Finance Act 1993

1993 CHAPTER 34

An Act to grant certain duties, to alter other duties, and to amend the law relating to the National Debt and the Public Revenue, and to make further provision in connection with Finance. [27th July 1993]

Most Gracious Sovereign,

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

PART I

CUSTOMS AND EXCISE AND VALUE ADDED TAX

CHAPTER I

GENERAL

Alcoholic liquor duties

1 Rates of duty.

(1) In section 36 of the [M1]Alcoholic Liquor Duties Act 1979 (beer), as that section has effect apart from section 7(1) of the [M2]Finance Act 1991, for "£1.108" there shall be substituted " £1.163 ".

(2) For the Table of rates of duty in Schedule 1 to that Act (wine and made-wine) there shall be substituted the Table in Schedule 1 to this Act.

(3) In section 62(1) of that Act (cider) for "£21.32" there shall be substituted " £22.39 ".

(4) This section shall be deemed to have come into force at 6 o'clock in the evening of 16th March 1993.

Commencement Information
I1 S. 1 in force at 6 p.m. on 16.3.1993 see s. 1(4)

Marginal Citations
M1 1979 c. 4.
M2 1991 c. 31.

2 Beer duty: rate for new regime.

(1) In section 36(1) of the [M3]Alcoholic Liquor Duties Act 1979 (beer duty), as substituted by section 7(1) of the [M4]Finance Act 1991, for "£10.60" there shall be substituted " £10.45 ".

(2) This section shall be deemed to have come into force on 1st June 1993.

Commencement Information
I2 S. 2 in force at 1.6.1993 see S. 2(2)

Marginal Citations
M3 1979 c. 4.
M4 1991 c. 31.

3 Low strength beer.

(1) In section 1 of the Alcoholic Liquor Duties Act 1979 (alcoholic liquors dutiable under that Act) in subsection (3) (beer) for "1.2 per cent." there shall be substituted " 0.5 per cent. ".

(2) In section 36 of that Act (beer duty), as substituted by section 7(1) of the Finance Act 1991, after subsection (1) there shall be inserted the following subsection—

"(1A) No duty shall be chargeable under subsection (1) above on beer which is of a strength of 1.2 per cent. or less; but any such beer shall in all other respects be treated as if it were chargeable with a duty of excise."

(3) This section shall apply in relation to liquor which is produced in or imported into the United Kingdom, or removed into the United Kingdom from the Isle of Man, on or after the day on which this Act is passed.

4 Beer duty: abolition of certain reliefs, etc.

(1) The Alcoholic Liquor Duties Act 1979 shall be amended as follows.

(2) In subsection (2) of section 42 (drawback on exportation etc. of beer)—

(a) paragraph (a) (drawback on removal to excise warehouse) shall be omitted,

(b) in paragraph (b) the words "or removal to the Isle of Man" shall be omitted,

(c) also in paragraph (b) for "any such beer" there shall be substituted " any beer to which this section applies ", and

(d) for "exported, removed or shipped" there shall be substituted " exported or shipped ".

(3) In subsections (3) and (4) of that section the word "remove,", in each place where it occurs, shall be omitted.

(4) Section 43 (warehousing of beer for exportation, etc.) shall cease to have effect.

(5) In section 45(1) (repayment of duty on beer used in the production or manufacture of other beverages etc.)—

(a) at the end of paragraph (a) there shall be inserted " or ", and

(b) paragraph (b) shall be omitted.

(6) Section 51 (power to require production of books by brewers for sale) shall cease to have effect.

(7) Subsections (2)(a) and (c) and (4) to (6) above shall come into force on 1st September 1993.

(8) Subsections (2)(b) and (d) and (3) above shall come into force on such day as the Commissioners of Customs and Excise may by order made by statutory instrument appoint.

Commencement Information

I3 S. 4 wholly in force at 1.1.1995; s. 4(1)(7)(8) in force at Royal Assent; s. 4(2)(a)(c)(4)-(6) in force at 1.9.1993 see s. 4(7); s. 4(2)(b)(d)(3) in force at 1.1.1995 by S.I. 1994/2968, **art. 2**

5 Blending of alcoholic liquors.

(1) In Part VI of the [M5]Alcoholic Liquor Duties Act 1979 the following section shall be inserted before section 67—

"**66A Blending of alcoholic liquors.**

(1) Subject to subsections (4) to (6) below, a person shall not blend two or more alcoholic liquors—

(a) each of which is of a kind mentioned in paragraphs (a) to (e) of section 1(1) above, but

(b) not all of which fall within the same one of those paragraphs,

except in an excise warehouse or on premises which, in relation to the liquors blended, are for the time being permitted premises.

(2) Subject to subsections (4) to (6) below, a person shall not blend two or more alcoholic liquors which—

(a) fall within the same paragraph of section 1(1) above, but

(b) are not all of the same alcoholic strength,

except in an excise warehouse or on premises which, in relation to the liquors blended, are for the time being permitted premises.

(3) In relation to the blending of particular alcoholic liquors—

(a) if the liquor which is the product of the blending is beer, permitted premises are premises which are registered under section 41A above and premises in respect of which a person is registered under section 47 above;

(b) if the liquor which is the product of the blending is wine, permitted premises are premises in respect of which a licence under section 54(2) above is held;

(c) if the liquor which is the product of the blending is made-wine, permitted premises are premises in respect of which a licence under section 55(2) above is held;

(d) if the liquor which is the product of the blending is cider, permitted premises are premises in respect of which a person is registered under section 62 above.

(4) Subsections (1) and (2) above do not apply unless the blending is done with a view to offering for sale the liquor which is the product of the blending.

(5) Subsections (1) and (2) above do not apply where the liquor which is the product of the blending is intended for consumption on the premises on which the blending takes place.

(6) The Commissioners may direct that subsections (1) and (2) above shall not apply to the blending of alcoholic liquors in such circumstances as are specified in the direction.

(7) Where a person contravenes subsection (1) or (2) above, the following shall be liable to forfeiture—

(a) the liquor which is the product of the blending;

(b) all such vessels, utensils and materials for the blending of alcoholic liquors as are found in his possession.

(8) In this section any reference to blending liquors includes a reference to otherwise mixing them."

(2) In subsection (5) of section 55 of that Act (exemption for certain producers of made-wine from requirement to hold excise licence) before paragraph (a) there shall be inserted the following paragraph—

"(aa) he does not blend or otherwise mix two or more alcoholic liquors to which paragraphs (a) and (b) of section 66A(1) below or paragraphs (a) and (b) of section 66A(2) below apply;".

(3) In that section—

(a) paragraph (e) of subsection (5) and the word "and" immediately preceding that paragraph shall be omitted, and

(b) subsection (5A) shall be omitted.

(4) This section shall apply in relation to the blending or other mixing of alcoholic liquors on or after the day on which this Act is passed.

Marginal Citations
M5 1979 c. 4.

6 Mixing of wine and spirits in excise warehouse.

(1) In subsection (1) of section 58 of the [M6]Alcoholic Liquor Duties Act 1979 (mixing of wine and spirits in excise warehouse)—

(a) for "6 litres" there shall be substituted " 12 litres ",

(b) for "except as provided by subsection (2) below" there shall be substituted " by virtue of this section ", and

(c) for "23 per cent." there shall be substituted " 22 per cent. ".

(2) Subsection (2) of that section shall be omitted.

(3) This section shall apply in relation to mixing done on or after the day on which this Act is passed.

Marginal Citations
M6 1979 c. 4.

7 Sparkling wine or made-wine.

(1) In Schedule 1 to the Alcoholic Liquor Duties Act 1979 (rates of duty on wine and made-wine), for paragraphs 1 and 2 there shall be substituted the following paragraphs—

"1 Paragraphs 2 and 3 below apply for the purposes of this Act.

2 (1) Wine or made-wine which is for the time being in a closed container is sparkling if, due to the presence of carbon dioxide or any other gas, the pressure in the container, measured at a temperature of 20°C, is not less than 3 bars in excess of atmospheric pressure.

(2) Wine or made-wine which is for the time being in a closed container is sparkling regardless of the pressure in the container if the container has a mushroom-shaped stopper (whether solid or hollow) held in place by a tie or fastening.

(3) Wine or made-wine which is not for the time being in a closed container is sparkling if it has characteristics similar to those of wine or made-wine which has been removed from a closed container and which, before removal, fell within sub-paragraph (1) above.

3 (1) Wine or made-wine shall be regarded as having been rendered sparkling if, as a result of aeration, fermentation or any other process, it either

falls within paragraph 2(1) above or takes on such characteristics as are referred to in paragraph 2(3) above.

(2) Wine or made-wine which has not previously been rendered sparkling by virtue of sub-paragraph (1) above shall be regarded as having been rendered sparkling if it is transferred into a closed container which has a mushroom-shaped stopper (whether solid or hollow) held in place by a tie or fastening.

(3) Wine or made-wine which is in a closed container and has not previously been rendered sparkling by virtue of sub-paragraph (1) or (2) above shall be regarded as having been rendered sparkling if the stopper of its container is exchanged for a stopper of a kind mentioned in sub-paragraph (2) above."

(2) This section shall apply in relation to wine and made-wine which is produced in or imported into the United Kingdom, or removed into the United Kingdom from the Isle of Man, on or after the day on which this Act is passed.

[F1]8 . . . . . .

Textual Amendments

F1 S. 8 repealed (1.5.1995 with application as mentioned in the Note to Sch. 29 Pt. 1(3) of the amending Act and wholly in force at 1.7.2005) by 1995 c. 4, ss. 5(6)(7), 162, **Sch. 29 Pt. I(3)**; S.I. 2005/1523, art. 2 (with art. 3)

Hydrocarbon oil duties

9 Rates of duty.

(1) In section 6(1) of the **[M7]**Hydrocarbon Oil Duties Act 1979 for "£0.2779" (duty on light oil) and "£0.2285" (duty on heavy oil) there shall be substituted " £0.3058 " and " £0.2514 " respectively.

(2) In section 11(1) of that Act (rebate on heavy oil) for "£0.0095" (fuel oil) and "£0.0135" (gas oil) there shall be substituted " £0.0105 " and " £0.0149 " respectively.

(3) In section 13A(1) of that Act (rebate on unleaded petrol) for "£0.0437" there shall be substituted " £0.0482 ".

(4) In section 14(1) of that Act (rebate on light oil for use as furnace fuel) for "£0.0095" there shall be substituted " £0.0105 ".

(5) This section shall be deemed to have come into force at 6 o'clock in the evening of 16th March 1993.

Commencement Information

I4 S. 9 in force at 6 p.m. on 16.3.1993: see s. 9(5)

Marginal Citations

M7 1979 c. 5.

10 [F2Extension of Hydrocarbon Oil Duties Act 1979 to energy products.]

(1) The Hydrocarbon Oil Duties Act 1979 ("the 1979 Act") shall have effect in relation to such cases as may be specified in an order made by the Treasury as if references in that Act to hydrocarbon oil or to road fuel gas included references to any **[**F3energy product**]** which is designated by that order as a substance which is to be treated for the purposes of that Act as the equivalent of hydrocarbon oil or, as the case may be, of road fuel gas.

(2) The Treasury may by order provide, in relation to any substance which by virtue of this section is to be treated for the purposes of the 1979 Act as the equivalent of hydrocarbon oil **[**F4or road fuel gas**]**, for that substance to be treated for the purposes of such of the provisions of that Act as may be specified in the order **[**F5as if it fell within such class or description of substance**][**F6as may be so specified**]**.

(3) In exercising their powers under this section, the Treasury shall so far as practicable secure that **[**F7an energy product**]** which is intended for, or capable of being put to, a particular use is treated for the purposes of the 1979 Act as if it were **[**F8the substance**]** to which, when put to that use, it is most closely equivalent.

[F9(4) In this section "energy product" means a substance which—

(a) is an energy product for the purposes of Council Directive 2003/ 96/EC restructuring the Community framework for the taxation of energy products and electricity, and

(b) is not (apart from as a result of this section) hydrocarbon oil or road fuel gas within the meaning of the 1979 Act.**]**

(5) The power of the Treasury to make an order under this section shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of the House of Commons; and any such order may make different provision for different cases and different substances.

[F10(6) Where a duty of excise is charged on a substance under a provision of the 1979 Act by virtue of an order under this section, no duty shall be charged on the substance under any other provision of that Act.**]**

Textual Amendments

F2 S. 10 heading substituted (22.7.2004) by Finance Act 2004 (c. 12), **s. 14(7)**
F3 Words in s. 10(1) substituted (22.7.2004) by Finance Act 2004 (c. 12), **s. 14(2)**
F4 Words in s. 10(2) inserted (22.7.2004) by Finance Act 2004 (c. 12), **s. 14(3)(a)**
F5 Words in s. 10(2) substituted (22.7.2004) by Finance Act 2004 (c. 12), **s. 14(3)(b)**
F6 Words in s. 10(2) substituted (24.7.2002) by 2002 c. 23, **s. 7(2)(a)**
F7 Words in s. 10(3) substituted (22.7.2004) by Finance Act 2004 (c. 12), **s. 14(4)(a)**
F8 Words in s. 10(3) substituted (22.7.2004) by Finance Act 2004 (c. 12), **s. 14(4)(b)**
F9 S. 10(4) substituted (22.7.2004) by Finance Act 2004 (c. 12), **s. 14(5)**
F10 S. 10(6) substituted (22.7.2004) by Finance Act 2004 (c. 12), **s. 14(6)**

11 Other fuel substitutes.

(1) After section 6 of the [M8]Hydrocarbon Oil Duties Act 1979 there shall be inserted the following section—

"**6A Fuel substitutes.**

(1) A duty of excise shall be charged on the setting aside for a chargeable use by any person, or (where it has not already been charged under this section) on the chargeable use by any person, of any liquid which is not hydrocarbon oil.

(2) In this section "chargeable use" in relation to any substance means the use of that substance—

(a) as fuel for any engine, motor or other machinery; or

(b) as an additive or extender in—

(i) any substance on which duty is charged by virtue of paragraph (a) above; or

(ii) any hydrocarbon oil which is or is to be used as mentioned in that paragraph.

(3) The rate of the duty under this section shall be prescribed by order made by the Treasury.

(4) In the following provisions of this Act references to hydrocarbon oil shall be construed as including references to any substance on which duty is charged under this section; and, accordingly, references to duty on hydrocarbon oil shall be construed, where a substance is to be treated as such oil, as including references to duty under this section.

(5) The Treasury may by order provide for any substance on which duty is charged under this section to be treated for the purposes of such of the following provisions of this Act as may be specified in the order as if it fell within the description of such one or more of the following as may be so specified, that is to say—

(a) heavy oil or light oil;

(b) aviation gasoline;

(c) fuel oil or gas oil, as defined in section 11(2) below; and

(d) unleaded petrol, as defined in section 13A(2) below.

(6) In exercising their powers under this section, the Treasury shall so far as practicable secure—

(a) that a substance set aside for use or used as mentioned in subsection (2)(a) above is—

(i) charged with duty at the same rate as, and

(ii) otherwise treated for the purposes of the following provisions of this Act as if it were,

the substance falling within the descriptions specified in subsection (5) above to which, when put to that use, it is most closely equivalent; and

(b) that a substance set aside for use or used as an additive or extender in any substance is—

(i) charged with duty at the same rate as, and

(ii) otherwise treated for the purposes of the following provisions of this Act as if it were,

the substance in which it is an additive or extender.

(7) For the purposes of this section "liquid" does not include any substance which is gaseous at a temperature of 15°C and under a pressure of 1013.25 millibars.

(8) The power of the Treasury to make an order under this section shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of the House of Commons.

(9) An order under this section—

(a) may make different provision for different cases and for different substances;

(b) may prescribe the rate of duty under this section in respect of any substance by reference to the rate of duty under this Act in respect of any other substance; and

(c) in making different provision for different substances, may define a substance by reference to the use for which it is set aside or the use to which it is put."

(2) Sections 4, 7 and 16 of that Act (petrol substitutes and power methylated spirits) shall cease to have effect.

(3) In section 22(1) of that Act (offence of using petrol substitutes on which duty has not been paid), for the words from the beginning to the word "shall", in the first place where it occurs, there shall be substituted—

"A person who—

(a) puts to a chargeable use (within the meaning of section 6A above) any liquid which is not hydrocarbon oil; and

(b) knows or has reasonable cause to believe that there is duty charged under section 6A above on that liquid which has not been paid and is not lawfully deferred,

shall ".

(4) In section 1(1)(b) of the [M9]Excise Duties (Surcharges or Rebates) Act 1979 (surcharges or rebates in respect of excise duties on hydrocarbon oil etc.), for paragraph (b) there shall be substituted the following paragraph—

"(b) those chargeable by virtue of the Hydrocarbon Oil Duties Act 1979;".

(5) This section shall come into force on such day as the Treasury may by order made by statutory instrument appoint, and different days may be appointed under this subsection for different provisions and for different purposes.

Marginal Citations

M8 1979 c. 5.

M9 1979 c. 8.

12 Measurement of volume.

(1) In ascertaining for the purposes of the [M10]Hydrocarbon Oil Duties Act 1979—

(a) the amount of any duty of excise chargeable on any liquid by virtue of that Act; or

(b) the amount of any rebate allowable on any such liquid by virtue of that Act,

the volume of that liquid shall be taken (if it would not otherwise be so taken) to be what would be its volume, calculated in accordance with regulations under subsection (2) below, at a temperature of 15°C.

(2) The Commissioners of Customs and Excise may by regulations make such provision as they think fit as to the method by which, in ascertaining any amount mentioned in subsection (1) above—

(a) the volume of any liquid is to be measured; or

(b) the volume as at a temperature of 15°C of any amount of a liquid is to be determined;

and that provision may include provision made by reference to any internationally recognised conversion tables.

(3) Any reference in sections 15 and 17 to 19A of that Act (drawback and relief) to the amount of any duty of excise which has been paid in respect of any substance, or to the amount of any rebate that has been allowed in respect of any substance, shall be construed as a reference—

(a) to such amount as is shown to the satisfaction of the Commissioners of Customs and Excise to have been paid or, as the case may be, allowed in respect of that substance; or

(b) where regulations made by those Commissioners so provide, to such amount as is calculated on such assumptions as to the volume of the substance in question as may be determined in accordance with any such regulations.

(4) The power of the Commissioners of Customs and Excise to make regulations under this section shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament; and any such regulations—

(a) may make different provision for different cases and for different substances; and

(b) may contain such transitional, supplemental and incidental provision as those Commissioners think fit.

(5) Provision made under this section by any regulations may provide for any determination or measurement under the regulations to be made, or any description of a case or substance to be framed, by reference to such circumstances or other factors, or to the opinion of such persons, as the Commissioners think fit.

(6) For the purposes of this section "liquid" does not include any substance which is gaseous at a temperature of 15°C and under a pressure of 1013.25 millibars.

(7) In consequence of this section—

(a) section 2(5) of that Act (measurement of heavy oil having a temperature exceeding 15°C) shall cease to have effect; and

(b) the words "shown to the satisfaction of the Commissioners to have been" in section 15(1) of that Act (drawback) shall be omitted.

(8) This section shall come into force on such day as the Commissioners of Customs and Excise may by order made by statutory instrument appoint, and different days may be appointed under this subsection for different provisions and for different purposes.

Subordinate Legislation Made

P1 S. 12(8) power partly exercised (9.9.1993): different dates appointed for specific provisions by S.I. 1993/2215.

Commencement Information

I5 S. 12 wholly in force; s. 12 not in force at Royal Assent, s. 12(2)(4)(5)(6)(8) in force at 13.9.1993, s. 12 in force at 15.10.1993 insofar as not already in force see s. 12(8) and S.I. 1993/2215, **arts. 2**,3

Marginal Citations

M10 1979 c. 5.

Tobacco products duty

13 Rates of duty.

(1) For the Table in Schedule 1 to the [M11]Tobacco Products Duty Act 1979 there shall be substituted—

" TABLE

1. Cigarettes	An amount equal to 20 per cent. of the retail price plus £48.75 per thousand cigarettes.
2. Cigars	£72.30 per kilogram.
3. Hand-rolling tobacco	£76.29 per kilogram.
4. Other smoking tobacco and chewing tobacco	£31.93 per kilogram."

(2) This section shall be deemed to have come into force at 6 o'clock in the evening of 16th March 1993.

Commencement Information

I6 S. 13 in force at 6 p.m. on 16.3.1993: see s. 13(2)

Marginal Citations

M11 1979 c. 7.

14 Hand-rolling tobacco.

(1) In the Tobacco Products Duty Act 1979, section 1 (definition of tobacco products) shall be amended as follows.

(2) In subsection (2) (definition of hand-rolling tobacco) after paragraph (a) there shall be inserted—

"(aa) which is of a kind used for making into cigarettes; or".

(3) In paragraph (b) of subsection (2) (more than 25 per cent. by weight of the tobacco particles have a width of less than 0.6 mm) for "0.6" there shall be substituted " 1 ".

(4) The following subsection shall be inserted after subsection (2)—

"(2A) For the purposes of subsection (2)(aa) above the use for making into cigarettes must amount to more than occasional use but need not amount to common use."

(5) In subsection (3) (power to amend definitions) after "(2)" there shall be inserted " or (2A) ".

Gaming machine licence duty

F11 15 . . . . . .

Textual Amendments

F11 S. 15 repealed (3.5.1994 with effect in accordance with Sch. 3 of the amending Act) by 1994 c. 9, ss. 6, 258, Sch. 3, **Sch. 26 Pt. II** Note

16 Small-prize machines.

(1) The Betting and Gaming Duties Act 1981 shall be amended as follows.

(2) In section 21 (gaming machine licences) in subsection (1) (licence required for machine other than a two-penny machine) for "a two-penny machine" there shall be substituted " an excepted machine ".

(3) In that section the following subsection shall be inserted after subsection (3)—

"(3A) For the purposes of this section an excepted machine is—

(a) a two-penny machine, or

(b) a five-penny machine which is a small-prize machine."

(4) In section 22 (charge to duty)—

(a) in subsection (1) for the words from "by reference" to the end of the subsection there shall be substituted " in accordance with section 23 below ";

F12(b) . . . . . .

F12(5) . . . . . .

(6) For subsection (4) of section 25 (meaning of "gaming machine") there shall be substituted the following subsections—

"(4) Subject to subsection (5) below, for the purposes of determining whether a machine is a gaming machine it is immaterial whether it is capable of being

played by only one person at a time, or is capable of being played by more than one person.

(5) For the purposes of sections 21 to 24 above a machine (the actual machine) which two or more persons can play simultaneously (whether or not participating with one another in the same game) shall, instead of being treated as one machine, be treated as if it were a number of machines (accountable machines) equal to the number of persons who can play the actual machine simultaneously.

(6) Subsection (5) above does not apply to a machine which is a two-penny machine, or is both a small-prize machine and a five-penny machine.

(7) If the actual machine is a small-prize machine but not a five-penny machine, the accountable machines shall be taken to be small-prize machines which are not five-penny machines.

(8) If the actual machine is not a small-prize machine, the accountable machines shall be taken not to be small-prize machines, and in such a case—

(a) if the actual machine is a five-penny machine, the accountable machines shall be taken to be five-penny machines;

(b) if the actual machine is not a five-penny machine, the accountable machines shall be taken not to be five-penny machines.

(9) For the purposes of subsection (5) above the number of persons who can play a particular machine simultaneously shall be determined by reference to the number of individual playing positions provided on the machine.”

(7) In section 26(2) (interpretation) the following definition shall be inserted after the definition of “two-penny machine”—

““five-penny machine” means a gaming machine which can only be played by the insertion into the machine of a coin or coins of a denomination, or aggregate denomination, not exceeding 5p;”.

F13(8) . . . . . .

(9) This section shall apply in relation to licences for any period beginning on or after 1st November 1993.

Textual Amendments

F12 S. 16(4)(b)(5) repealed (3.5.1994 with effect in accordance with Sch. 3 of the amending Act) by 1994 c. 9, ss. 6, 258, Sch. 3, **Sch. 26 Pt. II** Note

F13 S. 16(8) repealed (1.5.1995 with effect in accordance with s. 14 of the amending Act) by 1995 c. 4, ss. 14, 162, **Sch. 29 Pt. III** Note 1

Vehicles excise duty

17 Rates of duty: general.

F14(1) . . . . . .

F14(2) . . . . . .

(3) In Schedule 2 (annual rate of duty on hackney carriages) in the Table set out in Part II—

F15(a) . . . . . .

F16(b) . . . . . .

F16(4) . . . . . .

F16(5) . . . . . .

F17(6) . . . . . .

(7) In Schedule 5 (annual rate of duty on vehicles not falling within Schedules 1 to 4) in the Table set out in Part II—

F18(a) . . . . . .

F19(b) . . . . . .

F18(8) . . . . . .

Textual Amendments

F14 S. 17(1)(2) repealed (1.9.1994) by 1994 c. 22, ss. 65, 66, **Sch. 5 Pt. I** (subject to Sch. 4) (with s. 57(4))

F15 S. 17(3)(a) repealed (3.5.1994 with effect in relation to licences taken out after 30.11.1993) by 1994 c. 9, s. 258, **Sch. 26 Pt. I(1)**, Note

F16 S. 17(3)(b)(4)(5) repealed (1.9.1994) by 1994 c. 22, ss. 65, 66, **Sch. 5 Pt. I** (subject to Sch. 4) (with s. 57(4))

F17 S. 17(6) repealed (8.11.1993) by S.I. 1993/2452, art. 3, **Sch. 2**.

F18 S. 17(7)(a)(8) repealed (1.9.1994) by 1994 c. 22, ss. 65, 66, **Sch. 5 Pt. I** (subject to Sch. 4) (with s. 57(4))

F19 S. 17(7)(b) repealed (3.5.1994 with effect in relation to licences taken out after 30.11.1993) by 1994 c. 9, s. 258, **Sch. 26 Pt. I(1)**, Note

F20 18 . . . . . .

Textual Amendments

F20 S. 18 repealed (1.9.1994) by 1994 c. 22, ss. 65, 66, **Sch. 5 Pt. I** (subject to Sch. 4) (with s. 57(4))

F21 19 . . . . . .

Textual Amendments

F21 S. 19 repealed (1.9.1994) by 1994 c. 22, ss. 65, 66, **Sch. 5 Pt. I** (subject to Sch. 4) (with s. 57(1))

20 Old bicycles.

F22(1) . . . . . .

F22(2) . . . . . .

F23(3) . . . . . .

F22(4) . . . . . .

Textual Amendments

F22 S. 20(1)(2)(4) repealed (1.9.1994) by 1994 c. 22, ss. 65, 66, **Sch. 5 Pt. I** (subject to Sch. 4) (with s. 57(1))

F23 S. 20(3) repealed (retrospective to 30.11.1993) by 1994 c. 9, s. 258, **Sch. 26 Pt. I(1)**, Note

F24 21 . . . . . .

Textual Amendments

F24 S. 21 repealed (1.9.1994) by 1994 c. 22, ss. 65, 66, **Sch. 5 Pt. I** (subject to Sch. 4) (with s. 57(1))

Miscellaneous

F25 22 Mutual recovery and disclosure of information.

. . . . . .

Textual Amendments

F25 S. 22 repealed (10.7.2003) by Finance Act 2003 (c. 14), **Sch. 43 Pt. 5(1)**

F26 23 . . . . . .

Textual Amendments

F26 S. 23 repealed (1.9.1994) by 1994 c. 22, ss. 65, 66(1), **Sch. 5 Pt. I** (with s. 57(1))

CHAPTER II

LOTTERY DUTY

The duty

24 Lottery duty.

(1) Subject to subsections (3) and (4) below, a duty of excise called "lottery duty" is chargeable—

(a) on the taking in the United Kingdom of a ticket or chance in a lottery, and

(b) in such cases as may be determined by regulations, on the taking outside the United Kingdom of a ticket or chance in a lottery promoted in the United Kingdom.

(2) Regulations may make provision for determining when and where the taking of a ticket or chance in a lottery is to be treated as occurring for the purposes of this Chapter.

(3) Lottery duty is not chargeable in respect of a lottery that constitutes a game of bingo (or any version of bingo, by whatever name called).

(4) Lottery duty is not chargeable in respect—

(a) of a lottery promoted as an incident of an exempt entertainment within the meaning of the [M12]Lotteries and Amusements Act 1976 or the [M13]Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985;

(b) of a private lottery within the meaning of that Act or Order;

(c) of a society's lottery within the meaning of that Act or Order in respect of which the conditions set out in section 5(3) of that Act or Article 135(1) of that Order are satisfied;

(d) of a local lottery within the meaning of that Act in respect of which the conditions set out in section 6(2) of that Act are satisfied;

[F27](e) . . . . . .

(5) The Treasury may by order amend subsection (4) above so as to add to the descriptions of lottery for the time being mentioned in that subsection, so as to omit any of them or so as to substitute a different description of lottery for any of them.

Textual Amendments

F27 S. 24(4)(e) repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), **Sch. 1 Pt. 17** Group 3

Commencement Information

I7 S. 24 wholly in force; s. 24 not in force at Royal Assent, s. 24(1)(b)-(5) in force at 1.12.1993, s. 24 in force at 1.2.1994 insofar as not already in force by S.I. 1993/2842, **art. 3**.

Marginal Citations

M12 1976 c. 32.

M13 S.I. 1985/1204 (N.I. 11).

25 Amount of duty.

(1) The amount of the lottery duty chargeable on the taking of a ticket or chance in a lottery is equal to 12 per cent. of the value of the consideration given for the ticket or chance.

(2) Subject to subsection (3) below, the aggregate of everything paid or given by (or debited to the account of) the person taking the ticket or chance for, on account of, or in connection with, the ticket or chance shall be taken to be the consideration given for it.

(3) If a price is shown on a lottery ticket or any other document providing evidence of the taking of a ticket or chance in a lottery and—

(a) the consideration given for the ticket or chance is of lesser value than the price shown (or is of no value), or

(b) no consideration is given for the ticket or chance,

consideration to the value of the price shown shall be taken to be given for the ticket or chance.

26 Time for payment.

(1) The lottery duty chargeable on the taking of a ticket or chance in a lottery becomes due and (subject to any regulations under subsection (2) below) payable at the time the ticket or chance is taken.

(2) Regulations may provide for the payment of any lottery duty due in respect of a lottery of a description specified in the regulations to be deferred, subject to any conditions or requirements that may be imposed by or under the regulations.

(3) Regulations may require payments (of amounts determined by or under the regulations) to be made on account of any lottery duty that may become due in respect of a lottery of a description specified in the regulations that is being or is to be promoted.

27 Persons liable for duty.

(1) Any lottery duty or payment on account of lottery duty that under section 26 above or regulations under that section is payable in respect of a lottery shall be paid (subject to any regulations under subsection (2) below) by the promoter of the lottery.

(2) Regulations may require any lottery duty or payment on account of lottery duty that is payable in respect of a lottery of a description specified in the regulations to be paid by a person specified in the regulations (being a person who occupies or has occupied a position of responsibility in relation to the lottery) instead of by the promoter.

(3) Any lottery duty that is payable in respect of a lottery may be recovered jointly and severally from—

(a) the promoter of the lottery,

(b) any other person who occupies or has occupied a position of responsibility in relation to the lottery or who has or has had any degree of control over any of its proceeds, and

(c) where the promoter or a person within paragraph (b) above is a body corporate, any director of that body corporate.

(4) **[**[F28]Where a person**]**does not make a payment that he is required to make by subsection (1) above or regulations under subsection (2) above at the time the payment becomes payable **[**[F29]his failure so to make the payment shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties) which shall be calculated by reference to the amount which has not been paid and shall also attract daily penalties.**]**.

Textual Amendments

F28 Words in s. 27(4) substituted (3.5.1994) by 1994 c. 9, s. 9(9), **Sch. 4 Pt. VI para. 67(a)**

F29 Words in s. 27(4) substituted (3.5.1994) by 1994 c. 9, s. 9(9), **Sch. 4 Pt. VI para. 67(b)**

Administration and enforcement

28 General.

(1) Lottery duty shall be under the care and management of the Commissioners.

(2) Regulations may provide for any matter for which provision appears to the Commissioners to be necessary or expedient for the administration or enforcement of lottery duty or for the protection of the revenue derived from lottery duty.

(3) **[**[F30]Where a person**]** contravenes or does not comply with any regulations under subsection (2) above **[**[F31]his contravention or failure to comply shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties).**]**.

Textual Amendments

F30 Words in s. 28(3) substituted (3.5.1994) by 1994 c. 9, s. 9(9), **Sch. 4 para. 68(a)**

F31 Words in s. 28(3) substituted (3.5.1994) by 1994 c. 9, s. 9(9), **Sch. 4 para. 68(b)**

29 Registration of promoters etc.

(1) A lottery in respect of which lottery duty is chargeable (or, on the taking of a ticket or chance, will be chargeable) shall not be promoted in the United Kingdom unless the chargeable person is registered with the Commissioners under this section.

(2) In this section "the chargeable person", in relation to a lottery, means—

(a) subject to paragraph (b) below, the promoter of the lottery;

(b) in the case of a lottery of a description specified in regulations under section 27(2) above, the other person referred to in that subsection.

(3) Regulations may make provision—

(a) as to the time at which an application for registration is to be made, as to the form and manner of such an application and as to the information to be contained in or provided with it,

(b) as to the requirements that must be satisfied as a condition of a person's registration or continued registration, and

(c) as to other requirements that must be observed by a person while he remains registered.

(4) The requirements imposed by virtue of subsection (3)(b) above may include requirements as to the giving of security or further security (by means of a deposit or otherwise) for any lottery duty that may become due.

(5) Subject to regulations under subsection (3)(a) and (b) above, the Commissioners—

(a) shall register any person applying to them for registration who satisfies them that he will be the chargeable person in relation to a lottery that is to be promoted, and

(b) shall not remove any person from the register unless it appears to them that no lottery is being or is to be promoted in relation to which he is or will be the chargeable person.

(6) Where—

(a) the Commissioners determine that a person should be removed from the register because any requirement imposed by regulations under subsection (3)(b) above is not (or is no longer) satisfied in relation to him, and

(b) a lottery in relation to which he is the chargeable person is being promoted at the time they make that determination,

they shall not remove him from the register until the promotion of that lottery has come to an end.

(7) If subsection (1) above is contravened in relation to a lottery at any time during its promotion, the chargeable person is guilty of an offence and liable—

(a) on summary conviction, to a penalty of the statutory maximum or to imprisonment for a term not exceeding six months, or to both, or

(b) on conviction on indictment, to a penalty of any amount or to imprisonment for a term not exceeding two years, or to both.

(8) **[**[F32]Where a person**]** contravenes or fails to comply with any requirements imposed by regulations under subsection (3)(c) above **[**[F33]his contravention or failure to comply shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties).**]**.

Textual Amendments

F32 Words in s. 29(8) substituted (3.5.1994) by 1994 c. 9, s. 9, **Sch. 4 para. 68(a)**

F33 Words in s. 29(8) substituted (3.5.1994) by 1994 c. 9, s. 9, **Sch. 4 para. 68(b)**

Commencement Information

I8 S. 29 wholly in force; s. 29 not in force at Royal Assent, s. 29(2)-(8) in force at 1.12.1993, s. 29 in force at 1.2.1994 insofar as not already in force by S.I. 1993/2842, **art. 3**.

30 Application of revenue trade provisions of CEMA 1979.

(1) Section 1(1) of the [M14]Customs and Excise Management Act 1979 (interpretation) shall be amended in accordance with subsections (2) and (3) below.

(2) In the definition of "the revenue trade provisions of the customs and excise Acts"—

(a) the word "and" at the end of paragraph (b) shall be omitted, and

(b) at the end there shall be added "; and

(d) the provisions of Chapter II of Part I of the Finance Act 1993;".

(3) In paragraph (a) of the definition of "revenue trader"—

(a) the word "or" at the end of sub-paragraph (i) shall be omitted,

(b) after sub-paragraph (i) there shall be inserted—

"(i) the buying, selling, importation, exportation, dealing in or handling of tickets or chances on the taking of which lottery duty is or will be chargeable; or", and

(c) in sub-paragraph (ii) after "activities" there shall be inserted " as are mentioned in sub-paragraph (i) or (ia) above ".

(4) In section 117 of the [M15]Customs and Excise Management Act 1979 (execution and distress against revenue traders) after subsection (1) there shall be inserted—

"(1A) In subsection (1) above as it applies in relation to a sum owing by a revenue trader in respect of lottery duty or of a relevant penalty—

(a) references to goods liable to any excise duty include lottery tickets on the taking of which lottery duty will be chargeable, and

(b) "the trade in respect of which the duty is imposed" includes any trade or business carried on by the revenue trader that consists of or includes

the buying, selling, importation, exportation, dealing in or handling of tickets or chances on the taking of which lottery duty is or will be chargeable."

Marginal Citations

M14 1979 c. 2.

M15 1979 c. 2.

31 General offences.

(1) A person who is knowingly concerned—

(a) in the fraudulent evasion (by him or another person) of lottery duty, or

(b) in taking steps with a view to such fraudulent evasion,

is guilty of an offence.

(2) A person guilty of an offence under subsection (1) above is liable—

(a) on summary conviction, to a penalty of the statutory maximum or, if greater, treble the amount of the duty evaded or sought to be evaded or to imprisonment for a term not exceeding six months, or to both, or

(b) on conviction on indictment, to a penalty of any amount or to imprisonment for a term not exceeding seven years, or to both.

(3) A person who in connection with lottery duty—

(a) makes a statement that he knows to be false in a material particular or recklessly makes a statement that is false in a material particular, or

(b) with intent to deceive, produces or makes use of a book, account, return or other document that is false in a material particular,

is guilty of an offence.

(4) A person guilty of an offence under subsection (3) above is liable—

(a) on summary conviction, to a penalty of the statutory maximum or to imprisonment for a term not exceeding six months, or to both, or

(b) on conviction on indictment, to a penalty of any amount or to imprisonment for a term not exceeding two years, or to both.

32 Offences by bodies corporate.

Where an offence under this Chapter is committed by a body corporate, every person who at the date of the commission of the offence is a director, manager, secretary or other similar officer of the body corporate (or is purporting to act in such a capacity) is also guilty of the offence unless—

(a) the offence is committed without his consent or connivance, and

(b) he has exercised all such diligence to prevent its commission as he ought to have exercised, having regard to the nature of his functions in that capacity and to all the circumstances.

33 Forfeiture.

(1) Where a person has committed an offence under section 31(1) or (3) above, any goods used in the promotion of, or in any other way related to, a relevant lottery are liable to forfeiture.

(2) In subsection (1) above "relevant lottery"—

(a) in relation to an offence under section 31(1) above, means a lottery in respect of which lottery duty was fraudulently evaded or (as the case may be) in respect of which the fraudulent evasion of lottery duty was sought, and

(b) in relation to an offence under section 31(3) above, means a lottery to which the false statement or (as the case may be) false document related.

34 Protection of officers etc.

Where a person takes an action in pursuance of instructions of the Commissioners given in connection with the enforcement of this Chapter or of regulations under it and, apart from this section, the person would in taking that action be committing an offence under any enactment relating to lotteries, he shall not be guilty of that offence.

36 Duty a preferential debt in insolvency.

F34(1) . . . . . .

F34(2) . . . . . .

F34(3) . . . . . .

(4) In Article 346(1) of the M17Insolvency (Northern Ireland) Order 1989 (preferential debts) after "beer duty" there shall be inserted " , lottery duty ".

(5) In Schedule 4 to that Order (categories of preferential debts) in Category 2 (debts due to Customs and Excise) after paragraph 5A there shall be inserted—

"5B Any amount which is due by way of lottery duty from the debtor at the relevant date and which became due within the period of 12 months next before that date."

Textual Amendments

F34 S. 36(1)-(3) repealed (15.9.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 26**; S.I. 2003/2093, art. 2(1), Sch. 1 (with art. 4)

Marginal Citations

M17 S.I. 1989/2405 (N.I.19).

37 Disclosure of information.

(1) Notwithstanding any obligation not to disclose information that would otherwise apply, the Commissioners may disclose information—

(a) to the Secretary of State,
(b) to the Gaming Board for Great Britain, or
(c) to an authorised officer of the Secretary of State or Gaming Board,

for the purpose of assisting the Secretary of State or Gaming Board (as the case may be) in the performance of duties imposed by or under any enactment in relation to lotteries.

(2) Notwithstanding any such obligation as is mentioned in subsection (1) above—
(a) the Secretary of State,
(b) the Gaming Board for Great Britain, or
(c) an authorised officer of the Secretary of State or Gaming Board,

may disclose information to the Commissioners or to an authorised officer of the Commissioners for the purpose of assisting the Commissioners in the performance of duties in relation to lottery duty.

(3) Information that has been disclosed to a person by virtue of this section shall not be disclosed by him except—
(a) to another person to whom (instead of him) disclosure could by virtue of this section have been made, or
(b) for the purpose of any proceedings connected with the operation of any enactment in relation to lotteries or lottery duty.

(4) References above in this section to the Secretary of State include any person who has been designated by the Secretary of State as a person to and by whom information may be disclosed under this section.

(5) The Secretary of State shall notify the Commissioners in writing if he designates a person under subsection (4) above.

Supplementary

38 Regulations and orders.

(1) Any regulations under this Chapter may make—
(a) different provision for different cases or circumstances, and
(b) incidental, supplemental or consequential provision.

(2) Any power to make regulations or orders under this Chapter is exercisable by statutory instrument.

(3) Subject to subsection (4) below, a statutory instrument containing such regulations or an order under section 24(5) above is subject to annulment in pursuance of a resolution of the House of Commons.

