time increase or decrease the rate of interest by reference to which repayment supplements are calculated under subsection (2) above.
- (7) A repayment supplement shall not be payable under this section in respect of a payment made in consequence of an order or judgment of a court having power to allow interest on the payment.
- (8) A repayment supplement paid under this section shall be disregarded for all the purposes of corporation tax and income tax.
- (9) In this section—



" tax month " has the meaning given by section 47(12) of this Act;

" the material date " in relation to a payment to which this section applies, means the last date on which corporation tax on any of the profits of the company in question arising in the relevant accounting period could have been paid—

- (a) in a case where section 243(4) of the Taxes Act applies, within the nine months there mentioned ;
- (b) in a case where section 244(1) of that Act (companies trading before financial year 1965) applies, within the interval there mentioned from the end of the relevant accounting period ; or
- (c) in a case where section 344 of that Act (special provision for building societies) applies, within the time limit imposed by subsection (2)(a) of that section.

#### **49 Expenditure on safety at sports grounds**

- (1) If a person carrying on a trade has on or after the relevant date incurred expenditure in taking, in respect of any sports stadium used by him for the purposes of the trade—
  - (a) steps necessary for compliance with the terms and conditions of a safety certificate issued for the stadium ; or
  - (b) steps specified in a letter or other document sent or given to him by or on behalf of the local authority for the area in which the stadium is situated as steps the taking of which would be taken into account by them in deciding what terms and conditions to include in a safety certificate to be issued for the stadium or lead to the amendment or replacement of a safety certificate issued or to be issued for it,

then, if an allowance or deduction in respect of the expenditure could not, apart from this section, be made in taxing the trade or computing the profits or gains arising from it, Chapter I of Part III of the Finance Act 1971 shall apply as if the expenditure were capital expenditure incurred on the provision of machinery or plant for the purposes of the trade, and as if the machinery or plant had, in consequence of his incurring the expenditure, belonged to him and had been in use for the purposes of the trade, and as if the disposal value of the machinery or plant were nil.

- (2) In this section " sports stadium ", " safety certificate " and " local authority " have the same meaning as in the Safety of Sports Grounds Act 1975, and " the relevant date ", in relation to any sports stadium, means the date on which a designation order under section 1 of that Act comes into operation in respect of that stadium.
- (3) This section shall be construed as if contained in Chapter I of Part III of the Finance Act 1971 and shall be deemed to have come into force on the passing of the Safety of Sports Grounds Act 1975.

#### **50 Certificates of deposit: exemption for pension funds and charities**

- (1) Section 26 of the Finance Act 1973 (transactions in certificates of deposit) shall have effect, and shall be deemed always to have had effect, as if at the end of subsection (1) there were added the following paragraph:—

“This subsection does not apply to—

- (a) any profits or gains arising to a fund or scheme in the case of which provision is made by section 208, 211, 212, 213, 214, 216 or 226 of

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the Taxes Act or section 21(2) of the Finance Act 1970 for exempting the whole or part of its income from income tax, or

- (b) in so far as they are applied to charitable purposes only, any profits or gains arising to a charity within the meaning of section 360 of the Taxes Act.”

- (2) All such adjustments shall be made, whether by repayment of tax, assessment or otherwise, as may be required in consequence of subsection (1) above.

## **51 Exemption for trade unions**

- (1) In section 338 of the Taxes Act (exemption of income and gains of certain trade unions if applied for purpose of provident benefits), for the reference to £500 (maximum assurable by way of gross sum) there shall be substituted a reference to £1,000, and for the references to £104 a year (maximum assurable by way of annuity) there shall be substituted references to £208 a year.
- (2) This section shall have effect in relation to income or gains which are applied as mentioned in subsection (1) of the said section 338 after 15th April 1975.

## **52 Exemption for registered friendly societies**

- (1) In section 332 of the Taxes Act (exemption of income and gains of registered friendly societies other than profits arising from life or endowment business consisting of the assurance of gross sums exceeding £500 or of the granting of annuities of annual amounts exceeding £104), after subsection (3) there shall be added the following subsections—
- “(4) A registered friendly society is within this subsection if its rules make no provision for it to carry on life or endowment business consisting of the assurance of gross sums exceeding £1,000 or of the granting of annuities of annual amounts exceeding £208.
- (5) In the case of a registered friendly society within subsection (4) above—
- (a) subsections (2) and (3) above shall have effect with the substitution of references to £1,000 and £208 respectively for the references to £500 and £104; and
- (b) references in this Chapter to tax exempt life or endowment business shall be construed accordingly.
- (6) Where at any time a registered friendly society within subsection (4) above amends its rules so as to cease to be within that subsection, any part of its life or endowment business consisting of business which—
- (a) relates to contracts made before that time ; and
- (b) immediately before that time was tax exempt life or endowment business, shall thereafter continue to be tax exempt life or endowment business for the purposes of this Chapter.
- (7) Where at any time a registered friendly society not within subsection (4) above amends its rules so as to bring itself within that subsection, any part of its life or endowment business consisting of business which—
- (a) relates to contracts made before that time ; and