(4) An order under section 24(5) above that will result in lottery duty becoming chargeable in respect of any description of lottery shall not be made unless a draft of the statutory instrument containing it has been laid before, and approved by a resolution of, the House of Commons.

39 Disapplication of pool betting duty.

In section 6 of the [M18]Betting and Gaming Duties Act 1981 (pool betting duty)—

F35(a) . . . . . .
(b) subsection (4) shall cease to have effect.

Textual Amendments

F35 S. 39(a) repealed (*retrospective* to 31.3.2002 as mentioned in s. 12(1)-(5) subject as mentioned in s. 12(5)(6) of the repealing Act) by 2002 c. 23, ss. 12, 141, **Sch. 40 Pt. 1(4)** Note 2

Marginal Citations

M18 1981 c. 63.

40 Interpretation etc.

(1) In this Chapter—

"the Commissioners" means the Commissioners of Customs and Excise,

"document" includes a document of any kind whatsoever and, in particular, a record kept by means of a computer,

"promotion", in relation to a lottery, includes the conduct of the lottery (and "promoted" is to be read accordingly), and

"regulations" means regulations made by the Commissioners.

(2) This Chapter applies in relation to lotteries promoted on behalf of the Crown in pursuance of any enactment as it applies in relation to lotteries not so promoted.

(3) The imposition by this Chapter of lottery duty does not make lawful anything that is unlawful apart from this Chapter.

41 Commencement.

This Chapter shall come into force on such day as the Commissioners may by order appoint, and different days may be appointed for different provisions or for different purposes.

Subordinate Legislation Made

P2 S. 41 power fully exercised (18.11.1993): different dates appointed for specified provisions by S.I. 1993/2842, **art. 3**.

CHAPTER III

VALUE ADDED TAX

F36 42 . . . . . .

Textual Amendments

F36 S. 42 repealed (1.9.1994) by 1994 c. 23, s. 100, **Sch. 15** (with Sch. 13 para. 9)

F37 43 . . . . . .

Textual Amendments

F37 S. 43 repealed (1.9.1994) by 1994 c. 23, s. 100, **Sch. 15** (with Sch. 13 para. 9)

F38 44 . . . . . .

Textual Amendments

F38 S. 44 repealed (1.9.1994) by 1994 c. 23, s. 100, **Sch. 15** (with Sch. 13 para. 9)

F39 45 . . . . . .

Textual Amendments

F39 S. 45 repealed (1.9.1994) by 1994 c. 23, s. 100, **Sch. 15** (with Sch. 13 para. 9)

F40 46 . . . . . .

Textual Amendments

F40 S. 46 repealed (1.9.1994) by 1994 c. 23, s. 100, **Sch. 15** (with Sch. 13 para. 9)

F41 47 . . . . . .

Textual Amendments

F41 S. 47 repealed (1.9.1994) by 1994 c. 23, s. 100, **Sch. 15** (with Sch. 13 para. 9)

F42 48 . . . . . .

Textual Amendments

F42 S. 48 repealed (1.9.1994) by 1994 c. 23, s. 100, **Sch. 15** (with Sch. 13 para. 9)

F43 49 . . . . . .

Textual Amendments

F43 S. 49 repealed (1.9.1994) by 1994 c. 23, s. 100, **Sch. 15** (with Sch. 13 para. 9)

F44 50 . . . . . .

Textual Amendments

F44 S. 50 repealed (1.9.1994) by 1994 c. 23, s. 100, **Sch. 15** (with Sch. 13 para. 9)

PART II

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

CHAPTER I

GENERAL

Income tax: charge, rates and allowances

51 Charge and rates of income tax for 1993-94.

(1) Income tax shall be charged for the year 1993-94, and for that year—

(a) the lower rate shall be 20 per cent.,

(b) the basic rate shall be 25 per cent., and

(c) the higher rate shall be 40 per cent.

(2) For the year 1993-94 section 1(2) of the Taxes Act 1988 shall apply as if—

(a) the amount specified in paragraph (aa) were £2,500 (the lower rate limit), and

(b) the amount specified in paragraph (b) were £23,700 (the basic rate limit);

and accordingly section 1(4) of that Act (indexation) shall not apply for the year 1993-94.

52 Personal and married couple's allowances.

Sections 257 and 257A of the Taxes Act 1988 (personal and married couple's allowances) shall apply for the year 1993-94 as if the amounts specified in them were the same as the amounts specified in them as they apply for the year 1992-93, and accordingly section 257C(1) of that Act (indexation) shall not apply for the year 1993-94.

Corporation tax charge and rate

53 Charge and rate of corporation tax for 1993.

Corporation tax shall be charged for the financial year 1993 at the rate of 33 per cent.

54 Small companies.

For the financial year 1993—

(a) the small companies' rate shall be 25 per cent., and

(b) the fraction mentioned in section 13(2) of the Taxes Act 1988 (marginal relief for small companies) shall be one fiftieth.

Interest: general

55 Relief for interest.

For the year 1993-94 the qualifying maximum defined in section 367(5) of the Taxes Act 1988 (limit on relief for interest on certain loans) shall be £30,000.

F45 56 . . . . . .

Textual Amendments

F45 S. 56 repealed (27.7.1999 with effect in relation to any payment of interest falling within s. 38(3)(4) of the amending Act) by 1999 c. 16, s. 139, **Sch. 20 Pt. III(7)** Note 4

57 Temporary relief for interest payments.

F46(1) . . . . . .

F46(2) . . . . . .

(3) In section 365 of that Act (relief on interest on loans to buy a life annuity), after subsection (1) there shall be inserted the following subsections—

"(1A) Where, in the case of any loan—

(a) the condition specified in subsection (1)(d) above would not (apart from this subsection) be fulfilled with respect to any land by reason of its having ceased at any time to be used by a particular person as his only or main residence; and

(b) the intention at that time of the person to whom the loan was made, or of each of the annuitants owning an estate or interest in that land, was to take steps, before the end of the period of 12 months after the day on which it ceased to be so used, with a view to the disposal of his estate or interest,

that condition shall be treated in relation to interest on that loan as continuing to be fulfilled with respect to the land from that time until the end of that period or (if sooner) the abandonment by that person or any of those annuitants of his intention to dispose of his estate or interest.

(1B) If it appears to the Board reasonable to do so, having regard to all the circumstances of a particular case, they may direct that in relation to that case subsection (1A) above shall have effect as if for the reference to 12 months there were substituted a reference to such longer period as meets the circumstances of that case."

F46(4) . . . . . .

(5) This section shall have effect in relation to payments of interest made on or after 16th March 1993 (whenever falling due).

F46(6) . . . . . .

F47(7) . . . . . .

Textual Amendments

F46 S. 57(1)(2)(4)(6) repealed (27.7.1999 with effect in relation to any payment of interest falling within s. 38(3)(4) of the amending Act) by 1999 c. 16, s. 139, **Sch. 20 Pt. III(7)** Note 4

F47 S. 57(7) repealed (3.5.1994 with effect in accordance with s. 81(6) of the amending Act) by 1994 c. 9, ss. 81, 258, Sch. 9 para. 12, **Sch. 26 Pt. V(2)** Note

58 Overclaims in respect of deductions of mortgage interest.

(1) After subsection (6) of section 369 of the Taxes Act 1988 (recovery of amount treated as paid by recipient of interest paid subject to a deduction under that section) there shall be inserted the following subsection—

"(7) The following provisions of the Management Act, namely—

(a) section 29(3)(c) (excessive relief),

(b) section 30 (tax repaid in error etc.),

(c) section 88 (interest), and

(d) section 95 (incorrect return or accounts),

shall apply in relation to an amount which is paid to any person by the Board as an amount recoverable in accordance with regulations made by virtue of subsection (6) above but to which that person is not entitled as if it were income tax which ought not to have been repaid and, where that amount was claimed by that person, as if it had been repaid as a relief which was not due."

(2) This section shall not apply in relation to any payment if the payment, or the claim on which it is made, was made before the day on which this Act is passed.

59 Interest payments to persons not ordinarily resident in UK.

In section 349 of the Taxes Act 1988 (annual interest etc.) in subsection (3) (exceptions from requirement to deduct tax from interest payments) at the end of paragraph (g) there shall be inserted " or " and after that paragraph there shall be inserted the following paragraph—

"(h) to any payment in respect of which a liability to deduct income tax would, but for section 481(5)(k), be imposed by section 480A(1)."

F48 60 . . . . . .

Textual Amendments

F48 S. 60 repealed (1.10.2002) by 2002 c. 23, s. 141, **Sch. 40 Pt. 3(10)**, note 2

Interest etc. on debts between associated companies

F49 61 . . . . . .

Textual Amendments

F49 S. 61 repealed (29.4.1996 with effect in accordance with the provisions of Chapter II of Pt. IV of the repealing Act) by 1996 c. 8, s. 205, **Sch. 41 Pt. V(3)** Note

F50 62 . . . . . .

Textual Amendments

F50 S. 62 repealed (29.4.1996 with effect in accordance with the provisions of Chapter II of Pt. IV of the repealing Act) by 1996 c. 8, s. 205, **Sch. 41 Pt. V(3)** Note

F51 62A . . . . . .

Textual Amendments

F51 S. 62A repealed (29.4.1996 with effect in accordance with the provisions of Chapter II of Pt. IV of the repealing Act) by 1996 c. 8, s. 205, **Sch. 41 Pt. V(3)** Note

F52 63 . . . . . .

Textual Amendments

F52 S. 63 repealed (29.4.1996 with effect in accordance with the provisions of Chapter II of Pt. IV of the repealing Act) by 1996 c. 8, s. 205, **Sch. 41 Pt. V(3)** Note

F53 64 . . . . . .

Textual Amendments

F53 S. 64 repealed (29.4.1996 with effect in accordance with the provisions of Chapter II of Pt. IV of the repealing Act) by 1996 c. 8, s. 205, **Sch. 41 Pt. V(3)** Note (with Sch. 15 para. 19(3))

Modifications etc. (not altering text)

C1 S. 64 amended (27.7.1999 with application as mentioned in s. 67(8) of the amending Act) by 1999 c. 16, **s. 67(4)(8)**

F54 65 . . . . . .

Textual Amendments

F54 S. 65 repealed (29.4.1996 with effect in accordance with the provisions of Chapter II of Pt. IV of the repealing Act) by 1996 c. 8, s. 205, **Sch. 41 Pt. V(3)** Note (with Sch. 15 para. 20(2))

Modifications etc. (not altering text)

C2 S. 65 amended (27.7.1999 with application as mentioned in s. 67(8) of the amending Act) by 1999 c. 16, **s. 67(4)(8)**

F55 66 . . . . . .

Textual Amendments

F55 S. 66 repealed (29.4.1996 with effect in accordance with the provisions of Chapter II of Pt. IV of the repealing Act) by 1996 c. 8, s. 205, **Sch. 41 Pt. V(3)** Note

Charitable donations

67 Donations from companies and individuals.

(1) In section 339 of the Taxes Act 1988 (charges on income: donations to charity) in subsection (3A) (payment by close company not a qualifying donation if less than £400 after deducting income tax) for "£400" there shall be substituted " £250 ".

(2) In section 25 of the **M19**Finance Act 1990 (donations to charity by individuals) in subsection (2)(g) (gift must be not less than £400 to be a qualifying donation) for "£400" there shall be substituted " £250 ".

(3) Subsection (1) above shall apply in relation to payments made on or after 16th March 1993.

(4) Subsection (2) above shall apply in relation to gifts made on or after 16th March 1993.

Marginal Citations

M19 1990 c. 29.

[F56]68 Payroll deduction schemes.

. . . . . .

Textual Amendments

F56 S. 68 repealed (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by Income Tax (Earnings and Pensions) Act 2003 (c. 1), s. 723, **Sch. 8 Pt. 1** (with Sch. 7)

69 Contributions to agent's expenses.

The following section shall be inserted after section 86 of the Taxes Act 1988—

"**86A Charitable donations: contributions to agent's expenses.**

(1) This section applies where—

(a) a person (the employer) is liable to make to any individual payments from which income tax falls to be deducted by virtue of section 203 and regulations under that section, and

(b) the employer withholds sums from those payments in accordance with a scheme falling within subsection (3) of section 202 and pays the sums to an agent (within the meaning of subsection (4)(a) of that section).

(2) Any relevant expenditure incurred by the employer on or after 16th March 1993—

(a) shall be deducted in computing for the purposes of Schedule D the profits or gains of a trade, profession or vocation carried on by the employer, or

(b) if the employer is an investment company or a company in the case of which section 75 applies by virtue of section 76, shall be treated as expenses of management.

(3) Relevant expenditure is expenditure incurred in making to the agent any payment in respect of expenses which have been or are to be incurred by the agent in connection with his functions under the scheme."

Benefits in kind

70 Car benefits: 1993-94.

(1) In Schedule 6 to the Taxes Act 1988 (taxation of directors and others in respect of cars) for Part I (tables of flat rate cash equivalents) there shall be substituted—

"**PART I**

TABLES OF FLAT RATE CASH EQUIVALENTS

Table A

CARS WITH AN ORIGINAL MARKET VALUE UP TO £19,250 AND HAVING A CYLINDER CAPACITY

Cylinder capacity of car in cubic centimetres	***Age of car at end of relevant year of assessment***	
	Under 4 years	4 years or more
1,400 or less	£2,310	£1,580
More than 1,400 but not more than 2,000	£2,990	£2,030
More than 2,000	£4,800	£3,220

Table B

CARS WITH AN ORIGINAL MARKET VALUE UP TO £19,250 AND NOT HAVING A CYLINDER CAPACITY

Original market value of car	***Age of car at end of relevant year of assessment***	
	Under 4 years	4 years or more
Less than £6,000	£2,310	£1,580
£6,000 or more but less than £8,500	£2,990	£2,030
£8,500 or more but not more than £19,250	£4,800	£3,220

Table C

CARS WITH AN ORIGINAL MARKET VALUE OF MORE THAN £19,250

Original market value of car	***Age of car at end of relevant year of assessment***	
	Under 4 years	4 years or more
More than £19,250 but not more than £29,000	£6,210	£4,180
More than £29,000	£10,040	£6,660"

(2) This section shall have effect for the year 1993-94.

71 Car fuel: 1993-94.

(1) In section 158 of the Taxes Act 1988 (car fuel) for the Tables in subsection (2) (tables of cash equivalents) there shall be substituted—

"TABLE A

Cylinder capacity of car in cubic centimetres	*Cash equivalent*
1,400 or less	£600
More than 1,400 but not more than 2,000	£760
More than 2,000	£1,130

TABLE AB

Cylinder capacity of car in cubic centimetres	*Cash equivalent*
2,000 or less	£550
More than 2,000	£710

TABLE B

Original market value of car	*Cash equivalent*
Less than £6,000	£600
£6,000 or more but less than £8,500	£760
£8,500 or more	£1,130"

(2) In subsection (5) of that section (reductions in cash equivalents) the words "or 3" shall be omitted.

(3) This section shall have effect for the year 1993-94.

72 Car and car fuel benefits: 1994-95 onwards.

Schedule 3 to this Act (which contains provisions, having effect for the year 1994-95 and subsequent years of assessment, about cars available for private use and car fuel) shall have effect.

[F57]73 Vans.

. . . . . .

Textual Amendments

F57 Ss. 73-76 repealed (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by Income Tax (Earnings and Pensions) Act 2003 (c. 1), s. 723, **Sch. 8 Pt. 1** (with Sch. 7)

F57 74 Heavier commercial vehicles.

. . . . . .

Textual Amendments

F57 Ss. 73-76 repealed (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by Income Tax (Earnings and Pensions) Act 2003 (c. 1), s. 723, **Sch. 8 Pt. 1** (with Sch. 7)

F57 75 Sporting and recreational facilities.

. . . . . .

Textual Amendments

F57 Ss. 73-76 repealed (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by Income Tax (Earnings and Pensions) Act 2003 (c. 1), s. 723, **Sch. 8 Pt. 1** (with Sch. 7)

F57 76 Removal expenses and benefits.

. . . . . .

Textual Amendments

F57 Ss. 73-76 repealed (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by Income Tax (Earnings and Pensions) Act 2003 (c. 1), s. 723, **Sch. 8 Pt. 1** (with Sch. 7)

Taxation of distributions etc.

77 Application of lower rate.

F58(1) . . . . . .

F58(2) . . . . . .

F59(3) . . . . . .

(4) In section 421(1) of that Act (taxation of borrower where loan under section 419 released)—

(a) in paragraph (a), after "tax" there shall be inserted " at the lower rate ";

(b) in paragraph (b), for "basic rate" there shall be substituted " lower rate "; and

(c) in paragraph (c), for the words from "which is not" to "that paragraph" there shall be substituted " to which (without prejudice to paragraph (b) above) section 207A shall be taken to apply as it applies to income chargeable under Schedule F, but, notwithstanding the preceding provisions of this subsection ".

(5) This section shall apply in relation to the year 1993-94 and subsequent years of assessment.

Textual Amendments

F58 S. 77(1)(2) repealed (29.4.1996 with effect in accordance with s. 73 and Sch. 6 of the amending Act) by 1996 c. 8, s. 205, **Sch. 41 Pt. V(1)** Note 1

F59 S. 77(3) repealed (with effect in accordance with s. 883(1) of the amending Act) by Income Tax (Trading and Other Income) Act 2005 (c. 5), s. 883(1), **Sch. 3** (with Sch. 2)

F60 78 . . . . . .

Textual Amendments

F60 S. 78 repealed (31.7.1998 with effect in accordance with Sch. 3 of the repealing Act) by 1998 c. 36, s. 165, **Sch. 27 Pt. III(2)**, Note

79 Provisions supplemental to sections 77 and 78.

(1) Schedule 6 to this Act (which makes further provision for the purposes of and in connection with the provisions of sections 77 and 78 above) shall have effect.

(2) Subject to that Schedule, subsection (3) of section 687 of the Taxes Act 1988 (definition of pool for the purposes of payments under discretionary trusts) shall have effect, and be deemed always to have had effect, as if—

(a) the repeal of paragraph (b) which was made by Part V of Schedule 17 to the **M20**Finance Act 1989 in relation to accounting periods beginning after 31st March 1989 had been confined to the following words in that paragraph, that is to say, "under section 462(2) as applied by section 686(4) or"; and

(b) that subsection included the following paragraph—

"(j) the amount of any tax on an amount which is treated as income of the trustees by virtue of paragraph 12 of Schedule 10 to the **M21**Finance Act 1990 and is charged to tax at a rate equal to the sum of the basic rate and the additional rate by virtue of paragraph 19 of that Schedule;".

F61(3) . . . . . .

Textual Amendments

F61 S. 79(3) repealed (29.4.1996 with effect in accordance with s. 73 and Sch. 6 of the amending Act) by 1996 c. 8, s. 205, **Sch. 41 Pt. V(1)** Note 1

Marginal Citations

M20 1989 c. 26.

M21 1990 c. 29.

80 Transitional relief for charities etc.

(1) In any case where—

(a) a qualifying distribution is made on or after 6th April 1993 and before 6th April 1997 by a company resident in the United Kingdom;
(b) the recipient of the distribution is a section 505 body; and
(c) the section 505 body is entitled to the payment of a tax credit in respect of the distribution,

the section 505 body, on a claim made under this section to the Board, shall (in addition to its entitlement to payment of the tax credit) be entitled to be paid by the Board out of money provided by Parliament an amount determined in accordance with subsection (2) below.

(2) The amount referred to in subsection (1) above is an amount equal to—
(a) one-fifteenth of the amount or value of the distribution if the distribution is made on or after 6th April 1993 and before 6th April 1994;
(b) one-twentieth of that amount or value if the distribution is made on or after 6th April 1994 and before 6th April 1995;
(c) one-thirtieth of that amount or value if the distribution is made on or after 6th April 1995 and before 6th April 1996;
(d) one-sixtieth of that amount or value if the distribution is made on or after 6th April 1996 and before 6th April 1997.

(3) For the purposes of this section each of the following is a section 505 body—
(a) any charity (as defined in section 506(1) of the Taxes Act 1988);
(b) each of the bodies mentioned in section 507 of that Act (heritage bodies);
(c) any Association of a description specified in section 508 of that Act (scientific research organisations).

(4) Any entitlement of a section 505 body to a payment under the preceding provisions of this section shall be subject to a power of the Board to determine (whether before or after any payment is made) that, having regard to the operation in relation to the qualifying distribution in question of section 235, 237 or 703 of the Taxes Act 1988 (distributions of exempt funds, bonus issues and tax avoidance provisions), that body is to be treated as if it had had no entitlement to that payment or to so much of it as they may determine.

(5) No claim may be made under this section later than two years after the end of the chargeable period of the section 505 body in which the distribution is made.

(6) An appeal may be brought against any decision of the Board under this section by giving written notice to the Board within thirty days of receipt of written notice of the decision.

(7) An appeal under this section shall lie to the Special Commissioners, and the provisions of the [M22]Taxes Management Act 1970 relating to appeals under the Tax Acts shall apply to an appeal under this section as they apply to those appeals.

(8) Any payment of an amount under this section shall be treated for the purposes of section 252 of the Taxes Act 1988 (rectification of excessive set-off etc. of ACT or tax credit) as a payment of tax credit.

Marginal Citations
M22 1970 c. 9.

[F62]81 . . . . . .

Textual Amendments

F62 S. 81 repealed (31.7.1998 with effect in accordance with Sch. 3 of the repealing Act) by 1998 c. 36, s. 165, **Sch. 27 Pt. III(2)**, Note

Chargeable gains

82 Annual exempt amount for 1993-94.

For the year 1993-94 section 3 of the [M23]Taxation of Chargeable Gains Act 1992 (annual exempt amount) shall have effect as if the amount specified in subsection (2) were £5,800, and accordingly subsection (3) of that section (indexation) shall not apply for that year.

Marginal Citations

M23 1992 c. 12.

83 Annual exempt amount: indexation for 1994-95 onwards.

(1) In section 3(3) of the [M24]Taxation of Chargeable Gains Act 1992 (indexation of annual exempt amount) for "December" (in each place) there shall be substituted " September ".

(2) This section shall have effect for the year 1994-95 and subsequent years of assessment.

Marginal Citations

M24 1992 c. 12.

84 Re-organisations etc. involving debentures.

(1) In section 117 of the Taxation of Chargeable Gains Act 1992 (meaning of qualifying corporate bond), after subsection (6) there shall be inserted the following subsection—

"(6A) For the purposes of this section "corporate bond" also includes, except in relation to a person who acquires it on or after a disposal in relation to which section 115 has or has had effect in accordance with section 116(10)(c), any debenture issued on or after 16th March 1993 which is not a security (as defined in section 132) but—

(a) is issued in circumstances such that it would fall by virtue of section 251(6) to be treated for the purposes of section 251 as such a security; and

(b) would be a corporate bond if it were a security as so defined."

(2) In section 251 of that Act (general provisions in relation to debts), after subsection (5) there shall be inserted the following subsection—

"(6) For the purposes of this section a debenture issued by any company on or after 16th March 1993 shall be deemed to be a security (as defined in section 132) if—

(a) it is issued on a reorganisation (as defined in section 126(1)) or in pursuance of its allotment on any such reorganisation;

(b) it is issued in exchange for shares in or debentures of another company and in a case unaffected by section 137 where one or more of the conditions mentioned in paragraphs (a) to (c) of section 135(1) is satisfied in relation to the exchange;

(c) it is issued under any such arrangements as are mentioned in subsection (1)(a) of section 136 and in a case unaffected by section 137 where section 136 requires shares or debentures in another company to be treated as exchanged for, or for anything that includes, that debenture; or

(d) it is issued in pursuance of rights attached to any debenture issued on or after 16th March 1993 and falling within paragraph (a), (b) or (c) above."

(3) This section shall have effect in relation to any chargeable period ending on or after 16th March 1993 but, in relation to any accounting period of a company which began before 6th April 1992, this section shall have effect as if the references in this section, and in the amendments made by this section, to provisions of the Taxation of Chargeable Gains Act 1992 were references to such of the provisions of the [M25]Capital Gains Tax Act 1979 and the [M26]Finance Act 1984 as correspond to those provisions and have effect in relation to that accounting period.

Marginal Citations

M25 1979 c. 14.

M26 1984 c. 43.

85 Personal equity plans.

After subsection (3) of section 151 of the Taxation of Chargeable Gains Act 1992 (personal equity plans) there shall be inserted the following subsection—

"(4) Regulations under this section may include provision which, for cases where a person subscribes to a plan by transferring or renouncing shares or rights to shares—

(a) modifies the effect of this Act in relation to their acquisition and their transfer or renunciation; and

(b) makes consequential modifications of the effect of this Act in relation to anything which (apart from the regulations) would have been regarded on or after their acquisition as an indistinguishable part of the same asset."

86 Roll-over relief.

(1) In section 155 of the [M27]Taxation of Chargeable Gains Act 1992 (classes of assets for the purposes of roll-over relief), after Class 5 there shall be inserted—

"**CLASS 6**

Ewe and suckler cow premium quotas (that is, rights in respect of any ewes or suckler cows to receive payments by way of any subsidy entitlement to which is determined by reference to limits contained in a Community instrument)."

(2) The Treasury may by order made by statutory instrument amend that section so as to add one or more further classes of assets to the classes specified in that section.

[[F63]Any such order may make such consequential amendments of Schedule 7AB as appear to the Treasury to be appropriate.

.**]**

(3) A statutory instrument containing an order under subsection (2) above shall be subject to annulment in pursuance of a resolution of the House of Commons.

(4) Subsection (1) above shall apply where the disposal of the old assets (or an interest in them) or the acquisition of the new assets (or an interest in them) is on or after 1st January 1993; but, in relation to any accounting period of a company which began before 6th April 1992, subsection (1) above shall have effect as if the inserted class were numbered 5 and were inserted after Class 4 in section 118 of the [M28]Capital Gains Tax Act 1979.

Textual Amendments

F63 Words in s. 86(2) added (24.7.2002 with application as mentioned in s. 43(4) of the amending Act) by 2002 c. 23, **s. 43(3)(4)**

Marginal Citations

M27 1992 c. 12.

M28 1979 c. 14.

87 Relief on retirement or re-investment.

(1) Schedule 7 to this Act (which amends the provisions of the Taxation of Chargeable Gains Act 1992 with respect to retirement relief and makes new provision in relation to relief on the re-investment of certain gains) shall have effect.

(2) This section and that Schedule shall have effect in relation to any disposal made on or after 16th March 1993.

88 Restriction on set-off of pre-entry losses.

(1) After section 177 of the Taxation of Chargeable Gains Act 1992 there shall be inserted the following section—

"**177A Restriction on set-off of pre-entry losses.**

Schedule 7A to this Act (which makes provision in relation to losses accruing to a company before the time when it becomes a member of a group of

companies and losses accruing on assets held by any company at such a time) shall have effect."

(2) The Schedule set out in Schedule 8 to this Act shall be inserted after Schedule 7 to that Act.

(3) This section and that Schedule—

(a) shall apply for the calculation of the amount to be included in respect of chargeable gains in a company's total profits for any accounting period ending on or after 16th March 1993; but

(b) shall so apply only in relation to the deduction from chargeable gains accruing on or after 16th March 1993 of amounts in respect of, or of amounts carried forward in respect of—

(i) pre-entry losses accruing before it became a member of the relevant group to a company whose membership of that group began or begins at a time on or after 1st April 1987; and

(ii) losses accruing on the disposal of any assets so far as it is by reference to such a company that the assets fall to be treated as being or having been pre-entry assets or assets incorporating a part referable to pre-entry assets.

(4) In relation to accounting periods beginning before 6th April 1992 this section and that Schedule shall have effect as if—

(a) the section and Schedule inserted by subsections (1) and (2) above were inserted in the [M29]Capital Gains Tax Act 1979; and

(b) references in the Schedule so inserted to provisions of the [M30]Taxation of Chargeable Gains Act 1992 were references to such of the provisions of that Act of 1979 or of any other enactment as correspond to the provisions referred to and have effect in relation to that accounting period.

Marginal Citations

M29 1979 c. 14.

M30 1992 c. 12.

89 De-grouping charges.

(1) In section 179(4) of the Taxation of Chargeable Gains Act 1992 (time at which de-grouping charges accrue), for the words from "as follows" onwards there shall be substituted "at whichever is the later of the following, that is to say—

(a) the time immediately after the beginning of the accounting period of that company in which or, as the case may be, at the end of which the company ceases to be a member of the group; and

(b) the time when under subsection (3) above it is treated as having reacquired the asset;

and subsection (2) of section 409 of the Taxes Act (group relief) shall require any apportionment under that subsection to be made accordingly but shall not require any reference in this subsection to an accounting period to have effect for any of the purposes specified in subsection (3) of that section as a reference to any accounting period other than a true accounting period. "

(2) This section shall have effect in relation to accounting periods ending after the day appointed for the purposes of section 180(1)(b) of that Act.

F64 90 . . . . . .

Textual Amendments

F64 S. 90 repealed (28.7.2000 with effect as mentioned in Sch. 40 Pt. II(12), note 10 of the amending Act) by 2000 c. 17, s. 156, **Sch. 40 Pt. II(12)**

91 Deemed disposals of unit trusts by insurance companies.

(1) Section 212 of the Taxation of Chargeable Gains Act 1992 (annual deemed disposal by insurance companies of unit trusts) shall have effect in relation to accounting periods beginning on or after 1st January 1993; and neither that section nor section 46 of the M31Finance Act 1990 (which is consolidated in that section) shall have effect in relation to any earlier accounting period in relation to which either of them would have applied apart from this subsection.

(2) In relation to any accounting period beginning on or after 1st January 1993—

(a) section 432A of the Taxes Act 1988 shall have effect with the omission of subsection (10) (which disapplies the apportionment rules in that section in the case of a deemed disposal under section 212 of that Act of 1992); and

(b) that section 212 shall have effect with the omission, in subsection (2), of the words from "and in relation to" onwards and of subsections (3), (4) and (6) (which provide for a different apportionment rule in the case of the deemed disposal).

(3) In subsection (7) of that section 212, in the words after paragraph (b) (application of definitions in the Taxes Act 1988), for "and 214" there shall be substituted " to 214A ".

(4) After section 213(1) of that Act of 1992 (spreading of gains and losses), there shall be inserted the following subsection—

"(1A) Subsection (1) above shall not apply to chargeable gains or allowable losses except so far as they are gains or losses which—

(a) are referable to basic life assurance and general annuity business; or

(b) would (apart from that subsection) be taken into account in computing the profits of any business treated as a separate business under section 458 of the Taxes Act;

and that subsection shall apply separately in relation to the gains and losses falling within paragraph (a) above and those falling within paragraph (b) above for the purpose of determining what chargeable gains or allowable losses so referable are to be treated as accruing under that subsection and what chargeable gains or allowable losses to be so taken into account are to be treated as so accruing."

(5) Section 214 of that Act of 1992 shall have effect with the omission of subsections (3) to (5) (run-off relief), and after that section there shall be inserted the following section—

"**214A Further transitional provisions.**

(1) This section applies where within two years after the end of an accounting period beginning on or after 1st January 1993 ("the relevant period")—

(a) an insurance company makes a claim for the purposes of this section in relation to that period; and

(b) that period is one of the company's first eight accounting periods after the end of 1992.

(2) Where this section applies, section 213 shall have effect as if—

(a) the amount of the chargeable gains which—

(i) apart from that section and this section, would be treated as accruing on disposals deemed by virtue of section 212 to have been made at the end of the relevant period, and

(ii) satisfy the condition specified in paragraph (a) of section 213(1A),

were reduced by the protected proportion of that amount; and

(b) an amount equal to the appropriate part of that reduction were (subject to section 213) a chargeable gain satisfying that condition and accruing at the end of each of the accounting periods in which the reduction is to be taken into account.

(3) For the purposes of subsection (2) above the protected proportion, in relation to the relevant period, of the amount mentioned in paragraph (a) of that subsection shall be an amount equal to the amount calculated in accordance with the following formula—

$$\frac{R}{T}$$

(4) In subsection (3) above—

A is so much of the amount mentioned in subsection (2)(a) above as represents chargeable gains on section 212 assets which at the end of the relevant period were linked solely to the basic life assurance and general annuity business of the company in question;

B is so much of the amount so mentioned as represents chargeable gains on linked section 212 assets which at the end of that period were partially linked to that business;

C is the amount of such of the closing liabilities at the end of that period of the company's basic life assurance and general annuity business as were liabilities in respect of benefits to be determined by reference to the value of linked section 212 assets which were then partially linked to that business;

D is the amount of all the closing liabilities of the company at the end of that period which were long term business liabilities in respect of benefits to be so determined;

E is the amount of such of the closing liabilities of the company on the relevant date as were relevant linked liabilities in respect of benefits determined by reference to linked section 212 assets;

F is the amount of all the closing liabilities on the relevant date of the company's basic life assurance and general annuity business which were liabilities in respect of such benefits; and

G is the number of accounting periods in the first nine accounting periods of the company after the end of 1992 which remain after the end of the relevant period or, as the case may be, which would so remain apart from any cessation of the carrying on of any business of the company;

and for the purposes of this subsection the relevant date is, subject to subsection (7) below, the time of the first disposal which is deemed to have been made by the company in question under section 212.

(5) For the purposes of this section and subject to subsection (6) below—

(a) a reduction made under subsection (2) above in relation to the accounting period of any company shall be taken into account in every succeeding accounting period of that company which is included in the first nine accounting periods of that company after the end of 1992; and

(b) in relation to any accounting period in which a reduction is to be taken into account, the appropriate part of the reduction is—

(i) if that is the only accounting period in which it falls to be taken into account, the whole of the reduction; and

(ii) in any other case, the amount of the reduction divided by the number of the accounting periods after the period in which the reduction is made in which the reduction falls to be taken into account or, as the case may be, would so fall apart from any cessation of the carrying on of any business of the company.

(6) Subject to subsection (7) below, where a company ceases to carry on long term business before the end of the first nine accounting periods after the end of 1992, the appropriate part of any reduction in relation to the accounting period ending with the cessation shall be such as to secure that the whole of the reduction has been taken into account under subsection (2)(b) above.

(7) Where at any time on or after 1st January 1993 there is a transfer of the whole or part of the long term business of an insurance company ("the transferor") to another company ("the transferee") in accordance with a scheme sanctioned by a court under section 49 of the [M32]Insurance Companies Act 1982, this section shall have effect so that—

(a) the relevant date for the purposes of subsection (4) above shall be determined in relation to any disposal deemed to have been made after the transfer—

(i) by the transferee, or

(ii) in a case where the transfer is of part of the transferor's long term business, by the transferee or the transferor,

as if there had been no deemed disposals under section 212 before the transfer; and

(b) any reduction which (on the assumption that the transferor had continued to carry on the transferred business) would have fallen to be taken into account under subsection (2)(b) above shall be taken into account instead in relation to the transferee.

(8) Where the transfer is of part only of the transferor's long term business, subsection (7)(b) above shall apply only to such part of any reduction to which it would otherwise apply as is appropriate.

(9) Any question arising as to the operation of subsection (8) above shall be determined by the Special Commissioners who shall determine the question in the same manner as they determine appeals; but both the transferor and transferee shall be entitled to appear and be heard or to make representations in writing.

(10) This section shall have effect in relation to any cases in which there is such a transfer as is mentioned in subsection (7) above as if the accounting periods to be taken into account in any calculation for the purposes of this section of the number of accounting periods of the transferee after the end of 1992, and the only accounting periods in relation to which any reduction is to be taken into account under paragraph (b) of that subsection, were—

(a) the accounting periods of the transferor which began on or after 1st January 1993 and ended on or before the day of the transfer (including any which, by reference to a transfer in relation to which the transferor is a transferee, are taken into account in accordance with this subsection as accounting periods of the transferor); and

(b) the accounting periods of the transferee ending after the day of the transfer,

and this section shall have effect in relation to such a reduction as if the first accounting period of the transferee to end after the day of the transfer began with the day after the transfer.

(11) For the purposes of this section assets shall be taken to be partially linked to a company's basic life assurance and general annuity business if they are not linked solely to that business and are neither—

(a) linked solely to any pension business or long term business of that company other than life assurance business; nor

(b) assets of the company's overseas life assurance fund;

and subsection (1) of section 214 shall apply for the purposes of this section as it applies for the purposes of that section.

(12) Subject to subsection (10) above, the references in this section, in relation to any company, to the first eight accounting periods of a company after the end of 1992 are references to the first accounting period of that company to begin on or after 1st January 1993 and to the succeeding seven accounting periods of that company, and references to the first nine accounting periods of a company after the end of 1992 shall be construed accordingly."

(6) In section 214(6)(a) of that Act of 1992 (replacement relief), after "1989" there shall be inserted " and before the time when it is first deemed under section 212 to have made a disposal of any assets ".

Marginal Citations

M31 1990 c. 29.

M32 1982 c. 50.

[F65 Corporation tax: currency

Textual Amendments

F65 Ss. 92-92E substituted for ss. 92-94AB (with effect in accordance with s. 52(3) of the amending Act) by Finance Act 2004 (c. 12), **Sch. 10 para. 77**

92 The basic rule: sterling to be used

(1) For the purposes of corporation tax the profits of a company for an accounting period must be computed and expressed in sterling.

(2) The following sections contain further provision as to the application of subsection (1) to certain profits or losses falling to be computed in accordance with generally accepted accounting practice—

section 92A (company operating in sterling and preparing accounts in another currency);

section 92B (company operating in currency other than sterling and preparing accounts in another currency);

section 92C (company preparing accounts in currency other than sterling).

92A Company operating in sterling and preparing accounts in another currency

(1) This section applies if, for a period of account, in accordance with generally accepted accounting practice, a company resident in the United Kingdom—

(a) prepares its accounts in a currency other than sterling, and

(b) in those accounts identifies sterling as its functional currency.

(2) Profits or losses of the company for the period that fall to be computed in accordance with generally accepted accounting practice for corporation tax purposes must be computed in sterling as if the company prepared its accounts in sterling.

92B Company operating in currency other than sterling and preparing accounts in another currency

(1) This section applies if, for a period of account, in accordance with generally accepted accounting practice—

(a) a company resident in the United Kingdom prepares its accounts in one currency,

(b) in those accounts it identifies another currency as its functional currency, and

(c) that currency is not sterling.

(2) Profits or losses of the company for the period that fall to be computed in accordance with generally accepted accounting practice for corporation tax purposes must be computed in sterling by—

(a) computing those profits or losses in the functional currency as if the company prepared its accounts in that currency, and

(b) taking the sterling equivalent of those profits or losses.

(3) Where this section applies, it shall be assumed that any sterling amount mentioned in the Corporation Tax Acts is its equivalent expressed in the functional currency of the company.

92C Company preparing accounts in currency other than sterling

(1) This section applies in relation to a company resident in the United Kingdom if, for a period of account—

(a) the company prepares its accounts in a currency other than sterling (the "accounts currency"), and

(b) neither section 92A nor section 92B applies.

(2) This section also applies in relation to a company that is not resident in the United Kingdom if, for a period of account, the company prepares its return of accounts in a currency other than sterling (the "accounts currency").

(3) Profits or losses of the company for the period that fall to be computed in accordance with generally accepted accounting practice for corporation tax purposes must be computed in sterling by—

(a) computing those profits or losses in the accounts currency, and

(b) taking the sterling equivalent of those profits or losses.

(4) Where this section applies, it shall be assumed that any sterling amount mentioned in the Corporation Tax Acts is its equivalent expressed in the accounts currency of the company.

92D Translating amounts into equivalent in different currency

(1) Where, for the purposes of computing the profits or losses of a company for an accounting period, an amount is required by section 92B or 92C to be translated—

(a) into its sterling equivalent, or

(b) into its equivalent expressed in the functional currency or the accounts currency of the company,

the translation must be made by reference to the appropriate exchange rate.

(2) The "appropriate exchange rate"is—

(a) the average exchange rate for the current accounting period, or

(b) an appropriate spot rate of exchange for the transaction in question.

92E Meaning of "accounts", "return of accounts" and "functional currency"

(1) References in sections 92A to 92C to the "accounts"of a company resident in the United Kingdom are to—

(a) the annual accounts of the company required by Part 7 of the Companies Act 1985 or Part 8 of the Companies (Northern Ireland) Order 1986; or

(b) if the company is not required to prepare such accounts, the accounts which it is required to keep under the law of the country or territory under whose laws the company is incorporated; or

(c) if the company is not so required to keep accounts, such of its accounts as most closely correspond to accounts which it would have been required to prepare if the provisions of Part 7 of the Companies Act 1985 applied to it.

(2) The reference in section 92C to the "return of accounts"of a company not resident in the United Kingdom is to a return of such accounts of its permanent establishment in the United Kingdom as may be required by the Inland Revenue under paragraph 3 of Schedule 18 to the Finance Act 1998 (company tax returns).

(3) References in sections 92A, 92B and 92D to a company's "functional currency"are to the currency of the primary economic environment in which the company operates.**]**

F66 95 . . . . . .

Textual Amendments

F66 Ss. 92-94 substituted (28.7.2000 with effect as mentioned in 105(2)-(5) of the amending Act) for ss. 92-95 by 2000 c. 17, **s. 105(1)**

[F67 96 Foreign companies: trading currency.

(1) In Schedule 24 to the Taxes Act 1988 (assumptions for calculating chargeable profits, creditable tax and corresponding United Kingdom tax of foreign companies) the following paragraph shall be inserted after paragraph 4—

"4A (1) Sub-paragraph (2) below applies where—

(a) the company carries on a trade, and

(b) the currency used in the accounts of the company for an accounting period is a currency other than sterling.