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- (b) immediately before that time was not tax exempt life or endowment business,  
shall thereafter continue not to be tax exempt life or endowment business for the purposes of this Chapter.
- (8) Where at any time a registered friendly society not within subsection (4) above acquires by way of transfer of engagements or amalgamation from another registered friendly society any life or endowment business consisting of business which—
- (a) relates to contracts made before that time; and  
(b) immediately before that time was tax exempt life or endowment business,  
that business shall thereafter continue to be tax exempt life or endowment business for the purposes of this Chapter.
- (9) Where at any time a registered friendly society within subsection (4) above acquires by way of transfer of engagements or amalgamation from another registered friendly society any life or endowment business consisting of business which—
- (a) relates to contracts made before that time ; and  
(b) immediately before that time was not tax exempt life or endowment business,  
that business shall thereafter continue not to be tax exempt life or endowment business for the purposes of this Chapter.”
- (2) In section 337(3) of the Taxes Act, in the definition of " tax exempt life or endowment business "—
- (a) after the word " has " there shall be inserted the words " , subject to section 332(6) to (9) above, " ;  
(b) after the word " means " there shall be inserted the words " , subject as aforesaid, " ; and  
(c) at the end there shall be added the words " (read, where appropriate, with subsection (5) of that section) " .
- (3) The preceding provisions of this section shall have effect as regards any year of account of a registered friendly society or branch ending after the passing of this Act (including the whole of any such year of account that ends with 31st December 1975).
- (4) The Friendly Societies Act 1974 and the Friendly Societies Act (Northern Ireland) 1970 shall have effect subject to the amendments specified in Schedule 9 to this Act, being amendments arising out of the preceding provisions of this section.

### **53 Employers' associations**

If an employers' association entered in the list of employers' associations maintained under the Trade Union and Labour Relations Act 1974 was on 30th September 1971 a registered trade union for the purposes of section 338 of the Taxes Act (exemption for trade unions), it shall be treated for the purposes of that section as having remained a registered trade union until the passing of this Act, and as thereafter remaining one so long as it remains entered in that list.

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#### **54 Relief for increase in value of trading stock and work in progress**

Schedule 10 to this Act shall have effect for affording relief in respect of increases in the value of trading stock and work in progress in the periods there mentioned.

#### **55 Relief from tax on chargeable gains in respect of agricultural property etc.**

- (1) This section has effect in relation to the disposal of an asset where—
- (a) the disposal is one to which section 22(4) of the Finance Act 1965 (gifts etc.) applies or which is deemed to take place by virtue of section 25(3) or (4) of that Act (settled property); and
  - (b) a reduction in respect of the asset either—
    - (i) is made under Schedule 8 to the Finance Act 1975 (capital transfer tax relief for agricultural property and shares and debentures of companies owning agricultural property) in relation to a chargeable transfer taking place on the occasion of the disposal; or
    - (ii) would be so made if there were a chargeable transfer on that occasion and a claim were duly made under that Schedule ; and
  - (c) a claim for relief under this section is made within two years of the end of the year of assessment (or, in the case of a company, accounting period) in which the disposal is made or such longer time as the Board may allow.
- (2) For the purposes of Part III of the said Act of 1965 (capital gains)—
- (a) the consideration for the disposal of the asset shall, if apart from this section a gain would accrue on the disposal, be determined as if the market value of the asset were reduced by the amount mentioned in subsection (5)(a) or (b) below, whichever is the smaller; and
  - (b) the consideration for the acquisition of the asset on the disposal shall be determined as if its market value were reduced by the amount mentioned in subsection (6) below.
- (3) Subsection (2) above does not affect the computation of development gains; and any gain computed in accordance with that subsection shall be a chargeable gain only to the extent, if any, to which it exceeds any development gain accruing on the disposal in question.
- (4) Subsection (2) above does not affect the computation of development losses except that, where paragraph (b) of that subsection applies to the computation of the chargeable gain or allowable loss accruing on a disposal, no development loss shall accrue on the disposal unless there is an allowable loss as so computed and, if there is such an allowable loss, the amount of the development loss shall not exceed the amount of that allowable loss.
- (5) The amounts referred to in subsection (2)(a) above are—
- (a) an amount equal to the fraction of the market value of the asset of which—
    - (i) the numerator is the amount of the reduction in respect of the asset that is or would be made under Schedule 8 to the said Act of 1975 ; and
    - (ii) the denominator is the value of the asset as it is or would be taken into account in relation to the chargeable transfer in question before any reduction under that Schedule ;
  - (b) the amount by which the market value of the asset exceeds the aggregate of—

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- (i) the sums allowable in relation to the disposal under paragraph 4 of Schedule 6 to the said Act of 1965 (acquisition cost etc.); and
  - (ii) the amount of any development gain accruing on the disposal;and the sums mentioned in paragraph (b)(i) above shall be determined without any reduction under section 33(1)(b) or (2)(b) of the said Act of 1965 or paragraph 18(4) of Schedule 3 to the Finance Act 1974 (replacement of business assets).
- (6) The amount referred to in subsection (2) (b) above is the difference between—
  - (a) the gains chargeable on the disposal (whether as chargeable gains, development gains or partly one and partly the other); and
  - (b) the gains that would have been so chargeable if this section had not been enacted.
- (7) Any claim under this section shall be made—
  - (a) in the case of a disposal to which the said section 22(4) applies, by the person making the disposal and the person to whom it is made ; and
  - (b) in any other case, by the person making the disposal;and where a claim is made by virtue of subsection (1)(b)(ii) above, then, if and so far as the question in dispute on an appeal against the decision on the claim relates to the matters mentioned in subsection (5)(a) above, the appeal shall be to the Commissioners and Courts mentioned in paragraph 7(2) to (5) of Schedule 4 to the Finance Act 1975 (capital transfer tax appeals) as in the case of an appeal under that paragraph.
- (8) This section applies to disposals after 26th March 1974.