(2) It shall be assumed that by virtue of regulations under section 93 of the Finance Act 1993 (corporation tax: currency to be used) the basic profits or losses of the trade for the accounting period are to be computed and expressed for the purposes of corporation tax in the currency used in the accounts of the company for the period.

(3) References in this paragraph to the accounts of a company—

(a) are to the accounts which the company is required by the law of its home State to keep, or

(b) if the company is not required by the law of its home State to keep accounts, are to the accounts of the company which most closely correspond to the individual accounts which companies formed and registered under the M33Companies Act 1985 are required by that Act to keep;

and for the purposes of this paragraph the home State of a company is the country or territory under whose law the company is incorporated.

(4) The reference in sub-paragraph (2) above to the basic profits or losses of the trade for the accounting period shall be construed in accordance with section 93 of the Finance Act 1993."

(2) This section applies in relation to any accounting period beginning on or after the day appointed under section 165(7)(b) below.**]**

Textual Amendments

F67 S. 96 repealed (*retrospectively*) by 1995 c. 4, s. 162, **Sch. 29 Pt. VIII(18)**, Note

Marginal Citations

M33 1985 c. 6.

Overseas life insurance companies

97 Modification of Taxes Act 1988.

(1) The following shall be inserted after section 444A of the Taxes Act 1988—

" Provisions applying in relation to overseas life insurance companies

444B Modification of Act in relation to overseas life insurance companies.

Schedule 19AC (which makes modifications of this Act in relation to overseas life insurance companies) shall have effect."

(2) Schedule 9 to this Act (which inserts Schedule 19AC into that Act and makes further provision) shall have effect.

98 Modification of section 440 of Taxes Act 1988.

(1) The following section shall be inserted after section 444B of the Taxes Act 1988—

"**444C Modification of section 440.**

(1) Where the company mentioned in section 440(1) is an overseas life insurance company, section 440 shall have effect with the modifications in subsections (2) and (3) below.

(2) Subsection (4) shall be treated as if—

(a) paragraph (c) were omitted;

(b) in paragraphs (a), (b), (d) and (e), the words "UK assets" were substituted for the word "assets"; and

(c) at the end there were inserted the following paragraphs—

(f) section 11C assets;

(g) non-UK assets."

(3) The following subsection shall be treated as inserted at the end of the section—

(6) For the purposes of this section—

(a) UK assets are—

(i) section 11(2)(b) assets;

(ii) section 11(2)(c) assets; or

(iii) assets which by virtue of section 11B are attributed to the branch or agency in the United Kingdom through which the company carries on life assurance business;

(b) section 11C assets are assets—

(i) (in a case where section 11C (other than subsection (9)) applies) of the relevant fund, other than UK assets; or

(ii) (in a case where that section including that subsection applies) of the relevant funds, other than UK assets;

(c) non-UK assets are assets which are not UK assets or section 11C assets;

and any expression used in this subsection to which a meaning is given by section 11A has that meaning."

(4) Where one or each of the companies mentioned in section 440(2) is an overseas life insurance company, section 440(2)(b) and (4) shall have effect as if for "categories", in each place where the word occurs, there were substituted "paragraphs".

(5) Where the transferor company mentioned in section 440(2) is an overseas life insurance company, section 440 shall have effect, as regards the time immediately before the acquisition, with the modifications in subsections (2) and (3) above.

(6) Where the acquiring company mentioned in section 440(2) is an overseas life insurance company, section 440 shall have effect, as regards the time immediately after the acquisition, with the modifications in subsections (2) and (3) above."

(2) This section shall apply—

(a) so far as section 440(1) is concerned, as regards events falling on or after the first day of the relevant accounting period of the company concerned;

(b) so far as section 440(2) is concerned, as regards events falling on or after the first day of the relevant accounting period of the transferor company or on or after the first day of the relevant accounting period of the acquiring company (whichever of those days falls later).

(3) For the purposes of subsection (2) above a company's relevant accounting period is its first accounting period to begin after 31st December 1992.

F68 99 . . . . . .

Textual Amendments

F68 S. 99 repealed (1.5.1995 with effect in accordance with Sch. 8 para. 57 of the repealing Act) by 1995 c. 4, s. 162, **Sch. 29 Pt. VIII(5)**, Note 2

100 Income from investments attributable to BLAGAB, etc.

F69(1) . . . . . .

(2) In section 475 of that Act (tax-free Treasury securities: exclusion of interest on borrowed money), in subsection (6)—

F69(a) . . . . . .

(b) for the words "of the life assurance fund", in each place where they occur, there shall be substituted the words " attributable to basic life assurance and general annuity business ".

(3) This section shall apply in relation to accounting periods beginning after 31st December 1992.

Textual Amendments

F69 S. 100(1)(2)(a) repealed (1.5.1995 with effect in accordance with Sch. 8 para. 57 of the repealing Act) by 1995 c. 4, s. 162, **Sch. 29 Pt. VIII(5)**, Note 2

101 Modification of Finance Act 1989.

(1) The following section shall be inserted after section 89 of the M34Finance Act 1989—

"**89A Modification of sections 83 and 89 in relation to overseas life insurance companies.**

Schedule 8A to this Act (which makes modifications of sections 83 and 89 in relation to overseas life insurance companies) shall have effect."

(2) Schedule 10 to this Act (which inserts Schedule 8A into that Act) shall have effect.

Marginal Citations

M34 1989 c. 26.

102 Modification of Taxation of Chargeable Gains Act 1992.

(1) The following section shall be inserted after section 214A of the M35Taxation of Chargeable Gains Act 1992—

"**214B Modification of Act in relation to overseas life insurance companies.**

Schedule 7B (which makes modifications of this Act in relation to overseas life insurance companies) shall have effect."

(2) Schedule 11 to this Act (which inserts Schedule 7B into that Act) shall have effect.

Marginal Citations

M35 1992 c. 12.

103 Amendment of definition and repeals.

(1) In section 431(2) of the Taxes Act 1988 (definitions), in the definition of "overseas life insurance company" for the words "having its head office outside" there shall be substituted the words " not resident in ".

(2) The following provisions of that Act shall cease to have effect—

(a) section 445 (charge to tax on investment income of overseas life insurance company);

(b) section 446(1) (qualifying distributions part of profits of pension business of overseas life insurance company);

(c) section 447(1), (2) and (4) (set-off of income tax and tax credits against corporation tax assessed under section 445);

(d) section 448 (qualifying distributions and tax credits);

(e) section 449 (double taxation agreements);

(f) section 724(5) to (8) (special provisions of accrued income scheme for overseas life insurance companies);

(g) section 811(2)(c) (provision about deduction of foreign tax not to affect overseas life insurance company charged under section 445);

(h) paragraph 1(9) of Schedule 19AB (payments on account of tax credits in case of pension business: special provision for overseas life insurance companies).

(3) Subject to subsection (4) below, this section shall apply in relation to accounting periods beginning after 31st December 1992.

F70(4) . . . . . .

Textual Amendments

F70 S. 103(4) repealed (29.4.1996 with effect in accordance with the provisions of Chapter II of Pt. IV of the repealing Act) by 1996 c. 8, s. 205, **Sch. 41 Pt. V(3)** Note

Approved share option schemes

104 Calculation of consideration.

After section 149 of the M36Taxation of Chargeable Gains Act 1992 there shall be inserted the following section—

"**149A Approved share option schemes.**

(1) This section applies where—

(a) an option is granted on or after 16th March 1993,

(b) the option consists of a right to acquire shares in a body corporate and is obtained as mentioned in section 185(1) of the Taxes Act (approved share option schemes), and

(c) section 17(1) would (apart from this section) apply for the purposes of calculating the consideration for the grant of the option.

(2) The grantor of the option shall be treated for the purposes of this Act as if section 17(1) did not apply for the purposes of calculating the consideration

and, accordingly, as if the amount or value of the consideration was its actual amount or value.

(3) Where the option is granted wholly or partly in recognition of services or past services in any office or employment, the value of those services shall not be taken into account in calculating the actual amount or value of the consideration.

(4) The preceding provisions of this section shall not affect the treatment for the purposes of this Act of the person to whom the option is granted."

Marginal Citations

M36 1992 c. 12.

105 Expenditure on shares.

F71(1) . . . . . .

F71(2) . . . . . .

(3) In section 32A(5) of the M37Capital Gains Tax Act 1979 (expenditure: amounts to be included as consideration)—

(a) for the words "section 185(6)" there shall be substituted the words " the applicable provision ", and

(b) at the end there shall be inserted "; and in this subsection "the applicable provision" means—

(a) subsection (6) of section 185 of the Taxes Act (as that subsection had effect before the coming into force of section 39(5) of the M38Finance Act 1991), or

(b) subsection (6A) of that section."

(4) The M39amendments made by subsection (3) above shall be deemed to have come into force on 1st January 1992 (but shall have effect subject to the repeals made by the Taxation of Chargeable Gains Act 1992).

Textual Amendments

F71 S. 105(1)(2) repealed (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by Income Tax (Earnings and Pensions) Act 2003 (c. 1), s. 723, **Sch. 8 Pt. 1** (with Sch. 7)

Commencement Information

I9 S. 105 in force at Royal Assent. the amendments made by s. 105(1) are deemed always to have had effect, see s. 105(2); the amendments made by S. 105(3) are deemed to have come into force on 1.1.1992, see s. 105(4)

Marginal Citations

M37 1979 c. 14.

M38 1991 c. 31.

M39 1992 c. 12.

Indexation: miscellaneous

106 Earnings cap etc: no indexation in 1993-94.

The figure £75,000 shall be deemed to be the figure found for the year 1993-94, for the purposes of section 590C of the Taxes Act 1988, by virtue of section 590C(4) and (5) (indexation of earnings cap for retirement benefits schemes and certain other figures).

107 Indexation of allowances etc. for 1994-95 onwards.

(1) The Taxes Act 1988 shall be amended as mentioned in subsections (2) to (6) below.

(2) In section 1—

(a) in subsection (4) (indexation of income tax bands) for "December" (in each place) there shall be substituted " September ";

(b) subsection (5) (no change required for PAYE before 18th May) shall be omitted.

(3) In section 257C—

(a) in subsection (1) (indexation of personal allowance and married couple's allowance) for "December" (in each place) there shall be substituted " September ";

(b) subsection (2) (no change required for PAYE before 18th May) shall be omitted.

(4) In section 590C (earnings cap for retirement benefits schemes) in subsection (5) (indexation) for "December" (in each place) there shall be substituted " September ".

(5) In section 590C the following subsection shall be inserted after subsection (5)—

"(5A) If the retail prices index for the month of September preceding a year of assessment falling within subsection (4) above is not higher than it was for the previous September, the figure for that year shall be the same as the figure for the previous year of assessment."; and accordingly, in subsection (4) of that section for "subsection (5)" there shall be substituted " subsections (5) and (5A) ".

(6) In each of the provisions to which this subsection applies (provisions which refer to section 590C(4) and (5)) for "and (5)" there shall be substituted " to (5A) "; and this subsection applies to sections 590B(11), 592(8E), 594(7), 599(12) and 640A(4).

(7) In Schedule 6 to the [M40]Finance Act 1989 (retirement benefits schemes) in paragraphs 20(6) and 22(5) (which refer to section 590C(4) and (5) of the Taxes Act 1988) for "and (5)" there shall be substituted " to (5A) ".

(8) This section shall have effect for the year 1994-95 and subsequent years of assessment.

Marginal Citations

M40 1989 c. 26.

Miscellaneous provisions about reliefs

108 Counselling services for employees.

In Chapter VI of Part XIII of the Taxes Act 1988, after section 589 there shall be inserted the following sections—

"**589A Counselling services for employees.**

(1) This section applies where—

(a) qualifying counselling services are provided to a person (the employee) in connection with the termination of the holding by him of any office or employment, and

(b) the termination takes place on or after 16th March 1993.

(2) This section also applies where—

(a) subsection (1)(a) above applies, and

(b) the termination takes place before 16th March 1993 but relevant expenditure is incurred on or after that date.

(3) Relevant expenditure is expenditure incurred in—

(a) providing the qualifying counselling services to the employee,

(b) paying or reimbursing fees for the provision to the employee of the qualifying counselling services, or

(c) paying or reimbursing any allowable travelling expenses incurred in connection with the provision of the qualifying counselling services to the employee.

(4) No charge to tax under Schedule E shall arise in respect of—

(a) the provision of the qualifying counselling services to the employee,

(b) the payment or reimbursement of fees for the provision to the employee of the qualifying counselling services, or

(c) the payment or reimbursement of any allowable travelling expenses incurred in connection with the provision of the qualifying counselling services to the employee.

(5) Where this section applies by virtue of subsection (2) above, subsection (4) above shall apply only to the extent that the expenditure incurred in providing the services or paying or reimbursing the fees or expenses is incurred on or after 16th March 1993.

(6) Subsection (4) above shall apply whether or not the person who provides the services or pays or reimburses the fees or expenses is the person under whom the employee holds or held the office or employment mentioned in subsection (1) above.

(7) Subsections (8) to (10) below apply where any relevant expenditure is incurred by the person under whom the employee holds or held the office or employment mentioned in subsection (1) above (the employer).

(8) If and so far as the expenditure would not, apart from this subsection, be so deductible, it shall be deductible in computing for the purposes of Schedule D

the profits or gains of the trade, profession or vocation of the employer for the purposes of which the employee is or was employed.

(9) If the employer carries on a business and the expenses of management of the business are eligible for relief under section 75, subsection (8) above shall have effect as if for the words from "in computing" onwards there were substituted "as expenses of management for the purposes of section 75".

(10) Where this section applies by virtue of subsection (2) above, subsections (8) and (9) above shall apply only to the extent that the expenditure is incurred on or after 16th March 1993.

589B Qualifying counselling services etc.

(1) Subsections (2) to (4) below apply for the purposes of section 589A.

(2) Subject to subsection (3) below, services are qualifying counselling services if—

(a) the purpose, or main purpose, of their provision is to enable the employee to adjust to the termination of his holding of the office or employment mentioned in section 589A(1) or is to enable him to find other gainful employment (including self-employment) or is to enable him to do both,

(b) the services consist wholly of any or all of the following, namely, giving advice and guidance, imparting or improving skills, and providing or making available the use of office equipment or similar facilities,

(c) the employee has been employed by the employer full-time throughout the period of two years ending at the time when the services begin to be provided to him or, if it is earlier, at the time he ceases to be employed by the employer,

(d) the opportunity to receive the services, on similar terms as to payment or reimbursement of any expenses incurred in connection with their provision, is available either generally to holders or past holders of offices or employment under the employer or to a particular class or classes of such holders or past holders, and

(e) the services are provided in the United Kingdom.

(3) Where paragraphs (a) to (d) of subsection (2) above are satisfied in relation to particular services but the services are provided partly in and partly outside the United Kingdom, the extent to which the services are qualifying counselling services shall be determined on a just and reasonable basis.

(4) In relation to services, allowable travelling expenses are those which would be deductible under section 198—

(a) on the assumption that receipt of the services is one of the duties of the employee's office or employment, and

(b) if the employee has in fact ceased to be employed by the employer, on the assumption that he continues to be employed by him.

(5) Any reference in this section or section 589A to an employee being employed by an employer is a reference to the employee holding office or employment under the employer."

109 Pre-trading expenditure.

(1) In subsection (1) of section 401 of the Taxes Act 1988 (which gives relief for expenditure incurred within the five years before the beginning of any trade, profession or vocation), for "five" there shall be substituted " seven ".

(2) After subsection (1) of that section there shall be inserted the following subsection—

"(1A) Where—

(a) a company pays any charge on income at a time before it begins to carry on any trade, and

(b) the payment is made wholly and exclusively for the purposes of that trade,

that payment, to the extent that it is not deducted otherwise than by virtue of this section from any profits, shall be treated for the purposes of corporation tax as paid on the day on which the trade is first carried on by the company."

(3) In section 338(5)(b) of that Act (payments not to be treated as charges on income), after "trade" there shall be inserted " which is or is to be ".

(4) Subsections (1) and (2) above shall have effect where the time when the person begins to carry on the trade, profession or vocation falls after 31st March 1993, and subsection (3) above shall have effect in relation to payments made after that date.

110 Waste disposal expenditure.

(1) In section 91A(6) of the Taxes Act 1988 (relevant licence for the purposes of restoration payments), after paragraph (b) there shall be inserted "or

(c) any authorisation under the [M41]Radioactive Substances Act 1960 or the [M42]Radioactive Substances Act 1993 for the disposal of radioactive waste or any nuclear site licence under the [M43]Nuclear Installations Act 1965."

(2) In section 91B of that Act (preparation expenditure for waste disposal), after subsection (10) there shall be inserted the following subsection—

"(10A) For the purposes of this section any expenditure incurred for the purposes of a trade by a person about to carry it on shall be treated as if it had been incurred by that person on the first day on which he does carry it on and in the course of doing so."

(3) This section shall have effect in relation to any case where the trade in question is begun after 31st March 1993.

Marginal Citations

M41 1960 c. 34.
M42 1993 c. 12.
M43 1965 c. 57.

111 Business expansion scheme: loan linked investments.

(1) After section 299 of the Taxes Act 1988 there shall be inserted the following section—

"**299A Loan linked investments.**

(1) An individual shall not be entitled to relief in respect of any shares in a company issued on or after 16th March 1993 if—

(a) there is a loan made by any person, at any time in the relevant period, to that individual or any associate of his; and

(b) the loan is one which would not have been made, or would not have been made on the same terms, if that individual had not subscribed for those shares or had not been proposing to do so.

(2) References in this section to the making by any person of a loan to any individual or an associate of his include references—

(a) to the giving by that person of any credit to that individual or any associate of his; and

(b) to the assignment or assignation to that person of any debt due from that individual or any associate of his;

and the references in section 307(6)(ca) to the making of a loan shall be construed accordingly."

(2) In sections 289(12)(a) and 310(1) and (10)(a) of that Act (definition of "the relevant period" and information provisions), after "299,", in each case, there shall be inserted " 299A, ".

(3) In section 307(6) of that Act (reckonable date for the purposes of interest on relief that is withdrawn), after paragraph (c) there shall be inserted the following paragraph—

"(ca) in the case of relief withdrawn by virtue of section 299A in consequence of the making of any loan after the grant of the relief, the date of the making of the loan;".

(4) This section shall apply in relation to any case in which the claim for relief is made on or after 16th March 1993.

112 Employers' pension contributions.

(1) In section 592(4) of the Taxes Act 1988 (employers' contributions to exempt approved schemes), at the end there shall be inserted " but no other sum shall for those purposes be allowed to be deducted as an expense, or expense of management, in respect of the making, or any provision for the making, of any contributions under the scheme. "

(2) Subsection (1) above shall have effect in the case of any employer in relation to, as the case may be—

(a) any accounting period of that employer ending with a day after 5th April 1993; or

(b) any year of assessment the employer's basis period for which ends with a day after that date.

(3) Where—

(a) there is after 5th April 1993 an actual payment by an employer of a contribution under an exempt approved scheme,

(b) that payment would, apart from this subsection, be allowed to be deducted as an expense, or expense of management, of the employer in relation to any chargeable period in relation to which subsection (1) above has effect, and

(c) the total of previously allowed deductions exceeds the relevant maximum,

the amount allowed to be so deducted in respect of the payment mentioned in paragraph (a) above and of any other actual payments of contributions under the scheme which, having been made after 5th April 1993, fall within paragraph (b) above in relation to the same chargeable period shall be reduced by whichever is the smaller of the excess and the amount which reduces the deduction to nil.

(4) In relation to any such actual payment by an employer of a contribution under an exempt approved scheme as would be allowed to be deducted as mentioned in subsection (3) above in relation to any chargeable period-

(a) the reference in that subsection to the total of previously allowed deductions is a reference to the aggregate of every amount in respect of the making, or any provision for the making, of that or any other contributions under the scheme, which has been allowed to be deducted as an expense, or expense of management, of that person in relation to a previous chargeable period; and

(b) the reference to the relevant maximum is a reference to the amount which would have been that aggregate if the restriction on deductions imposed by virtue of subsection (1) above had been applied in relation to every previous chargeable period;

and for the purposes of this subsection an amount the deduction of the whole or any part of which falls to be taken into account as allowed in relation to more than one chargeable period shall be treated as if the amount allowed were a different amount in the case of each of those periods.

(5) For the purposes of this section any payment which is treated under subsection (6) of section 592 of the Taxes Act 1988 as spread over a period of years shall be treated as actually paid at the time when it is treated as paid in accordance with that subsection.

(6) After subsection (6) of section 592 of the Taxes Act 1988 there shall be inserted the following subsection—

"(6A) Where any sum is paid to the trustees of the scheme in or towards the discharge of any liability of an employer under section 58B of the [M44]Social Security Pensions Act 1975 or section 144 of the Pension Schemes Act 1993 (deficiencies in the assets of a scheme) or under Article 68B of the [M45]Social Security Pensions (Northern Ireland) Order 1975 or section 140 of the Pension Schemes (Northern Ireland) Act 1993 (which contain corresponding provision for Northern Ireland), the payment of that sum—

(a) shall be treated for the purposes of this section as an employer's contribution under the scheme; and

(b) notwithstanding (where it is the case) that the employer's trade, profession, vocation or business is permanently discontinued before the making of the payment, shall be allowed, in accordance with subsection (4) above, to be deducted as such a contribution to the same extent as it would have been allowed but for the discontinuance and as if it had been made on the last day on which the trade, profession, vocation or business was carried on."; and this subsection shall have effect in relation to any payment made on or after the day on which this Act is passed.

(7) In this section—

"basis period", in relation to any person, means a period on the profits or gains of which income tax for any year of assessment falls to be finally

computed under Case I or II of Schedule D **[**F72or under Part 2 of the Income Tax (Trading and Other Income) Act 2005**]** in respect of the trade, profession or vocation of that person (being the later period in any case where the profits and gains of an earlier period are taken to be the profits and gains of a later period); and

"exempt approved scheme" has the meaning given by section 592(1) of the Taxes Act 1988.

Textual Amendments

F72 Words in s. 112(7) inserted (with effect in accordance with s. 883(1) of the amending Act) by Income Tax (Trading and Other Income) Act 2005 (c. 5), s. 883(1), **Sch. 1 para. 463** (with Sch. 2)

Marginal Citations

M44 1975 c. 60.

M45 S.I. 1975/1503 (N.I. 15).

Capital allowances

F73113 . . . . . .

Textual Amendments

F73 S. 113 repealed (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, s. 580, **Sch. 4**

F74114 . . . . . .

Textual Amendments

F74 S. 114 repealed (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, s. 580, **Sch. 4**

F75115 . . . . . .

Textual Amendments

F75 S. 115 repealed (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, s. 580, **Sch. 4**

F76116 . . . . . .

Textual Amendments

F76 S. 116 repealed (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, s. 580, **Sch. 4**

F77 117 Transactions between connected persons etc.

. . . . . .

Textual Amendments

F77 S. 117 repealed (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, s. 580, **Sch. 4**

Miscellaneous

118 Scottish trusts.

(1) Where—

(a) any of the income of a trust having effect under the law of Scotland is income to which a beneficiary of the trust would have an equitable right in possession if that trust had effect under the law of England and Wales, and

(b) the trustees of that trust are resident in the United Kingdom,

the rights of that beneficiary shall be deemed for the purposes of the Income Tax Acts to include such a right to that income notwithstanding that no such right is conferred according to the law of Scotland.

(2) This section shall have effect in relation to the income of any trust for the year 1993–94 or any subsequent year of assessment.

119 Controlled foreign companies.

(1) In section 750(1) of the Taxes Act 1988 (meaning of lower level of taxation for purposes of provisions relating to controlled foreign companies) for "one-half" there shall be substituted " three-quarters ".

(2) Subsection (1) above shall apply in relation to accounting periods beginning on or after 16th March 1993.

(3) Where a company is by virtue of section 749(1) or (2) of the Taxes Act 1988 regarded as resident in a territory outside the United Kingdom and (apart from this section)—

(a) an accounting period of the company would begin before 16th March 1993 and end on or after that date, and

(b) the company would not be considered to be subject, by virtue of section 750(1) of that Act, to a lower level of taxation in that accounting period in the territory in which it is regarded as resident,

for the purposes of Chapter IV of Part XVII of that Act that accounting period shall be treated as ending on 15th March 1993.

120 Pay and file: miscellaneous amendments.

Schedule 14 to this Act (which makes various amendments of the [M46]Taxes Management Act 1970, the Taxes Act 1988 and the [M47]Finance Act 1989 with a view to, or in connection with, the introduction of "pay and file") shall have effect.

Marginal Citations

M46 1970 c. 9.

M47 1989 c. 26.

[F78]121 . . . . . .

Textual Amendments

F78 S. 121 repealed (11.5.2001 with effect in accordance with s. 87 of the amending Act) by 2001 c. 9, s. 110, **Sch. 33 Pt. II(12)**, note

122 Application of Income Tax Acts etc. to public departments.

(1) In subsection (2) of section 829 of the Taxes Act 1988 (restriction on application of Income Tax Acts to public departments), at the end there shall be inserted " unless it is tax which would not have been so borne but for a failure by a public office or department of the Crown to make a deduction required by virtue of subsection (1) above. "

(2) The provisions of Parts IX and X of the Taxes Management Act 1970 (interest and penalties) shall apply in relation to public offices and departments of the Crown for the purposes, so far as they so apply, of the other provisions of that Act and of the provisions of the Income Tax Acts mentioned in section 829(1) of the Taxes Act 1988.

(3) This section shall have effect in relation to the year 1993-94 and subsequent years of assessment.

123 Expenditure involving crime.

(1) The following section shall be inserted after section 577 of the Taxes Act 1988—

"**577A Expenditure involving crime.**

(1) In computing profits or gains chargeable to tax under Schedule A or Schedule D, no deduction shall be made for any expenditure incurred in making a payment the making of which constitutes the commission of a criminal offence.

(2) Such expenditure shall not be included in computing any expenses of management in respect of which relief may be given under the Tax Acts."

(2) This section shall apply in relation to expenditure incurred on or after 11th June 1993.

F79 124 Expenses of Members of Parliament.

. . . . . .

Textual Amendments

F79 S. 124 repealed (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by Income Tax (Earnings and Pensions) Act 2003 (c. 1), s. 723, **Sch. 8 Pt. 1** (with Sch. 7)

CHAPTER II

EXCHANGE GAINS AND LOSSES

Modifications etc. (not altering text)

C3 Pt. II Chapter II (ss. 125-170) modified (1.5.1995) by 1988 c. 1, **Sch. 24 para. 19(2)** (as inserted (1.5.1995) by 1995 c. 4, s. 133, Sch. 25 paras. 1, **6(5)**)
Pt. II Chapter II (ss. 125-170) restricted (31.7.1998) by 1988 c. 1, **Sch. 28AA para. 8** (as inserted (31.7.1998) by 1998 c. 36, s. 108, **Sch. 16 para. 8(1)(a)**)
Pt. II Chapter II (ss. 125-170): power to amend conferred (3.5.1994) by 1994 c. 9, **s. 177(6)(b)**
Pt. II Chapter II (ss. 125-170) excluded (3.5.1994) by 1994 c. 9, **ss. 226(2)**, 230
Pt. II Chapter II (ss. 125-170) modified (19.9.1994) by 1994 c. 21, s. 21, **Sch. 4 Pt. I para. 23(2)** (with s. 40(7)); S.I. 1994/2189, art. 2, **Sch.**
Pt. II Chapter II (ss. 125-170) modified (23.3.1995) by S.I. 1994/3226, **reg. 3(2)**
Pt. II Chapter II (ss. 125-170) applied (23.3.1995) by S.I. 1994/3231, **reg. 2(1)**
Pt. II Chapter II (ss. 125-170) modified (29.4.1996) by 1996 c. 8, s. 105, **Sch. 15 Pt. I para. 22(1)** (with ss. 80-105)

C4 Pt. II Chapter II to be construed with 1994 c. 31, **Sch. 4 Pt. I para. 23** (19.9.1994) by 1994 c. 21, s. 21, **Sch. 4 Pt. I para. 23(5)**; S.I. 1994/2189, art. 2, **Sch.**

Accrual of gains and losses

F80 125 . . . . . .

Textual Amendments

F80 S. 125 repealed (24.7.2002 with effect as mentioned in s. 79(3) of the amending Act) by 2002 c. 23, ss. 79(1)(b), 141, **Sch. 40 Pt. 3(10)** Note 2 (with Sch. 23 paras. 25, 26)

F81 126 . . . . . .

Textual Amendments

F81 S. 126 repealed (24.7.2002 with effect as mentioned in s. 79(3) of the amending Act) by 2002 c. 23, ss. 79(1)(b), 141, **Sch. 40 Pt. 3(10)** Note 2 (with Sch. 23 paras. 25, 26)

F82 127 . . . . . .

Textual Amendments

F82 S. 127 repealed (24.7.2002 with effect as mentioned in s. 79(3) of the amending Act) by 2002 c. 23, ss. 79(1)(b), 141, **Sch. 40 Pt. 3(10)** Note 2 (with Sch. 23 paras. 25, 26)

Trading gains and losses

F83 128 . . . . . .

Textual Amendments

F83 S. 128 repealed (24.7.2002 with effect as mentioned in s. 79(3) of the amending Act) by 2002 c. 23, ss. 79(1)(b), 141, **Sch. 40 Pt. 3(10)** Note 2 (with Sch. 23 paras. 25, 26)

Non-trading gains and losses

F84 129 . . . . . .

Textual Amendments

F84 S. 129 repealed (24.7.2002 with effect as mentioned in s. 79(3) of the amending Act) by 2002 c. 23, ss. 79(1)(b), 141, **Sch. 40 Pt. 3(10)** Note 2 (with Sch. 23 paras. 25, 26)

F85 130 . . . . . .

Textual Amendments

F85 S. 130 repealed (24.7.2002 with effect as mentioned in s. 79(3) of the amending Act) by 2002 c. 23, ss. 79(1)(b), 141, **Sch. 40 Pt. 3(10)** Note 2 (with Sch. 23 paras. 25, 26)

Alternative calculation

F89 134 . . . . . .

Textual Amendments

F89 S. 134 repealed (24.7.2002 with effect as mentioned in s. 79(3) of the amending Act) by 2002 c. 23, ss. 79(1)(b)(3), 141, **Sch. 40 Pt. 3(10)** Note 2 (with Sch. 23 paras. 25, 26)

Main benefit test

F90135 . . . . . .

Textual Amendments

F90 S. 135 repealed (24.7.2002 with effect as mentioned in s. 79(3) of the amending Act) by 2002 c. 23, ss. 79(1)(b), 141, **Sch. 40 Pt. 3(10)** Note 2 (with Sch. 23 paras. 25, 26)

F91135A. . . . . .

Textual Amendments

F91 S. 135A repealed (24.7.2002 with effect as mentioned in s. 79(3) of the amending Act) by 2002 c. 23, ss. 79(1)(b), 141, **Sch. 40 Pt. 3(10)** Note 2 (with Sch. 23 paras. 25, 26)

Arm's length test

F92136 . . . . . .

Textual Amendments

F92 S. 136 repealed (24.7.2002 with effect as mentioned in s. 79(3) of the amending Act) by 2002 c. 23, ss. 79(1)(b), 141, **Sch. 40 Pt. 3(1)** Note 2 (with Sch. 23 paras. 25, 26)

F93136A. . . . . .

Textual Amendments

F93 S. 136A repealed (24.7.2002 with effect as mentioned in s. 79(3) of the amending Act) by 2002 c. 23, ss. 79(1)(b), 141, **Sch. 40 Pt. 3(10)** Note 2 (with Sch. 23 paras. 25, 26)

F94137 . . . . . .

Textual Amendments

F94 S. 137 repealed (24.7.2002 with effect as mentioned in s. 79(3) of the amending Act) by 2002 c. 23, ss. 79(1)(b), 141, **Sch. 40 Pt. 3(10)** Note 2 (with Sch. 23 paras. 25, 26)

F95 138 . . . . . .

Textual Amendments

F95 S. 138 repealed (24.7.2002 with effect as mentioned in s. 79(3) of the amending Act) by 2002 c. 23, ss. 79(1)(b), 141, **Sch. 40 Pt. 3(10)** Note 2 (with Sch. 23 paras. 25, 26)

Deferral of unrealised gains

F96 139 . . . . . .

Textual Amendments

F96 S. 139 repealed (24.7.2002 with effect as mentioned in s. 79(3) of the amending Act) by 2002 c. 23, ss. 79(1)(b), 141, **Sch. 40 Pt. 3(10)** Note 2 (with Sch. 23 paras. 25, 26)

F97 140 . . . . . .

Textual Amendments

F97 S. 140 repealed (24.7.2002 with effect as mentioned in s. 79(3) of the amending Act) by 2002 c. 23, ss. 79(1)(b), 141, **Sch. 40 Pt. 3(10)** Note 2 (with Sch. 23 paras. 25, 26)

F98 141 . . . . . .

Textual Amendments

F98 S. 141 repealed (24.7.2002 with effect as mentioned in s. 79(3) of the amending Act) by 2002 c. 23, ss. 79(1)(b), 141, **Sch. 40 Pt. 3(10)** Note 2 (with Sch. 23 paras. 25, 26)

F99 142 . . . . . .

Textual Amendments

F99 S. 142 repealed (24.7.2002 with effect as mentioned in s. 79(3) of the amending Act) by 2002 c. 23, ss. 79(1)(b), 141, **Sch. 40 Pt. 3(10)** Note 2 (with Sch. 23 paras. 25, 26)

F100143 . . . . . .

Textual Amendments

F100 S. 143 repealed (24.7.2002 with effect as mentioned in s. 79(3) of the amending Act) by 2002 c. 23, ss. 79(1)(b), 141, **Sch. 40 Pt. 3(10)** Note 2 (with Sch. 23 paras. 25, 26)

Irrecoverable debts

F101144 . . . . . .

Textual Amendments

F101 S. 144 repealed (24.7.2002 with effect as mentioned in s. 79(3) of the amending Act) by 2002 c. 23, ss. 79(1)(b), 141, **Sch. 40 Pt. 3(10)** Note 2 (with Sch. 23 paras. 25, 26)

F102145 . . . . . .

Textual Amendments

F102 S. 145 repealed (24.7.2002 with effect as mentioned in s. 79(3) of the amending Act) by 2002 c. 23, ss. 79(1)(b), 141, **Sch. 40 Pt. 3(10)** Note 2 (with Sch. 23 paras. 25, 26)

Currency contracts: special cases

F103146 . . . . . .

Textual Amendments

F103 S. 146 repealed (27.4.2002 with effect as mentioned in s. 79(3) of the amending Act) by 2002 c. 23, ss. 79(1)(b), 141, **Sch. 40 Pt. 3(10)** Note 2 (with Sch. 23 paras. 25, 26)

F104147 . . . . . .

Textual Amendments

F104 S. 147 repealed (24.7.2002 with effect as mentioned in s. 79(3) of the amending Act) by 2002 c. 23, ss. 79(1)(b), 141, **Sch. 40 Pt. 3(10)** Note 2 (with Sch. 23 paras. 25, 26)

Excess gains or losses

F105148 . . . . . .

Textual Amendments

F105 S. 148 repealed (24.7.2002 with effect as mentioned in s. 79(3) of the amending Act) by 2002 c. 23, ss. 79(1)(b), 141, **Sch. 40 Pt. 3(10)** Note 2 (with Sch. 23 paras. 25, 26)

Local currency to be used

F106149 . . . . . .

Textual Amendments

F106 S. 149 repealed (24.7.2002 with effect as mentioned in s. 79(3) of the amending Act) by 2002 c. 23, ss. 79(1)(b), 141, **Sch. 40 Pt. 3(10)** Note 2 (with Sch. 23 paras. 25, 26)

Exchange rate to be used

F107150 . . . . . .

Textual Amendments

F107 S. 150 repealed (with effect in relation to the accounting periods beginning on or after 1.10.2002) By 2002 c. 23, ss. 79(1)(b)(3), 141, **Sch. 40 Pt. 3(10)** Note 2 (with Sch. 23 paras, 25, 26

F108151 . . . . . .

Textual Amendments

F108 S. 151 repealed (24.7.2002 with effect as mentioned in s. 79(3) of the amending Act) by 2002 c. 23, ss. 79(1)(b), 141, **Sch. 40 Pt. 3(10)** Note 2 (with Sch. 23 paras. 25, 26)

Interpretation: companies

F109152 . . . . . .

Textual Amendments

F109 S. 152 repealed (24.7.2002 with effect as mentioned in s. 79(3) of the amending Act) by 2002 c. 23, ss. 79(1)(b), 141, **Sch. 40 Pt. 3(10)** Note 2 (with Sch. 23 paras. 25, 26)

Interpretation: assets, liabilities and contracts

F110153 . . . . . .

Textual Amendments

F110 S. 153 repealed (1.10.2002 with effect as mentioned in s. 79(3) of the amending Act) by 2002 c. 23, ss. 79(1)(b), 141, **Sch. 40 Pt. 3(10)** Note 2 (with Sch. 23 paras. 25, 26)

F111154 . . . . . .

Textual Amendments

F111 By 2002 c. 23, ss. 79(1)(b), 141, **Sch. 40 Pt. 3(10)** Note 2 (with Sch. 23 paras. 25, 26) it is provided (1.10.2002) that s. 154 is repealed

F112155 . . . . . .

Textual Amendments

F112 By 2002 c. 23, ss. 79(1)(b), 141, **Sch. 40 Pt. 3(10)** Note 2 (with Sch. 23 paras. 25, 26) it is provided (1.10.2002) that s. 155 is repealed

F113156 . . . . . .

Textual Amendments

F113 By 2002 c. 23, ss. 79(1)(b), 141, **Sch. 40 Pt. 3(10)** Note 2 (with Sch. 23 paras. 25, 26) it is provided (1.10.2002) that s. 156 is repealed

F114157 . . . . . .

Textual Amendments

F114 S. 157 repealed (24.7.2002 with effect as mentioned in s. 79(3) of the amending Act) by 2002 c. 23, ss. 79(1)(b), 141, **Sch. 40 Pt. 3(10)** Note 2 (with Sch. 23 paras. 25, 26)

Interpretation: other provisions

F115158 . . . . . .

Textual Amendments

F115 S. 158 repealed (24.7.2002 with effect as mentioned in s. 79(3) of the amending Act) by 2002 c. 23, ss. 79(1)(b), 141, **Sch. 40 Pt. 3(10)** Note 2 (with Sch. 23 paras. 25, 26)

F116159 . . . . . .

Textual Amendments

F116 S. 159 repealed (with effect as mentioned in s. 79(3) of the amending Act) By 2002 c. 23, ss. 79(1)(b)(3), 141, **Sch. 40 Pt. 3(10)**, Note 2 (with Sch. 23, para. 25)

F117160 . . . . . .

Textual Amendments

F117 S. 160 repealed (24.7.2002 with effect as mentioned in s. 79(3) of the amending Act) by 2002 c. 23, ss. 79(1)(b), 141, **Sch. 40 Pt. 3(10)** Note 2 (with Sch. 23 paras. 25, 26)

F118161 . . . . . .

Textual Amendments

F118 S. 161 repealed (24.7.2002 with effect as mentioned in s. 79(3) of the amending Act) by 2002 c. 23, ss. 79(1)(b), 141, **Sch. 40 Pt. 3(10)** Note 2 (with Sch. 23 paras. 25, 26)

F119162 . . . . . .

Textual Amendments

F119 S. 162 repealed (24.7.2002 with effect as mentioned in s. 79(3) of the amending Act) by 2002 c. 23, ss. 79(1)(b), 141, **Sch. 40 Pt. 3(10)** Note 2 (with Sch. 23 paras. 25, 26)

F120163 . . . . . .

Textual Amendments

F120 S. 163 repealed (24.7.2002 with effect as mentioned in s. 79(3) of the amending Act) by 2002 c. 23, ss. 79(1)(b), 141, **Sch. 40 Pt. 3(10)** Note 2 (with Sch. 23 paras. 25, 26)

F121164 . . . . . .

Textual Amendments

F121 S. 164 repealed (24.7.2002 with effect as mentioned in s. 79(3) of the amending Act) by 2002 c. 23, ss. 79(1)(b), 141, **Sch. 40 Pt. 3(10)** Note 2 (with Sch. 23 paras. 25, 26)

Miscellaneous

F122165 . . . . . .

Textual Amendments

F122 S. 165 repealed (24.7.2002 with effect as mentioned in s. 79(3) of the amending Act) by 2002 c. 23, ss. 79(1)(b), 141, **Sch. 40 Pt. 3(10)** Note 2 (with Sch. 23 paras. 25, 26)

F123166 . . . . . .

Textual Amendments

F123 S. 166 repealed (24.7.2002 with effect as mentioned in s. 79(3) of the amending Act) by 2002 c. 23, ss. 79(1)(b), 141, **Sch. 40 Pt. 3(10)** Note 2 (with Sch. 23 paras. 25, 26)

F124167 . . . . . .

Textual Amendments

F124 S. 167 repealed (24.7.2002 with effect as mentioned in s. 79(3) of the amending Act) by 2002 c. 23, ss. 79(1)(b), 141, **Sch. 40 Pt. 3(10)** Note 2 (with Sch. 23 paras. 25, 26)

F125168 . . . . . .

Textual Amendments

F125 S. 168 repealed (24.7.2002 with effect as mentioned in s. 79(3) of the amending Act) by 2002 c. 23, ss. 79(1)(b), 141, **Sch. 40 Pt. 3(10)** Note 2 (with Sch. 23 paras. 25, 26)

[F126]168A . . . . . .

Textual Amendments

F126 S. 168A repealed (24.7.2002 with effect as mentioned in s. 79(3) of the amending Act) by 2002 c. 23, ss. 79(1)(b), 141, **Sch. 40 Pt. 3(10)** Note 2 (with Sch. 23 paras. 25, 26)

[F127]169 . . . . . .

Textual Amendments

F127 S. 169 repealed (24.7.2002 with effect as mentioned in s. 79(3) of the amending Act) by 2002 c. 23, ss. 79(1)(b), 141, **Sch. 40 Pt. 3(10)** Note 2 (with Sch. 23 paras. 25, 26)

170 Amendments.

Schedule 18 to this Act (which contains amendments) shall have effect.

CHAPTER III

LLOYD'S UNDERWRITERS ETC.

Modifications etc. (not altering text)

C9 Pt. II Chapter III applied (1.5.1995 with application as mentioned in s. 127(19) of the amending Act) by 1995 c. 4, **s. 127(16)(a)(19)**

C10 Pt. II Chapter III modified (1.12.1997 with effect with respect to accounting periods of Lloyd's Scottish limited partnerships ending on or after that date) by S.I. 1997/2681, **reg. 3(1)(a)**

Main provisions

171 Taxation of profits and allowance of losses.

(1) Income tax for any year of assessment on the profits arising from a member's underwriting business shall be computed on the profits of that year of assessment.

(2) As respects the profits arising to a member from his underwriting business for any year of assessment—

[[F128](a) the aggregate of those profits shall be chargeable to tax under Chapter 2 of Part 2 of the Income Tax (Trading and Other Income) Act 2005 as the profits of a trade carried on in the United Kingdom; and

(b) accordingly, no part of those profits shall be treated as relevant foreign income, or be charged to tax under any other Part of that Act or any Part of the Income Tax (Earnings and Pensions) Act 2003;**]**

but nothing in this subsection shall affect the manner in which the amount of any profits arising from assets forming part of an ancillary trust fund is to be computed.

F129(2A) . . . . . .

[F130(2B) [F131Section 397(1) of the Income Tax (Trading and Other Income) Act 2005] (entitlement to tax credit) shall not apply where the distribution there mentioned is a distribution in respect of any asset of a member's [F132premium] trust fund.]

F133(3) . . . . . .

(4) Subsection (2) above does not apply in relation to any profits arising before 6th April 1993 from assets forming part of an ancillary trust fund.

Textual Amendments

F128 S. 171(2)(a)(b) substituted (with effect in accordance with s. 883(1) of the amending Act) by Income Tax (Trading and Other Income) Act 2005 (c. 5), s. 883(1), **Sch. 1 para. 464(2)** (with Sch. 2)

F129 S. 171(2A) repealed (31.7.1997 with effect in accordance with s. 36 and Sch. 6 para. 20(3) of the amending Act) by 1997 c. 58, ss. 36, 52, Sch. 6 para. 20(2)(3), **Sch. 8 Pt. II(11)** Note

F130 S. 171(2B) inserted (31.7.1997 with effect in relation to distributions made on or after 2.7.1997) by 1997 c. 58, **s. 22(1)(7)**

F131 Words in s. 171(2B) substituted (with effect in accordance with s. 883(1) of the amending Act) by Income Tax (Trading and Other Income) Act 2005 (c. 5), s. 883(1), **Sch. 1 para. 464(3)** (with Sch. 2)

F132 Word in s. 171(2B) substituted (1.12.2001) by S.I. 2001/3629, **arts. 1(2)**, 82(a)

F133 S. 171(3) repealed (3.5.1994 with effect for the year 1996-97 and subsequent years of assessment) by 1994 c. 9, ss. 228, 258, Sch. 21 para. 1(2)(3)(b), **Sch. 26 Pt. V(25)** Note 2

Modifications etc. (not altering text)

C11 S. 171 modified (9.3.1995 with effect in relation to profits or losses of a member's underwriting business arising in the underwriting year 1994 or 1995) by S.I. 1995/352, **reg. 13**

172 Year of assessment in which profits or losses arise.

(1) Subject to the provisions of this Chapter, for the purposes of section 171 above and all other purposes of the Income Tax Acts the profits or losses in any year of assessment of a member's underwriting business shall be taken to be—

[F134(a) in the case of profits or losses arising directly from his membership of one or more syndicates, those of any previous year or years which are declared in the corresponding underwriting year;

(b) in the case of profits or losses arising from assets forming part of a [F135premium] trust fund, those allocated under the rules or practice of Lloyd's to any previous year or years the profits or losses of which are declared in the corresponding underwriting year; and]

(c) in the case of other profits or losses, those derived from payments received or made in the corresponding underwriting year.

(2) Subsection (1)(c) above does not apply in relation to payments received or made before 6th April 1993.

Textual Amendments

F134 S. 172(1)(a)(b) substituted (3.5.1994 with effect as mentioned in Sch. 21 para. 2(2) of the amending Act) by 1994 c. 9, s. 228, **Sch. 21 para. 2(1)(2)**

F135 Word in s. 172(1)(b) substituted (1.12.2001) by S.I. 2001/3629, **arts. 1(2)**, 82(b)

Modifications etc. (not altering text)

C12 S. 172 modified (1.12.1997 with effect with respect to accounting periods of Lloyd's Scottish limited partnerships ending on or after that date) by S.I. 1997/2681, **reg. 6(1)(b)**

173 Assessment and collection of tax.

(1) Schedule 19 to this Act (assessment and collection of tax) shall have effect.

(2) Schedule 19A to the Taxes Act 1988 (which is superseded by Schedule 19 to this Act for the year 1992-93 and subsequent years of assessment) shall have effect as if for sub-paragraph (3) of paragraph 1 there were substituted the following sub-paragraph—

"(3) Regulations under this paragraph may make provision with respect to any year or years of assessment; and the year (or any of the years) may be the year next but one preceding the year in which the regulations are made or any year following that earlier year."

(3) Subsection (2) above applies in relation to regulations made after the passing of this Act.

Members' trust funds

174 [F136Premium] trust funds.

[F137(1) For the purposes of the Income Tax Acts and the Gains Tax Acts—

(a) a member shall be treated as absolutely entitled as against the trustees to the assets forming part of a [F138premium] trust fund of his; and

(b) where a deposit required by a regulatory authority in a country or territory outside the United Kingdom is paid out of such a fund, the money so paid shall be treated as still forming part of that fund.]

(2) Where an asset forms part of a [F138premium] trust fund at the beginning of any underwriting year, for the purposes of the Income Tax Acts—

(a) the trustees of the fund shall be treated as acquiring it on that day, and

(b) they shall be treated as paying in respect of the acquisition an amount equal to the value of the asset at the time of the acquisition.

(3) Where an asset forms part of a [F138premium] trust fund at the end of any underwriting year, for the purposes of the Income Tax Acts—

(a) the trustees of the fund shall be treated as disposing of it on that day, and

(b) they shall be treated as obtaining in respect of the disposal an amount equal to the value of the asset at the time of the disposal.

F139(4) . . . . . .

F139(5) . . . . . .

(6) Subsections (2) to (5) above do not apply to FOTRA securities forming part of a member's premiums trust fund at the beginning or end of any underwriting year if—

(a) the member is not domiciled in the United Kingdom at any time in the year, and

(b) he is either not ordinarily resident in the United Kingdom during the year or a non-resident United Kingdom trader in the year.

(7) In this section—

"FOTRA securities" has the same meaning as in section 715 of the Taxes Act 1988 (exceptions from accrued income scheme);

"non-resident United Kingdom trader" shall be construed in accordance with subsection (5) of that section;

"underwriting year" does not include the year 1993 or any earlier underwriting year.

Textual Amendments

F136 S. 174: words in sidenote substituted (1.12.2001) by S.I. 2001/3629, **arts. 1(2)**, 82(c)

F137 S. 174(1) substituted (3.5.1994 with effect for the year 1994-95 and subsequent years of assessment) by 1994 c. 9, s. 228, **Sch. 21 para. 3**

F138 Word in s. 174(1)(a)(2)(3) substituted (1.12.2001) by S.I. 2001/3629, **arts. 1(2)**, 82(c)

F139 S. 174(4)(5) repealed (19.3.1997 with effect in relation to, and to transfers under, any arrangement made on or after such day as may be appointed by order) by 1997 c. 16, ss. 76, 113, Sch. 10 Pt. I paras. 6(a), 7(1), **Sch. 18 Pt. VI(10)** Note 1

175 Special reserve funds.

(1) If arrangements are made by the Council of Lloyd's which—

(a) enable such a special reserve fund as is referred to in Part I of Schedule 20 to this Act to be set up in relation to each member; and

(b) comply with the requirements of that Part and are approved by the Board,

the provisions of that Part relating to taxation shall have effect in relation to any special reserve fund of a member set up under the arrangements.

(2) The arrangements may from time to time be varied with the consent of the Board.

(3) If, after giving notice of their intention to do so to the Council of Lloyd's, the Board cancel the approval which they have given with respect to the arrangements, paragraph 3 of Schedule 20 to this Act shall not apply, in the case of any member, to any year of assessment after the year of assessment in which the approval is cancelled.

(4) The provisions of Part II of Schedule 20 to this Act shall have effect as respects the winding up of any special reserve fund which—

(a) was set up under the arrangements mentioned in section 452(1) of the Taxes Act 1988; and

(b) belongs to a member for whom a special reserve fund may be set up under the arrangements mentioned in subsection (1) above.

Modifications etc. (not altering text)

C13 S. 175 excluded (1.12.1997 with effect with respect to accounting periods of Lloyd's Scottish limited partnerships ending on or after that date) by S.I. 1997/2681, **reg. 7**

C14 S. 175(4) applied (with modifications) (9.3.1995 with application as mentioned in reg. 1 of the amending S.I.) by S.I. 1995/351, **regs. 1**, 15(1)

176 Ancillary trust funds.

(1) A member shall be treated for the purposes of the Income Tax Acts and the Gains Tax Acts as absolutely entitled as against the trustees to the assets forming part of an ancillary trust fund of his.

(2) The cost of acquisition and the consideration for the disposal of assets forming part of an ancillary trust fund—

(a) shall be left out of account in computing for the purposes of income tax the profits or losses of the member's underwriting business; and

(b) accordingly, shall not be excluded for the purposes of capital gains tax under section 37 or 39 of the Gains Tax Act.

(3) None of the following provisions (which apply where an individual entitled to securities dies), namely—

(a) subsections (1) to (4) of section 721 of the Taxes Act 1988 (accrued income scheme);

F140(b) . . . . . .

F140(c) . . . . . .

F140(d) . . . . . .

shall apply where the individual concerned is a member and the security concerned forms part of an ancillary trust fund of his.

(4) In a case where subsection (3)(a) above applies, the deceased's personal representatives shall be treated for the purposes of sections 710 to 728 of the Taxes Act 1988 as the transferor or transferee in relation to transfers of securities as to which the deceased was the transferor or transferee (as the case may be) in the interest period in which he died.

Textual Amendments

F140 S. 176(3)(b)-(d) repealed (29.4.1996 with effect in accordance with the provisions of Chapter II of Pt. IV of the amending Act) by 1996 c. 8, s. 205, **Sch. 41 Pt. V(3)**

Modifications etc. (not altering text)

C15 S. 176 modified (1.12.1997 with effect with respect to accounting periods of Lloyd's Scottish limited partnerships ending on or after that date) by S.I. 1997/2681, **reg. 5(1)**

Other special cases

F141**177** . . . . . .

Textual Amendments

F141 S. 177 repealed (28.7.2000 with effect as mentioned in s. 107(12)(c) of the amending Act) by 2000 c. 17, ss. 107(11), 156, **Sch. 40 Pt. II(16)**, note 2

178 Stop-loss and quota share insurance.

(1) In computing for the purposes of income tax the profits of a member's underwriting business, each of the following shall be deductible as an expense, namely—

(a) any premium payable by him under a stop-loss insurance, and any repayment of insurance money paid to him under such an insurance;

(b) any amount payable by him into the High Level Stop Loss Fund, and any repayment of an amount paid to him out of that Fund; and

[F142(c) where an amount is payable by him under a quota share contract—

(i) so much of that amount as exceeds the amount of transferred losses that are declared on or before the date the contract takes effect ("the declared amount"), or

(ii) if the contract does not take effect, the amount so payable under the contract.**]**

(2) Subject to subsection (3) below, each of the following, namely—

(a) any insurance money payable to **[**F143a member**]** under a stop-loss insurance in respect of a loss in his underwriting business; and

(b) any amount payable to a member out of the High Level Stop Loss Fund in respect of such a loss,

shall be treated as a trading receipt in computing the profits arising from that business for the year of assessment which corresponds to the underwriting year in which the loss **[**F144was declared**]**.

(3) Where, as respects the payment of any such insurance money or amount as is mentioned in subsection (2) above—

(a) the inspector is not notified of the payment at least 30 days before the time after which any assessment or further assessment of profits for the year of assessment is precluded by section 34 of the Management Act (ordinary time limit of six years), and

(b) the inspector is not entitled, after that time, to make any such assessment or further assessment by virtue of section 36 (fraudulent or negligent conduct) or 40(2) (assessment on personal representatives) of that Act,

that subsection shall have effect in relation to that insurance money or amount as if it referred instead to the year of assessment which corresponds to the underwriting year in which the payment is made.

[F145(3A) Where the amount payable by a member under a quota share contract is less than the declared amount, the difference between the two amounts shall be treated as a trading receipt in computing the profits arising from the member's underwriting business in the year of assessment which corresponds to the underwriting year in which the contract takes effect.

(3B) Where a member has entered a quota share contract, any amount paid by him to cover a cash call in respect of transferred losses that are not declared at the time the contract takes effect shall be treated—

(a) for the purposes of subsection (1)(c)(i) and (3A) above, as an amount payable under the contract, and

(b) for the purposes of section 172, as a payment made at the time the contract takes effect.**]**

[F146(4) For the purposes of this section—

"cash call" has the same meaning as in Part 1 of Schedule 20 to this Act;

"quota share contract" means any contract between a member and another person which—

(a) is made in accordance with the rules or practice of Lloyd's, and

(b) provides for that other person to take over any rights and liabilities of the member under any of the syndicates of which he is a member;

and where the taking over of a member's rights and liabilities is conditional upon the occurrence of any event, the contract does not take effect until that event occurs; and

"transferred loss", in relation to such a contract, means a loss for which that other person takes over liability under the contract (disregarding, in the case of a loss that has been declared at the time it is taken over, any part of it in respect of which the member has paid a cash call before that time).**]**

Textual Amendments

F142 S. 178(1)(c) substituted (24.7.2002 with effect as mentioned in s. 86(2) of the amending Act) by 2002 c. 23, s. 86, **Sch. 32 para. 2**

F143 Words in s. 178(2) substituted (3.5.1994 with effect as respects insurance money and other amounts payable in respect of losses declared in the underwriting year 1997 or subsequent underwriting years) by 1994 c. 9, s. 228, **Sch. 21 para. 5(1)(a)(2)**

F144 Words in s. 178(2) substituted (3.5.1994 with effect as respects insurance money and other amounts payable in respect of losses declared in the underwriting year 1997 or subsequent underwriting years) by 1994 c. 9, s. 228, **Sch. 21 para. 5(1)(b)(2)**

F145 S. 178 (3A)(3B) inserted (24.7.2002 with effect as mentioned in s. 86(2) of the amending Act) by 2002 c. 23, s. 86, **Sch. 32 para. 2**

F146 S. 178(4) substituted (24.7.2002 with effect as mentioned in s. 86(2) of the amending Act) by 2002 c. 23, s. 86, **Sch. 32 para. 4**

Modifications etc. (not altering text)

C16 S. 178(3) excluded (9.3.1995 with effect as mentioned in reg. 1 of the amending S.I.) by S.I. 1995/351, **regs. 1**, 5(1)(c)

Miscellaneous

179 Cessation: final year of assessment.

(1) Subject to subsection (5) below, this section applies where a member ceases to carry on his underwriting business, whether by reason of death or otherwise.

(2) Subject [F147]. . . to the provisions of any regulations made by the Board, the member's final year of assessment shall be that which corresponds to the underwriting year in which his deposit at Lloyd's is paid over to him or his personal representatives or assigns.

[F148](3) . . . . . .

(4) For the purposes of section 171 above and all other purposes of the Income Tax Acts, any profits or losses arising to the member from his underwriting business which are not taken (by virtue of the provisions of this Chapter) to be profits or losses of an earlier year of assessment shall be taken to be profits or losses of his final year of assessment.

(5) This section does not apply in any case where the member's deposit at Lloyd's is paid over to him or his personal representatives or assigns before 1st January 1993.

Textual Amendments

F147 Words in s. 179(2) repealed (3.5.1994 with effect in any case where the member dies after the end of 1993-94) by 1994 c. 9, ss. 228, 258, Sch. 21 para. 6(1)(3), **Sch. 26 Pt. V(25)** Note 3

F148 S. 179(3) repealed (3.5.1994 with effect in any case where the member dies after the end of 1993-94) by 1994 c. 9, ss. 228, 258, Sch. 21 para. 6(1)(3), **Sch. 26 Pt. V(25)** Note 3

Modifications etc. (not altering text)

C17 Ss. 179, 179A excluded (9.3.1995 with application as mentioned in reg. 1 of the amending S.I.) by S.I. 1995/351, **regs. 1**, 14(2)
SS. 179, 179A excluded (1.12.1997 with effect with respect to accounting periods of Lloyd's Scottish limited partnerships ending on or after that date) by S.I. 1997/2681, **reg. 4(1)**

[F149 179A Death of member.

(1) This section applies where a member ceases to carry on his underwriting business by reason of death.

(2) For the purposes of assessing the profits of the member's underwriting business, the member shall be treated as having died at the end of the year of assessment which corresponds to the underwriting year immediately preceding that in which he actually died.

(3) For the purposes of the Income Tax Acts—

(a) the carrying on of the member's underwriting business by his personal representatives shall not be treated as a change in the persons engaged in the carrying on of that business; and

(b) subject to the provisions of any regulations made by the Board, the business shall be treated as continuing until the member's deposit at Lloyd's is paid over to his personal representatives.]

Textual Amendments

F149 S. 179A inserted (3.5.1994 with effect in any case where the member dies after the end of the year 1993-94) by 1994 c. 9, s. 228, **Sch. 21 para. 6(2)(3)**

Modifications etc. (not altering text)

C18 Ss. 179, 179A excluded (9.3.1995 with application as mentioned in reg. 1 of the amending S.I.) by S.I. 1995/351, **regs. 1**, 14(2)
Ss. 179, 179A excluded (1.12.1997 with effect with respect to accounting periods of Lloyd's Scottish limited partnerships ending on or after that date) by S.I. 1997/2681, **reg. 4(1)**

[F150 179B Conversion to limited liability underwriting

Schedule 20A to this Act (which makes provision for certain reliefs to be available where a member converts to limited liability underwriting) shall have effect.]

Textual Amendments

F150 S. 179B inserted (22.7.2004) by Finance Act 2004 (c. 12), **Sch. 25 para. 2**

180 Underwriting profits to be earned income.

(1) In relation to any member, all profits arising to him from his underwriting business—

(a) shall be treated for the purposes of the Income Tax Acts as immediately derived from the carrying on by him of that business, and

(b) accordingly, shall constitute earned income for those purposes.

(2) This section does not apply in relation to profits of the year 1992-93 or earlier years of assessment.

Modifications etc. (not altering text)

C19 S. 180 excluded (1.12.1997 with effect with respect to accounting periods of Lloyd's Scottish limited partnerships ending on or after that date) by S.I. 1997/2681, **reg. 8**

181 Lloyd's underwriting agents.

In section 43 of the [M48]Finance Act 1989 (Schedule D: computation), subsections (6) and (7) (which extend certain time limits for persons permitted by the Council of Lloyd's to act as underwriting agents at Lloyd's) shall cease to have effect in relation to periods of account ending on or after 30th June 1993.

Marginal Citations

M48 1989 c. 26.

Supplemental

182 Regulations.

(1) The Board may by regulations provide—

(a) for the assessment and collection of tax charged in accordance with section 171 above (so far as not provided for by Schedule 19 to this Act);

(b) for making, in the event of any changes in the rules or practice of Lloyd's, such amendments of this Chapter as appear to the Board to be expedient having regard to those changes;

(c) for modifying the application of this Chapter in cases where a syndicate continues after the end of its closing year or a member dies or otherwise ceases to carry on his underwriting business;

[[F151](ca) for modifying the application of this Chapter in relation to cases where assets forming part of a **[**[F152]premium**]** trust fund are the subject of—

[F153](i) . . . . . .

(ii) any such arrangements or agreements as are mentioned in section 737E(2) and (8) of the Taxes Act 1988 (sale and repurchase of securities etc.);**]**

(d) for giving credit for foreign tax.

F154(2) . . . . . .

F154(3) . . . . . .

F154(4) . . . . . .

(5) Regulations made, or deemed to have been made, under any of the following enactments (regulations about Lloyd's underwriters), namely—

(a) section 451(1) or (1A) of the Taxes Act 1988,

(b) section 92(5) of the M49Finance Act 1989, or

(c) section 209(4) of the Gains Tax Act,

which were in force immediately before 6th April 1992 shall continue in force for the year 1992-93 and subsequent years of assessment notwithstanding the repeal of that enactment by this Act, and shall be deemed to have been made under this section.

Textual Amendments

F151 S. 182(1)(ca) inserted (1.5.1995) by 1995 c. 4, **s. 83(2)**

F152 Word in s. 182(1)(ca) substituted (1.12.2001) by S.I. 2001/3629, **arts. 1(2)**, 82(d)

F153 S. 182(1)(ca)(i) repealed (19.3.1997 with effect in relation to, and to transfers under, any arrangement made on or after such day as may be appointed by order) by 1997 c. 16, ss. 76, 113, Sch. 10 Pt. I paras. 6(a), 7(1), **Sch. 18 Pt. VI(10)** Note 1

F154 S. 182(2)-(4) repealed (3.5.1994 with effect for the year 1997-98 and subsequent years of assessment) by 1994 c. 9, ss. 228, 258, Sch. 21 para. 7, **Sch. 26 Pt. V(25)** Note 4

Marginal Citations

M49 1989 c. 26.

183 Consequential amendments.

F155(1) . . . . . .

(2) In section 481(5)(f) of that Act (meaning of "relevant deposit"), for the words "section 457) of an underwriting member" there shall be substituted the words " section 184 of the Finance Act 1993) of an underwriting or former underwriting member ".

F156(3) . . . . . .

F157(4) In section 710(14) of that Act (meaning of "business" and "premiums trust fund"), for the words "section 457" there shall be substituted the words " section 184 of the Finance Act 1993 ".

(5) In the following provisions (which relate to nominees, trustees etc.), namely—

Section 720(3) of the Taxes Act 1988,

paragraph 18(1) of Schedule 4 to that Act,

paragraph 10(1) of Schedule 11 to the Finance Act 1989, and

paragraph 18(1) of Schedule 10 to the M50Finance Act 1990,

the words from "his special reserve fund" to the end shall be omitted.

(6) In the following provisions (which relate to the death of a member), namely—

section 721(5) of the Taxes Act 1988,
paragraph 18(8) of Schedule 4 to that Act,
paragraph 10(6) of Schedule 11 to the Finance Act 1989, and
paragraph 18(6) of Schedule 10 to the [M51]Finance Act 1990,

the words from "a special reserve fund" to the end shall be omitted.

(7) In section 206(2) of the Gains Tax Act (Lloyd's underwriters), after the words "subsection (1) above" there shall be inserted the words " and section 174(1) of the Finance Act 1993 ".

(8) In section 209 of that Act (interpretation, regulations about underwriters etc.)—

(a) in subsection (1), for the words "sections 450 to 456 of the Taxes Act" there shall be substituted the words " Chapter III of Part II of the Finance Act 1993 " and for the words "sections 450 to 456", in the second place where they occur, there shall be substituted the words " that Chapter "; and

(b) in subsection (6), the words "or (4)" shall be omitted.

Textual Amendments

F155 S. 183(1) repealed (with effect in accordance with s. 883(1) of the amending Act) by Income Tax (Trading and Other Income) Act 2005 (c. 5), s. 883(1), **Sch. 3** (with Sch. 2)

F156 S. 183(3) repealed (3.5.1994 with effect for the year 1997-98 and subsequent years of assessment) by 1994 c. 9, ss. 228(2)(c)(4), 230, 258, **Sch. 26 Pt. V(25)** Note 1

F157 S. 183(4)-(8) repealed (the repeals of subsections (4)-(6) having effect for the year 1994 and subsequent underwriting years and the repeals of subsections (7)-(8) having effect for the year of assessment 1994-95 and subsequent years of assessment) by 1993 c. 34, s. 213, **Sch. 23 Pt. III(12)** Notes 2, 4.

Marginal Citations

M50 1990 c. 29.

M51 1990 c. 29.

184 Interpretation and commencement.

(1) In this Chapter, unless the context otherwise requires—

"ancillary trust fund", in relation to a member, does not include a **[**[F158]premium**]** trust fund of his or his special reserve fund (if any) but, subject to that, means any trust fund required or authorised by the rules of Lloyd's, or required by a members' agent of his [F159]. . .;

"closing year"—

(a) in relation to a year of assessment, means the year of assessment next but one following that year;

(b) in relation to an underwriting year, means the underwriting year next but one following that year; and

(c) in relation to a syndicate, means the closing year of the underwriting year for which it was formed;

"the Gains Tax Act" means the [M52]Taxation of Chargeable Gains Act 1992 and

"the Gains Tax Acts" means that Act and any other enactments relating to capital gains tax;

"the High Level Stop Loss Fund" means the fund of that name which, under the rules of Lloyd's, has been established for the year 1993 and subsequent underwriting years;

"inspector" includes any officer of the Board;

"the Management Act" means the [M53]Taxes Management Act 1970;

"managing agent", in relation to a syndicate and a year of assessment, means—

(a) the person registered as a managing agent at Lloyd's who was acting as such an agent for the syndicate at the end of the corresponding underwriting year, or

(b) such other person as may be determined in accordance with regulations made by the Board;

"member" means **[**[F160]an individual who is a member of Lloyd's and**]** is or has been an underwriting member;

"members' agent", in relation to a member of a syndicate and a year of assessment, means—

(a) the person registered as a members' agent at Lloyd's who was acting as such an agent for the member at the end of the corresponding underwriting year, or

(b) if two or more such persons were so acting and one of them was appointed by the member to be responsible for complying with the requirements of Part II of Schedule 19 to this Act in relation to all of the syndicates of which he is a member, that person, or

(c) if two or more such persons were so acting and none of them was so appointed, the person who was so acting for the member in his capacity as a member of the syndicate, or

(d) such other person as may be determined in accordance with regulations made by the Board;

[[F161]"premium trust fund" means a trust fund into which premiums receivable by members are paid in compliance with a trust deed under section 10.3 of the Lloyd's Sourcebook made by the Financial Services Authority under the Financial Services and Markets Act 2000 [F162];**]**

"prescribed" means prescribed by regulations made by the Board;

"profits" includes gains;

"special reserve fund", unless the contrary intention appears, means a special reserve fund set up under the arrangements mentioned in section 175(1) above;

"stop-loss insurance" means any insurance taken out by a member against losses in his underwriting business **[**[F163], except insurance taken out by entering a quota share contract (within the meaning of section 178 above)**]**;

"syndicate" means a syndicate of underwriting members of Lloyd's formed for an underwriting year;

"underwriting business", in relation to a member, means his underwriting business as a member of Lloyd's, whether carried on personally or through an underwriting agent, and does not include any other business carried on by him,

and in particular, where he is himself an underwriting agent, does not include his business as such an agent;

"underwriting year" means the calendar year.

(2) For the purposes of this Chapter—

(a) an underwriting year and a year of assessment shall be deemed to correspond to each other if the underwriting year ends in the year of assessment;

(b) the profits or losses of a member's underwriting business include profits or losses arising to him from assets forming part of a **[**F164premium**]** trust fund or an ancillary trust fund; and

(c) any charge made on a member by the **[**F165managing agent**]** of a syndicate of which he is a member, and any expense incurred on his behalf by the **[**F165managing agent**]** of such a syndicate, shall be treated as expenses arising directly from his membership of that syndicate.

(3) Subject to any provision to the contrary, the provisions of this Chapter have effect for the year 1992-93 and subsequent years of assessment.

Textual Amendments

F158 S. 184(1): word in the definition of "ancillary trust fund" substituted (1.12.2001) by S.I. 2001/3629, **arts. 1(2)**, 82(e)

F159 Words in definition in s. 184(1) repealed (3.5.1994 with effect for the year 1994-95 and subsequent years of assessment) by 1994 c. 9, ss. 228, 258, Sch. 21 para. 8(1)(a), **Sch. 26 Pt. V(25)** Note 6

F160 Words in definition in s. 184(1) substituted (3.5.1994 with effect for the year 1994-95 and subsequent years of assessment) by 1994 c. 9, s. 228, **Sch. 21 para. 8(1)(b)**

F161 S. 184(1): definition of "premium trust fund" substituted (1.12.2001) by S.I. 2001/3629, **arts. 1(2)**, 79

F162 This sourcebook is part of the FSA Handbook. The FSA Handbook may be purchased on paper and on CD Rom from the Publications Department (Sales), Financial Services Authority, 25 The North Colonnade, Canary Wharf, London E14 5HS and is available on line at www.fsa.gov.uk.

F163 S. 184(1): words in definition of "stop-loss insurance" inserted (24.7.2002 with effect as mentioned in s. 86(2) of the amending Act) by 2002 c. 23, s. 86, **Sch. 32 para. 5**

F164 Word in s. 184(2)(b) substituted (1.12.2001) by S.I. 2001/3629, **arts. 1(2)**, 82(e)

F165 Words in s. 184(2)(c) substituted (3.5.1994 with effect for the year 1994-95 and subsequent years of assessment) by 1994 c. 9, s. 228, **Sch. 21 para. 8(2)**

Modifications etc. (not altering text)

C20 S. 184 applied (1.5.1995 with application as mentioned in s. 127(19) of the amending Act) by 1995 c. 4, **s. 127(16)(b)(19)**

Marginal Citations

M52 1992 c. 12.

M53 1970 c. 9.

PART III

OIL TAXATION

185 Abolition of PRT for oil fields with development consents on or after 16th March 1993.

(1) In this Part of this Act a "non-taxable field" means an oil field—

(a) for no part of which consent for development was granted to a licensee by the Secretary of State before 16th March 1993; and

(b) for no part of which a programme of development was served on a licensee or approved by the Secretary of State before that date;

and in this Part of this Act "taxable field" means an oil field which is not a non-taxable field.

(2) For the purposes of subsection (1) above, no account shall be taken, in relation to an oil field, of a consent for development granted before 16th March 1993 or a programme of development served on a licensee or approved by the Secretary of State before that date if—

(a) in whole or in part that consent or programme related to another oil field for which a determination under Schedule 1 to the principal Act was made before the determination under that Schedule for the field in question; and

(b) on or after 16th March 1993, a consent for development is or was granted or a programme of development is or was served on a licensee or approved by the Secretary of State and that consent or programme relates, in whole or in part, to the field in question.

(3) Petroleum revenue tax shall not be charged in accordance with the Oil Taxation Acts in respect of—

(a) profits from oil won from a non-taxable field under the authority of such a licence as is referred to in section 1(1) of the principal Act; or

(b) any receipts accruing to a participator in a non-taxable field which, in the case of a taxable field, would be tariff receipts or disposal receipts attributable to the field for any period.

(4) Without prejudice to the generality of subsection (3) above—

(a) in section 1(2) of the principal Act (the charge to tax) after the words "oil field" there shall be inserted " which is a taxable field ";

(b) in section 3(1D) of the principal Act (apportionment of expenditure between oil field and non-oil field use) for the words "an oil field", in both places where they occur, there shall be substituted " a taxable field ";

(c) in section 5B of the principal Act (allowance of research expenditure) in subsection (6) after the words "this Act" there shall be inserted " or for purposes relating to non-taxable fields ";

(d) no computation shall be made under the Oil Taxation Acts of the assessable profit or allowable loss accruing to a participator in any period from a non-taxable field; and

(e) no expenditure shall be regarded as allowable (or allowed) for a non-taxable field under the Oil Taxation Acts.

(5) In section 12(1) of the principal Act (interpretation) at the end of the definition of "oil field" there shall be added the words " and "taxable field" and "non-taxable field" have the same meaning as in Part III of the Finance Act 1993 ".

(6) Subject to paragraphs (b) and (c) of subsection (4) above, where, apart from this section, expenditure incurred on or after 16th March 1993 would fall to be apportioned (as being allowable expenditure) between two or more oil fields, at least one of which is a non-taxable field, the apportionment shall be made as if all the fields were taxable fields, but subsection (4)(e) above shall then apply to any amount of expenditure apportioned to a non-taxable field.

(7) In subsections (1) and (2) above "development", in relation to an oil field, means—

(a) the erection or carrying out of permanent works for the purpose of getting oil from the field or for the purpose of conveying oil won from the field to a place on land; or

(b) winning oil from the field otherwise than in the course of searching for oil or drilling wells;

and consent for development does not include consent which is limited to the purpose of testing the characteristics of an oil-bearing area and does not relate to the erection or carrying out of permanent works.

(8) In subsection (7) above "permanent works" means any structures or other works whatsoever which are intended by the licensee to be permanent and are neither designed to be moved from place to place without major dismantling nor intended by the licensee to be used only for searching for oil.

186 Reduction of rates of PRT and interest repayments for taxable oil fields.

(1) With respect to chargeable periods ending after 30th June 1993 the rate of petroleum revenue tax (relevant only to taxable fields) shall be 50 per cent. and, accordingly, with respect to such periods, in section 1(2) of the principal Act for "75" there shall be substituted " 50 ".

(2) In paragraph 17 of Schedule 2 to the principal Act (limit on interest in the case of relief for losses carried back) at the end of sub-paragraph (2) there shall be added the words " and, in relation to the appropriate repayment, the chargeable period for which the relevant assessment or amendment is made is referred to as "the repayment period" ".

(3) In sub-paragraph (4) of that paragraph—

(a) at the beginning there shall be inserted the words " Subject to sub-paragraph (6) below "; and

(b) in paragraph (a) for the words "85 per cent." there shall be substituted " the relevant percentage of the amount " and after the word "above" there shall be inserted " which is treated as reducing the assessable profit of the repayment period ".

(4) At the end of that paragraph there shall be added the following sub-paragraphs—

"(5) For the purposes of sub-paragraph (4)(a) above—

(a) where the repayment period ends on or before 30th June 1993, the relevant percentage, in relation to the amount of the loss or losses which is treated as reducing the assessable profit accruing to the participator for that period is 85 per cent.; and

(b) in relation to the amount of the loss or losses which is treated as reducing the assessable profit accruing to the participator for any later repayment period, the relevant percentage is 60 per cent.

(6) If, in order to give effect to the relief for losses carried back, a repayment of APRT falls, or will on the making of a claim fall, to be made with respect to a chargeable period which is the repayment period in relation to the appropriate repayment, the reference in sub-paragraph (4)(b) above to the appropriate repayment shall be construed as a reference to the aggregate of that repayment and the repayment of APRT.

(7) In sub-paragraph (6) above "APRT" means advance petroleum revenue tax paid under Chapter II of Part VI of the [M54]Finance Act 1982."

Marginal Citations
M54 1982 c. 39.

187 Returns and information.

(1) In Schedule 2 to the principal Act (management and collection of petroleum revenue tax), other than the Table in paragraph 1 (modifications of the [M55]Taxes Management Act 1970),—

(a) for the words "an oil field", in each place where they occur, there shall be substituted " a taxable field "; and

(b) for the words "the oil field", in each place where they occur, there shall be substituted " the taxable field ";

andparagraph 7 (which is superseded by the following provisions of this section) shall be omitted.

(2) The Board may by notice in writing require a person—

(a) to deliver to a named officer of the Board such documents as are in the person's possession or power and as (in the Board's reasonable opinion) contain, or may contain, information relevant to—

(i) any tax liability to which that person is or may be subject, or

(ii) the amount of any such liability; or

(b) to furnish to a named officer of the Board such particulars as the Board may reasonably require as being relevant to, or to the amount of, any such liability.

(3) The Board may, for the purpose of enquiring into the tax liability of any person ("the taxpayer"), by notice in writing require any other person to deliver to or, if the person to whom the notice is given so elects, to make available for inspection by, a named officer of the Board, such documents—

(a) as are in his possession or power; and

(b) as (in the Board's reasonable opinion) contain, or may contain, information relevant to—

(i) any tax liability to which the taxpayer is or may be or may have been subject; or

(ii) the amount of any such liability.

(4) Subject to subsection (5) below, a notice under subsection (3) above shall name the taxpayer with whose liability the Board is concerned; and (for the avoidance of doubt) a company which has ceased to exist may be so named.

(5) If, on an application made by the Board, a Special Commissioner gives his consent, the Board may give such a notice as is mentioned in subsection (3) above but without naming the taxpayer to whom the notice relates; but such a consent shall not be given unless the Special Commissioner is satisfied—

(a) that the notice relates to a taxpayer whose identity is not known to the Board or to a class of taxpayers whose individual identities are not so known;

(b) that there are reasonable grounds for believing that the taxpayer or any of the class of taxpayers to whom the notice relates may have failed or may fail to comply with any provision of the Oil Taxation Acts;

(c) that any such failure is likely to have led or to lead to serious prejudice to the proper assessment or collection of tax; and

(d) that the information which is likely to be contained in any documents to which the notice relates is not readily available from another source.

(6) A person to whom a notice is given under subsection (5) above may, by notice in writing given to the Board within thirty days after the date of the notice under that subsection, object to that notice on the ground that it would be onerous for him to comply with it; and, if the matter is not resolved by agreement, it shall be referred to the Special Commissioners who may confirm, vary or cancel that notice.

(7) Subsections (2) to (6) above (which, in relation to petroleum revenue tax, contain provisions similar to those of section 20 of the [M56]Taxes Management Act 1970) shall have effect subject to Part I of Schedule 21 to this Act (which contains provisions similar to those of section 20B of that Act); and the provisions of Part II of that Schedule relating to the meaning of "documents" (which are derived from provisions of sections 20 and 20D of that Act) shall have effect.

(8) Section 98 of the Taxes Management Act 1970 (penalties, etc. in relation to special returns) shall have effect as if, in the first column of the Table in that section, there were included a reference to subsections (2) to (6) above.

Marginal Citations

M55 1970 c. 9.

M56 1970 c. 9.

188 Exploration and appraisal expenditure.

(1) In section 5A of the principal Act (allowance of exploration and appraisal expenditure), in subsection (1) (conditions for expenditure to be allowable) after paragraph (a) there shall be inserted the following paragraph—

"(aa) either is incurred before 16th March 1993 or is incurred within the period of two years beginning on that date and is expenditure to which that person or, if that person is a company, that company or a company associated with it in respect of the expenditure, is committed immediately before that date; and".

(2) After subsection (1) of that section there shall be inserted the following subsections—

"(1A) For the purposes of subsection (1)(aa) above, in respect of expenditure incurred on or after 16th March 1993, a person is to be regarded as committed to that expenditure immediately before that date if—

(a) he has an obligation under an exploration and appraisal contract entered into before that date to incur the expenditure; or

(b) the expenditure is incurred wholly and exclusively for the same purpose as that for which the contract referred to in paragraph (a) above was entered into and is so incurred pursuant to an obligation under an exploration and appraisal contract entered into on or after 16th March 1993 and before 16th June 1993.

(1B) In considering whether a person has at any time such a contractual obligation as is referred to in paragraph (a) or paragraph (b) of subsection (1A) above in respect of any expenditure,

(a) if the contract contains a power (however exercisable) by virtue of which the person concerned, or a company associated with him in respect of the expenditure, is able to bring any contractual obligations to an end, he shall not be regarded as committed to any expenditure which, if the power were to be exercised, would not be incurred; and

(b) if the person concerned (or a company associated with him in respect of the expenditure) has an option (however described) which was not exercised before 16th March 1993 but the exercise of which would increase his expenditure under the contract, he shall not be regarded as committed to any expenditure which would be incurred only as a result of the exercise of the option.

(1C) For the purposes of subsection (1A) above a contract is an exploration and appraisal contract if it is a contract for the provision of any services or other business facilities or assets for any of the purposes specified in subsection (2) below."

(3) In subsection (2) of that section for the words "subsection (1)" there shall be substituted " subsections (1) to (1C) ".

189 Transitional relief for certain exploration and appraisal expenditure.

(1) This section applies in any case where—

(a) a participator in an oil field or an associate incurs expenditure on or after 16th March 1993 and before 1st January 1995; and

(b) apart from this section, that expenditure would not be allowable under section 5A of the principal Act (as amended by section 188 above); and

(c) if section 188 above had not been enacted, the expenditure would be allowable in the case of the participator under section 5A of the principal Act; and

(d) on 16th March 1993 the participator or the associate was a licensee in respect of the area to which the expenditure related.

(2) In the following provisions of this section—

(a) expenditure falling within subsection (1) above is referred to as "transitional E and A expenditure"; and

(b) the participator in whose case that expenditure would be allowable as mentioned in paragraph (c) of that subsection is referred to as "the claimant".

(3) Subject to the following provisions of this section, so much of the transitional E and A expenditure incurred by the claimant or an associate as does not in the aggregate exceed £10 million shall be allowable in the case of the claimant under section 5A of the principal Act (as exploration and appraisal expenditure).