## **56 Exemption from tax on chargeable gains in respect of historic houses etc.**

- (1) Subsection (2) below shall have effect in respect of the disposal of an asset which is property to which section 34 of the Finance Act 1975 (historic houses etc.) applies or might apply, being—
  - (a) a disposal by way of gift, including a gift in settlement; or
  - (b) a disposal of settled property by the trustee on an occasion when, under section 25(3) or (4) of the Finance Act 1965, the trustee is deemed to dispose of and immediately re-acquire, settled property,if an undertaking in the terms of subsection (2) of the said section 34 (maintenance, preservation and public access) is given by such person as the Treasury think appropriate in the circumstances of the case.
- (2) The person making a disposal to which subsection (1) above applies and the person acquiring the property on that disposal shall be treated for all the purposes of Part III of the said Act of 1965 (capital gains) as if the property was acquired from the one making the disposal for a consideration of such amount as would secure that on the disposal neither a gain nor a loss would accrue to the one making the disposal.
- (3) If—
  - (a) there is a sale of the asset and capital transfer tax is chargeable under subsection (4) of the said section 34 (non-exempt disposals) or would be chargeable if an undertaking under subsection (2) of that section as well as under subsection (1) above had been given; or
  - (b) the Treasury are satisfied that at any time during the period for which an undertaking under either enactment was given it has not been observed in a material respect,

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the person selling the asset or, as the case may be, the owner of the asset shall be treated for the purposes of Part III of the said Act of 1965 as having sold the asset for a consideration equal to its market value, and in the case of a failure to comply with the undertaking, as having immediately re-acquired it for a consideration equal to its market value.

- (4) The period for which an undertaking under subsection (1) above is given shall be until the person entitled to the asset dies or it is disposed of, whether by sale or gift or otherwise; and if the asset subject to the undertaking is disposed of—
  - (a) otherwise than on sale ; and
  - (b) without a further undertaking being given under that subsection,
 subsection (3) above shall apply as if the asset had been then sold to an individual.
- (5) Where under subsection (3) above a person is treated as having sold any asset for a consideration equal to its market value he shall also be treated as having sold, and immediately reacquired, any asset associated with it for a consideration equal to its market value ; but the Treasury may direct that this subsection shall not have effect in any case in which it appears to them that the entity consisting of the asset and any assets associated with it has not been materially affected.
- (6) A gain shall not be a chargeable gain if it accrues on the disposal of any asset with respect to which an undertaking has been given under subsection (1) above or subsection (2) of the said section 34 and the disposal is such as is referred to in subsection (6)(a) of that section (disposal to national institution) or is a disposal to the Board under paragraph 17 of Schedule 4 to the said Act of 1975 (acceptance of property in satisfaction of tax).
- (7) References in subsection (4) above to a disposal shall be construed without regard to any provision of Part III of the said Act of 1965 under which an asset is deemed to be disposed of; and for the purposes of subsection (5) above two or more assets are associated with each other if one of them is a building falling within subsection (1)(b) of the said section 34 and the other or others such land or objects as, in relation to that building, fall within subsection (1)(c) or (d) of that section.
- (8) In paragraph 13 of Schedule 12 to the Finance Act 1971 (death of person entitled to interest in settled property) and section 119(2) of the Finance Act 1972 (gifts to charities etc.) references to section 31(3) of the Finance Act 1965 shall include references to subsection (1) above.
- (9) This section applies to disposals after 12th March 1975.

## **57 Postponement of payment of tax on chargeable gains**

- (1) In sub-paragraph (2) of paragraph 4 of Schedule 10 to the Finance Act 1965 (assets on disposal of which capital gains tax may be paid by instalments) after paragraph (a) there shall be inserted—
  - “(aa) any shares or securities of a company which, immediately before the disposal, gave control of the company to the person by whom the disposal was made or deemed to be made;”
 and in paragraph (b) after the words " any shares or securities of a company " there shall be inserted the words " not falling under paragraph (aa) above and
- (2) Subject to the following provisions of this section, where capital gains tax is payable—
  - (a) by instalments under the said paragraph 4 ; and

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- (b) in respect of the disposal of assets falling within subparagraph (2)(aa), (b) or (c) of that paragraph,  
the tax shall, for the purpose of any interest to be added to each instalment, be treated as carrying interest from the date at which the instalment is payable.
- (3) Subsection (2) above does not apply to tax payable in respect of the disposal of shares or securities of a company falling within paragraph (a) of subsection (4) below unless it also falls within paragraph (b) or (c) of that subsection.
- (4) The companies referred to in subsection (3) above are—
  - (a) any company whose business consists wholly or mainly of one or more of the following, that is to say, dealing in shares or securities, land or buildings, or making or holding investments;
  - (b) any company whose business consists wholly or mainly in being a holding company (within the meaning of section 154 of the Companies Act 1948) of one or more companies not falling within paragraph (a) above; and
  - (c) any company whose business is that of a jobber (as defined in section 477 of the Taxes Act) or discount house and is carried on in the United Kingdom.
- (5) Subsection (2) above applies only to the extent to which—
  - (a) the market value of the assets in respect of the disposal of which the tax concerned is payable, plus
  - (b) the market value of any assets which the same person has or is deemed to have previously disposed of and in respect of the disposal of which the tax also fell within that subsection,does not exceed £250,000.
- (6) In paragraph 2 of Schedule 10 to the Finance Act 1974 (application of the said paragraph 4 to development gains) after the words " paragraph 4 of Schedule 10 to that Act" there shall be inserted the words " and section 57 of the Finance (No. 2) Act 1975 ".
- (7) This section applies to disposals after 26th March 1974.