(4) In subsections (1) to (3) above any reference to an associate of a participator applies only where the participator is a company and is a reference to another company—

(a) which on 16th March 1993 was a member of the same group of companies as the participator; and

(b) with which the participator is associated in respect of expenditure incurred by the other company;

and subsections (7) and (8) of section 5 of the principal Act (companies and associates etc.) apply for the purposes of this section as they apply for the purposes of that section.

(5) Where—

(a) the claimant is a company, and

(b) on 16th March 1993 the claimant was a member of a group of companies, and

(c) at least one other company which was a member of the group on that date was then a participator in an oil field, and

(d) that other company is also the claimant in relation to an amount of transitional E and A expenditure,

subsection (3) above shall have effect as if references therein to the claimant were references to the aggregate of all those companies which on that date were members of the group and are the claimants in relation to any transitional E and A expenditure.

(6) In this section, a group of companies means a company which is not a 51 per cent. subsidiary of any other company, together with each company which is its 51 per cent. subsidiary; and section 838 of the Taxes Act 1988 (subsidiaries) applies for the purposes of this section as it applies for the purposes of the Tax Acts (within the meaning of that Act).

190 Allowance of expenditure on certain assets limited by reference to taxable field use.

(1) Where, in the case of expenditure incurred as mentioned in section 1(1) of the 1983 Act (expenditure incurred on non-dedicated mobile assets),—

(a) the expenditure would, apart from this subsection, be allowable under section 4 of the principal Act for a claim period of a taxable field, and

(b) during that claim period, the asset becomes dedicated to a non-taxable field,

that proportion of the expenditure which is equal to the proportion of the claim period during which the asset is dedicated to a non-taxable field shall not be allowable as mentioned in paragraph (a) above.

(2) For the purpose of determining whether an asset becomes at any time dedicated to a non-taxable field, it shall be assumed that, in relation to a non-taxable field, any reference in section 2 of the 1983 Act (dedicated mobile assets) to a claim period is a reference to—

(a) the period ending at the end of December following the determination of the field; or

(b) the period of twelve months ending at the end of December in any later year.

(3) In paragraph 7 of Schedule 1 to the 1983 Act (brought-in assets) in sub-paragraph (1) (c) (which requires that during the initial period the asset should have been used otherwise than in connection with an oil field) for the words "an oil field" there shall be substituted " a taxable field ".

(4) In paragraph 8 of that Schedule (subsequent use of new asset otherwise than in connection with an oil field) in the heading and in sub-paragraphs (1) to (3) and (6) for the words "an oil field" there shall be substituted " a taxable field ".

(5) In paragraph 5 of Schedule 2 to the 1983 Act (acquisition otherwise than at arm's length: limit on tariff and disposal receipts)—

(a) in paragraphs (a) and (c) of sub-paragraph (1) for the words "an oil field" there shall be substituted " a taxable field ";

F166(b) . . . . . .

(c) in sub-paragraph (3)(a) for the words "an oil field" there shall be substituted " a taxable field "; and

(d) in sub-paragraph (3)(b) for the words "an oil field" there shall be substituted " a taxable field or, if it is to a participator in a taxable field, the asset is to be used wholly or partly in connection with a non-taxable field ".

Textual Amendments

F166 S. 190(5)(b) repealed (3.5.1994 with effect in accordance with s. 238 of the amending Act) by 1994 c. 9, ss. 238, 258, **Sch. 26 Pt. VI** Note 2

191 Time when expenditure is incurred.

(1) Subject to the following provisions of this section, where a claim is made under the principal Act for the allowance of any expenditure and the claim is received by the Board after 16th March 1993, an amount of expenditure is to be taken to be incurred for the purposes of the Oil Taxation Acts on the date on which the obligation to pay that amount becomes unconditional (whether or not there is a later date on or before which the whole or any part of that amount is required to be paid).

(2) Subject to subsection (3) below, where the amount of any expenditure incurred by any person at any time after 16th March 1993 under a contract—

(a) for the acquisition from any other person of, or of an interest in, an asset, or

(b) for the provision by any other person of services or other business facilities of whatever kind (whether in connection with the use of an asset or not), or

(c) for the grant or transfer to that person by any other person of any right, licence or interest (other than an interest in an asset)

is disproportionate to the extent to which that other person has, at or before that time, performed his obligations under the contract then, for the purposes of the Oil Taxation Acts, only so much of the expenditure shall be taken to have been incurred at that time as is proportionate to those obligations which have been so performed.

(3) If, in the case of a contract entered into after 16th March 1993 and falling within paragraph (a) or paragraph (b) of subsection (2) above—

(a) the expenditure referred to in that subsection is incurred before 1st July 1993, and

(b) the other person referred to in paragraph (a) or paragraph (b) ("the contractor") has performed his obligations by entering into one or more further contracts,

the contractor shall be treated for the purposes of subsection (2) above as having at any time performed his obligations under the contract only to the extent that, at that time, the asset or interest in question has been acquired by, or, as the case may be, the services or other business facilities have been provided to, the person incurring the expenditure.

(4) In paragraph 2 of Schedule 4 to the principal Act (limitation of allowable expenditure on transactions between connected persons or otherwise than at arm's length) for sub-paragraph (1) there shall be substituted the following sub-paragraphs—

"(1) Where, in a transaction to which this paragraph applies, a person has incurred expenditure in acquiring, bringing into existence or enhancing the value of an asset, he shall at any time be treated for the purposes of—

(a) sections 3 and 4 of this Act, and

(b) sections 3 and 4 of and Schedule 1 to the [M57]Oil Taxation Act 1983,

as having incurred that expenditure only to the extent that it does not exceed expenditure (other than loan expenditure) incurred up to that time in a transaction to which this paragraph does not apply (or, if there has been more than one such transaction, the later or latest of them) in acquiring, bringing into existence or enhancing the value of, that asset.

(1A) Subsections (1) to (3) of section 191 of the Finance Act 1993 apply to determine for the purposes of this paragraph what expenditure has at any time been incurred under a transaction to which this paragraph does not apply, as they apply in relation to expenditure for the allowance of which a claim is received by the Board after 16th March 1993.

(1B) In sub-paragraph (1) above "loan expenditure" means expenditure in respect of interest or any other pecuniary obligation incurred in obtaining a loan or any other form of credit."

(5) For sub-paragraph (3) of paragraph 2 of Schedule 4 to the principal Act there shall be substituted the following sub-paragraphs—

"(3) The preceding provisions of this section shall, with any necessary modification, apply in relation to expenditure incurred by any person in acquiring an interest in an asset or in bringing into existence an asset in which he is to have an interest, or in enhancing the value of an asset in which he has an interest, as those provisions apply in relation to expenditure incurred by a person in acquiring, bringing into existence, or enhancing the value of an asset, as the case may be.

(4) The provisions of sub-paragraphs (1) to (2) above shall, with any necessary modification, apply in relation to expenditure incurred by any person in respect of—

(a) the use of an asset (including expenditure on renting or hiring), or

(b) the provision of services or other business facilities of whatever kind in connection with the use, otherwise than by that person, of an asset,

as they have effect in relation to expenditure incurred in the acquisition of, or of an interest in, an asset."

(6) The amendments made by subsections (4) and (5) above have effect where the transaction to which paragraph 2 of Schedule 4 to the principal Act applies takes place on or after 16th March 1993.

Modifications etc. (not altering text)

C21 S. 191(2) modified (3.5.1994 with application as mentioned in s. 231(1) of the amending Act) by 1994 c. 9, ss. 231, 234, **Sch. 22 Pt. II para. 13(2)**

Marginal Citations

M57 1983 c. 56.

192 Chargeable periods in which expenditure may be brought into account.

(1) Where a claim which—

(a) is made under Schedule 5 or Schedule 6 to the principal Act for the allowance of any expenditure, and

(b) is received by the Board after 16th March 1993,

has been allowed, the expenditure shall not be brought into account in determining the assessable profit or allowable loss of any chargeable period which ends earlier than the last day of the claim period in which the expenditure was incurred.

(2) Where a claim has been made under Schedule 7 to the principal Act for the allowance of any expenditure incurred after 31st March 1993 and that claim has been allowed, the expenditure shall not be brought into account in determining the assessable profit or allowable loss of any chargeable period which ends before the date on which the expenditure was incurred.

(3) The preceding provisions of this section have effect notwithstanding anything in subsection (9) of section 2 of the principal Act (under which expenditure which had been allowed might in certain cases be taken into account in earlier chargeable periods) and, accordingly, at the beginning of that subsection there shall be inserted " Subject to section 192 of the Finance Act 1993 ".

193 Tariff receipts etc.

(1) In section 9 of the 1983 Act (tariff receipts allowance) in subsection (5) (definition of "user field") in paragraph (a) after the words "other than the principal field" there shall be inserted " or a non-taxable field ", and at the end of that subsection there shall be inserted the following subsection—

"(5A) No order may be made under subsection (5)(b) above on or after 1st July 1993."

(2) Where a participator in a taxable field incurs any expenditure and,—

(a) apart from this subsection, the expenditure would be taken into account in determining the assessable profit or allowable loss accruing to that participator from the taxable field in any chargeable period, and

(b) in the hands of the recipient, the expenditure would, on the relevant assumptions, constitute tariff receipts or disposal receipts of a participator in a non-taxable field attributable to that field for any period, and

(c) at the time the expenditure is incurred, the participator referred to in paragraph (a) above is or is connected with a participator in the non-taxable field referred to in paragraph (b) above,

the expenditure shall be disregarded in determining the assessable profit or allowable loss referred to in paragraph (a) above.

(3) For the purposes of subsection (2) above, the relevant assumptions are—

(a) that the non-taxable field is a taxable field; and

(b) that the asset which gives rise to the expenditure (by virtue of its use, the provision of services or other business facilities in connection with its use or its disposal) is a qualifying asset in relation to the participator in question.

(4) In section 12 of the 1983 Act (charge of receipts attributable to United Kingdom use of foreign field asset), in subsection (3) after the words "oil field", in the first place where they occur, there shall be inserted " which is a taxable field and ".

(5) After subsection (3) of section 12 of the 1983 Act there shall be inserted the following subsection—

"(3A) No order may be made under subsection (2)(a) above on or after 1st July 1993."

(6) In this section "disposal receipts", "qualifying asset" and "tariff receipts" have the same meaning as in the 1983 Act; and section 839 of the Taxes Act 1988 (connected persons) applies for the purposes of subsection (2)(c) above.

194 Double taxation relief in relation to petroleum revenue tax.

(1) For the purpose of giving relief from double taxation in relation to petroleum revenue tax in respect of the amount or value of consideration which is brought into charge to tax under section 12 of the 1983 Act (charge of receipts attributable to United Kingdom use of foreign field assets), section 788 of the Taxes Act 1988 (relief by agreement with other countries) shall have effect as if—

(a) references therein to income tax included references to petroleum revenue tax; and

(b) references therein to income included references to any such consideration.

(2) Section 788 of the Taxes Act 1988, as it has effect in accordance with subsection (1) above, shall apply with respect to any arrangements which—

(a) are set out in an Order in Council made, or having effect as if made, under that section before as well as after the passing of this Act; and

(b) include petroleum revenue tax as a tax to which the arrangements apply.

(3) In the application of section 788 of the Taxes Act 1988 in accordance with the preceding provisions of this section—

(a) paragraphs (b) to (d) of subsection (3),

(b) subsections (4), (5) and (7), and

(c) in subsection (6) the words from "Except" to "this Part",

shall be omitted.

(4) In relation to a claim for relief under section 788 of the Taxes Act 1988 which is made by virtue of this section, sections 42 and 43 of the [M58]Taxes Management Act 1970 shall have effect with the following modifications—

(a) for any reference to income tax there shall be substituted a reference to petroleum revenue tax;

(b) any reference to income shall be construed as a reference to such consideration as is referred to in subsection (1) above;

(c) for any reference to a year of assessment there shall be substituted a reference to a chargeable period within the meaning of the principal Act; and

(d) any reference to a chargeable period shall be construed as a reference to a chargeable period within the meaning of the principal Act.

(5) Section 816 of the Taxes Act 1988 (disclosure of information) shall apply in relation to petroleum revenue tax as it applies in relation to income tax.

Marginal Citations
M58 1970 c. 9.

195 Interpretation of Part III and consequential amendments of assessments etc.

(1) In this Part—

(a) "the principal Act" means the [M59]Oil Taxation Act 1975 ;

(b) "the 1983 Act" means the [M60]Oil Taxation Act 1983 ;

(c) "the Oil Taxation Acts" means Parts I and III of the principal Act, the 1983 Act and any other enactment relating to petroleum revenue tax; and

(d) "taxable field" and "non-taxable field" shall be construed in accordance with section 185 above.

(2) The Board may make all such amendments of assessments or determinations or of decisions on claims as may be necessary in consequence of the provisions of this Part.

(3) This Part, other than section 194, shall be construed as one with Part I of the principal Act.

Marginal Citations
M59 1975 c. 22.
M60 1983 c. 56.

PART IV

INHERITANCE TAX

196 Rate bands: no indexation in 1993.

The Table substituted by section 72(1) of the [M61]Finance (No.2) Act 1992 shall apply to chargeable transfers made in the year beginning 6th April 1993, and accordingly section 8(1) of the [M62]Inheritance Tax Act 1984 (indexation of rate bands)shall not apply to such transfers.

Marginal Citations

M61 1992 c. 48.

M62 1984 c. 51.

197 Rate bands: indexation for 1994 onwards.

(1) In section 8 of the Inheritance Tax Act 1984 (indexation of rate bands)—

(a) in subsection (1) for "December in 1984" there shall be substituted " September in 1993 " and for "previous December" there shall be substituted " previous September ";

(b) in subsection (3) for "December" there shall be substituted " September ";

(c) in subsection (4) for "1985" there shall be substituted " 1994 ".

(2) This section shall apply in relation to chargeable transfers made on or after 6th April 1994.

198 Fall in value relief: qualifying investments.

(1) In the [M63]Inheritance Tax Act 1984, in Part VI (valuation) in Chapter III (sale of shares etc. from deceased's estate) there shall be inserted after section 186—

"**186A Cancelled investments.**

(1) Where any qualifying investments comprised in a person's estate immediately before his death are—

(a) cancelled within the period of twelve months immediately following the date of the death without being replaced by other shares or securities, and

(b) held, immediately before cancellation, by the appropriate person,

they shall be treated for the purposes of this Chapter as having been sold by the appropriate person for a nominal consideration (one pound) immediately before cancellation.

(2) Where any qualifying investments are included in the calculation under section 179(1) above by virtue of this section, paragraph (b) of that subsection shall have effect, so far as relating to those investments, with the omission of the words from "or" to the end.

186B Suspended investments.

(1) This section applies to any qualifying investments comprised in a person's estate immediately before his death in respect of which quotation on a recognised stock exchange or dealing on the Unlisted Securities Market is suspended at the end of the period of twelve months immediately following the date of the death ("the relevant period").

(2) Where—

(a) any qualifying investments to which this section applies are, at the end of the relevant period, held by the appropriate person, and

(b) the value on death of those investments exceeds their value at the end of that period,

they shall be treated for the purposes of this Chapter as having been sold by the appropriate person immediately before the end of that period for a price equal to their value at that time.

(3) Where any qualifying investments are included in the calculation under section 179(1) above by virtue of this section, paragraph (b) of that subsection shall have effect, so far as relating to those investments, with the omission of the words from "or" to the end."

(2) This section shall have effect in relation to deaths occurring on or after 16th March 1992.

Marginal Citations
M63 1984 c. 51.

199 Fall in value relief: interests in land.

(1) In the [M64]Inheritance Tax Act 1984, in Part VI, in Chapter IV (sale of land from deceased's estate) after section 197 there shall be inserted—

"**197A Sales in fourth year after death.**

(1) Where an interest in land—

(a) is comprised in a person's estate immediately before his death, and

(b) is sold by the appropriate person in the fourth year immediately following the date of the death, otherwise than in circumstances in which section 197(1) above has effect,

the interest shall be treated, for the purposes of section 191(1) above, as having been sold within the period of three years immediately following the date of the death.

(2) Subsection (1) above shall not have effect in relation to an interest if its sale value would exceed its value on death.

(3) In determining the period referred to in section 192(1) above, no account shall be taken of the sale of an interest in relation to which subsection (1) above has effect; and if the claim relates only to such interests, section 192 shall not apply in relation to the claim.

(4) In applying section 196(1) above, no account shall be taken, for the purposes of paragraph (a) of that subsection, of an interest in relation to which subsection (1) above has effect."

(2) This section shall have effect in relation to deaths occurring on or after 16th March 1990.

Marginal Citations
M64 1984 c. 51.

200 Appeals: questions as to value of land.

(1) In section 222 of the Inheritance Tax Act 1984 (appeals against determinations) for subsection (4) there shall be substituted the following subsections—

"(4) An appeal on any question as to the value of land in the United Kingdom may be to the appropriate tribunal.

(4A) If and so far as the question in dispute on any appeal under this section to the Special Commissioners or the High Court is a question as to the value of land in the United Kingdom, the question shall be determined on a reference to the appropriate tribunal.

(4B) In this section "the appropriate tribunal" means—

(a) where the land is in England or Wales, the Lands Tribunal;

(b) where the land is in Scotland, the Lands Tribunal for Scotland;

(c) where the land is in Northern Ireland, the Lands Tribunal for Northern Ireland."

(2) In section 242 of that Act (recovery of tax) in subsection (3) for the words "subsection (4)" there shall be substituted the words " subsections (4) to (4B) ".

(3) This section shall apply in relation to any appeal which—

(a) is made on or after the day on which this Act is passed, or

(b) is made, but has not begun to be heard, before that day.

PART V

STAMP DUTY

F167 201 . . . . . .

Textual Amendments

F167 S. 201 repealed (27.7.1999 with effect in accordance with Sch. 20 Pt. V(2) Notes 1, 2 of the amending Act) by 1999 c. 16, s. 138, **Sch. 20 Pt. V(2)** Notes 1, 2

202 Rent to mortgage: England and Wales.

(1) Subsection (2) below applies where—

(a) a person exercises the right to acquire on rent to mortgage terms under Part V of the M65Housing Act 1985, and

(b) in pursuance of the exercise of that right a conveyance of the freehold is executed in his favour as regards the dwelling-house concerned.

(2) For the purposes of the enactments relating to stamp duty chargeable under **[**F168Part I of Schedule 13 to the Finance Act 1999 (conveyance or transfer on sale)**]**, the consideration for the sale shall be taken to be equal to the price which, by virtue of section 126 of the Housing Act 1985, would be payable for the dwelling-house on a conveyance if the person were exercising the right to buy under Part V of that Act.

(3) Subsection (4) below applies where—

(a) a person exercises the right to acquire on rent to mortgage terms under Part V of the Housing Act 1985, and

(b) in pursuance of the exercise of that right a lease is executed in his favour as regards the dwelling-house concerned.

(4) In such a case—

(a) the lease shall not be chargeable with stamp duty under **[**F169Part II of Schedule 13 to the Finance Act 1999 (lease)**]** but shall be chargeable with stamp duty under **[**F170Part I of that Schedule (conveyance or transfer on sale)**]** as if it were a conveyance on sale;

(b) for the purposes of the enactments relating to stamp duty chargeable under **[**F171Part I of that Schedule**]** the consideration for the sale mentioned in paragraph (a) above shall be taken to be equal to the price which, by virtue of section 126 of the M66Housing Act 1985, would be payable for the dwelling-house on a grant if the person were exercising the right to buy under Part V of that Act.

(5) This section shall apply where the conveyance or lease is executed after the day on which this Act is passed.

Textual Amendments

F168 Words in s. 202(2) substituted (27.7.1999 with effect in relation to instruments executed on or after 1.10.1999) by 1999 c. 16, ss. 112(4)(6), 122, **Sch. 14 para. 28(2)**

F169 Words in s. 202(4)(a) substituted (27.7.1999 with effect in relation to instruments executed on or after 1.10.1999) by 1999 c. 16, ss. 112(4)(6), 122, **Sch. 14 para. 28(3)(a)**

F170 Words in s. 202(4)(a) substituted (27.7.1999 with effect in relation to instruments executed on or after 1.10.1999) by 1999 c. 16, ss. 112(4)(6), 122, **Sch. 14 para. 28(3)(b)**

F171 Words in s. 202(4)(b) substituted (27.7.1999 with effect in relation to instruments executed on or after 1.10.1999) by 1999 c. 16, ss. 112(4)(6), 122, **Sch. 14 para. 28(4)**

Marginal Citations

M65 1985 c. 68.

M66 1985 c. 68.

203 Rent to loan: Scotland.

(1) Subsection (2) below applies where—

(a) a person exercises the right to purchase a house by way of the rent to loan scheme under Part III of the M67Housing (Scotland) Act 1987, and

(b) in pursuance of the exercise of that right a heritable disposition of the house is executed in favour of him.

(2) For the purposes of the enactments relating to stamp duty chargeable under **[**F172Part I of Schedule 13 to the Finance Act 1999 (conveyance or transfer on sale)**]**, the consideration for the sale shall be taken to be equal to the price which, by virtue of section 62 of the Housing (Scotland) Act 1987, would be payable for the house if the person were exercising the right to purchase under section 61 of that Act.

(3) This section shall apply where the disposition is executed after the day on which this Act is passed.

Textual Amendments

F172 Words in s. 203(2) substituted (27.7.1999 with effect in relation to instruments executed on or after 1.10.1999) by 1999 c. 16, ss. 112(4)(6), 122, **Sch. 14 para. 29**

Marginal Citations

M67 1987 c. 26.

204 Method of denoting stamp duty.

(1) The Treasury may make regulations as to the method by which stamp duty is to be denoted.

(2) In particular, regulations under this section may—

(a) provide for duty to be denoted by impressed stamps or adhesive stamps or by a record printed or made by a machine or implement or by such other method as may be prescribed;

(b) provide for one method only to be used, whether generally or in prescribed cases;

(c) provide for alternative methods to be available, whether generally or in prescribed cases;

(d) make different provision for different cases;

and cases may be designated by reference to the type of instrument concerned, the geographical area involved, or such other factors as the Treasury think fit.

(3) Regulations under this section may provide that where stamp duty is denoted by a method which (in the case of the instrument concerned) is required or permitted by the law in force at the time it is stamped, for the purposes of section 14(4) of the Stamp Act 1891 (instruments not to be given in evidence etc. unless stamped in accordance with the law in force at the time of [F173]. . . execution) the method shall be treated as being in accordance with the law in force at the time when the instrument was [F173]. . . executed.

(4) Regulations under this section may include such supplementary, incidental, consequential or transitional provisions as appear to the Treasury to be necessary or expedient.

(5) Regulations under this section may make provision in such way as the Treasury think fit, and in particular may amend or repeal or modify the effect of any provision of any Act.

(6) In this section "prescribed" means prescribed by regulations under this section.

(7) The power to make regulations under this section shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of the House of Commons.

Textual Amendments

F173 Words in s. 204(3) repealed (28.7.2000) by 2000 c. 17, s. 156, **Sch. 40 Pt. III**

PART VI

MISCELLANEOUS AND GENERAL

Statutory effect of resolutions etc.

205 The 1968 Act.

(1) The [M68]Provisional Collection of Taxes Act 1968 shall be amended as follows.

(2) In section 1(1) (taxes to which section 1 applies)—

(a) after "income tax," there shall be inserted " corporation tax (including advance corporation tax) ";

(b) the words "car tax" shall be omitted.

(3) Section 1(1A) (reference to income tax to include reference to amounts representing income tax) shall be omitted.

(4) In section 1(3)(a) (resolution passed in March or April to have statutory effect for period expiring with 5th August) for "March or April" there shall be substituted " November or December " and for "5th August in the same calendar year" there shall be substituted " 5th May in the next calendar year ".

(5) In section 1(4) (resolution to cease to have statutory effect unless Bill read a second time within twenty-five sitting days) for "twenty-five" there shall be substituted " thirty ".

(6) In section 5 (resolution giving provisional effect to motions)—

(a) in subsection (1), paragraph (c) and the word "or" immediately preceding it shall be omitted;

(b) in subsection (2) for ", sections 8(5) and 822 of the 1988 Act" there shall be substituted " and section 822 of the Income and Corporation Taxes Act 1988 ".

(7) This section shall apply in relation to resolutions passed after the day on which this Act is passed.

Marginal Citations

M68 1968 c. 2.

206 Corporation tax.

(1) In section 8 of the Taxes Act 1988 (general scheme of corporation tax) subsections (4) to (6) (assessments where tax not charged for year etc.) shall be omitted.

[F174](2) . . . . . .

F175(3) . . . . . .

Textual Amendments

F174 S. 206(2) repealed (29.4.1996) by 1996 c. 8, s. 205, **Sch. 41 Pt. V(13)**

F175 S. 206(3) repealed (31.7.1997) by 1997 c. 58, s. 52, **Sch. 8 Pt. III**

207 Stamp duty.

(1) In section 50(2) of the M69Finance Act 1973 (period of temporary statutory effect of resolution affecting stamp duties)—

(a) in paragraph (a) (period by reference to twenty-fifth day of Commons sitting) for "twenty-fifth" there shall be substituted " thirtieth ";

(b) in paragraph (d) (period by reference to five months beginning with day resolution takes effect) for "five" there shall be substituted " six ".

(2) This section shall apply in relation to resolutions passed after the day on which this Act is passed.

Marginal Citations

M69 1973 c. 51.

Miscellaneous

208 Residence: available accommodation.

(1) In section 336 of the Taxes Act 1988 (temporary residents in the United Kingdom) the following subsection shall be inserted after subsection (2)—

"(3) The question whether—

(a) a person falls within subsection (1)(a) above, or

(b) for the purposes of subsection (2) above a person is in the United Kingdom for some temporary purpose only and not with the intention of establishing his residence there,

shall be decided without regard to any living accommodation available in the United Kingdom for his use."

(2) In section 9 of the M70Taxation of Chargeable Gains Act 1992 (residence, including temporary residence) the following subsection shall be inserted after subsection (3)—

"(4) The question whether for the purposes of subsection (3) above an individual is in the United Kingdom for some temporary purpose only and not with any view or intent to establish his residence there shall be decided without regard to any living accommodation available in the United Kingdom for his use."

(3) In consequence of subsection (1) above, in section 267(4) of the M71Inheritance Tax Act 1984 (residence in United Kingdom determined as for purposes of income tax) the words "but without regard to any dwelling-house available in the United Kingdom for his use" shall be omitted.

(4) Subsections (1) and (2) above shall have effect for the year 1993-94 and subsequent years of assessment.

(5) Subsection (3) above shall have effect where the year of assessment concerned is 1993-94 or a subsequent year of assessment.

Marginal Citations
M70 1992 c. 12.
M71 1984 c. 51.

[F176]209 . . . . . .

Textual Amendments
F176 S. 209 repealed (31.7.1998 but without affecting any case in which the cessation of liability to gas levy was before the end of the year 1997-98) by 1998 c. 36, s. 165, **Sch. 27 Pt. V(3)** Notes 1, 2

210 Trading funds.

Schedule 22 to this Act (which contains provisions about trading funds) shall have effect.

[F177]211 . . . . . .

Textual Amendments
F177 S. 211 repealed (31.7.1998 with effect in accordance with an order made under Sch. 26 para. 3 of the amending Act) by 1998 c. 36, ss. 160, 165, Sch. 26 para. 3, **Sch. 27 Pt. VI(2)** Note

General

212 Interpretation.

In this Act "the Taxes Act 1988" means the [M72]Income and Corporation Taxes Act 1988.

Marginal Citations
M72 1988 c. 1.

213 Repeals.

The enactments specified in Schedule 23 to this Act (which include provisions which are already spent) are hereby repealed to the extent specified in the third column of that Schedule, but subject to any provision of that Schedule.

214 Short title.

This Act may be cited as the Finance Act 1993.

SCHEDULES

SCHEDULE 1

Section 1.

TABLE OF RATES OF DUTY ON WINE AND MADE-WINE

Commencement Information

I10 Schedule 1 deemed to have come into force at 6 p.m. on 16.3.1993: see s. 1(2)(4)

"PART I

WINE OR MADE-WINE OF A STRENGTH NOT EXCEEDING 22 PER CENT.

Description of wine or made-wine	***Rates of duty per hectolitre***
	£
Wine or made-wine of a strength not exceeding 2 per cent.	13.23
Wine or made-wine of a strength exceeding 2 per cent. but not exceeding 3 per cent.	22.04
Wine or made-wine of a strength exceeding 3 per cent. but not exceeding 4 per cent.	30.86
Wine or made-wine of a strength exceeding 4 per cent. but not exceeding 5 per cent.	39.69
Wine or made-wine of a strength exceeding 5 per cent. but not exceeding 5.5 per cent.	48.50
Wine or made-wine of a strength exceeding 5.5 per cent. but not exceeding 15 per cent. and not being sparkling	132.26
Sparkling wine or sparkling made-wine of a strength exceeding 5.5 per cent. but not exceeding 15 per cent.	218.40
Wine or made-wine of a strength exceeding 15 per cent. but not exceeding 22 per cent.	220.43

PART II

WINE OR MADE-WINE OF A STRENGTH EXCEEDING 22 PER CENT.

Description of wine or made-wine	*Rates of duty per litre of alcohol in the wine or made-wine*
	£
Wine or made-wine of a strength exceeding 22 per cent.	19.81”

F178SCHEDULE 2

Section 49.

. . . . . .

Textual Amendments

F178 Sch. 2 repealed (1.9.1994) by 1994 c. 23, ss. 100(2), 101(1), **Sch. 15**

F179SCHEDULE 3

Section 72.

. . . . . .

Textual Amendments

F179 Sch. 3 repealed (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by Income Tax (Earnings and Pensions) Act 2003 (c. 1), s. 723, **Sch. 8 Pt. 1** (with Sch. 7)

F180SCHEDULE 4

Section 73.

. . . . . .

Textual Amendments

F180 Sch. 4 repealed (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by Income Tax (Earnings and Pensions) Act 2003 (c. 1), s. 723, **Sch. 8 Pt. 1** (with Sch. 7)

F181SCHEDULE 5

Section 76.

. . . . . .

Textual Amendments

F181 Sch. 5 repealed (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by Income Tax (Earnings and Pensions) Act 2003 (c. 1), s. 723, **Sch. 8 Pt. 1** (with Sch. 7)

SCHEDULE 6

Section 79.

TAXATION OF DISTRIBUTIONS: SUPPLEMENTAL PROVISIONS

The Taxes Act 1988

1 In each of sections 167(2A), F182. . ., F183. . . and 819(2) of the Taxes Act 1988 (definitions of excess liability), and in the definition of "excess liability" in paragraph 19(1) of Schedule 7 to that Act, for "were charged at the basic rate" there shall be substituted " by virtue of section 1(2)(aa) were charged at the basic rate, or (so far as applicable in accordance with section 207A) the lower rate, ".

Textual Amendments

F182 Words in Sch. 6 para. 1 repealed (3.5.1994 with effect in accordance with s. 81(6) of the amending Act) by 1994 c. 9, s. 258, **Sch. 26 Pt. V(2)** Note

F183 Words in Sch. 6 para. 1 repealed (1.5.1995 with effect for the year 1995-96 and subsequent years of assessment) by 1995 c. 4, s. 162, **Sch. 29 Pt. VIII(8)**

F184 2 . . . . . .

Textual Amendments

F184 Sch. 6 para. 2 repealed (with effect in accordance with s. 883(1) of the amending Act) by Income Tax (Trading and Other Income) Act 2005 (c. 5), s. 883(1), **Sch. 3** (with Sch. 2)

F185 3 . . . . . .

Textual Amendments

F185 Sch. 6 para. 3 repealed (31.7.1997 with effect in relation to distributions made on or after 6.4.1999) by 1997 c. 58, s. 52, **Sch. 8 Pt. II(9)** Note 3

F186 4 . . . . . .

Textual Amendments

F186 Sch. 6 para. 4 repealed (3.5.1994 with effect in accordance with s. 111 and Sch. 14 of the amending Act) by 1994 c. 9, s. 258, **Sch. 26 Pt. V(13)** Note

F187 5 . . . . . .

Textual Amendments

F187 Sch. 6 para. 5 repealed (3.5.1994 with effect in accordance with s. 111 and Sch. 14 of the amending Act) by 1994 c. 9, s. 258, **Sch. 26 Pt. V(13)** Note

F188 6 . . . . . .

Textual Amendments

F188 Sch. 6 para. 6 repealed (with effect in accordance with s. 883(1) of the amending Act) by Income Tax (Trading and Other Income) Act 2005 (c. 5), s. 883(1), **Sch. 3** (with Sch. 2)

F189 7 . . . . . .

Textual Amendments

F189 Sch. 6 para. 7 repealed (with effect in accordance with s. 883(1) of the amending Act) by Income Tax (Trading and Other Income) Act 2005 (c. 5), s. 883(1), **Sch. 3** (with Sch. 2)

8 (1) In subsection (1) of section 686 of that Act (income of discretionary trusts subject to additional rate tax), for the words from "in addition" onwards there shall be substituted " be chargeable to income tax at the rate applicable to trusts, instead of at the basic rate or, in accordance with section 207A, at the lower rate. "

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

"(1A) The rate applicable to trusts for any year of assessment shall be the rate equal to the sum of the basic rate and the additional rate in force for that year; and, for the purposes of assessments for the year 1993-94 and in relation to years of assessment for which tax at the basic rate and the additional rate was separately chargeable, references to the charging of income with tax at the rate applicable to trusts shall be taken to include references to the charging of income with tax both at the basic rate and at the additional rate."

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

"(2A) For the purposes of this section where—

(a) any trustees have expenses in any year of assessment ("management expenses") which are properly chargeable to income or would be so chargeable but for any express provisions of the trust, and

(b) there is income arising to them in that year ("the untaxed income") which does not bear income tax for that year by reason wholly or partly of the trustees not having been resident in the United Kingdom or being deemed under any arrangements under section 788, or any arrangements having effect by virtue of that section, to have been resident in a territory outside the United Kingdom,

there shall be disregarded for the purposes of subsection (2)(d) above such part of the management expenses as bears the same proportion to all those expenses as the untaxed income bears to all the income arising to the trustees in that year."

(4) In subsection (6) of that section (payments by personal representatives to trustees), for "basic rate" there shall be substituted " applicable rate ".

9 (1) In subsection (2) of section 687 of that Act (deemed deduction from payment under discretionary trust), for the words from "a rate" to "in force" there shall be substituted " the rate applicable to trusts ".

(2) In subsection (3) of that section—

(a) in paragraph (a), for "and charged at the additional as well as at the basic rate" there shall be substituted " which (not being income the tax on which falls within paragraph (aa) or (b) below) is charged at the rate applicable to trusts ";

(b) after that paragraph there shall be inserted the following paragraph—

"(aa) the amount of tax which, by virtue of section 233(1B), is charged, at a rate equal to the difference between the lower rate and the rate applicable to trusts, on the amount or value of the whole or any part of any non-qualifying distribution included in the income arising to the trustees;"

(c) in paragraph (b), as it has effect by virtue of section 79(2) of this Act, for "the additional rate" there shall be substituted " a rate equal to the difference between the lower rate and the rate applicable to trusts ";

(d) in each of paragraphs (e) to (i) (except paragraph (g)), and in paragraph (j) as it so has effect, for the words from "at a rate" to "additional rate" there shall be substituted " at the rate applicable to trusts ".

10 In section 694(2A) of that Act (special charge for trustees in certain cases), for "sum of the basic and additional rates" there shall be substituted " amount of the rate applicable to trusts ".

11 (1) In each of sections 695(4)(a), 696(3) to (5) and 698(2) of that Act (deemed payments out of the residue of a deceased's estate), for the words "basic rate", wherever they occur, there shall be substituted " applicable rate ".

(2) After section 698 of that Act there shall be inserted the following section—

"**698A Taxation at the lower rate of the income of beneficiaries.**

(1) Subject to subsection (2) below, in so far as the income of any person is treated under this Part as having borne income tax at the lower rate, section 207A shall apply to that income as it applies to income chargeable under Schedule F.

(2) Subsection (1) above shall not apply to income paid indirectly through a trustee and treated as having borne income tax at the lower rate by virtue of section 698(3); but (subject to section 686(1)) section 207A shall apply as if the payment made to the trustee were income of the trustee chargeable under Schedule F."

(3) In section 701 of that Act (interpretation of provisions relating to deemed payments), after subsection (3) there shall be inserted the following subsection—

"(3A) "Applicable rate", in relation to any amount which a person is deemed by virtue of this Part to receive or to have a right to receive, means the basic rate or the lower rate according as the income of the residue of the estate out

of which that amount is or would be paid bears tax at the basic rate or the lower rate; and in determining for the purposes of this Part whether or how much of any payment is or would be deemed to be made out of income that bears tax at one rate rather than another—

(a) such apportionments of the amounts bearing tax at different rates shall be made between different persons with interests in the residue of the estate as are just and reasonable in relation to their different interests; and

(b) subject to paragraph (a) above, it shall be assumed that payments are to be made out of income bearing tax at the basic rate before they are made out of income bearing tax at the lower rate.”

F190 12 . . . . . .

Textual Amendments

F190 Sch. 6 para. 12 repealed (31.7.1998 with effect in accordance with Sch. 3 of the amending Act) by 1998 c. 36, s. 165, **Sch. 27 Pt. III(2)** Note

13 In each of sections 720(5) and 764 of that Act (taxation of other income of trustees), for the words from “at a rate” to “additional rate” there shall be substituted “ at the rate applicable to trusts ”.

F191 14 . . . . . .

Textual Amendments

F191 Sch. 6 para. 14 repealed (29.4.1996 and coming into force in accordance with s. 73 and Sch. 6 of the amending Act) by 1996 c. 8, s. 205, **Sch. 41 Pt. V(1)**

15 In section 832(1) of that Act (interpretation), after the definition of “qualifying policy” there shall be inserted the following definition—

““the rate applicable to trusts” shall be construed in accordance with section 686(1A);”.

F192 16 . . . . . .

Textual Amendments

F192 Sch. 6 para. 16 repealed (31.7.1998 with effect in accordance with Sch. 3 of the amending Act) by 1998 c. 36, s. 165, **Sch. 27 Pt. III(2)** Note

F193 17 . . . . . .

Textual Amendments

F193 Sch. 6 para. 17 repealed (29.4.1996 with effect as mentioned in Note to Sch. 41 Pt. V(2) of amending Act) by 1996 c. 8, s. 205, **Sch. 41 Pt. V(2)** Note

F194 18 . . . . . .

Textual Amendments

F194 Sch. 6 para. 18 repealed (29.4.1996 with effect in accordance with the provisions of Chapter II of Pt. IV of the amending Act) by 1996 c. 8, s. 205, **Sch. 41 Pt. V(3)**

F195 19 . . . . . .

Textual Amendments

F195 Sch. 6 para. 19 repealed (19.3.1997 with effect in relation to, and to transfers under, any arrangement made on or after such day as may be appointed by order under Sch. 10 para. 7(1) of the amending Act) by 1997 c. 16, ss. 76, 113, Sch. 10 Pt. I para. 7(1), **Sch. 18 Pt. VI(10)** Note 1

The Finance Act 1989 (c. 26)

20 In each of sections 68(2)(c) and 71(4)(c) of the Finance Act 1989 F196. . . (which contain references to a rate equal to the sum of the basic rate and the additional rate), for the words from "a rate" to "additional rate" there shall be substituted " the rate applicable to trusts ".

Textual Amendments

F196 Words in Sch. 6 para. 20 repealed (29.4.1996 with effect in accordance with the provisions of Chapter II of Pt. IV of the amending Act) by 1996 c. 8, s. 205, **Sch. 41 Pt. V(3)**

The Finance Act 1990 (c. 29)

F197 21 . . . . . .

Textual Amendments

F197 Sch. 6 para. 21 repealed (29.4.1996 with effect in accordance with the provisions of Chapter II of Pt. IV of the amending Act) by 1996 c. 8, s. 205, **Sch. 41 Pt. V(3)**

The Taxation of Chargeable Gains Act 1992 (c. 12)

F198 22 . . . . . .

Textual Amendments

F198 Sch. 6 para. 22 repealed (27.7.1999 with effect for the year 1999-00 and subsequent years of assessment) by 1999 c. 16, s. 139, **Sch. 20 Pt. III(1)** Note

F199 23 . . . . . .

Textual Amendments

F199 Sch. 6 para. 23 repealed (31.7.1998 with application for the year 1998-99 and subsequent years of assessment) by 1998 c. 36, ss. 120(2), 165, **Sch. 27 Pt. III(29)** Note

F200 24 . . . . . .

Textual Amendments

F200 Sch. 6 para. 24 repealed (1.5.1995 with effect for the year 1995-96 and subsequent years of assessment) by 1995 c. 4, s. 162, **Sch. 29 Pt. VIII(8)**, note

Commencement

25 (1) This Schedule, except the provisions to which sub-paragraphs (2) to (5) below apply, shall have effect for the year 1993-94 and subsequent years of assessment.

F201 (2) . . . . . .

F202 (3) . . . . . .

F202 (4) . . . . . .

F203 (5) . . . . . .