## **58 Disposal of shares and securities within prescribed period of acquisition**

- (1) For the purposes of corporation tax on chargeable gains, shares disposed of by a company shall be identified in accordance with the following provisions where—
  - (a) the number of shares of that kind held by the company at any time during the prescribed period before the disposal amounted to not less than 2 per cent, of the number of issued shares of that kind ; and
  - (b) shares of that kind have been or are acquired by the company within the prescribed period before or after the disposal.
- (2) Where a company is a member of a group, shares held or acquired by another member of the group shall be treated for the purposes of paragraphs (a) and (b) of subsection (1) above as held or acquired by that company and for the purposes of paragraph (b) any shares acquired by that company from another company which was a member of the group throughout the prescribed period before and after the disposal shall be disregarded.
- (3) References in subsection (1) above to a company's disposing, holding and acquiring shares are references to its doing so in the same capacity; and references in that

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subsection to the holding or acquisition of shares do not include references to the holding or acquisition of shares as trading stock.

- (4) The shares disposed of shall be identified—
- (a) with shares acquired as mentioned in subsection (1)(b) above (in this section referred to as "available shares") rather than other shares; and
  - (b) with available shares acquired by the company making the disposal rather than other available shares.
- (5) The shares disposed of shall be identified with available shares acquired before the disposal rather than available shares acquired after the disposal and—
- (a) in the case of available shares acquired before the disposal, with those acquired later rather than those acquired earlier;
  - (b) in the case of available shares acquired after the disposal, with those acquired earlier rather than those acquired later.
- (6) Where available shares could be identified—
- (a) with shares disposed of either by the company that acquired them or by another company; or
  - (b) with shares disposed of either at an earlier date or at a later date,
- they shall in each case be identified with the former rather than the latter; and the identification of any available shares with shares disposed of by a company on any occasion shall preclude their identification with shares comprised in a later disposal by that company or in a disposal by another company.
- (7) Where a company disposes of shares which have been identified with shares disposed of by another company, the shares disposed of by the first-mentioned company shall be identified with the shares that would, apart from this section, have been comprised in the disposal by the other company or, if those shares have themselves been identified with shares disposed of by a third company, with the shares that would, apart from this section, have been comprised in the disposal by the third company and so on.
- (8) Where shares disposed of by one company are identified with shares acquired by another, the sums allowable to the company making the disposal under paragraph 4 of Schedule 6 to the Finance Act 1965 shall be—
- (a) the sums allowable under sub-paragraph (1)(c) of that paragraph (incidental costs of disposal); and
  - (b) the sums that would have been allowable under subparagraph (1)(a) and (b) of that paragraph (acquisition cost etc.) to the company that acquired the shares if they had been disposed of by that company.
- (9) This section shall have effect subject to sub-paragraph (1) of paragraph 6 of Schedule 10 to the Finance Act 1971 (identification of shares acquired and disposed of on same day); and sub-paragraph (2) of that paragraph (identification of shares not identified under sub-paragraph (1)) shall have effect subject to this section.
- (10) In this section—
- "group" has the meaning given in section 272 of the Taxes Act;
  - "the prescribed period" means—
- (a) in the case of a disposal through a stock exchange or Automated Real-Time Investments Exchange Limited, one month;
  - (b) in the case of a disposal otherwise than as aforesaid, six months;



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" trading stock ", in relation to a company carrying on life assurance business as defined in section 323 of the Taxes Act, does not include investments held in connection with that business except in so far as they are referable to general annuity business or pension business as defined in that section.

- (11) Shares shall not be treated for the purpose of this section as being of the same kind unless they are treated as being of the same class by the practice of a recognised stock exchange or would be so treated if dealt with on such a stock exchange.
- (12) This section applies to securities as defined in paragraph 5 of Schedule 7 to the Finance Act 1965 (other than specified securities within the meaning of section 41 of the Finance Act 1969) as it applies to shares.
- (13) This section applies where the acquisition and disposal mentioned in subsection (1) above are after 14th April 1975.