Textual Amendments

F201 Sch. 6 para. 25(2) repealed (3.5.1994 with effect in accordance with s. 111 and Sch. 14 of the amending Act) by 1994 c. 9, s. 258, **Sch. 26 Pt. V(13)** Note

F202 Sch. 6 para. 25(3)(4) repealed (19.3.1997 with effect in relation to, and to transfers under, any arrangement made on or after such day as may be appointed by order under Sch. 10 para. 7(1) of the amending Act) by 1997 c. 16, ss. 76, 113, Sch. 10 Pt. I para. 7(1), **Sch. 18 Pt. VI(10)** Note 1

F203 Sch. 6 para. 25(5) repealed (29.4.1996 with effect in accordance with the Note to Sch. 41 Pt. V(2) of the amending Act) by 1996 c. 8, s. 205, **Sch. 41 Pt. V(2)** Note

SCHEDULE 7

Section 87.

RELIEF ON RETIREMENT OR RE-INVESTMENT

PART I

RETIREMENT RELIEF ETC.

Extension of references to "family company"

1 (1) In sections 157 and 163 to 165 of the M75Taxation of Chargeable Gains Act 1992 and in paragraph 12(2) of Schedule 6 and paragraph 7(1) of Schedule 7 to that Act (which contain provisions relating to retirement relief and provisions which

apply the definition of "family company" in Schedule 6 for other purposes), for the words "family company", wherever they occur, there shall be substituted " personal company ".

F204(2) . . . . . .

Textual Amendments

F204 Sch. 7 para. 1(2) repealed (31.7.1998 with effect in relation to disposals in the year 2003-04 and subsequent years of assessment) by 1998 c. 36, s. 165, **Sch. 27 Pt. III(31)** Note

Marginal Citations

M75 1992 c. 12.

Extension of references to full-time working directors etc.

F205 2 . . . . . .

Textual Amendments

F205 Sch. 7 para. 2 repealed (31.7.1998 with effect in relation to disposals in the year 2003-04 and subsequent years of assessment) by 1998 c. 36, s. 165, **Sch. 27 Pt. III(31)** Note

PART II

ROLL-OVER RELIEF ON RE-INVESTMENT

3 After Chapter I of Part V of that Act there shall be inserted the following Chapter—

"CHAPTER IA

ROLL-OVER RELIEF ON RE-INVESTMENT

Relief on re-investment for individuals.

164A (1) Subject to the following provisions of this Chapter, roll-over relief under this section shall be available where—

(a) a chargeable gain would (apart from this section) accrue to any individual ("the re-investor") on any material disposal by him of shares in or other securities of any company ("the initial holding"); and

(b) that individual acquires a qualifying investment at any time in the qualifying period.

(2) Subject to section 164C, where roll-over relief under this section is available, the re-investor shall, on making a claim as respects the qualifying investment, be treated—

(a) as if the consideration for the disposal of the initial holding were reduced by whichever is the smallest of the following, that is to say—

(i) the amount of the chargeable gain which apart from this subsection would accrue on the disposal of the initial holding, so far as that amount has not already been held over by way of reductions under this subsection,

(ii) the actual amount or value of the consideration for the acquisition of the qualifying investment,

(iii) in the case of a qualifying investment acquired otherwise than by a transaction at arm's length, the market value of that investment at the time of its acquisition, and

(iv) the amount specified for the purposes of this subsection in the claim;

and

(b) as if the amount or value of the consideration for the acquisition of the qualifying investment were reduced by the amount of the reduction made under paragraph (a) above,

but neither paragraph (a) nor paragraph (b) above shall affect the treatment for the purposes of this Act of the other party to the transaction involving the initial holding or of the other party to the transaction involving the qualifying investment.

(3) Subject to subsections (5) and (6) below, the disposal of shares in or other securities of a company is a material disposal for the purposes of this section if the conditions specified in subsection (4) below are satisfied in relation to a period of one year ending with—

(a) the date of the disposal; or

(b) if the company ceased at any time in the permitted period before the disposal to be a trading company or the holding company of a trading group, that time.

(4) The conditions mentioned in subsection (3) above are satisfied in relation to any period if throughout that period-

(a) the company has been a trading company or the holding company of a trading group;

(b) the company has been an unquoted company;

(c) the company has been the re-investor's personal company; and

(d) the re-investor has been a full-time working officer or employee of the company or, if that company is a member of a group or commercial association of companies, of one or more companies which are members of the group or association.

(5) Where, throughout a period ending at the same time as the period mentioned in subsection (3) above and beginning at a time ("the time of partial retirement") when the re-investor ceased to be such a full-time working officer or employee as is mentioned in subsection (4)(d) above—

(a) the conditions specified in subsection (4)(a) to (c) above were satisfied in relation to any company,

(b) the re-investor was an officer or employee of that company or, as the case may be, of one or more members of the group or association in question, and

(c) in that capacity, the re-investor devoted at least 10 hours per week (averaged over the period) to the service of the company or companies in a technical or managerial capacity,

the disposal of shares in or other securities of that company is a material disposal for the purposes of this section if the conditions specified in subsection (4) above were satisfied in relation to the period of one year ending with the time of partial retirement.

(6) Where—

(a) any company has ceased to be an unquoted company, and

(b) in the case of that company, all the conditions specified in subsection (4) above were satisfied in relation to the period of one year ending with the time when the company so ceased,

this section shall have effect in relation to an initial holding acquired by the re-investor at a time when the company in question was an unquoted company as if the company continued to be an unquoted company after that time until the disposal of that holding and as if the period mentioned in subsection (3) above included all such time (if any) as falls after the company's ceasing to be an unquoted company and before what would, apart from this subsection, have been the beginning of that period.

(7) Any question for the purposes of subsection (6) above as to when the shares or other securities comprised in the initial holding were acquired shall be determined by assuming, in relation to any disposals of shares or other securities regarded as forming part of a single asset, that shares or other securities acquired later are disposed of before those acquired earlier.

(8) For the purposes of this section a person shall be regarded as acquiring a qualifying investment where he acquires any eligible shares in a qualifying company if—

(a) he holds 5 per cent. or more of the eligible shares in that company—

(i) at any time after making the acquisition and in the period of 3 years after the disposal of the initial holding, or

(ii) at such time after the end of that period as the Board may by notice allow;

(b) that company has not ceased to be a qualifying company between the acquisition of those shares and that time; and

(c) that company is neither the company in which the initial holding has subsisted nor a company that was a member of the same group of companies as that company at the time of the disposal of the initial holding or of the acquisition of the qualifying investment.

(9) For the purposes of this section the acquisition of a qualifying investment shall be taken to be in the qualifying period if, and only if, it takes place—

(a) at any time in the period beginning 12 months before and ending 3 years after the disposal of the initial holding, or

(b) at such time before the beginning of that period or after it ends as the Board may by notice allow.

(10) The provisions of this Act fixing the amount of the consideration deemed to be given for the acquisition or disposal of assets shall be applied before this section is applied; and, without prejudice to the generality of this subsection, section 42(5) shall apply in relation to an adjustment under this section of the consideration for the acquisition of any shares as it applies in relation to an adjustment under any enactment to secure that neither a gain nor a loss accrues on a disposal.

(11) The provisions of this section for making any reduction shall apply before any provisions for calculating the amount of, or giving effect to, any relief under section 163 of 164, and references in this section to chargeable gains shall be construed accordingly.

(12) Without prejudice to section 52(4), where consideration is given for the acquisition or disposal of any assets some of which are shares or other securities to the acquisition or disposal of which a claim under this section relates and some of which are not, the consideration shall be apportioned in such manner as is just and reasonable.

Roll-over relief on re-investment by trustees.

164B(1) Subject to the following provisions of this section, section 164A shall apply, as it applies in such a case as is mentioned in subsection (1) of that section, where there is—

(a) a disposal by the trustees of a settlement of any shares in or other securities of a company which are part of the settled property; and

(b) such an acquisition by those trustees of eligible shares in a qualifying company as would for the purposes of that section be an acquisition of a qualifying investment at a time in the qualifying period,

but as if the disposal were a material disposal if, and only if, the conditions specified in subsection (2) below are satisfied in relation to the period of one year mentioned in section 164A(3).

(2) The conditions mentioned in subsection (1) above are satisfied in relation to any period if—

(a) the company has been a trading company or the holding company of a trading group throughout that period;

(b) the company has been an unquoted company throughout that period;

(c) throughout that period the company has been a personal company of a relevant beneficiary; and

(d) that relevant beneficiary has throughout that period been a full-time working officer or employee of the company or, if that company is a member of a group or commercial association of companies, of one or more companies which are members of the group or association.

(3) References in this section, in relation to the disposal of any shares or other securities by the trustees of any settlement, to a relevant beneficiary are references to any beneficiary who, under the settlement, has an interest in possession in the whole of the settled property or, as the case may be, in a part of it which consists of or includes the shares or securities, but excluding, for this purpose, an interest for a fixed term.

(4) If, in the case of a disposal by any trustees of any shares or other securities, there is, in addition to the beneficiary in relation to whom the requirements of subsection (2)(d) above are satisfied ("the qualifying beneficiary"), at least one other beneficiary who, at the relevant time, has an interest in possession in, the whole of the settled property or, as the case may be, in a part of it which consists of or includes the shares or securities—

(a) only the relevant proportion of the gain which would accrue to the trustees on the disposal shall be taken into account for the purposes of section 164A(2)(a)(i); and

(b) no reduction under section 164A(2) shall be made in respect of the whole or any part of the balance of the gain.

(5) For the purposes of subsection (4) above the relevant proportion is the proportion which the interest specified in paragraph (a) below bears to the interests specified in paragraph (b) below, that is to say—

(a) the qualifying beneficiary's interest at the relevant time in the income of the part of the settled property comprising the shares or other securities in question; and

(b) the interests at that time in that income of all the beneficiaries (including the qualifying beneficiary) who at that time have interests in possession in that part.

(6) The reference in subsection (5) above to the qualifying beneficiary's interest is a reference to the interest by virtue of which he is the qualifying beneficiary and not to any other interest he may hold.

(7) Section 164A shall not apply by virtue of this section unless immediately after the acquisition mentioned in subsection (1)(b) above the qualifying beneficiary has an interest in possession in the whole of the settled property, or in the part of it in which the acquired shares are comprised, which is the same as or, as the case may be, is equivalent to the interest at the relevant time by virtue of which he is the qualifying beneficiary.

(8) In this section "the relevant time", in relation to a disposal of any shares or other securities, means the time of the disposal or if, by virtue of paragraph (b) of subsection (3) of section 164A, the period mentioned in that subsection is treated in relation to that disposal as ending at any earlier time, that earlier time.

Restriction applying to retirement relief and roll-over relief on re-investment.

164C(1) Subject to the following provisions of this section, in the case of any disposal of shares in or other securities of any company in relation to which a claim is made under section 164A—

(a) the gains which (apart from sections 163 to 164B) would on the disposal accrue to the individual or, as the case may be, the trustees shall be aggregated,

(b) the amount available in respect of the disposal for relief under sections 163 and 164 and for the making of deductions under section 164A(2) above shall be deemed to be confined to the appropriate proportion of the aggregated gains, and

(c) so much of the aggregated gains as exceeds the amount so available shall be disregarded for the purposes of sections 163 to 164B and, accordingly, shall constitute chargeable gains.

(2) Subject to subsection (4) below, in this section "the appropriate proportion", in relation to gains accruing on the disposal of shares in or other securities of a company that is not a holding company of a trading group, means the proportion which the amount specified in paragraph (a) below bears to the amount specified in paragraph (b) below, that is to say—

(a) that part of the value of the company's chargeable assets at the relevant time which is attributable to the value of the company's chargeable business assets; and

(b) the whole of the value of the company's chargeable assets at that time.

(3) Subject to subsection (4) below, in this section "the appropriate proportion", in relation to gains accruing on the disposal of shares in or other securities of a holding company of a trading group, means the proportion which the amount specified in paragraph (a) below bears to the amount specified in paragraph (b) below, that is to say—

(a) that part of the value of the trading group's chargeable assets at the relevant time which is attributable to the value of the trading group's chargeable business assets; and

(b) the whole of the value of the trading group's chargeable assets at that time.

(4) Where a company or trading group has no chargeable assets, "the appropriate proportion", in relation to the gains accruing on the disposal of shares in or other securities of that company or, as the case may be, of the holding company of that group, means the whole of those gains.

(5) Subject to subsection (6)(b) below, every asset of a company is for the purposes of this section a chargeable asset of that company except one, on the disposal of which by the company at the relevant time, no gain accruing to the company would be a chargeable gain.

(6) For the purposes of this section—

(a) any reference, in relation to a trading group, to the trading group's chargeable assets or chargeable business assets is a reference to the chargeable assets or, as the case may be, chargeable business assets of every member of the trading group; and

(b) a holding by one member of the trading group of the ordinary share capital of another member of the group is not a chargeable asset.

(7) Where the whole of the ordinary share capital of a 51 per cent. subsidiary of a holding company is not owned directly or indirectly by that company, then, for the purposes of this section, the value of the chargeable assets and of the chargeable business assets of that subsidiary shall be taken to be reduced according to the formula—

$$\frac{R}{T}$$

(8) In subsection (7) above—

A is the value falling to be reduced of the chargeable assets or chargeable business assets of the subsidiary;

B is the amount of the ordinary share capital of the subsidiary owned, directly or indirectly, by the holding company;

C is the whole of the ordinary share capital of the subsidiary;

and section 838 of the Taxes Act (definition of expressions in relation to subsidiaries) shall apply for construing that subsection and this subsection.

(9) In this section "chargeable business asset", in relation to any company, means a chargeable asset (including goodwill but not including any shares or other securities or any assets held as investments) which is, or is an interest in, an asset used for the purposes of a trade, profession, vocation, office or employment carried on by—

(a) the individual concerned,

(b) any personal company of that individual,

(c) a member of a trading group of which the holding company is a personal company of that individual, or

(d) a partnership of which that individual is a member.

(10) For the purposes of the application of this section to a case in which trustees dispose of any shares or other securities, the references in subsection (9) above to the individual concerned are references to the qualifying beneficiary.

(11) In this section "the relevant time" has the same meaning as in section 164B.

(12) This section shall be without prejudice to the provisions of paragraphs 7 to 11 of Schedule 6.

Relief carried forward into replacement shares.

164D(1) This section shall apply where a person has acquired any eligible shares in a qualifying company ("the acquired holding") for a consideration which is treated as reduced, under section 164A or the following provisions of this section, by any amount ("the held-over gain") .

(2) If—

(a) the person who acquired the acquired holding disposes of eligible shares in the company in question ("the acquired shares"),

(b) that person at any time in the relevant period acquires other eligible shares ("the replacement shares") in a qualifying company which is not a relevant company;

(c) the acquisition of the replacement shares would, in relation to the disposal of the acquired shares, be treated (were the disposal a material disposal) as an acquisition of a qualifying investment for the purposes of section 164A, and

(d) roll-over relief is not available under section 164A in relation to the acquisition of the replacement shares,

that person shall, on making a claim as respects the acquisition of the replacement shares, be treated in relation to that acquisition in accordance with subsection (3) below.

(3) Where a person falls to be treated in accordance with this subsection in relation to the acquisition of the replacement shares, he shall be treated—

(a) as if the consideration for the disposal of the acquired shares were reduced by whichever is the smallest of the following, that is to say—

(i) the amount of the held-over gain on the acquisition of the acquired holding, so far as that amount has not already been carried forward under this section from any disposal of eligible shares in the company in question or been charged on a disposal or under section 164F,

(ii) the actual amount or value of the consideration for the acquisition of the replacement shares,

(iii) in the case of replacement shares acquired otherwise than by a transaction at arm's length, the market value of the replacement shares at the time of their acquisition, and

(iv) the amount specified for the purposes of this subsection in the claim;

and

(b) as if the amount or value of the consideration for the acquisition of the replacement shares were reduced by the amount of the reduction made under paragraph (a) above,

but neither paragraph (a) nor paragraph (b) above shall affect the treatment for the purposes of this Act of the other party to the transaction involving the acquired shares or of the other party to the transaction involving the replacement shares.

(4) For the purposes of this section the whole or a part of any held-over gain on the acquisition of the acquired holding shall be treated—

(a) in accordance with subsection (5) below as charged on any disposal in relation to which the whole or any part of the held-over gain falls to be taken into account in determining the chargeable gain or allowable loss accruing on the disposal; and

(b) as charged under section 164F so far as it falls to be disregarded in accordance with subsection (11) of that section.

(5) In the case of any such disposal as is mentioned in subsection (4)(a) above, the amount of the held-over gain charged on that disposal—

(a) shall, except in the case of a part disposal, be so much of the amount taken into account as so mentioned as is not carried forward under this section from the disposal in question; and

(b) in the case of a part disposal, shall be calculated by multiplying the following, that is to say—

(i) so much of the amount of the held-over gain as is not carried forward under this section from the disposal in question and has not already been either charged on a previous disposal or carried forward under this section from a previous disposal; and

(ii) the fraction used in accordance with section 42(2) for determining, subject to any deductions in pursuance of this Chapter, the amount allowable as a deduction in the computation of the gain accruing on the disposal in question.

(6) Where section 58 applies to any disposal of the whole or any part of the acquired holding to any individual—

(a) that individual shall not be treated for the purposes of subsection (1) above as a person who has acquired eligible shares for a consideration which is treated as reduced under section 164A or this section; and

(b) the amount of the held-over gain which for the purposes of this section shall be treated as charged on the disposal shall be the amount that would have been charged on the disposal if it had been a disposal at market value.

(7) References in this section to an amount being carried forward from a disposal are references, in relation to the disposal of any shares, to the reduction by that amount, in accordance with subsection (3)(a) above, of the amount of the consideration for the disposal of those shares.

(8) Subsections (10) to (12) of section 164A shall apply in the case of any claim under this section as they apply in the case of a claim under that section.

(9) For the purposes of this section a company is a relevant company if it is—

(a) the company in which the acquired holding has subsisted or a company which was a member of the same group of companies as that company at the time of the disposal of the acquired holding or of the acquisition of the replacement shares;

(b) a company in relation to the disposal of any shares in which there has been a claim under this Chapter such that without that or an equivalent claim there would be no held-over gain in relation to the acquired holding; or

(c) a company which, at the time of the disposal or acquisition to which the claim relates, was a member of the same group of companies as a company falling within paragraph (b) above.

(10) In this section "the relevant period" means the period (not including any period before the acquisition of the acquired holding) which begins 12 months before and ends 3 years after the disposal of the acquired shares, together with any such further period after the disposal as the Board may by notice allow.

Application of Chapter in cases of an exchange of shares.

164E (1) Where—

(a) there is a transaction involving the issue of any shares in or debentures of any company in exchange for any shares in or debentures of another company ("the exchanged securities"),

(b) but for this section, section 127 would have effect in pursuance of section 135 for requiring the transaction to be treated for the

purposes of this Act as one that does not involve a disposal of the exchanged securities,

(c) any person would be entitled, if the transaction were treated as involving such a disposal, to make a claim for relief under this Chapter by reference to that disposal and an acquisition of eligible shares in a qualifying company, and

(d) that person makes an election under this section for the transaction to be treated as involving the disposal of the exchanged securities and claims that relief,

this Chapter and the other provisions of this Act shall have effect as if section 127 did not apply in the case of that transaction and, accordingly, as if that transaction did involve such a disposal, together with an acquisition of the shares or debentures that are issued in exchange.

(2) An election under this section shall be made by notice given to the Board not more than 2 years after the end of, as the case may be—

(a) the qualifying period mentioned in section 164A; or

(b) the relevant period, within the meaning of section 164D;

and an election made under this section in connection with a claim for relief under section 164B shall be made jointly by the trustees of the settlement and the qualifying beneficiary.

(3) Where, in order to give effect (in pursuance of an election under this section) to subsection (1) above, it is necessary to make any adjustment by way of an assessment on any person, the assessment shall not be out of time if it is made within one year of the final determination of the claim for relief in connection with which the election is made.

(4) For the purposes of subsection (3) above a claim for relief shall not be deemed to be finally determined until the amount of the relief allowed by virtue of the claim can no longer be varied, whether on appeal or by the order of any court or otherwise.

Failure of conditions of relief.

164E(1) This section shall apply in any such case as is mentioned in section 164D(1), and references in this section to the acquired holding and the held-over gain shall be construed accordingly.

(2) Subject to the following provisions of this section, if at any time in the relevant period—

(a) the shares comprised in the acquired holding cease to be eligible shares,

(b) the company in which the acquired holding subsists ceases to be a qualifying company,

(c) the person who acquired the acquired holding becomes neither resident nor ordinarily resident in the United Kingdom, or

(d) any of the shares comprised in the acquired holding are included in the original shares (within the meaning of sections 127 to 130) in the case of any transaction with respect to which section 116 has effect,

a chargeable gain equal to the appropriate proportion of the held-over gain shall be treated as accruing to that person immediately before that time or, in

a case falling within paragraph (d) above, immediately before the disposal assumed for the purposes of section 116(10)(a).

(3) For the purposes of this section the appropriate proportion of the held-over gain is so much, if any, of that gain as has not already been either—

(a) charged on any disposal or under this section; or

(b) carried forward under section 164D from any disposal;

or, in a case to which subsection (2) above applies by virtue of paragraph (d) of that subsection or in accordance with subsection (7) below, such part of that proportion of that gain as is just and reasonable having regard to the extent to which the acquired holding comprises the original shares.

(4) Subject to subsection (5) below, subsections (4), (5) and (7) of section 164D shall apply for the purposes of this section as they apply for the purposes of that section.

(5) Where the acquired holding or any asset treated as comprised in a single asset with the whole or any part of that holding has been disposed of under section 58 by the individual who acquired that holding to another person ("the spouse")—

(a) the spouse shall not (subject to the following provisions of this subsection) be treated for the purposes of this section as a person who has acquired eligible shares for a consideration which is treated as reduced under section 164A or 164D;

(b) the disposal shall not be included in the disposals on which the whole or any part of the held-over gain may be treated as charged for the purposes of this section;

(c) disposals by the spouse, as well as disposals by that individual, shall be taken into account for the purposes of section 164D(4) and (5) above, as applied for the purpose of this section;

(d) any charge under subsection (2) above (other than one by virtue paragraph (c) of that subsection) shall be apportioned between that individual and the spouse according to the extent to which the appropriate proportion of the held-over gain would be charged on the disposal by each of them of their respective holdings (if any);

(e) paragraph (c) of that subsection shall have effect as if the reference in that paragraph to that individual included a reference to the spouse;

(f) a charge by virtue of that paragraph shall be imposed only on a person who becomes neither resident nor ordinarily resident in the United Kingdom; and

(g) the amount of the charge imposed on any person by virtue of that paragraph shall be that part of the charge on the appropriate proportion of the held-over gain which would be apportioned to that person in a case to which paragraph (d) above applies.

(6) Subject to subsection (7) below, where the qualifying company in which the acquired holding subsists ceases to be an unquoted company this section shall have effect as if the relevant period ended immediately before it so ceased.

(7) Where there is a transaction by virtue of which any shares in a company are to be regarded under section 127 as the same asset as the acquired holding or

the whole or any part of an asset comprising that holding, this section shall not apply by virtue of subsection (2)(a) or (b) above except where—

(a) those shares are not, or cease to be, eligible shares in that company;

(b) neither that company nor (if different) the company in which the acquired holding subsisted —

(i) is or continues to be a qualifying company; or

(ii) would be or continue to be a qualifying company if it were an unquoted company;

(c) the transaction is one by virtue of which the shares comprised in the acquired holding cease to be eligible shares in pursuance of section 164L; or

(d) there is a transaction by virtue of which any shares at any time comprised in the acquired holding would have so ceased in pursuance of that section.

(8) This section shall not apply by virtue of subsection (2)(a) or (b) above where the company in which the acquired holding subsists is wound up or dissolved without winding up and—

(a) it is shown that the winding up or dissolution is for bona fide commercial reasons and not part of a scheme or arrangement the main purpose of which, or one of the main purposes of which, is the avoidance of tax; and

(b) the company's net assets (if any) are distributed to its members or dealt with as bona vacantia before the end of the period of 3 years from the commencement of the winding up or, as the case may be, from the dissolution.

(9) This section shall not apply by virtue of subsection (2)(c) above in relation to any person if—

(a) the reason for his becoming neither resident nor ordinarily resident in the United Kingdom is that he works in an employment or office all the duties of which are performed outside the United Kingdom, and

(b) he again becomes resident or ordinarily resident in the United Kingdom within the period of 3 years from the time when he ceases to be so, without having meanwhile disposed of any eligible shares in the company in question;

and, accordingly, no assessment shall be made by virtue of subsection (2)(c) above before the end of that period in any case where the condition in paragraph (a) above is satisfied and the condition in paragraph (b) above may be satisfied.

(10) For the purposes of subsection (9) above a person shall be taken to have disposed of an asset if there has been such a disposal as would, if the person making the disposal had been resident in the United Kingdom, have been a disposal on which (within the meaning of section 164D) the whole or any part of the held-over gain would have been charged.

(11) Gains on disposals made after a chargeable gain has under this section been deemed to accrue in respect of the acquired holding to any person shall be computed as if so much of the held-over gain as is equal to the amount of the chargeable gain were to be disregarded.

(12) In this section "the relevant period" means (subject to subsection (6) above) the period of 3 years after the acquisition of the acquired holding.

Meaning of "qualifying company".

164G (1) Subject to section 164H, a company is a qualifying company for the purposes of this Chapter if it complies with this section.

(2) Subject to the following provisions of this section, a company complies with this section if it is—

(a) an unquoted company which exists wholly for the purpose of carrying on one or more qualifying trades or which so exists apart from purposes capable of having no significant effect (other than in relation to incidental matters) on the extent of the company's activities;

(b) an unquoted company whose business consists entirely in the holding of shares in or other securities of, or the making of loans to, one or more qualifying subsidiaries of the company; or

(c) an unquoted company whose business consists entirely in—

(i) the holding of such shares or securities, or the making of such loans; and

(ii) the carrying on of one or more qualifying trades.

(3) A company does not comply with this section if—

(a) it controls (whether on its own or together with any person connected with it) any company which is not a qualifying subsidiary or, without controlling it, has a 51 per cent. subsidiary which is not a qualifying subsidiary;

(b) it is under the control of another company (or of another company and a person connected with the other company) or, without being controlled by it, is a 51 per cent. subsidiary of another company; or

(c) arrangements are in existence by virtue of which the company could fall within paragraph (a) or (b) above;

and in this subsection "51 per cent. subsidiary" has the meaning given by section 838 of the Taxes Act.

(4) In this section "qualifying subsidiary", in relation to a company ("the holding company"), means any company which is a member of a group of companies of which the holding company is the principal company, and of which each of the members, or each of the members other than the holding company, is a company falling within subsection (5) below.

(5) A company falls within this subsection if—

(a) it is such a company as is mentioned in subsection (2)(a) above;

(b) it exists wholly for the purpose of holding and managing property used by the holding company or any of the holding company's other subsidiaries for the purposes of—

(i) research and development from which it is intended that a qualifying trade to be carried on by the holding company or any of those other subsidiaries will be derived, or

(ii) one or more qualifying trades so carried on;

(c) it would exist wholly for such a purpose apart from purposes capable of having no significant effect (other than in relation to incidental matters) on the extent of the company's activities; or

(d) it has no profits for the purposes of corporation tax and no part of its business consists in the making of investments.

(6) Without prejudice to the generality of subsection (2) above or to section 164F(8), a company ceases to comply with this section if—

(a) a resolution is passed, or an order is made, for the winding up of the company;

(b) in the case of a winding up otherwise than under the [M76]Insolvency Act 1986 or the [M77]Insolvency (Northern Ireland) Order 1989, any other act is done for the like purpose; or

(c) the company is dissolved without winding up.

Property companies etc. not to be qualifying companies.

164H(1) For the purposes of this Chapter a company is not a qualifying company at any time when the value of the interests in land held by the company is greater than half the value of the company's chargeable assets within the meaning of section 164C.

(2) For the purposes of this section the value of the interests in land held by a company at any time shall be arrived at by first aggregating the market value at that time of each of those interests and then deducting—

(a) the amount of any debts of the company which are secured on any of those interests (including any debt secured by a floating charge on property which comprises any of those interests);

(b) the amount of any unsecured debts of the company which do not fall due for payment before the end of the period of 12 months beginning with that time; and

(c) the amount paid up in respect of those shares of the company (if any) which carry a present or future preferential right to the company's assets on its winding up.

(3) In this section "interest in land" means any estate or interest in land, any right in or over land or affecting the use or disposition of land, and any right to obtain such an estate, interest or right from another which is conditional on that other's ability to grant the estate, interest or right in question, except that it does not include—

(a) the interest of a creditor (other than a creditor in respect of a rentcharge) whose debt is secured by way of a mortgage, an agreement for a mortgage or a charge of any kind over land; or

(b) in the case of land in Scotland, the interest of a creditor in a charge or security of any kind over land.

(4) For the purposes of this section, the value of an interest in any building or other land shall be adjusted by deducting the market value of any machinery or plant which is so installed or otherwise fixed in or to the building or other land as, in law, to become part of it.

(5) In arriving at the value of any interest in land for the purposes of this section—

(a) it shall be assumed that there is no source of mineral deposits in the land of a kind which it would be practicable to exploit by extracting them from underground otherwise than by means of opencast mining or quarrying; and

(b) any borehole on the land shall be disregarded if it was made in the course of oil exploration.

(6) Where a company is a member of a partnership which holds any interest in land—

(a) that interest shall, for the purposes of this section, be treated as an interest in land held by the company; but

(b) its value at any time shall, for those purposes, be taken to be such fraction of its value (apart from this subsection) as is equal to the fraction of the assets of the partnership to which the company would be entitled if the partnership were dissolved at that time.

(7) Where a company is a member of a group of companies all the members of the group shall be treated as a single company for the purposes of this section; but any debt owed by, or liability of, one member of the group to another shall be disregarded for those purposes.

Qualifying trades.

164(1) For the purposes of this Chapter—

(a) a trade is a qualifying trade if it complies with the requirements of this section; and

(b) the carrying on of any activities of research and development from which it is intended that a trade complying with those requirements will be derived shall be treated as the carrying on of a qualifying trade.

(2) Subject to the following provisions of this section, a trade complies with this section if neither that trade nor a substantial part of it consists in one or more of the following activities, that is to say—

(a) dealing in land, in commodities or futures or in shares, securities or other financial instruments;

(b) dealing in goods otherwise than in the course of an ordinary trade of wholesale or retail distribution;

(c) banking, insurance, money-lending, debt-factoring, hire-purchase financing or other financial activities;

(d) leasing (including letting ships on charter or other assets on hire) or receiving royalties or licence fees;

(e) providing legal or accountancy services;

(f) providing services or facilities for any such trade carried on by another person as—

(i) consists, to a substantial extent, in activities within any of paragraphs (a) to (e) above; and

(ii) is a trade in which a controlling interest is held by a person who also has a controlling interest in the trade carried on by the company providing the services or facilities;

(g) property development;

(h) farming;

but this subsection shall have effect in relation to a qualifying trade carried on by a member of a group of companies, as if the reference in paragraph (f) above to another person did not include a reference to the principal company of the group.

(3) For the purposes of subsection (2)(b) above—

(a) a trade of wholesale distribution is one in which the goods are offered for sale and sold to persons for resale by them, or for processing and resale by them, to members of the general public for their use or consumption;

(b) a trade of retail distribution is one in which the goods are offered for sale and sold to members of the general public for their use or consumption; and

(c) a trade is not an ordinary trade of wholesale or retail distribution if—

(i) it consists, to a substantial extent, in dealing in goods of a kind which are collected or held as an investment, or of that activity and any other activity of a kind falling within subsection (2) above, taken together; and

(ii) a substantial proportion of those goods are held by the company for a period which is significantly longer than the period for which a vendor would reasonably be expected to hold them while endeavouring to dispose of them at their market value.

(4) In determining for the purposes of this Chapter whether a trade carried on by any person is an ordinary trade of wholesale or retail distribution, regard shall be had to the extent to which it has the following features, that is to say—

(a) the goods are bought by that person in quantities larger than those in which he sells them;

(b) the goods are bought and sold by that person in different markets;

(c) that person employs staff and incurs expenses in the trade in addition to the cost of the goods and, in the case of a trade carried on by a company, to any remuneration paid to any person connected with it;

(d) there are purchases or sales from or to persons who are connected with that person;

(e) purchases are matched with forward sales or vice versa;

(f) the goods are held by that person for longer than is normal for goods of the kind in question;

(g) the trade is carried on otherwise than at a place or places commonly used for wholesale or retail trade;

(h) that person does not take physical possession of the goods;

and for the purposes of this subsection the features specified in paragraphs (a) to (c) above shall be regarded as indications that the trade is such an ordinary trade and those in paragraphs (d) to (h) above shall be regarded as indications of the contrary.

(5) A trade shall not be treated as failing to comply with this section by reason only of its consisting, to a substantial extent, in receiving royalties or licence fees if—

(a) the company carrying on the trade is engaged in—

(i) the production of films; or

(ii) the production of films and the distribution of films produced by it within the period of 3 years before their distribution;

and

(b) all royalties and licence fees received by it are in respect of films produced by it within the preceding 3 years or sound recordings in relation to such films or other products arising from such films.

(6) A trade shall not be treated as failing to comply with this section by reason only of its consisting, to a substantial extent, in receiving royalties or licence fees if—

(a) the company carrying on the trade is engaged in research and development; and

(b) all royalties and licence fees received by it are attributable to research and development which it has carried out.

(7) A trade shall not be treated as failing to comply with this section by reason only of its consisting in letting ships, other than oil rigs or pleasure craft, on charter if—

(a) every ship let on charter by the company carrying on the trade is beneficially owned by the company;

(b) every ship beneficially owned by the company is registered in the United Kingdom;

(c) the company is solely responsible for arranging the marketing of the services of its ships; and

(d) the conditions mentioned in subsection (8) below are satisfied in relation to every letting of a ship on charter by the company;

but where any of the requirements mentioned in paragraphs (a) to (d) above are not satisfied in relation to any lettings, the trade shall not thereby be treated as failing to comply with this section if those lettings and any other activity of a kind falling within subsection (2) above do not, when taken together, amount to a substantial part of the trade.

(8) The conditions are that—

(a) the letting is for a period not exceeding 12 months and no provision is made at any time (whether in the charterparty or otherwise) for extending it beyond that period otherwise than at the option of the charterer;

(b) during the period of the letting there is no provision in force (whether by virtue of being contained in the charterparty or otherwise) for the grant of a new letting to end, otherwise than at the option of the charterer, more than 12 months after that provision is made;

(c) the letting is by way of a bargain made at arm's length between the company and a person who is not connected with it;

(d) under the terms of the charter the company is responsible as principal—

(i) for taking, throughout the period of the charter, management decisions in relation to the ship, other than those of a kind

generally regarded by persons engaged in trade of the kind in question as matters of husbandry; and

(ii) for defraying all expenses in connection with the ship throughout that period, or substantially all such expenses, other than those directly incidental to a particular voyage or to the employment of the ship during that period;

and

(e) no arrangements exist by virtue of which a person other than the company may be appointed to be responsible for the matters mentioned in paragraph (d) above on behalf of the company;

but this subsection shall have effect, in relation to any letting between a company and another company which is a member of the same group of companies as that company, as if paragraph (c) were omitted.

(9) A trade shall not comply with this section unless it is conducted on a commercial basis and with a view to the realisation of profits.

Provisions supplementary to section 164I.

164J.(1) For the purposes of section 164I, in the case of a trade carried on by a company, a person has a controlling interest in that trade if—

(a) he controls the company;

(b) the company is a close company and he or an associate of his is a director of the company and either—

(i) the beneficial owner of, or

(ii) able, directly or through the medium of other companies or by any other indirect means, to control,

more than 30 per cent. of the ordinary share capital of the company; or

(c) not less than half of the trade could in accordance with section 344(2) of the Taxes Act be regarded as belonging to him;

and, in any other case, a person has a controlling interest in a trade if he is entitled to not less than half of the assets used for, or of the income arising from, the trade.

(2) For the purposes of subsection (1) above, there shall be attributed to any person any rights or powers of any other person who is an associate of his.

(3) References in section 164I(2)(f) or subsection (1) above to a trade carried on by a person other than the company in question shall be construed as including references to any business, profession or vocation.

(4) In this section "director" shall be construed in accordance with section 417(5) of the Taxes Act.

Foreign residents.

164K.(1) This Chapter shall not apply in relation to any person in respect of his acquisition of any eligible shares in a qualifying company if at the time when he acquires them he is neither resident nor ordinarily resident in the United Kingdom.

(2) This Chapter shall not apply in relation to any person in respect of his acquisition of any eligible shares in a qualifying company if—

(a) though resident or ordinarily resident in the United Kingdom at the time when he acquires them, he is regarded for the purposes of any double taxation relief arrangements as resident in a territory outside the United Kingdom; and

(b) by virtue of the arrangements, he would not be liable in the United Kingdom to tax on a gain arising on a disposal of those shares immediately after their acquisition.

Anti-avoidance provisions.

164(1) For the purposes of this Chapter an acquisition of shares in a qualifying company shall not be treated as an acquisition of eligible shares if the arrangements for the acquisition of those shares, or any arrangements made before their acquisition in relation to or in connection with the acquisition, include—

(a) arrangements with a view to the subsequent re-acquisition, exchange or other disposal of the shares;

(b) arrangements for or with a view to the cessation of the company's trade or the disposal of, or of a substantial amount of, its chargeable business assets; or

(c) arrangements for the return of the whole or any part of the value of his investment to the individual acquiring the shares.

(2) If, after any eligible shares in a qualifying company have been acquired by any individual, the whole or any part of the value of that individual's investment is returned to him, those shares shall be treated for the purposes of this Chapter as ceasing to be eligible shares.

(3) For the purposes of this section there shall be treated as being a return of the whole or a part of the value of the investment of an individual who is to acquire or has acquired any shares in a company if the company—

(a) repays, redeems or repurchases any of its share capital or other securities which belong to that individual or makes any payment to him for giving up his right to any of the company's share capital or any security on its cancellation or extinguishment;

(b) repays any debt owed to that individual, other than a debt which was incurred by the company—

(i) on or after the acquisition of the shares; and

(ii) otherwise than in consideration of the extinguishment of a debt incurred before the acquisition of the shares;

(c) makes to that individual any payment for giving up his right to any debt on its extinguishment;

(d) releases or waives any liability of that individual to the company or discharges, or undertakes to discharge, any liability of his to a third person;

(e) provides a benefit or facility for that individual;

(f) disposes of an asset to that individual for no consideration or for a consideration which is or the value of which is less than the market value of the asset;

(g) acquires an asset from that individual for a consideration which is or the value of which is more than the market value of the asset; or

(h) makes any payment to that individual other than a qualifying payment.

(4) For the purposes of this section there shall also be treated as being a return of the whole or a part of the value of the investment of an individual who is to acquire or has acquired any shares in a company if—

(a) there is a loan made by any person to that individual; and

(b) the loan is one which would not have been made, or would not have been made on the same terms, if that individual had not acquired those shares or had not been proposing to do so.

(5) For the purposes of this section a company shall be treated as having released or waived a liability if the liability is not discharged within 12 months of the time when it ought to have been discharged.

(6) References in this section to a debt or liability do not, in relation to a company, include references to any debt or liability which would be discharged by the making by that company of a qualifying payment, and references to a benefit or facility do not include references to any benefit or facility provided in circumstances such that, if a payment had been made of an amount equal to its value, that payment would be a qualifying payment.

(7) References in this section to the making by any person of a loan to an individual include references—

(a) to the giving by that person of any credit to that individual; and

(b) to the assignment or assignation to that person of any debt due from that individual.

(8) In this section "qualifying payment" means—

(a) the payment by any company of such remuneration for service as an officer or employee of that company as may be reasonable in relation to the duties of that office or employment;

(b) any payment or reimbursement by any company of travelling or other expenses wholly, exclusively and necessarily incurred by the individual to whom the payment is made in the performance of duties as an officer or employee of that company;

(c) the payment by any company of any interest which represents no more than a reasonable commercial return on money lent to that company;

(d) the payment by any company of any dividend or other distribution which does not exceed a normal return on any investment in shares in or other securities of that company;

(e) any payment for the supply of goods which does not exceed their market value;

(f) the payment by any company, as rent for any property occupied by the company, of an amount not exceeding a reasonable and commercial rent for the property;

(g) any reasonable and necessary remuneration which—

(i) is paid by any company for services rendered to that company in the course of a trade or profession; and

(ii) is taken into account in computing the profits or gains of the trade or profession under Case I or II of Schedule D or would be so taken into account if it fell in a period on the basis of which those profits or gains are assessed under that Schedule;

(h) a payment in discharge of an ordinary trade debt.

(9) In this section—

(a) any reference to a payment or disposal to an individual includes a reference to a payment or disposal made to him indirectly or to his order or for his benefit; and

(b) any reference to an individual includes a reference to an associate of his and any reference to a company includes a reference to a person connected with the company.

(10) This section shall have effect in relation to the acquisition of shares by the trustees of a settlement as if references to the individual acquiring the shares were references to those trustees or the individual who is the qualifying beneficiary by reference to whom this Chapter has or, as the case may be, would have effect in relation to that acquisition.

(11) In this section—

"arrangements" includes any scheme, agreement or understanding, whether or not legally enforceable;

"chargeable business assets" has the same meaning as in section 164C; and

"ordinary trade debt" means any debt for goods or services supplied in the ordinary course of a trade or business where any credit given does not exceed six months and is not longer than that normally given to customers of the person carrying on the trade or business.

Exclusion of double relief.

164M Where a person acquires any shares in a company those shares shall not be eligible shares or, as the case may be, shall cease to be eligible shares if that person or any person connected with him has made or makes a claim for relief in relation to those shares under Chapter III of Part VII of the Taxes Act (business expansion scheme).

Interpretation of Chapter IA.

164N (1) In this Chapter—

"associate" has the meaning given in subsections (3) and (4) of section 417 of the Taxes Act, except that in those subsections, as applied for the purposes of this Chapter, "relative" shall not include a brother or sister;

"eligible shares" means (subject to sections 164L and 164M) any ordinary shares in a company which do not carry—

(a) any present or future preferential rights to dividends or to that company's assets on its winding up; or

(b) any present or future preferential right to be redeemed;

"farming" has the same meaning as in the Taxes Act;

"film" means an original master negative of a film, an original master film disc or an original master film tape;

"oil exploration" means searching for oil (within the meaning of Chapter V of Part XII of the Taxes Act);

"oil rig" means any ship which is an offshore installation for the purposes of the [M78]Mineral Workings (Offshore Installations) Act 1971;

"ordinary share capital" has the meaning given by section 832(1) of the Taxes Act;

"ordinary shares" means shares forming part of a company's ordinary share capital;

"pleasure craft" means any ship of a kind primarily used for sport or recreation;

"property development" means the development of land, by a company which has, or at any time has had, an interest in the land (within the meaning of section 164H), with the sole or main object of realising a gain from disposing of the land when developed;

"research and development" means any activity which is intended to result in a patentable invention (within the meaning of the [M79]Patents Act 1977) or in a computer program;

"sound recording" in relation to a film, means its sound track, original master audio disc or original master audio tape; and

"unquoted company" means a company none of the shares in or other securities of which are quoted on any recognised stock exchange or are dealt in on the Unlisted Securities Market.

(2) Section 170 shall apply for the interpretation of sections 164G and 164I as it applies for the interpretation of sections 171 to 181.

(3) Subject to subsection (2) above, paragraph 1 of Schedule 6 shall have effect for the purposes of this Chapter as it has effect for the purposes of sections 163 and 164 and that Schedule.

(4) References in this Chapter to the reduction of an amount include references to its reduction to nil."

Marginal Citations

M76 1986 c. 45.
M77 S.I. 1989/2405 (N.I. 19).
M78 1971 c. 61.
M79 1977 c. 37.

SCHEDULE 8

Section 88.

RESTRICTION ON SET-OFF OF PRE-ENTRY LOSSES

The following is the Schedule to be inserted after Schedule 7 to the [M80]Taxation of Chargeable Gains Act 1992.

"SCHEDULE 7A

Section 177A.

RESTRICTION ON SET-OFF OF PRE-ENTRY LOSSES

Application and construction of Schedule

1 (1) This Schedule shall have effect, in the case of a company which is or has been a member of a group of companies ("the relevant group"), in relation to any pre-entry losses of that company.

(2) In this Schedule "pre-entry loss", in relation to any company, means—

(a) any allowable loss that accrued to that company at a time before it became a member of the relevant group; or

(b) the pre-entry proportion of any allowable loss accruing to that company on the disposal of any pre-entry asset;

and for the purposes of this Schedule the pre-entry proportion of any loss shall be calculated in accordance with paragraphs 2 to 5 below.

(3) In this Schedule "pre-entry asset", in relation to any disposal, means (subject to sub-paragraph (4) below) any asset which was held, at the time immediately before it became a member of the relevant group, by any company (whether or not the one which makes the disposal) which is or has at any time been a member of that group.

(4) Subject to paragraph 3 below, an asset is not a pre-entry asset if—

(a) the company which held the asset at the time it became a member of the relevant group is not the company which makes the disposal; and

(b) since that time that asset has been disposed of otherwise than by a disposal to which section 171 applies;

but (without prejudice to sub-paragraph (8) below) where, on a disposal to which section 171 does not apply, any asset would cease to be a pre-entry asset by virtue of this sub-paragraph but the company making the disposal retains any interest in or over the asset in question, that interest shall be a pre-entry asset for the purposes of this Schedule.

(5) References in this Schedule, in relation to a pre-entry asset, to the relevant time are references to the time when the company by reference to which that asset is a pre-entry asset became a member of the relevant group; and for the purposes of this Schedule—

(a) where a company has become a member of the relevant group on more than one occasion, an asset is a pre-entry asset by reference to that company if it would be a pre-entry asset by reference to that company in respect of any one of those occasions; but

(b) references in the following provisions of this Schedule to the time when a company became a member of the relevant group, in relation to assets held on more than one such occasion as is mentioned in paragraph (a) above, are references to the later or latest of those occasions.

(6) Subject to so much of sub-paragraph (6) of paragraph 9 below as requires groups of companies to be treated as separate groups for the purposes of that paragraph, if—

(a) the principal company of a group of companies ("the first group") has at any time become a member of another group ("the second group") so that the two groups are treated as the same by virtue of subsection (10) of section 170, and

(b) the second group, together in pursuance of that subsection with the first group, is the relevant group,

then, except where sub-paragraph (7) below applies, the members of the first group shall be treated for the purposes of this Schedule as having become members of the relevant group at that time, and not by virtue of that subsection at the times when they became members of the first group.

(7) This sub-paragraph applies where—

(a) the persons who immediately before the time when the principal company of the first group became a member of the second group owned the shares comprised in the issued share capital of the principal company of the first group are the same as the persons who, immediately after that time, owned the shares comprised in the issued share capital of the principal company of the relevant group; and

(b) the company which is the principal company of the relevant group immediately after that time—

(i) was not the principal company of any group immediately before that time; and

(ii) immediately after that time had assets consisting entirely, or almost entirely, of shares comprised in the issued share capital of the principal company of the first group.

(8) For the purposes of this Schedule, but subject to paragraph 3 below—

(a) an asset acquired or held by a company at any time and an asset held at a later time by that company, or by any company which is or has been a member of the same group of companies as that company, shall be treated as the same asset if the value of the second asset is derived in whole or in part from the first asset; and

(b) if—

(i) any asset is treated (whether by virtue of paragraph (a) above or otherwise) as the same as an asset held by a company at a later time, and

(ii) the first asset would have been a pre-entry asset in relation to that company,

the second asset shall also be treated as a pre-entry asset in relation to that company;

and paragraph (a) above shall apply, in particular, where the second asset is a freehold and the first asset is a leasehold the lessee of which acquires the reversion.

(9) In determining for the purposes of this Schedule whether any allowable loss accruing to a company under section 116(10)(b) is a loss that accrued before the company became a member of the relevant group, any loss so accruing shall be deemed to have accrued at the time of the relevant transaction within the meaning of section 116(2).

(10) In determining for the purposes of this Schedule whether any allowable loss accruing to a company on a disposal under section 212 is a loss that accrued before the

company became a member of the relevant group, the provisions of section 213 shall be disregarded.

Pre-entry proportion of losses on pre-entry assets

2 (1) Subject to paragraphs 3 to 5 below, the pre-entry proportion of an allowable loss accruing on the disposal of a pre-entry asset shall be whatever would be the allowable loss accruing on that disposal if that loss were the sum of the amounts determined, for every item of relevant allowable expenditure, according to the following formula—

$$\frac{R}{T}$$

(2) In sub-paragraph (1) above, in relation to any disposal of a pre-entry asset—

A is the total amount of the allowable loss;

B is the sum of the amount of the item of relevant allowable expenditure for which an amount falls to be determined under this paragraph and the indexed rise in that item;

C is the sum of the total amount of all the relevant allowable expenditure and the indexed rises in each of the items comprised in that expenditure;

D is the length of the period beginning with the relevant pre-entry date and ending with the relevant time or, if that date is after that time, nil; and

E is the length of the period beginning with the relevant pre-entry date and ending with the day of the disposal.

(3) In sub-paragraph (2) above "the relevant pre-entry date", in relation to any item of relevant allowable expenditure, means whichever is the later of—

(a) the date on which that item of expenditure is, or (on the assumption applying by virtue of sub-paragraphs (4) and (5) below) would be, treated for the purposes of section 54 as having been incurred; and

(b) 1st April 1982.

(4) Where any asset ("the second asset") is treated by virtue of section 127 as the same as another asset ("the first asset") previously held by any company, this paragraph and (so far as applicable) paragraph 3 below shall have effect, except in relation to the calculation of any indexed rise—

(a) as if any item of relevant allowable expenditure consisting in consideration given for the acquisition of the second asset had been incurred at the same time as the expenditure consisting in the consideration for the acquisition of the first asset; and

(b) where there is more than one such time as if that item were incurred at those different times in the same proportions as the consideration for the acquisition of the first asset.

(5) Without prejudice to sub-paragraph (4) above, this paragraph shall have effect in relation to any asset which—

(a) was held by a company at the time when it became a member of the relevant group, and

(b) is treated as having been acquired by that company for such a consideration as secured that on the disposal in pursuance of which it was acquired neither a gain nor a loss accrued,

as if that company and every person who acquired that asset or the equivalent asset at a material time had been the same person and, accordingly, as if the asset had been acquired by that company when it or the equivalent asset was acquired by the first of those persons to have acquired it at a material time and the time at which any expenditure had been incurred were to be determined accordingly.

(6) In sub-paragraph (5) above, the reference, in relation to any asset, to a material time is a reference to any time which—

(a) is before the occasion on which the company in question is treated as having acquired the asset for such a consideration as is mentioned in that sub-paragraph; and

(b) is or is after the last occasion before that occasion on which any person acquired that asset or the equivalent asset otherwise than by virtue of an acquisition which—

(i) is treated as an acquisition for such a consideration; or

(ii) is the acquisition by virtue of which any asset is treated as the equivalent asset;

and this paragraph shall have effect in relation to any asset to which that sub-paragraph applies without regard to the provisions of section 56(2).

(7) In sub-paragraphs (5) and (6) above, the reference in relation to the acquisition of any asset by any company, to the equivalent asset is a reference to any asset which (whether by virtue of paragraph 1(8) above or otherwise) would be treated in relation to that company as the same as the asset in question.

(8) The preceding provisions of this paragraph and (so far as applicable) paragraph 3 below shall have effect where—

(a) a loss accrues to any company under section 116(10)(b), and

(b) the old asset consists in or is treated for the purposes of that paragraph as including pre-entry assets,

as if the disposal on which the loss accrues were that disposal of the old asset which is assumed to have been made for the purposes of the calculation required by section 116(10)(a).

(9) In this paragraph—

"indexed rise" shall be construed in accordance with section 54 and, where the formula set out in sub-paragraph (1) above is applied for the purposes of paragraph 3 below, without regard to section 110; and

"relevant allowable expenditure", in relation to any allowable loss, means the expenditure which falls by virtue of section 38(1)(a) or (b) to be taken into account in the computation of that loss.

Disposals of pooled assets

3 (1) This paragraph shall apply (subject to paragraphs 4 and 5 below) where any assets acquired by any company fall to be treated with other assets as indistinguishable parts of the same asset ("a pooled asset") and the whole or any part of that asset is referable to pre-entry assets.

(2) For the purposes of this Schedule, where a pooled asset has at any time contained a pre-entry asset—

(a) the pooled asset shall be treated, until all the pre-entry assets included in that asset have (on the assumptions for which this paragraph provides) been disposed of, as incorporating a part which is referable to pre-entry assets; and

(b) the size of that part shall be determined in accordance with the following provisions of this paragraph.

(3) Where there is a disposal of any part of a pooled asset and the proportion of the asset which is disposed of does not exceed the proportion of that asset which is represented by any part of it which is not, at the time of the disposal, referable to pre-entry assets, that disposal shall be deemed for the purposes of this Schedule to be confined to assets which are not pre-entry assets so that—

(a) except where paragraph 4(2) below applies, no part of any loss accruing on that disposal shall be deemed to be a pre-entry loss, and

(b) the part of the pooled asset which after the disposal is to be treated as referable to pre-entry assets shall be correspondingly increased.

(4) Where there is a disposal of any part of a pooled asset and the proportion of the asset which is disposed of does exceed the proportion of that asset mentioned in sub-paragraph (3) above, that disposal shall be deemed for the purposes of this Schedule to relate to pre-entry assets only so far as required for the purposes of the excess, so that—

(a) any loss accruing on that disposal shall be deemed for the purposes of this Schedule to be an allowable loss on the disposal of a pre-entry asset;

(b) the pre-entry proportion of that loss shall be deemed (except where paragraph 4(3) below applies) to be the amount (so far as it does not exceed the amount of the loss actually accruing) which would have been the pre-entry proportion under paragraph 2 above of any loss accruing on the disposal of the excess if the excess were a separate asset; and

(c) the pooled asset shall be treated after the disposal as referable entirely to pre-entry assets.

(5) Where there is a disposal of the whole of a pooled asset or of any part of a pooled asset which, at the time of the disposal, is referable entirely to pre-entry assets, paragraphs (a) and (b) of sub-paragraph (4) above shall apply to the disposal of the asset or the part as they apply in relation to the assumed disposal of the excess mentioned in that sub-paragraph but, in the case of the disposal of the whole of a pooled asset only a part of which is referable to pre-entry assets, as if the reference in paragraph (b) of that sub-paragraph to the excess were a reference to that part.

(6) For the purpose of determining, under sub-paragraph (4) or (5) above, what would have been the pre-entry proportion of any loss accruing on the disposal of any assets as a separate asset it shall be assumed that none of the assets treated as comprised in that asset has ever been comprised in a pooled asset with any assets other than those which are taken to constitute that separate asset for the purposes of the determination.

(7) The assets which are comprised in any asset which is treated for any of the purposes of this paragraph as a separate asset shall be identified on the following assumptions, that is to say—

(a) that assets are disposed of in the order of the dates which for the purposes of paragraph 2 above are the relevant pre-entry dates in relation to the consideration for their acquisition;

(b) subject to that, that assets with earlier relevant times are disposed of before those with later relevant times;

(c) that disposals made when a company was not a member of the relevant group are made in accordance with the preceding provisions of this paragraph, as they have effect in relation to the group of companies of which the company was a member at the time of the disposal or, as the case may be, of which it had most recently been a member before that time; and

(d) subject to paragraphs (a) to (c) above, that a company disposes of assets in the order in which it acquired them.

(8) Where in the case of any asset there is more than one date which is the relevant pre-entry date in relation to the consideration for its acquisition, the date taken into account for the purposes of sub-paragraph (7)(a) above shall be the date which is the earlier or earliest of those dates if any date which is the relevant pre-entry date in relation to the acquisition of an option to acquire that asset is disregarded.

(9) In applying the formula set out in paragraph 2(1) above in relation to the disposal of an asset which is treated for any of the purposes of this paragraph as comprised in a separate asset—

(a) the amount or value of any consideration for the acquisition or disposal of that asset; and

(b) the incidental costs of the acquisition or disposal of that asset,

shall be determined (to the exclusion of any apportionment under section 129 or 130) by apportioning any consideration or costs relating to both that asset and other assets acquired or disposed of at the same time according to the proportion that is borne by that asset to all the assets to which the consideration or costs related.

(10) Where—

(a) any asset ("the latest asset") falls (whether by virtue of paragraph 1(8) above or otherwise) to be treated as acquired at the same time as another asset ("the original asset") which was acquired before the latest asset, and

(b) the latest asset is either comprised in a pooled asset a part of which is referable to pre-entry assets or is or includes an asset which is to be treated as so comprised,

sub-paragraph (7) above shall apply not only in relation to the latest asset as if it were the original asset but also, in the first place, for identifying the asset which is to be treated as the original asset for the purposes of this paragraph.

(11) Sub-paragraphs (3)(b) and (4)(c) above shall have effect in relation to any disposal without prejudice to the effect of any subsequent acquisition of assets falling to be treated as part of a pooled asset on the determination of whether, and to what extent, any part of that pooled asset is to be treated as referable to pre-entry assets.

Rule to prevent pre-entry losses on pooled assets being treated as post-entry losses

4 (1) This paragraph shall apply if—

(a) there is a disposal of any part of a pooled asset which for the purposes of paragraph 3 above is treated as incorporating a part which is referable to pre-entry assets;

(b) the assets disposed of are or include assets ("the post-entry element of the disposal") which for the purposes of that paragraph are treated as having been incorporated in the part of the pooled asset which is not referable to pre-entry assets;

(c) an allowable loss ("the actual loss") accrues on the disposal; and

(d) the amount which in computing the allowable loss is allowed as a deduction of relevant allowable expenditure ("the expenditure actually allowed") exceeds the relevant allowable expenditure attributable to the post-entry element of the disposal.

(2) Subject to sub-paragraph (6) below, where the post-entry element of the disposal comprises all of the assets disposed of—

(a) the actual loss shall be treated for the purposes of this Schedule as a loss accruing on the disposal of a pre-entry asset; and

(b) the pre-entry proportion of that loss shall be treated as being the amount (so far as it does not exceed the amount of the actual loss) by which the expenditure actually allowed exceeds the relevant allowable expenditure attributable to the post-entry element of the disposal.

(3) Subject to sub-paragraph (6) below, where—

(a) the actual loss is treated by virtue of paragraph 3 above as a loss accruing on the disposal of a pre-entry asset, and

(b) the expenditure actually allowed exceeds the actual cost of the assets to which the disposal is treated as relating,

the pre-entry proportion of the loss shall be treated as being the amount which (so far as it does not exceed the amount of the actual loss) is equal to the sum of that excess and what would, apart from this paragraph and paragraph 5 below, be the pre-entry proportion of the loss accruing on the disposal.

(4) For the purposes of sub-paragraph (3) above the actual cost of the assets to which the disposal is treated as relating shall be taken to be the sum of—

(a) the relevant allowable expenditure attributable to the post-entry element of the disposal; and

(b) the amount which, in computing the pre-entry proportion of the loss in accordance with paragraph 3(4)(b) and (6) above, would be treated for the purposes of C in the formula in paragraph 2(1) above as the total amount allowable as a deduction of relevant allowable expenditure in respect of such of the assets disposed of as are treated as having been incorporated in the part of the pooled asset which is referable to pre-entry assets.

(5) Without prejudice to sub-paragraph (6) below, where sub-paragraph (2) or (3) above applies for the purpose of determining the pre-entry proportion of any loss, no election shall be capable of being made under paragraph 5 below for the purpose of enabling a different amount to be taken as the pre-entry proportion of that loss.

(6) Where—

(a) the pre-entry proportion of the loss accruing to any company on the disposal of any part of a pooled asset falls to be determined under sub-paragraph (2) or (3) above,

(b) the amount determined under that sub-paragraph exceeds the amount determined under sub-paragraph (7) below ("the alternative pre-entry loss"), and

(c) the company makes an election for the purposes of this sub-paragraph,

the pre-entry proportion of the loss determined under sub-paragraph (2) or (3) above shall be reduced to the amount of the alternative pre-entry loss.

(7) For the purposes of sub-paragraph (6) above the alternative pre-entry loss is whatever apart from this paragraph would have been the pre-entry proportion of the loss on the

disposal in question, if for the purposes of this Schedule the identification of the assets disposed of were to be made disregarding the part of the pooled asset which was not referable to pre-entry assets, except to the extent (if any) by which the part referable to pre-entry assets fell short of what was disposed of.

(8) An election for the purposes of sub-paragraph (6) above with respect to any loss shall be made by the company to which the loss accrued by notice to the inspector given within—

(a) the period of two years beginning with the end of the accounting period of that company in which the disposal is made on which the loss accrues; or

(b) such longer period as the Board may by notice allow;

and paragraph 5 below may be taken into account under sub-paragraph (7) above in determining the amount of the alternative pre-entry loss as if an election had been made under that paragraph but shall be so taken into account only if the election for the purposes of sub-paragraph (6) above contains an election corresponding to the election that, apart from this paragraph, might have been made under that paragraph.

(9) For the purposes of this paragraph the relevant allowable expenditure attributable to the post-entry element of the disposal shall be the amount which, in computing any allowable loss accruing on a disposal of that element as a separate asset, would have been allowed as a deduction of relevant allowable expenditure if none of the assets comprised in that element had ever been comprised in a pooled asset with any assets other than those which are taken to constitute that separate asset for the purposes of this sub-paragraph.

(10) For the purpose of identifying the assets which are to be treated for the purposes of sub-paragraph (9) above as comprised in the post-entry element of the disposal, a company shall be taken to dispose of assets in the order in which it acquired them.

(11) Paragraph 3(9) above shall apply for the purposes of sub-paragraph (9) above as it applies for the purposes of the application as mentioned in paragraph 3(9) above of the formula so mentioned; and paragraph 3(10) above shall apply for the purposes of this paragraph in relation to sub-paragraph (10) above as it applies for the purposes of paragraph 3 above in relation to sub-paragraph (7) of that paragraph.

(12) In this paragraph references to an amount allowed as a deduction of relevant allowable expenditure are references to the amount falling to be so allowed in accordance with section 38(1)(a) and (b) and (so far as applicable) section 42, together with the indexed rises in the items comprised in that expenditure or, as the case may be, in the appropriate portions of those items.

(13) In sub-paragraph (12) above "indexed rise" has the same meaning as it has by virtue of paragraph 2(9) above in relation to the application for the purposes of paragraph 3 above of the formula set out in paragraph 2(1) above.

(14) Nothing in this paragraph shall affect the operation of the rules contained in paragraph 3 above for determining, for any purposes other than those of sub-paragraph (7) above, how much of any pooled asset at any time consists of a part which is referable to pre-entry assets.

Alternative calculation by reference to market value

5 (1) Subject to paragraph 4(5) above and the following provisions of this paragraph, if—

(a) an allowable loss accrues on the disposal by any company of any pre-entry asset; and

(b) that company makes an election for the purposes of this paragraph in relation to that loss,

the pre-entry proportion of that loss (instead of being the amount determined under the preceding provisions of this Schedule) shall be whichever is the smaller of the amounts mentioned in sub-paragraph (2) below.

(2) Those amounts are—

(a) the amount of any loss which would have accrued if that asset had been disposed of at the relevant time at its market value at that time; and

(b) the amount of the loss accruing on the disposal mentioned in sub-paragraph (1)(a) above.

(3) Where no loss would have accrued on the disposal assumed for the purposes of sub-paragraph (2)(a) above, the loss accruing on the disposal mentioned in sub-paragraph (1)(a) above shall be deemed not to have a pre-entry proportion.

(4) Sub-paragraph (5) below shall apply where—

(a) an election is made for the purposes of this paragraph in relation to any loss accruing on the disposal ("the real disposal") of the whole or any part of a pooled asset; and

(b) the case is one in which (but for the election) paragraph 3 above would apply for determining the pre-entry proportion of a loss accruing on the real disposal.

(5) In a case falling within sub-paragraph (4) above, this paragraph shall have effect as if the amount specified in sub-paragraph (2)(a) above were to be calculated—

(a) on the basis that the disposal which is assumed to have taken place was a disposal of all the assets falling within sub-paragraph (6) below; and

(b) by apportioning any loss that would have accrued on that disposal between—

(i) such of the assets falling within paragraph (6) below as are assets to which the real disposal is treated as relating, and

(ii) the remainder of the assets so falling,

according to the proportions of any pooled asset whose disposal is assumed which would have been, respectively, represented by assets mentioned in sub-paragraph (i) above and by assets mentioned in sub-paragraph (ii) above,

and where assets falling within sub-paragraph (6) below have different relevant times there shall be assumed to have been a different disposal at each of those times.

(6) Assets fall within this sub-paragraph if—

(a) immediately before the time which is the relevant time in relation to those assets, they were comprised in a pooled asset which consisted of or included assets which fall to be treated for the purposes of paragraph 3 above as—

(i) comprised in the part of the pooled asset referable to pre-entry assets; and

(ii) disposed of on the real disposal;

(b) they were also comprised in such a pooled asset immediately after that time; and

(c) the pooled asset in which they were so comprised immediately after that time was held by a member of the relevant group.

(7) Where—

(a) an election is made under paragraph 4(6) above requiring the determination by reference to this paragraph of the alternative pre-entry loss accruing on the disposal of any assets comprised in a pooled asset, and

(b) in pursuance of that election any amount of the loss that would have accrued on an assumed disposal is apportioned in accordance with sub-paragraph (5) above to assets ("the relevant assets") which—

(i) are treated for the purposes of that determination as assets to which the disposal related, but

(ii) otherwise continue after the disposal to be treated as incorporated in the part of that pooled asset which is referable to pre-entry assets,

then, on any further application of this paragraph for the purpose of determining the pre-entry proportion of the loss accruing on a subsequent disposal of assets comprised in that pooled asset, that amount (without being apportioned elsewhere) shall be deducted from so much of the loss accruing on the same assumed disposal as, apart from the deduction, would be apportioned to the relevant assets on that further application of this paragraph.

(8) An election under this paragraph with respect to any loss shall be made by the company in question by notice to the inspector given within—

(a) the period of two years beginning with the end of the accounting period of that company in which the disposal is made on which the loss accrues; or

(b) such longer period as the Board may by notice allow.

Restrictions on the deduction of pre-entry losses

6 (1) In the calculation of the amount to be included in respect of chargeable gains in any company's total profits for any accounting period—

(a) if in that period there is any chargeable gain from which the whole or any part of any pre-entry loss accruing in that period is deductible in accordance with paragraph 7 below, the loss or, as the case may be, that part of it shall be deducted from that gain;

(b) if, after all such deductions as may be made under paragraph (a) above have been made, there is in that period any chargeable gain from which the whole or any part of any pre-entry loss carried forward from a previous accounting period is deductible in accordance with paragraph 7 below, the loss or, as the case may be, that part of it shall be deducted from that gain;

(c) the total chargeable gains (if any) remaining after the making of all such deductions as may be made under paragraph (a) or (b) above shall be subject to deductions in accordance with section 8(1) in respect of any allowable losses that are not pre-entry losses; and

(d) any pre-entry loss which has not been the subject of a deduction under paragraph (a) or (b) above (as well as any other losses falling to be carried forward under section 8(1)) shall be carried forward to the following accounting period of that company.

(2) Subject to sub-paragraph (1) above, any question as to which or what part of any pre-entry loss has been deducted from any particular chargeable gain shall be decided—

(a) where it falls to be decided in respect of the setting of losses against gains in any accounting period ending before 16th March 1993 as if—

(i) pre-entry losses accruing in any such period had been set against chargeable gains before any other allowable losses accruing in that period were set against those gains;

(ii) pre-entry losses carried forward to any such period had been set against chargeable gains before any other allowable losses carried forward to that period were set against those gains; and

(iii) subject to sub-paragraphs (i) and (ii) above, the pre-entry losses carried forward to any accounting period ending on or after 16th March 1993 were identified with such losses as may be determined in accordance with such elections as may be made by the company to which they accrued;

and

(b) in any other case, in accordance with such elections as may be made by the company to which the loss accrued;

and any question as to which or what part of any pre-entry loss has been carried forward from one accounting period to another shall be decided accordingly.

(3) An election by any company under this paragraph shall be made by notice to the inspector given—

(a) in the case of an election under sub-paragraph (2)(a)(iii) above, before the end of the period of two years beginning with the end of the accounting period of that company which was current on 16th March 1993; and

(b) in the case of an election under sub-paragraph (2)(b) above, before the end of the period of two years beginning with the end of the accounting period of that company in which the gain in question accrued.

(4) For the purposes of this Schedule where any matter falls to be determined under this paragraph by reference to an election but no election is made, it shall be assumed, so far as consistent with any elections that have been made—

(a) that losses are set against gains in the order in which the losses accrued; and

(b) that the gains against which they are set are also determined according to the order in which they accrued with losses being set against earlier gains before they are set against later ones.

Gains from which pre-entry losses are to be deductible

7 (1) A pre-entry loss that accrued to a company before it became a member of the relevant group shall be deductible from a chargeable gain accruing to that company if the gain is one accruing—

(a) on a disposal made by that company before the date on which it became a member of the relevant group ("the entry date");

(b) on the disposal of an asset which was held by that company immediately before the entry date; or

(c) on the disposal of any asset which—

(i) was acquired by that company on or after the entry date from a person who was not a member of the relevant group at the time of the acquisition; and

(ii) since its acquisition from that person has not been used or held for any purposes other than those of a trade which was being carried on by that company at the time immediately before the entry date and which continued to be carried on by that company until the disposal.

(2) The pre-entry proportion of an allowable loss accruing to any company on the disposal of a pre-entry asset shall be deductible from a chargeable gain accruing to that company if—

(a) the gain is one accruing on a disposal made, before the date on which it became a member of the relevant group, by that company and that company is the one ("the initial company") by reference to which the asset on the disposal of which the loss accrues is a pre-entry asset;

(b) the pre-entry asset and the asset on the disposal of which the gain accrues were each held by the same company at a time immediately before it became a member of the relevant group; or

(c) the gain is one accruing on the disposal of an asset which—

(i) was acquired by the initial company (whether before or after it became a member of the relevant group) from a person who, at the time of the acquisition, was not a member of that group; and

(ii) since its acquisition from that person has not been used or held for any purposes other than those of a trade which was being carried on, immediately before it became a member of the relevant group, by the initial company and which continued to be carried on by the initial company until the disposal.

(3) Where two or more companies become members of the relevant group at the same time and those companies were all members of the same group of companies immediately before they became members of the relevant group, then, without prejudice to paragraph 9 below—

(a) an asset shall be treated for the purposes of sub-paragraph (1)(b) above as held, immediately before it became a member of the relevant group, by the company to which the pre-entry loss in question accrued if that company is one of those companies and the asset was in fact so held by another of those companies;

(b) two or more assets shall be treated for the purposes of sub-paragraph (2)(b) above as assets held by the same company immediately before it became a member of the relevant group wherever they would be so treated if all those companies were treated as a single company; and

(c) the acquisition of an asset shall be treated for the purposes of sub-paragraphs (1)(c) and (2)(c) above as an acquisition by the company to which the pre-entry loss in question accrued if that company is one of those companies and the assset was in fact acquired (whether before or after they became members of the relevant group) by another of those companies.

(4) Paragraph 1(4) above shall apply for determining for the purposes of this paragraph whether an asset on the disposal of which a chargeable gain accrues was held at the time when a company became a member of the relevant group as it applies for determining whether that asset is a pre-entry asset in relation to that group by reference to that company.

(5) Subject to sub-paragraph (6) below, where a gain accrues on the disposal of the whole or any part of—

(a) any asset treated as a single asset but comprising assets only some of which were held at the time mentioned in paragraph (b) of sub-paragraph (1) or (2) above, or

(b) an asset which is treated as held at that time by virtue of a provision requiring an asset which was not held at that time to be treated as the same as an asset which was so held,

a pre-entry loss shall be deductible by virtue of paragraph (b) of sub-paragraph (1) or (2) above from the amount of that gain to the extent only of such proportion of that gain as is attributable to assets held at that time or, as the case may be, represents the gain that would have accrued on the asset so held.

(6) Where—

(a) a chargeable gain accrues by virtue of subsection (10) of section 116 on the disposal of a qualifying corporate bond,

(b) that bond was not held as required by paragraph (b) of sub-paragraph (1) or (2) above at the time mentioned in that paragraph, and

(c) the whole or any part of the asset which is the old asset for the purposes of that section was so held,

the question whether that gain is one accruing on the disposal of an asset the whole or any part of which was held by a particular company at that time shall be determined for the purposes of this paragraph as if the bond were deemed to have been so held to the same extent as the old asset.

Change of a company's nature

8 (1) If—

(a) within any period of three years, a company becomes a member of a group of companies and there is (either earlier or later in that period, or at the same time) a major change in the nature or conduct of a trade carried on by that company, or

(b) at any time after the scale of the activities in a trade carried on by a company has become small or negligible, and before any considerable revival of the trade, that company becomes a member of a group of companies,

the trade carried on before that change, or which has become small or negligible, shall be disregarded for the purposes of paragraph 7(1)(c) and (2)(c) above in relation to any time before the company became a member of the group in question.

(2) In sub-paragraph (1) above the reference to a major change in the nature or conduct of a trade includes a reference to—

(a) a major change in the type of property dealt in, or services or facilities provided, in the trade; or

(b) a major change in customers, markets or outlets of the trade;

and this paragraph shall apply even if the change is the result of a gradual process which began outside the period of three years mentioned in sub-paragraph (1)(a) above.

(3) Where the operation of this paragraph depends on circumstances or events at a time after the company becomes a member of any group of companies (but not more than three years after), an assessment to give effect to this paragraph shall not be out of time if made within six years from that time or the latest such time.

Identification of "the relevant group" and application of Schedule to every connected group

9 (1) This paragraph shall apply where there is more than one group of companies which would be the relevant group in relation to any company.

(2) Where any loss has accrued on the disposal by any company of any asset, this Schedule shall not apply by reference to any group of companies in relation to any loss accruing on that disposal unless—

(a) that group is a group in relation to which that loss is a pre-entry loss by virtue of paragraph 1(2)(a) above or, if there is more than one such group, the one of which that company most recently became a member;

(b) that group, in a case where there is no group falling within paragraph (a) above, is either—

(i) the group of which that company is a member at the time of the disposal, or

(ii) if it is not a member of a group of companies at that time, the group of which that company was last a member before that time;

(c) that group, in a case where there is a group falling within paragraph (a) above, is a group of which that company was a member at any time in the accounting period of that company in which it became a member of the group falling within that paragraph;

(d) that group is a group the principal company of which is or has been, or has been under the control of—

(i) the company by which the disposal is made, or

(ii) another company which is or has been a member of a group by reference to which this Schedule applies in relation to the loss in question by virtue of paragraph (a), (b) or (c) above;

or

(e) that group is a group of which either—

(i) the principal company of a group by reference to which this Schedule so applies, or

(ii) a company which has had that principal company under its control,

is or has been a member;

and sub-paragraphs (3) to (5) below shall apply in the case of any loss accruing on the disposal of any asset where, by virtue of this sub-paragraph, there are two or more groups ("connected groups") by reference to which this Schedule applies.

(3) This Schedule shall apply separately in relation to each of the connected groups (so far as they are not groups in relation to which the loss is a pre-entry loss by virtue of paragraph 1(2)(a) above) for the purpose of—

(a) determining whether the loss on the disposal of any asset is a loss on the disposal of a pre-entry asset; and

(b) calculating the pre-entry proportion of that loss.

(4) Subject to sub-paragraph (5) below, paragraph 6 above shall have effect—

(a) as if the pre-entry proportion of any loss accruing on the disposal of an asset which is a pre-entry asset in the case of more than one of the connected groups were the largest pre-entry proportion of that loss calculated in accordance with sub-paragraph (3) above; and

(b) so that, where the loss accruing on the disposal of any asset is a pre-entry loss by virtue of paragraph 1(2)(a) above in the case of any of the connected groups, that loss shall be the pre-entry loss for the purposes of paragraph 6 above, and not any amount which is the pre-entry proportion of that loss in relation to any of the other groups.

(5) Where, on the separate application of this Schedule in the case of each of the groups by reference to which this Schedule applies, there is, in the case of the disposal of any asset, a pre-entry loss by reference to each of two or more of the connected groups, no amount in respect of the loss accruing on the disposal shall be deductible under paragraph 7 above from any chargeable gain if any of the connected groups is a group in the case of which, on separate applications of that paragraph in relation to each group, the amount deductible from that gain in respect of that loss is nil.

(6) Notwithstanding that the principal company of one group ("the first group") has become a member of another ("the second group"), those two groups shall not by virtue of section 170(10) be treated for the purposes of this paragraph as the same group if the principal company of the first group was under the control, immediately before it became a member of the second group, of a company which at that time was already a member of the second group.

(7) Where, in the case of the disposal of any asset—

(a) two or more groups which but for sub-paragraph (6) above would be treated as the same group are treated as separate groups by virtue of that sub-paragraph; and

(b) one of those groups is a group of which either—

(i) the principal company of a group by reference to which this Schedule applies by virtue of sub-paragraph (2)(a), (b) or (c) above in relation to any loss accruing on the disposal, or

(ii) a company which has had that principal company under its control,

is or has been a member,

this paragraph shall have effect as if that principal company had been a member of each of the groups mentioned in paragraph (a) above.

Appropriations to stock in trade

10 Where, but for an election under subsection (3) of section 161, there would be deemed to have been a disposal at any time by any company of any asset—

(a) the amount by which the market value of the asset may be treated as increased in pursuance of that election shall not include the amount of any pre-entry loss that would have accrued on that disposal; and

(b) this Schedule shall have effect as if the pre-entry loss of the last mentioned amount had accrued to that company at that time.

Continuity provisions

11 (1) This paragraph applies where provision has been made by or under any enactment ("the transfer legislation") for the transfer of property, rights and liabilities to any person from—

(a) a body established by or under any enactment for the purpose, in the exercise of statutory functions, of carrying on any undertaking or industrial or other activity in the public sector or of exercising any other statutory functions;

(b) a subsidiary of such a body; or

(c) a company wholly owned by the Crown.

(2) A loss shall not be a pre-entry loss for the purposes of this Schedule in relation to any company to whom a transfer has been made by or under the transfer legislation if that loss—

(a) accrued to the person from whom the transfer has been made; and

(b) falls to be treated, in accordance with any enactment made in relation to transfers by or under that legislation, as a loss accruing to that company.

(3) For the purposes of this Schedule where a company became a member of the relevant group by virtue of the transfer by or under the transfer legislation of any shares in or other securities of that company or any other company—

(a) a loss that accrued to that company before it so became a member of that group shall not be a pre-entry loss in relation to that group; and

(b) no asset held by that company when it so became a member of that group shall by virtue of that fact be a pre-entry asset.

(4) For the purposes of this paragraph a company shall be regarded as wholly owned by the Crown if it is—

(a) a company limited by shares in which there are no issued shares held otherwise than by, or by a nominee of, the Treasury, a Minister of the Crown, a Northern Ireland department or another company wholly owned by the Crown; or

(b) a company limited by guarantee of which no person other than the Treasury, a Minister of the Crown or a Northern Ireland department, or a nominee of the Treasury, a Minister of the Crown or a Northern Ireland department, is a member.

(5) In this paragraph—

"enactment" includes any provision of any Northern Ireland legislation, within the meaning of section 24 of the [M81]Interpretation Act 1978; and

"statutory functions" means functions under any enactment, under any subordinate legislation, within the meaning of the Interpretation Act 1978, or under any statutory rules, within the meaning of the [M82]Statutory Rules (Northern Ireland) Order 1979.

Companies changing groups on certain transfers of shares etc.

12 For the purposes of this Schedule, and without prejudice to paragraph 11 above, where—

(a) a company which is a member of a group of companies becomes at any time a member of another group of companies as the result of a disposal of shares in or other securities of that company or any other company; and

(b) that disposal is one on which, by virtue of any enactment specified in section 35(3)(d), neither a gain nor a loss would accrue,

this Schedule shall have effect in relation to the losses that accrued to that company before that time and the assets held by that company at that time as if any time when it was a member of the first group were included in the period during which it is treated as having been a member of the second group."

Marginal Citations

M80 1992 c. 12.

M81 1978 c. 30.

M82 S.I. 1979/1573 (N.I. 13).

SCHEDULE 9

Section 97.

OVERSEAS LIFE INSURANCE COMPANIES: AMENDMENT OF TAXES ACT 1988 ETC

Insertion of Schedule 19AC into the Taxes Act 1988

1 The following Schedule shall be inserted after Schedule 19AB to the Taxes Act 1988—

"SCHEDULE 19AC

Section 444B.

MODIFICATION OF ACT IN RELATION TO OVERSEAS LIFE INSURANCE COMPANIES

1 In its application to an overseas life insurance company this Act shall have effect with the following modifications.

2 (1) In section 6(4), the words "and section 444D"shall be treated as inserted after the words "Part XI".

(2) This paragraph shall apply in relation to accounting periods beginning after 31st December 1992.

3 (1) In subsection (2) of section 11, the following paragraphs shall be treated as inserted after paragraph (a)—

(") where section 11B applies for an accounting period, any trading or other income arising in that period from assets which by virtue of that section are attributed to the branch or agency at the time the income arises (but so that this paragraph shall not include distributions received from companies resident in the United Kingdom); and

(ab) where section 11C applies for an accounting period, any trading or other income falling within section 11C(2) in that period (but so that this paragraph shall not include distributions received from companies resident in the United Kingdom); and".

(2) The following shall be treated as inserted after paragraph (b) of that subsection "and

(c) chargeable gains accruing to the company on the disposal of assets of the company's long term business fund situated outside the United Kingdom and used or held for the purposes of the branch or agency immediately before the disposal; and

(d) where section 11B applies for an accounting period, chargeable gains accruing to the company in that period on the disposal of assets which by virtue of that section are attributed to the branch or agency immediately before the disposal; and

(e) where section 11C applies for an accounting period, chargeable gains accruing to the company in that period by virtue of section 11C(3)."

(3) The following subsection shall be treated as inserted after that subsection—

(“) For the purposes of subsection (2)(c) above—

(a) section 275 of the 1992 Act (location of assets) shall apply as it applies for the purposes of that Act;

(b) “long term business fundhas the meaning given by section 431(2).”

(4) This paragraph shall apply in relation to accounting periods beginning after 31st December 1992.

4 (1) The following sections shall be treated as inserted after section 11—

“Overseas life insurance companies: interpretation of sections 11B and 11C.

11A (1) For the purposes of this section and sections 11B and 11C—

(a) an asset is at any time a section 11(2)(b) asset if, were it to be disposed of at that time, any chargeable gains accruing to the company on the disposal would form part of its chargeable profits for corporation tax purposes by virtue of section 11(2)(b);

(b) an asset is at any time a section 11(2)(c) asset if, were it to be disposed of at that time, any chargeable gains accruing to the company on the disposal would form part of its chargeable profits for corporation tax purposes by virtue of section 11(2)(c);

(c) relevant contracts and policies are contracts and policies the effecting of which constitutes the carrying on of life assurance business;

and in this section and those sections any expression to which a meaning is given by section 431(2) has that meaning.