## **59 Losses on disposals of gilt-edged securities replaced within prescribed period**

- (1) Where a person who holds gilt-edged securities (the " original holding ") acquires securities of the same kind (an " additional holding ") and within the prescribed period after the acquisition disposes of securities of that kind, he shall be treated for the purposes of sub-paragraph (1) of paragraph 9 of Schedule 10 to the Finance Act 1971 (re-acquisition of gilt-edged securities after sale at a loss) as if he had within the prescribed period after the disposal re-acquired the securities disposed of or such quantity of them as does not exceed the original holding or the additional holding, whichever is the less.
- (2) Sub-paragraph (2)(a), (b) and (c) of the said paragraph 9 (identification of securities disposed of with securities re-acquired) shall have effect in relation to the acquisition of the additional holding as if it were a re-acquisition of the securities disposed of.
- (3) Sub-paragraph (3) of the said paragraph 9 (husband and wife) shall have effect as if the foregoing provisions of this section were included in that paragraph and the acquisition of the additional holding were an acquisition after the disposal.
- (4) In the case of companies in the same group the provisions of the said paragraph 9 and of subsections (1) and (2) above shall, with the necessary modifications, apply also where a loss on the disposal accrues to one of them and the acquisition is made by the other.
- (5) In the said paragraph 9 and this section references to the acquisition of securities shall not include references to acquisition as trading stock or, in the case of a company which is a member of a group, from another company which is a member of that group throughout the prescribed period before and after the disposal.
- (6) In this section—
  - " group " has the meaning given in section 272 of the Taxes Act;
  - " the prescribed period " means—
    - (a) in the case of an acquisition through a stock exchange, one month;
    - (b) in the case of an acquisition otherwise than as aforesaid, six months;
  - " trading stock ", in relation to a company carrying on life assurance business as defined in section 323 of the Taxes Act, does not include investments held in connection with that business except in so far as they are

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referable to general annuity business or pension business as defined in that section ;

and references to a person's holding, acquiring and disposing of securities are references to his doing so in the same capacity.

(7) This section applies to disposals after 15th April 1975.

## **60 Disallowance of losses on certain disposals**

(1) A loss on the disposal of an asset shall not be an allowable loss to the extent to which it is attributable to value having passed out of other assets, being shares in or rights over a company which by virtue of the passing of value are treated as disposed of under paragraph 15(2) of Schedule 7 to the Finance Act 1965 (deemed disposal where person in control of company transfers value between different shares or rights).

(2) This section applies to a loss on a disposal on or after 17th June 1975.

## **61 Disposal of rights of insured under insurance policy**

(1) For paragraph 10(1) of Schedule 7 to the Finance Act 1965 (policies of insurance) there shall be substituted—

“(1) The rights of the insurer under any policy of insurance shall not constitute an asset on the disposal of which a gain may accrue, whether the risks insured relate to property or not; and the rights of the insured under any policy of insurance of the risk of any kind of damage to, or the loss or depreciation of, assets shall constitute an asset on the disposal of which a gain may accrue only to the extent that those rights relate to assets on the disposal of which a gain may accrue or might have accrued.”

(2) Subsection (1) above shall be deemed to have come into force on 20th December 1974 but shall not apply in the case of a disposal made before that date.

## **62 Capital gains on certain stock dividends**

(1) Where a company issues any share capital to which section 34 of this Act applies in respect of shares in the company held by a person as trustee, and another person is at the time of the issue absolutely entitled thereto as against the trustee or would be so entitled but for being an infant or other person under disability (or two or more other persons are or would be jointly so entitled thereto), then—

(a) notwithstanding sub-paragraph (1)(a)(i) of paragraph 4 of Schedule 7 to the Finance Act 1965 (reorganisation of share capital etc.), the case shall not constitute a reorganisation of the company's share capital for the purposes of that paragraph ; and

(b) notwithstanding section 22(4)(a) of that Act, the person who is or would be so entitled to the share capital (or each of the persons who are or would be jointly so entitled thereto) shall be treated for the purposes of paragraph 4(1)(a) of Schedule 6 to the Finance Act 1965 (expenditure allowable in the computation of gains under that Schedule) as having acquired that share capital, or his interest in it, for a consideration equal to the appropriate amount in cash within the meaning of paragraph 1 of Schedule 8 to this Act.

(2) This section shall be deemed to have come into force on 6th April 1975.

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### **63 Disposals of shares in unit trusts, investment trusts and funds in court**

In relation to gains accruing on disposals after 5th April 1975 section 112 of the Finance Act 1972 (reduction of tax liability on certain disposals of shares in unit trusts, investment trusts and funds in court) shall have effect as if for the references in paragraphs (b) and (c) of subsection (3) to 16J per cent, (which were substituted by section 32 of the Finance Act 1974) there were substituted references to 17 ½ per cent.

### **64 Reduced rate of capital gains tax for certain unit trusts and for funds in court**

Section 113 of the Finance Act 1972 shall have effect for the year 1975-76 and subsequent years of assessment as if the rate specified in it were 17 ½ per cent, instead of 16 ½ per cent, (the rate substituted by section 33 of the Finance Act 1974).

### **65 Double taxation agreement with Republic of Ireland**

The Agreement set out in Schedule 11 to this Act, that is to say, the agreement made on 3rd June 1975 between the Governments of the United Kingdom and of the Republic of Ireland relating to the Agreement set out in Schedule 17 to the Finance Act 1973 is hereby confirmed and, subject to the necessary steps being taken to give it the force of law in the Republic of Ireland, shall have effect accordingly.

### **66 Assignment of proceedings to Commissioners**

(1) Schedule 3 to the Taxes Management Act 1970 (rules for assigning proceedings to Commissioners) shall be amended as follows.

(2) For rule 5 there shall be substituted—

" 5. An appeal against an assessment under Schedule A or under Schedule D, other than Cases I and II.

An appeal against an assessment charging income tax at a rate other than the basic rate on income from which income tax has been deducted (otherwise than under section 204 of the principal Act) or from or on which income tax is treated as having been deducted or paid or income chargeable under Schedule F.

An appeal against an assessment to capital gains tax.

Proceedings for a penalty under section 100(4) of this Act.

If the appellant or other party to the proceedings (not being an inspector or the Board) is carrying on a trade, profession or vocation, then, subject (in the case of an appeal) to the right of election for place of residence, the place in which the trade, profession or vocation is carried on, or in which the head office or principal place of business is situated.

If the appellant or other party is employed and does not carry on a trade, profession or vocation, then, subject (in the case of an appeal) to the right of election for place of residence, the place of employment.

In any other case, the place where the appellant or other party ordinarily resides."

(3) Rule 6 and the paragraph beginning " Where under rules 3 and 5 " shall each be amended by substituting for the words " resided in the year of assessment to which the proceedings relate " the word " resides ".

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- (4) After the said paragraph beginning " Where under rules 3 and 5 " there shall be inserted—

“If the place given by any of the rules in this Schedule is outside the United Kingdom, the Board may give directions, which may be either general or addressed to a particular occasion, to meet the case.”

## 67 Appeals

- (1) For the removal of doubt it is hereby declared that in section 31(1) of the Taxes Management Act 1970 (right of appeal) the reference to the date of the notice of assessment is a reference to the date on which the notice was issued.

- (2) Section 50 of that Act (procedure on appeal shall have effect, and be deemed always to have had effect, as if after subsection (7) there were added as subsection (8)—

“(8) Where, on an appeal against an assessment which—

- (a) assesses an amount which is chargeable to tax, and  
 (b) charges tax on the amount assessed,

it appears to the Commissioners as mentioned in subsection (6) or (7) above, they may, unless the circumstances of the case otherwise require, reduce or, as the case may be, increase only the amount assessed; and where any appeal is so determined the tax charged by the assessment shall be taken to have been reduced or increased accordingly.”

- (3) Nothing in subsection (2) above shall affect the judgment of any court given in proceedings which were commenced before 29th April 1975.

## CHAPTER II

### SUB-CONTRACTORS IN THE CONSTRUCTION INDUSTRY

## 68 Introductory

- (1) Subject to subsection (2) below, on such date as the Treasury may by order made by statutory instrument appoint (in this Chapter referred to as the appointed day) Chapter II of Part II of the Finance Act 1971 (sub-contractors in construction industry) and all certificates having effect under section 30 thereof shall cease to have effect except in relation to sums payable under section 29 thereof before that date, and on and after the appointed day the provisions of this Chapter other than this section shall (subject to that exception) have effect instead of that Chapter.

- (2) The said provisions shall have effect before the appointed day for the purpose of enabling applications to be made and certificates issued under section 70 of this Act and—

(a) after the passing of this Act—

- (i) no applications for the issue of a certificate under the said section 30 shall be made ; and  
 (ii) no certificate under that section shall be issued except on an application before the appointed day for the renewal of such a certificate or in pursuance of paragraph (b) below;

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- (b) on an application before that day under subsection (2) of section 70 of this Act for a certificate under that section, a certificate under the said section 30 may be issued in addition to the certificate under the said section 70; but
- (c) all certificates under the said section 30 issued by virtue of paragraph (a)(ii) above or in pursuance of paragraph (b) above shall (like all other certificates having effect under that section) cease to have effect on the appointed day ; and
- (d) no certificate under section 70 of this Act shall come into force until the appointed day.

**69 Deductions on account of tax etc. from payments to certain sub-contractors in construction industry**

- (1) Where a contract relating to construction operations is not a contract of employment, but—
- (a) one party to the contract is a sub-contractor (as defined in subsection (2) below); and
  - (b) another party to the contract (in this section referred to as "the contractor") either is a sub-contractor under another such contract relating to all or any of the construction operations or is a person to whom this paragraph applies,
- this section shall apply to any payments which on or after the appointed day are made under the contract and are so made by the contractor to—
- (i) the sub-contractor;
  - (ii) a person nominated by the sub-contractor or the contractor; or
  - (iii) a person nominated by a person who is a sub-contractor under another such contract relating to all or any of the construction operations,
- unless the person to whom the payments are made or, if the payments are made to a nominee, each of the following persons, that is to say, the nominee, the person who nominated him and the person for whose labour (or, where that person is a company, for whose employees' or officers' labour) the payment is made, is excepted from this section in relation to those payments by virtue of section 70 of this Act.
- (2) A party to a contract relating to construction operations is a sub-contractor if, under the contract.—
- (a) he is under a duty to the contractor to carry out the operations, or to furnish his own labour (that is to say, in the case of a company, the labour of employees or officers of the company) or the labour of others in the carrying out of the operations or to arrange for the labour of others to be furnished in the carrying out of the operations ; or
  - (b) he is answerable to the contractor for the carrying out of the operations by others, whether under a contract or under other arrangements made or to be made by him.
- (3) Paragraph (b) of subsection (1) above applies to the following persons, that is to say.—
- (a) any person carrying on a business which includes construction operations;
  - (b) any local authority ;
  - (c) any development corporation or new town commission ;
  - (d) the Commission for the New Towns ;

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- (e) the Housing Corporation, a housing association, a housing trust, a housing society, the Scottish Special Housing Association, the Northern Ireland Housing Trust and the Northern Ireland Housing Executive.
- (4) On making a payment to which this section applies the contractor shall deduct from it a sum equal to 35 per cent, of so much of the payment as is not shown to represent the direct cost to any other person of materials used or to be used in carrying out the construction operations to which the contract under which the payment is made relates; and the sum so deducted shall be paid to the Board and shall be treated for the purposes of income tax or, as the case may be, corporation tax—
- (a) as not diminishing the payment; but
  - (b) subject to subsection (5) below, as being income tax or, as the case may be, corporation tax paid in respect of the profits or gains of the trade, profession or vocation of the person for whose (or for whose employees' or officers') labour the contractor makes the payment.
- (5) Where a sum deducted and paid to the Board under subsection (4) above is more than sufficient to discharge the liability to income tax of the person referred to in paragraph (b) of that subsection in respect of the profits or gains mentioned in that paragraph, so much of the excess as is required to discharge any liability of that person for Class 4 contributions shall be treated as being, for the purposes of the Social Security Act, Class 4 contributions paid in respect of the profits or gains so mentioned.
- (6) The Board shall make regulations with respect to the collection and recovery, whether by assessment or otherwise, of sums required to be deducted from any payments under this section and for the giving of receipts by persons receiving the payments to persons making them; and those regulations may include any matters with respect to which regulations may be made under section 204 (pay as you earn) of the Taxes Act.
- (7) References in the preferential payments provisions to sums due on account of tax deductions for any period shall be construed as including references to any amounts due from any person in respect of deductions required to be made by him under this section.
- (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:—
- “Regulations under section 69 of the Finance (No. 2) Act 1975”.
- (9) Regulations under this section shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of the House of Commons.
- (10) In this section "Class 4 contributions" means Class 4 contributions within the meaning of the Social Security Act 1975 or, as the case may be, the Social Security (Northern Ireland) Act 1975 ; and " the Social Security Act" means whichever of those Acts is the one under which the contribution in question is payable.

## **70 Exceptions from section 69**

- (1) A person is excepted from section 69 of this Act in relation to payments made under a contract if a certificate under this section has been issued to that person and is in force when the payment is made, but—
- (a) where the certificate has been issued to a person who becomes a partner in a firm, that person is not excepted in relation to payments made under contracts

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under which the firm or, where a person has nominated the firm to receive payments, the person who has nominated the firm, is a sub-contractor (as defined in section 69(2) of this Act); and

- (b) where a certificate has been issued to a person as a partner in a firm, that person is excepted in relation only to payments made under contracts under which the firm or, where a person has nominated the firm to receive payments, the person who has nominated the firm, is a sub-contractor (as so defined).

(2) If the Board are satisfied, on the application of an individual or a company, that—

- (a) where the application is for the issue of a certificate to an individual (otherwise than as a partner in a firm), he satisfies the conditions set out in Part I of Schedule 12 to this Act;
- (b) where the application is for the issue of a certificate to a person as a partner in a firm, that person satisfies the conditions set out in Part II of that Schedule if he is an individual or, if a company, the conditions set out in Part IV of that Schedule and, in either case, the firm itself satisfies the conditions set out in Part III of that Schedule;
- (c) where the application is for the issue of a certificate to a company, the company satisfies the conditions set out in Part IV of that Schedule and, if the Board have given a direction under subsection (4) below, each of the persons to whom any of the conditions set out in Part I of that Schedule applies by virtue of the direction satisfies the conditions which so apply to him,

the Board shall issue to that individual or company a certificate excepting that individual or company (or, in a case falling within paragraph (b) above, that individual or company as a partner in the firm specified in the certificate) from section 69 of this Act.

(3) References in paragraphs (a), (b) and (c) of subsection (2) above to an individual, a company or a firm satisfying conditions set out in any Part of Schedule 12 to this Act include, in relation to a condition which may, by virtue of a provision in that Part, be treated as being satisfied, references to that individual, company or firm being treated as satisfying that condition.

(4) Where it appears to the Board, on an application made under subsection (2) above by a company, that the company—

- (a) was incorporated on a date within the period of three years ending with the date of the application; or
- (b) has not carried on business continuously throughout that period; or
- (c) has carried on business continuously throughout that period but the business has not at all times in that period consisted of or included the carrying out of construction operations; or
- (d) does not at the date of the application hold a certificate which is then in force under this section;

the Board may direct that the conditions set out in Part I of Schedule 12 to this Act or such of them as are specified in the direction shall apply to the directors of the company and, if the company is a close company, to the persons who are the beneficial owners of shares in the company or to such of those directors or persons as are so specified as if each of them were an applicant for a certificate under this section.

(5) The Board may at any time cancel a certificate which has been issued to a person and is in force under this section if it appears to them that—

- (a) it was issued on information which was false;

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- (b) if an application for the issue of a certificate under this section to that person were made at that time, the Board would refuse to issue a certificate ; or
  - (c) that person has permitted the certificate to be misused;

and may by notice in writing require that person to deliver the certificate to the Board within the time specified in the notice.
- (6) A person aggrieved by the refusal of an application for a certificate under this section may, by notice in writing given to the Board within thirty days after the refusal, appeal to the General Commissioners or, if he so elects in the notice, to the Special Commissioners; and the jurisdiction of the Commissioners on such an appeal shall include jurisdiction to review any relevant decision taken by the Board in the exercise of their functions under this section other than a decision that an individual, a company or a firm is or is not to be treated as satisfying a condition set out in any Part of Schedule 12 to this Act.
- (7) The Board may make regulations—
  - (a) prescribing the period for which certificates under this section are to be issued and the form of such certificates;
  - (b) providing for the renewal of such certificates;
  - (c) providing for the issue, renewal or cancellation of such certificates or the giving of directions under subsection (4) above by inspectors on behalf of the Board ;
  - (d) requiring the production of such certificates to such persons and in such circumstances as may be specified in the regulations and providing for the completion and return to the Board of forms certifying such production ;
  - (e) requiring the surrender to the Board of such certificates in such circumstances as may be specified in the regulations;
  - (f) requiring persons who make payments under contracts relating to construction operations to keep such records and to make to the Board such returns relating to payments so made by them as may be specified in the regulations, and requiring persons who hold such certificates to keep such records relating to payments so made to them as may be so specified; and
  - (g) requiring vouchers for payments made under contracts relating to construction operations to persons who hold such certificates to be obtained by the person making, and given by the person receiving, the payment, prescribing the form of the vouchers, and requiring their production or surrender to the Board in such circumstances as may be specified in the regulations ;

and any such regulations may make different provision for different circumstances.
- (8) Regulations under subsection (7) above shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of the House of Commons.
- (9) If any person, for the purpose of obtaining a certificate under this section—
  - (a) makes any statement, or furnishes any document, which he knows to be false in a material particular; or
  - (b) recklessly makes any statement, or furnishes any document, which is false in a material particular,

he shall be liable on summary conviction to a fine not exceeding £5,000.
- (10) A person to whom a certificate is issued under this section or a voucher is given as required by regulations under subsection (7) above shall take all reasonable steps to ensure its safety; and any person who, without lawful authority or lawful excuse—



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- (a) disposes of any such certificate or voucher or any form supplied by the Board in connection with regulations made by virtue of subsection (1)(d) above ; or
  - (b) possesses such a certificate, voucher or form or any document purporting to be such a certificate, voucher or form,
- shall be liable on summary conviction to a fine not exceeding £5,000.
- (11) Notwithstanding any enactment prescribing the period within which summary proceedings may be commenced, proceedings for an offence under subsection (9) or (10) above may be commenced at any time within three years from the commission of the offence.
- (12) In section 98 of the Taxes Management Act 1970 (penalty for failure to furnish information etc.) there shall be added—
- (a) in the first column of the Table, the words " Section 70(5) of the Finance (No. 2) Act 1975."; and
  - (b) in the second column of the Table, the words "Regulations under section 70(7) of the Finance (No. 2) Act 1975."

## **71 Interpretation of Chapter II**

- (1) The following provisions of this section shall have effect for the interpretation of this Chapter.
- (2) " Authorised insurer " means a person or body of persons lawfully carrying on in Great Britain insurance business of any class relevant for the purposes of Part I of the Insurance Companies Act 1974 or in Northern Ireland insurance business of any class relevant for the purposes of the Insurance Companies Act (Northern Ireland) 1968.
- (3) " Development corporation " has the same meaning as in the New Towns Act 1965 or the New Towns (Scotland) Act 1968, " housing association " has the same meaning as in the Housing Act 1957, the Housing (Scotland) Act 1966 or section 12 of the Housing and Local Government (Miscellaneous Provisions) Act (Northern Ireland) 1946, "housing trust" has the same meaning as in the Housing Act 1957, " housing society " has the same meaning as in Part I of the Housing Act 1964, and " new town commission " has the same meaning as in the New Towns Act (Northern Ireland) 1965.
- (4) "Director" has the same meaning as in Chapter II of Part VIII of the Taxes Act.
- (5) References to the making of payments under a contract relating to construction operations include references to the lending of money in circumstances in which the lending of the money has the effect of discharging any obligation under the contract.
- (6) " The preferential payments provisions " means section 30 of the Finance Act 1952, section 287 of the Companies Act (Northern Ireland) 1960 and section 1(1) of the Preferential Payments (Bankruptcies and Arrangements) Act (Northern Ireland) 1964.
- (7) References to relevant public liability in respect of the business of an individual, a firm or a company carrying out any description of construction operations are references to any liability—
  - (a) which may be incurred by the individual, firm or company in respect of bodily injury or disease sustained in the United Kingdom by any person (other than that individual or the partners in that firm, as the case may be); and
  - (b) which arises from the carrying out of that description of construction operations in the course of that business;

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but not to a liability in respect of which the individual, firm or company is required to maintain insurance under the Employers' Liability (Compulsory Insurance) Act 1969 or Part VI of the Road Traffic Act 1972 or (in Northern Ireland) under Part V of the Road Traffic Act (Northern Ireland) 1970 or Part III of the Employers' Liability (Defective Equipment and Compulsory Insurance) (Northern Ireland) Order 1972.

- (8) " Construction operations" means operations of any description specified in Part I of Schedule 13 to this Act, not being operations of any description specified in Part II of that Schedule; and references to construction operations shall be taken—
- (a) except where the context otherwise requires, as including references to the work of individuals participating in the carrying out of such operations ; and
  - (b) except in the case of offshore installations (within the meaning of the said Part I), as not including references to operations carried out or to be carried out otherwise than in the United Kingdom.
- (9) The Treasury may by order made by statutory instrument—
- (a) include in Part I of Schedule 13 to this Act any description of operations as to which they are satisfied that it is a normal activity of the construction industry and that its inclusion in that Part of the Schedule is necessary for achieving the object of section 69 of this Act;
  - (b) include in Part II of that Schedule any description of operations as to which they are satisfied that it cannot properly be considered a normal activity of the construction industry and ought to be excluded from Part I of that Schedule.
- (10) An order under this section shall not have effect unless a draft thereof has been laid before and approved by the House of Commons.