(2) For the purposes only of subsection (1)(a) and (b) above any enactment which—

(a) limits any chargeable gain on the disposal of an asset;

(b) treats any gain on the disposal of an asset as not being a chargeable gain; or

(c) treats any disposal of an asset as not giving rise to a chargeable gain,

shall be disregarded.

(3) For the purposes of sections 11B and 11C—

(a) the notional value at any time is the value at that time of the assets which the branch or agency would reasonably be expected to hold at that time in consequence of any relevant contracts, and any relevant policies, which at that time are carried out at the branch or agency;

(b) the section 11B value at any time is the value at that time of such of the section 11(2)(b) and section 11(2)(c) assets as are assets held at that time in consequence of any relevant contracts, and any relevant policies, which at that time are carried out at the branch or agency;

(c) the section 11C value at any time is the value at that time of—

(i) such of the section 11(2)(b) and section 11(2)(c) assets as are assets held at that time in consequence of any relevant contracts, and any relevant policies, which at that time are carried out at the branch or agency; and

(ii) the assets which by virtue of section 11B are attributed to the branch or agency at that time;

(d) a relevant fund is a fund of assets of the company (wherever those assets may be situated) any part of which is held in consequence of any relevant contracts, and any relevant policies, which at any time in the accounting period concerned are carried out at the branch or agency.

(4) In applying subsection (3)(a) above as regards a particular time, it shall be assumed that—

(a) at that time the branch or agency is a company resident in the United Kingdom, undertaking the activities it then actually undertakes;

(b) the terms of any dealings between the branch or agency and another part of the company are not (or not necessarily) their actual terms but are such as would be the terms if the branch or agency and the other part of the company were independent persons dealing at arm's length.

Overseas life insurance companies: attribution of assets.

11B (1) This section applies for an accounting period where the mean of the notional value at the beginning and end of the accounting period exceeds the mean of the section 11B value at those times.

(2) Where this section applies for an accounting period, assets shall be attributed to the branch or agency in that period in accordance with the following provisions of this section.

(3) There shall be attributed to the branch or agency in the accounting period such of the qualifying assets of the company as (having regard to the excess mentioned in subsection (1) above) it is just and reasonable to attribute to the branch or agency.

(4) For the purposes of subsection (3) above—

(a) where an asset is a qualifying asset for the whole of the accounting period it may, subject to paragraphs (c) and (d) below, be attributed to the branch or the agency for the whole or any part or parts of that period;

(b) where an asset is a qualifying asset for any portion of the accounting period it may, subject to paragraphs (c) and (d) below, be attributed to the branch or agency for the whole or any part or parts of that portion;

(c) an asset shall not be attributed to the branch or agency for any period of time during which it is a section 11(2)(b) or section 11(2)(c) asset;

(d) an asset shall not be attributed to the branch or agency at any particular time unless it is held in consequence of any relevant contracts, and any relevant policies, which at that time are carried out at the branch or agency.

(5) An asset of the company is a qualifying asset at any time if it is an asset of one or more of the following descriptions, that is to say—

(a) an asset which, in relation to any relevant contracts and any relevant policies which at that time are carried out at the branch or agency, is a linked asset within the meaning given by section 431(2);

(b) an asset which at that time is maintained in the United Kingdom as a result of a requirement imposed under section 39 of the [M83]Insurance Companies Act 1982, other than an asset not treated as so maintained by virtue of a direction under subsection (2) of that section;

(c) an asset which at that time is treated for the purposes of any such requirement as is mentioned in paragraph (b) above as maintained in the United Kingdom by virtue of a direction under subsection (2) of that section;

(d) an asset which at that time is held in respect of the business carried on by the branch or agency as a result of a condition of an order under section 68 of the Insurance Companies Act 1982;

(e) an asset which at that time is held in a fund which the company is required to maintain under the prudential legislation of a territory outside the United Kingdom in respect of the business carried on by the branch or agency;

(f) an asset which is identified in tax returns submitted to a taxing authority of a territory outside the United Kingdom as an asset which at that time is wholly referable to the business carried on by the branch or agency.

Overseas life insurance companies: additional income and gains.

11C (1) This section applies for an accounting period where the mean of the notional value at the beginning and end of the accounting period exceeds the mean of the section 11C value at those times.

(2) Where this section applies for an accounting period, the income which falls within this subsection in that period shall be the specified amount of each item of relevant income arising in that period from any assets of the relevant fund.

(3) Where this section applies for an accounting period, the chargeable gains accruing to the company in that period by virtue of this subsection shall be the specified amount of each relevant gain accruing to the company in that period on the disposal of any assets of the relevant fund.

(4) For the purposes of this section—

(a) relevant income is income other than income which falls within section 11(2)(a) or (aa);

(b) a relevant gain is a gain (other than a chargeable gain which falls within section 11(2)(b), (c) or (d)) which would be a chargeable gain if the company were resident in the United Kingdom.

(5) For the purposes of this section the specified amount of an item of relevant income arising in the accounting period from any assets of the relevant fund shall be determined by the formula—

$$\frac{R}{T}$$

(6) For the purposes of this section the specified amount of a relevant gain accruing to the company in the accounting period on the disposal of any assets of the relevant fund shall be determined by the formula—

$$\frac{R}{T}$$

(7) In subsections (5) and (6) above—

SI is the specified amount of an item of relevant income arising in the accounting period from any assets of the relevant fund;

I is an item of relevant income arising in that period from any assets of the relevant fund;

NV is the mean of the notional value at the beginning and end of that period;

CV is the mean of the section 11C value at the beginning and end of that period;

RF (subject to subsection (8) below) is the mean of the value of the relevant fund at the beginning and end of that period;

SG is the specified amount of a relevant gain accruing to the company in that period on the disposal of any assets of the relevant fund;

G is a relevant gain accruing to the company in that period on the disposal of any assets of the relevant fund.

(8) Where the assets of the relevant fund at the beginning or end of the accounting period include—

(a) section 11(2)(b) or section 11(2)(c) assets; or

(b) assets which by virtue of section 11B are attributed to the branch or agency,

the value at that time of the relevant fund for the purposes of the definition of RF in subsection (7) above shall be reduced by the value at that time of those assets.

(9) Where in the accounting period the company has more than one relevant fund—

(a) in the definition of RF in subsection (7) above, the reference to the value of the relevant fund shall be treated as a reference to the value of the relevant funds; and

(b) any other reference in this section to the relevant fund shall be treated as a reference to the relevant funds.”

(2) This paragraph shall apply in relation to accounting periods beginning after 31st December 1992.

5 (1) In section 76, the following subsections shall be treated as inserted after subsection (6)—

(“) In its application to an overseas life insurance company this section shall have effect as if—

(a) the reference in subsection (1)(ca) to any reinsurance commission were to any such reinsurance commission concerned as is

attributable to the branch or agency in the United Kingdom through which the company carries on life assurance business;

(b) the references in subsection (1) to income and gains were to such income and gains concerned as are so attributable.

(6B) In their application to an overseas life insurance company section 75(5) and subsections (2) and (3)(b) above shall have effect as if for "242" there were substituted "444D"."

(2) This paragraph shall apply in relation to accounting periods beginning after 31st December 1992.

6 (1) In subsection (2) of section 431, the following definition shall be treated as substituted for the definition of "investment reserve"—

" "investment reserve", in relation to an overseas life insurance company, means the excess of the value of the relevant assets over the relevant liabilities, and for the purposes of this definition—

(a) relevant assets are such assets of the company's long term business fund as are—

(i) section 11(2)(b) assets;

(ii) section 11(2)(c) assets; or

(iii) assets which by virtue of section 11B are attributed to the branch or agency in the United Kingdom through which the company carries on life assurance business; and

(b) relevant liabilities are such liabilities of the long term business as are attributable to the branch or agency;

and in a case where section 11C applies, the value of the relevant assets shall be increased by the amount by which the notional value exceeds the section 11C value; and any expression used in this definition to which a meaning is given by section 11A has that meaning;."

(2) In that subsection, the following definition shall be treated as substituted for the definition of "liabilities"—

" "liabilities", where the company concerned is an overseas life insurance company, does not include excluded liabilities and (subject to that) means—

(a) liabilities as estimated for the purposes of the company's periodical return, or

(b) in the case of liabilities not estimated for the purposes of such a periodical return, liabilities as estimated for the purposes of any return equivalent to a periodical return and required to be made by the company under the law of the territory in which the company is resident, or

(c) in the case of liabilities not estimated for the purposes of such a periodical return or equivalent return, liabilities as found from the company's records;

and excluded liabilities are any liabilities that have fallen due or been reinsured and any not arising under or in connection with policies or contracts effected as part of the company's insurance business;".

(3) In that subsection, the following words shall be treated as inserted after paragraph (b) of the definition of "overseas life assurance business"—

"but none of the life assurance business of an overseas life insurance company shall be treated as overseas life assurance business;".

(4) In that subsection, at the end of the definition of "overseas life assurance fund" the following words shall be treated as inserted , "but that Schedule shall not apply in the case of an overseas life insurance company".

(5) In that subsection, the following definition shall be treated as substituted for the definition of "value" —

" "value", in relation to assets and where the company concerned is an overseas life insurance company, means—

(a) their value as taken into account for the purposes of the company's periodical return, or

(b) where their value is not taken into account for the purposes of such a periodical return, their value as taken into account for the purposes of any return equivalent to a periodical return and required to be made by the company under the law of the territory in which the company is resident, or

(c) where their value is not taken into account for the purposes of such a periodical return or equivalent return, their value as found from the company's records;

and the reference in paragraph (c) above to the value of assets as found from the company's records is a reference to the market value as so found or, where applicable, the current value (within the meaning of the Directive of the Council of the European Communities dated 19th December 1991 No.91/674/EEC (directive on the annual accounts and consolidated accounts of insurance undertakings)) as so found;".

(6) This paragraph shall apply in relation to accounting periods beginning after 31st December 1992.

7 (1) In section 432A, the following subsection shall be treated as inserted after subsection (2)—

(") In the case of an overseas life insurance company—

(a) any income which falls within section 11(2)(aa) or (ab); and

(b) any chargeable gains or allowable losses which fall within section 11(2)(d) or (e),

shall be referable to life assurance business."

(2) The following subsection shall be treated as inserted after subsection (9) of that section—

(") In its application to an overseas life insurance company this section shall have effect as if—

(a) the references in subsections (3), (6) and (8) to assets were to such of the assets concerned as are—

(i) section 11(2)(b) assets;

(ii) section 11(2)(c) assets; or

(iii) assets which by virtue of section 11B are attributed to the branch or agency in the United Kingdom through which the company carries on life assurance business;

(b) the references in subsections (6) and (8) to liabilities were to such of the liabilities concerned as are attributable to the branch or agency;

and any expression used in this subsection to which a meaning is given by section 11A has that meaning."

(3) This paragraph shall apply in relation to accounting periods beginning after 31st December 1992.

8 (1) In subsection (1) of section 432B, the words "or treated as brought into account by virtue of paragraph 1 of Schedule 8A to the Finance Act 1989" shall be treated as inserted after the word "1982".

(2) The following words shall be treated as inserted at the end of subsection (2) of that section"; but this subsection shall not apply for a period of account in relation to which paragraph 1(6), (7) or (8) of Schedule 8A to the Finance Act 1989 applies."

(3) The following subsection shall be treated as inserted after subsection (3) of that section—

(") In their application to an overseas life insurance company—

(a) subsection (3) above shall have effect as if after "with which an account is concerned" there were inserted "or in respect of which items are treated as brought into account by virtue of paragraph 1 of Schedule 8A to the Finance Act 1989"; and

(b) that subsection and sections 432C to 432E shall have effect as if the reference to relevant business were to relevant business of the branch or agency in the United Kingdom through which the company carries on life assurance business."

(4) This paragraph shall apply in relation to accounting periods beginning after 31st December 1992.

9 (1) In section 434, the following subsection shall be treated as inserted after subsection (1)—

(") Nothing in paragraph (a), (aa) or (ab) of section 11(2) shall prevent UK distribution income of an overseas life insurance company from being taken into account as part of the profits in computing trading income in accordance with the provisions applicable to Case I of Schedule D."

(2) In subsection (2) of that section, the words "UK distribution income of an overseas life insurance company" shall be treated as substituted for the words "franked investment income of a company so resident".

(3) This paragraph shall apply in relation to accounting periods beginning after 31st December 1992.

10 (1) In section 438, the following subsection shall be treated as inserted after subsection (3)—

(") Subject to subsection (6) below, nothing in paragraph (a), (aa) or (ab) of section 11(2) shall prevent UK distribution income of an overseas life

insurance company from being taken into account as part of the profits in computing under section 436 income from pension business."

(2) In subsections (6) and (6A) of that section, the words "UK distribution income" shall be treated as substituted for the words "franked investment income" in each place where they occur.

(3) This paragraph shall apply in relation to accounting periods beginning after 31st December 1992.

11 (1) In subsection (2) of section 440A, in paragraphs (a) and (b) the words "UK securities" shall be treated as substituted for the word "securities" in the first place where it occurs in each paragraph.

(2) Paragraph (c) of that subsection shall be treated as omitted.

(3) In paragraphs (d) and (e) of that subsection, the words "UK securities"shall be treated as substituted for the word "securities"

(4) The following paragraphs shall be treated as inserted at the end of that subsection—

(") the section 11C securities shall be treated for those purposes as a separate holding which is not of any of the descriptions mentioned in the preceding paragraphs; and

(g) the non-UK securities shall be treated for those purposes as a separate holding which is not of any of the descriptions mentioned in the preceding paragraphs."

(5) The following subsection shall be treated as inserted after subsection (6) of that section—

(") For the purposes of this section—

(a) UK securities are such securities as are—

(i) section 11(2)(b) assets;

(ii) section 11(2)(c) assets; or

(iii) assets which by virtue of section 11B are attributed to the branch or agency in the United Kingdom through which the company carries on life assurance business;

(b) section 11C securities are securities—

(i) (in a case where section 11C (other than subsection (9)) applies) which are assets of the relevant fund, other than UK securities; or

(ii) (in a case where that section including that subsection applies) which are assets of the relevant funds, other than UK securities;

(c) non-UK securities are securities which are not UK securities or section 11C securities;

and any expression used in this subsection to which a meaning is given by section 11A has that meaning."

(6) This paragraph shall apply in relation to accounting periods beginning after 31st December 1992.

12 (1) In paragraph A of section 704, in sub-paragraph (e) the words "UK distribution income under section 444D"shall be treated as substituted for the words "a surplus of franked investment income under section 242 or 243".

(2) This paragraph shall apply in relation to accounting periods beginning after 31st December 1992.

13 (1) In subsection (2) of section 794, the following shall be treated as inserted after paragraph (c) "and

(d) for tax paid under the law of any territory in respect of the UK branch income or UK branch gains of an overseas life insurance company for the chargeable period in question but only where the following conditions are fulfilled, namely—

(i) that the territory under whose law the tax was paid is not one in which the company is liable to tax by reason of domicile, residence or place of management; and

(ii) that the amount of relief claimed does not exceed (or is by the claim expressly limited to) that which would have been available if the branch or agency concerned had been an insurance company resident in the United Kingdom and the income or gains in question had been income or gains of that company. "

(2) The following subsections shall be treated as inserted after that subsection—

(") For the purposes of subsection (2)(d) above—

(a) "UK branch income", in relation to an overseas life insurance company, means such of its income falling within section 11(2)(a), (aa) or (ab) as arises from assets of its long term business fund;

(b) "UK branch gains", in relation to an overseas life insurance company, means such of its chargeable gains falling within section 11(2)(b), (c), (d) or (e) as accrue on the disposal of assets of its long term business fund;

(c) "long term business fund" has the meaning given by section 431(2).

(4) In relation to any item of income falling within section 11(2)(ab), or any chargeable gain falling within section 11(2)(e), the reference in subsection (2)(d) above to tax paid shall be construed as a reference to that part of the tax paid which bears to the whole of the tax paid the same proportion as that item of income, or that chargeable gain, bears to the relevant income, or relevant gain, by reference to which that item of income, or that chargeable gain, is, by virtue of section 11C, calculated; and, in relation to any such item of income or any such chargeable gain, the reference in section 790(4) to tax paid shall be construed accordingly."

(3) This paragraph shall apply in relation to chargeable periods beginning after 31st December 1992.

14 (1) In subsection (1) of section 811, the words "subsections (1A) and (2)"shall be treated as substituted for the words "subsection (2)".

(2) The following subsection shall be treated as inserted after that subsection—

(") In relation to any item of income falling within section 11(2)(ab), the reference in subsection (1) above to any sum which has been paid in respect

of tax on that income shall be construed as a reference to the part of that sum which bears to the whole of that sum the same proportion as that item of income bears to the relevant income by reference to which that item of income is, by virtue of section 11C, calculated."

(3) This paragraph shall apply in relation to accounting periods beginning after 31st December 1992.

15 (1) In paragraph 1(8) of Schedule 19AB, the words "UK distribution income" shall be treated as substituted for the words "franked investment income" in each place where they occur.

(2) This paragraph shall apply in relation to accounting periods beginning after 31st December 1992."

Marginal Citations
M83 1982 C. 50.

Deemed disposal and reacquisition

2 (1) Where immediately before the relevant day the company referred to in section 11(2) of the Taxes Act 1988 is an overseas life insurance company, then, subject to sub-paragraph (4) below, it shall be deemed for the purposes of corporation tax on chargeable gains—

(a) to have disposed immediately before the relevant day of every asset to which sub-paragraph (2) below applies, and

(b) immediately to have reacquired every such asset,

at its market value at the time of the deemed disposal.

(2) This sub-paragraph applies to any asset which—

(a) was held by the company immediately before the relevant day, and

(b) at the beginning of that day is a chargeable asset in relation to the company.

(3) For the purposes of sub-paragraph (2) above an asset is at the beginning of the relevant day a chargeable asset in relation to the company if, were it to be disposed of at that time, any chargeable gains accruing to the company on the disposal would form part of its chargeable profits by virtue of paragraph (c), (d) or (e) of section 11(2) of the Taxes Act 1988 (as that paragraph has effect by virtue of Schedule 19AC to that Act).

(4) Sub-paragraph (1) above shall not have effect in applying paragraph 2(2) of Schedule 28 to that Act in the case of a disposal by the company.

(5) For the purposes of this paragraph the relevant day is the first day of the company's first accounting period to begin after 31st December 1992.

SCHEDULE 10

Section 101.

OVERSEAS LIFE INSURANCE COMPANIES: AMENDMENT OF FINANCE ACT 1989

The following Schedule shall be inserted after Schedule 8 to the [M84]Finance Act 1989—

"SCHEDULE 8A

Section 89A.

MODIFICATION OF SECTIONS 83 AND 89 IN RELATION TO OVERSEAS LIFE INSURANCE COMPANIES

1 (1) In its application to an overseas life insurance company (as defined in section 431(2) of the Taxes Act 1988) section 83 of this Act shall have effect with the following modifications; and in those modifications any reference to the Taxes Act 1988 is a reference to that Act as it has effect in relation to such a company by virtue of Schedule 19AC to that Act.

(2) The reference in subsection (1)(a) to investment income shall be construed as a reference to such of the income concerned as is attributable to the branch or agency in the United Kingdom through which the company carries on life assurance business.

(3) The reference in subsection (1)(b) to assets shall be construed as a reference to such of the assets concerned—

(a) as are—

(i) section 11(2)(b) assets;

(ii) section 11(2)(c) assets; or

(iii) assets which by virtue of section 11B of the Taxes Act 1988 are attributed to the branch or agency; or

(b) as are assets—

(i) (in a case where section 11C of that Act (other than subsection (9)) applies) of the relevant fund, or

(ii) (in a case where that section including that subsection applies) of the relevant funds,

other than assets which fall within paragraph (a) above.

(4) In determining for the purposes of subsection (1) whether there has been any increase or reduction in the value (whether realised or not) of assets—

(a) no regard shall be had to any period of time during which an asset held by the company does not fall within paragraph (a) or (b) of sub-paragraph (3) above; and

(b) in the case of an asset which falls within paragraph (b) of that sub-paragraph, only the specified portion of any increase or reduction in the value of the asset shall be taken into account.

(5) For the purposes of this paragraph—

(a) the specified portion of any increase or reduction in the value of an asset is found by applying to that increase or reduction the same fraction as would, by virtue of section 11C of the Taxes Act 1988, be applied to any relevant gain accruing to the company on the disposal of the asset; and

(b) any expression to which a meaning is given by section 11A of that Act has that meaning.

(6) Where for a period of account any investment income referred to in subsection (1) is not brought into account within the meaning given by subsection (2) it shall be treated as brought into account for the period if it arises in the period.

(7) Where for a period of account any increase in value referred to in subsection (1) is not brought into account within the meaning given by subsection (2) it shall be treated as brought into account for the period if it is shown in the company's records as available

to fund one or both of the following for the period, namely, bonuses to policy holders and dividends to shareholders.

(8) Where for a period of account any reduction in value referred to in subsection (1) is not brought into account within the meaning given by subsection (2) it shall be treated as brought into account for the period if it is shown in the company's records as reducing sums available to fund one or both of the following for the period, namely, bonuses to policy holders and dividends to shareholders.

(9) This paragraph shall apply in relation to periods of account beginning after 31st December 1992.

2 (1) In its application to an overseas life insurance company section 89 of this Act shall have effect with the following modifications; and in those modifications any reference to the Taxes Act 1988 is a reference to that Act as it has effect in relation to such a company by virtue of Schedule 19AC to that Act.

(2) Any reference to franked investment income shall be treated as a reference to UK distribution income (as defined by section 444D(4) of the Taxes Act 1988).

(3) Any reference in subsection (5)(a) to income shall be construed as a reference to such of the income concerned as is attributable to the branch or agency in the United Kingdom through which the company carries on life assurance business.

(4) The reference in subsection (5)(b) to assets shall be construed as a reference to such of the assets concerned—

(a) as are—

(i) section 11(2)(b) assets;

(ii) section 11(2)(c) assets; or

(iii) assets which by virtue of section 11B of the Taxes Act 1988 are attributed to the branch or agency; or

(b) as are assets—

(i) (in a case where section 11C of that Act (other than subsection (9)) applies) of the relevant fund, or

(ii) (in a case where that section including that subsection applies) of the relevant funds,

other than assets which fall within paragraph (a) above.

(5) In subsection (5)(c) the reference to expenses shall be construed as a reference to such of the expenses concerned as are attributable to the branch or agency.

(6) In subsection (5)(d) the reference to interest shall be construed as a reference to such of the interest concerned as is so attributable.

(7) In determining for the purposes of subsection (5) whether there has been any increase or reduction in the value (whether realised or not) of assets—

(a) no regard shall be had to any period of time during which an asset does not fall within paragraph (a) or (b) of sub-paragraph (4) above; and

(b) in the case of an asset which falls within paragraph (b) of that sub-paragraph, only the specified portion of any increase or reduction in the value of the asset shall be taken into account;

and sub-paragraph (5) of paragraph 1 above shall apply for the purposes of this paragraph as it applies for the purposes of that paragraph.

(8) Where for a period of account any item consisting of income, expenses or interest referred to in subsection (5) is not brought into account within the meaning given by subsection (6) it shall be treated as brought into account for the period if it arises in the period.

(9) Where for a period of account any increase in value referred to in subsection (5) is not brought into account within the meaning given by subsection (6) it shall be treated as brought into account for the period if it is shown in the company's records as available to fund one or both of the following for the period, namely, bonuses to policy holders and dividends to shareholders.

(10) Where for a period of account any reduction in value referred to in subsection (5) is not brought into account within the meaning given by subsection (6) it shall be treated as brought into account for the period if it is shown in the company's records as reducing sums available to fund one or both of the following for the period, namely, bonuses to policy holders and dividends to shareholders.

(11) This paragraph shall apply in relation to accounting periods beginning after 31st December 1992."

Marginal Citations
M84 1989 c.26.

SCHEDULE 11

Section 102.

OVERSEAS LIFE INSURANCE COMPANIES: AMENDMENT OF TAXATION OF CHARGEABLE GAINS ACT 1992

The following Schedule shall be inserted after Schedule 7A to the [M85]Taxation of Chargeable Gains Act 1992—

Marginal Citations
M85 1992 c. 12.

"SCHEDULE 7B

Section 214B.

MODIFICATION OF ACT IN RELATION TO OVERSEAS LIFE INSURANCE COMPANIES

1 In its application to an overseas life insurance company (as defined in section 431(2) of the Taxes Act) this Act shall have effect with the following modifications; and in those modifications any reference to the Taxes Act is a reference to that Act as it has effect in relation to such a company by virtue of Schedule 19AC to that Act.

2 (1) In section 13(5)(d), the words "section 11(2)(b), (c), (d) or (e) of the Taxes Act" shall be treated as substituted for the words "section 10(3)".

(2) This paragraph shall apply in relation to chargeable gains accruing to companies in accounting periods beginning after 31st December 1992.

3 (1) In section 16(3), the words "under section 11(2)(b), (c), (d) or (e) of the Taxes Act" shall be treated as substituted for the words "under section 10".

(2) This paragraph shall apply in relation to accounting periods beginning after 31st December 1992.

4 (1) In section 25, the following subsection shall be treated as substituted for subsection (7) —

(7) "For the purposes of this section an asset is at any time a chargeable asset in relation to an overseas life insurance company if, were it to be disposed of at that time, any chargeable gains accruing to the company on the disposal would form part of its chargeable profits for corporation tax purposes by virtue of section 11(2)(b), (c), (d) or (e) of the Taxes Act."

(2) This paragraph shall apply in relation to accounting periods beginning after 31st December 1992.

5 (1) In section 140A(2), the words "section 11(2)(b), (c) or (d) of the Taxes Act" shall be treated as substituted for the words "section 10(3)".

(2) This paragraph shall apply in relation to transfers taking place in accounting periods of company B beginning after 31st December 1992.

6 (1) In section 159(4)(b), the words "section 11(2)(b), (c) or (d) of the Taxes Act" shall be treated as substituted for the words "section 10(3)".

(2) This paragraph shall apply in relation to disposals or acquisitions made in accounting periods beginning after 31st December 1992.

7 (1) In section 172(4), the words "section 11(2)(b), (c), (d) or (e) of the Taxes Act" shall be treated as substituted for the words "section 10(3)".

(2) This paragraph shall apply in relation to disposals made or assumed to have been made in accounting periods beginning after 31st December 1992.

8 (1) In subsections (2)(a) and (3) of section 185, the words "or (4A)" shall be treated as inserted after the words "subsection (4)".

(2) The following subsections shall be treated as inserted after subsection (4) of that section—

(4A) "Subject to subsection (4B) below, if at any time after the relevant time the company is an overseas life insurance company—

(a) any assets of its long term business fund which, immediately after the relevant time—

(i) are situated outside the United Kingdom and are used or held for the purposes of the branch or agency in the United Kingdom through which the company carries on life assurance business; or

(ii) are attributed to the branch or agency by virtue of section 11B of the Taxes Act,

shall be excepted from subsection (2) above; and

(b) any new assets of its long term business fund which, after that time—

(i) are so situated and are so used or held; or

(ii) are so attributed,

shall be excepted from subsection (3) above.

(4B) Subsection (4A) above shall not apply if the relevant time falls before the relevant day; and for the purposes of this subsection the relevant day is the first day of the company's first accounting period to begin after 31st December 1992."

(3) In subsection (5) of that section, the following paragraph shall be treated as inserted after paragraph (b)—

(") "life assurance business" and "long term business fund" have the meanings given by section 431(2) of the Taxes Act;"

.

9 (1) In section 191(1)(b), the words "section 11(2)(b), (c), (d) or (e) of the Taxes Act" shall be treated as substituted for the words "section 10(3)".

(2) This paragraph shall apply in relation to accounting periods beginning after 31st December 1992.

10 (1) In section 212, the following subsection shall be treated as inserted after subsection (5) —

(") In its application to an overseas life insurance company this section shall have effect as if the references in subsections (1) and (2) to assets were to such of the assets concerned as are—

(a) section 11(2)(b) assets;

(b) section 11(2)(c) assets; or

(c) assets which by virtue of section 11B of the Taxes Act are attributed to the branch or agency in the United Kingdom through which the company carries on life assurance business;

and any expression used in this subsection to which a meaning is given by section 11A of the Taxes Act has that meaning."

(2) This paragraph shall apply in relation to accounting periods beginning after 31st December 1992.

11 (1) In section 213(4), the words "in the United Kingdom through a branch or agency" shall be treated as inserted after the words "long term business".

(2) This paragraph shall apply in relation to events occurring in accounting periods beginning after 31st December 1992.

12 (1) In section 214, the following subsection shall be treated as inserted after subsection (11) —

(") In its application to an overseas life insurance company this section shall have effect as if—

(a) the references in subsections (1), (2) and (6) to (10) to assets were to such of the assets concerned as are—

(i) section 11(2)(b) assets; or

(ii) section 11(2)(c) assets;

(b) the references in subsections (1), (7) and (8) to liabilities were to such of the liabilities concerned as are attributable to the branch or agency in the United Kingdom through which the company carries on life assurance business;

and any expression used in this subsection to which a meaning is given by section 11A of the Taxes Act has that meaning."

(2) This paragraph shall apply where the accounting period mentioned in section 214(6)(d) begins after 31st December 1992.

13 (1) In subsection (4) of section 214A, in item G the words "in the United Kingdom through a branch or agency" shall be treated as inserted after the words "cessation of the carrying on".

(2) In subsection (6) of that section, the words " in the United Kingdom through a branch or agency " shall be treated as inserted after the words "long term business".

(3) In subsection (11) of that section, the following words shall be treated as inserted at the end " ; and, as it applies for the purposes of this section, the words "(with the modifications set out in subsection (12) of that section)" shall be treated as inserted after the words "section 214". "

14 (1) In section 228(6)(b), the words "section 11(2)(b), (c) or (d) of the Taxes Act" shall be treated as substituted for the words "section 10(3)".

(2) This paragraph shall apply in relation to acquisitions made in chargeable periods beginning after 31st December 1992."

[F206]SCHEDULE 12

Section 114.

. . . . . .

Textual Amendments

F206 Sch. 12 repealed (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, s., 580, Sch. 4

[F207]SCHEDULE 13

Section 115.

. . . . . .

Textual Amendments

F207 Sch. 13 repealed (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, s. 580, **Sch. 4**

SCHEDULE 14

Section 120.

PAY AND FILE: MISCELLANEOUS AMENDMENTS

Failure to give notice of liability for corporation tax

[F208]1 . . . . . .

Textual Amendments

F208 Sch. 14 para. 1 repealed (31.7.1998 with effect in relation to accounting periods ending on or after the self-assessment appointed day within the meaning of s. 117 of the amending Act) by 1998 c. 36, s. 165, **Sch. 27 Pt. III(28)** Note

Further claims etc. where assessment made

F209 2 . . . . . .

Textual Amendments

F209 Sch. 14 para. 2 repealed (31.7.1998 with effect in relation to accounting periods ending on or after the self-assessment appointed day within the meaning of s. 117 of the amending Act) by 1998 c. 36, s. 165, **Sch. 27 Pt. III(28)** Note

Interest on overdue corporation tax: transitional cases

3 (1) Section 86 of that Act of 1970 (interest on overdue tax) shall be amended as follows.

(2) In subsection (3)(b), for "subject to subsection (3A)" there shall be substituted " subject to subsections (3A) and (4A) ".

(3) In subsection (3A), at the beginning there shall be inserted " Subject to subsection (4A) below, ".

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

"(4A) For the purposes of this section where—

(a) a notice served under section 11 above at any time after the appointed day for the purposes of section 82 of the M88Finance (No. 2) Act 1987 (amendment of section 11 for the purposes of pay and file) is to be taken as requiring a company to make a return for any accounting period ending on or before the day appointed for the purposes of section 10 of the principal Act; and

(b) the tax charged by any assessment to corporation tax for that accounting period does not become due and payable until after the date nine months from the end of that accounting period,

the reckonable date, in relation to tax charged for that accounting period by that assessment, is the date mentioned in paragraph (b) above (instead of the date which would otherwise be determined under subsection (3) or (3A) above).

(4B) The Board may at their discretion mitigate (whether before or after judgment) any interest due under this section in a case where the reckonable date is determined under subsection (4A) above and may stay or compound any proceedings for the recovery thereof."

Marginal Citations

M88 1987 c. 51.

Interest on overdue corporation tax: pay and file cases

4 F210(1) . . . . . .

(2) For subsection (6) of that section there shall be substituted the following subsections—

"(6) In any case where—

(a) on a claim under section 393A(1) of the principal Act, the whole or any part of a loss incurred in an accounting period ("the later period") has been set off for the purposes of corporation tax against profits of a preceding accounting period ("the earlier period");

(b) the earlier period does not fall wholly within the period of twelve months immediately preceding the later period; and

(c) if the claim had not been made, there would be an amount or, as the case may be, an additional amount of corporation tax for the earlier period which would carry interest in accordance with this section,

then, for the purposes of the determination at any time of whether any interest is payable under this section or of the amount of interest so payable, the amount mentioned in paragraph (c) above shall be taken to be an amount of unpaid corporation tax for the earlier period except so far as concerns interest for any time after the date on which any corporation tax for the later period became (or, as the case may be, would have become) due and payable as mentioned in subsection (1) above.

(7) Where, in a case falling within subsection (6)(a) and (b) above—

(a) there is in the earlier period, as a result of the claim under section 393A(1) of the principal Act, an amount of surplus advance corporation tax, as defined in subsection (3) of section 239 of that Act; and

(b) pursuant to a claim under the said subsection (3), the whole or any part of that amount is to be treated for the purposes of the said section 239 as discharging liability for an amount of corporation tax for an accounting period before the earlier period,

the claim under the said subsection (3) shall be disregarded for the purposes of subsection (6) above but subsection (4) above shall have effect in relation to that claim as if the reference in the words after paragraph (c) to the later period within the meaning of subsection (4) above were a reference to the period which, in relation to the claim under the said section 393A(1), would be the later period for the purposes of subsection (6) above."

Textual Amendments

F210 Sch. 14 para. 4(1) repealed (31.7.1998 with effect in accordance with Sch. 3 of the amending Act) by 1998 c. 36, s. 165, **Sch. 27 Pt. III(2)** Note

Effect on interest of reliefs

5 In section 91(1B) of that Act of 1970 (subsection (1A) subject to section 87A(4)), after "section 87A(4)" there shall be inserted " (6) and (7) ".

Failure to make return for corporation tax

F211 6 . . . . . .

Textual Amendments

F211 Sch. 14 para. 6 repealed (31.7.1998 with effect in relation to accounting periods ending on or after the self-assessment appointed day within the meaning of s. 117 of the amending Act) by 1998 c. 36, s. 165, **Sch. 27 Pt. III(28)** Note

Things to be done by companies

7 In section 108(1) of that Act of 1970 (which includes provision requiring companies to act for the purposes of the Taxes Acts through their proper officers), after "proper officer of the company" there shall be inserted " or, except where a liquidator has been appointed for the company, through such other person as may for the time being have the express, implied or apparent authority of the company to act on its behalf for the purpose ".

Relief under section 393 of the Taxes Act 1988

8 (1) In relation to any case in which by virtue of section 99 of the M89 Finance Act 1990 losses may be set off under subsection (1) of section 393 or of section 396 of the Taxes Act 1988 without the making of a claim, the Taxes Act 1988 shall have effect with the following amendments.

(2) In section 343(3) (company reconstructions without change of ownership), the word "claim", in the second place where it occurs, shall be omitted.

(3) In section 395 (leasing contracts and company reconstructions)—

(a) in subsection (1)(b), for the words "to claim relief under section 393(1) or 393A(1)" there shall be substituted " under section 393(1) or in pursuance of a claim under section 393A(1) to relief "; and

(b) in the words after paragraph (c) of subsection (1) and in subsection (4), the words "to claim relief" shall be omitted.

(4) In section 398 (transactions in deposits), for the words from "he may" onwards there shall be substituted " the amount of his loss may be set off in pursuance of a claim under section 392 or, as the case may be, against which the amount of his loss may be set off under section 396 ".

(5) In section 400(2)(a) (write-off of government investments), the words "or, if a claim had been made under that subsection, would be" shall be omitted.

Marginal Citations

M89 1990 c. 29.

9 In section 65(6) of the M90 Finance (No. 2) Act 1992 (I minus E basis for life assurance business not to be affected by certain claims), after paragraph (b) there shall be inserted the words— " but, in relation to any case in which by virtue of section 99 of the Finance Act 1990 losses may be set off under subsection (1) of section 393 of the Taxes Act 1988 without the making of a claim, this section shall

have effect as if references to the making of a claim under that subsection were references to the setting off of any loss under that subsection. ”

Marginal Citations

M90 1992 c. 48.

Interest on tax overpaid

10 F212(1) . . . . . .

(2) In subsection (7A) of that section, for “any increase in the amount of that repayment” there shall be substituted “ so much of the amount of that repayment as falls to be made ”.

F212(3) . . . . . .

(4) In subsection (7B) of that section, for “any increase in the amount of that payment” there shall be substituted “ so much of the amount of that payment as falls to be made ”.

F212(5) . . . . . .

F212(6) . . . . . .

Textual Amendments

F212 Sch. 14 para. 10(1)(3)(5)(6) repealed (31.7.1998 with effect in accordance with Sch. 3 of the amending Act) by 1998 c. 36, s. 165, **Sch. 27 Pt. III(2)** Note

Surrender of refunds

11 In section 102 of the M91Finance Act 1989 (surrender of company tax refund etc. within group), after subsection (4) there shall be inserted the following subsection—

“(4A) Where subsection (4) above has effect in relation to any amount and there is, by virtue of any of subsections (7) to (7C) of section 826 of the Taxes Act 1988, a period for which the whole or any part of that amount would not, had the refund been made to the surrendering company, have carried interest under that section, that period shall be treated as excluded—

(a) from any period for which any refund made by virtue of subsection (4) above to the recipient company in respect of some or all of that amount or, as the case may be, that part of it is to carry interest under that section; and

(b) from any period for which a sum representing some or all of that amount or part would (apart from this subsection) be treated by virtue of subsection (4) above as not carrying interest under section 87A of the M92Taxes Management Act 1970;

and in determining for the purposes of this subsection which part of any amount is applied in discharging a liability of the recipient company to pay any corporation tax and which part is represented by a refund to the recipient

company, it shall be assumed that the part in relation to which there is a period which would not have carried interest under section 826 of the Taxes Act 1988 is applied in preference to any other part of that amount in or towards discharging the liability."

Marginal Citations

M91 1989 c. 26.

M92 1970 c. 9.

[F213]SCHEDULE 15

Section 134.

. . . . . .

Textual Amendments

F213 Sch. 15 repealed (24.7.2002 with effect as mentioned in s. 79(3) of the amending Act) by 2002 c. 23, ss. 79(1)(b), 141, **Sch. 40 Pt. 3(10)** Note 2 (with Sch. 23 paras. 25, 26)

[F223]SCHEDULE 16

Section 165.

. . . . . .

Textual Amendments

F223 Sch. 16 repealed (24.7.2002 with effect as mentioned in s. 79(3) of the amending Act) by 2002 c. 23, ss. 79(1)(b), 141, **Sch. 40 Pt. 3(10)** Note 2 (with Sch. 23 paras. 25, 26)

[F224]SCHEDULE 17

Section 169.

. . . . . .

Textual Amendments

F224 Sch. 17 repealed (24.7.2002 with effect as mentioned in s. 79(3) of the amending Act) by 2002 c. 23 ss. 79(1)(b), 141, Sch. 40 Pt. 3(10) Note 2 (with Sch. 23 paras. 25, 26)

SCHEDULE 18

Section 170.

EXCHANGE GAINS AND LOSSES: AMENDMENTS

Taxes Management Act 1970 (c. 9)

1 In section 87A of the Taxes Management Act 1970 (interest on overdue tax for accounting periods ending after appointed day) the following subsection shall be inserted after subsection (4)—

"(4A) In a case where—

(a) there is for an accounting period of a company ("the later period") a relievable amount within the meaning of section 131 of the Finance Act 1993 (non-trading exchange gains and losses),

(b) as a result of a claim under subsection (5) or (6) of that section the whole or part of the relievable amount for the later period is set off against the exchange profits (as defined in subsection (10) of that section) of an earlier accounting period ("the earlier period"), and

(c) disregarding the effect of subsection (5) or (6) (as the case may be) of that section, an amount of corporation tax for the earlier period would carry interest in accordance with this section,

then, in determining the amount of interest payable under this section on corporation tax unpaid for the earlier period, no account shall be taken of any reduction in the amount of that tax resulting from the claim under subsection (5) or (6) of that section except so far as concerns interest for any time after the date on which any corporation tax for the later period became due and payable, as mentioned in subsection (1) above."

Income and Corporation Taxes Act 1988 (c. 1)

F234 2 . . . . . .

Textual Amendments

F234 Sch. 18 para. 2 repealed (24.7.2002 with effect as mentioned in s. 79(3) of the amending Act) by 2002 c. 23, ss. 79(1)(b), 141, **Sch. 40 Pt. 3(10)** Note 2 (with Sch. 23 paras. 25, 26)

F235 3 . . . . . .

Textual Amendments

F235 Sch. 18 para. 3 repealed (29.4.1996 coming into force in accordance with the provisions of Chapter II of Part IV of the amending Act) by 1996 c. 8, s. 205, **Sch. 41 Pt. V(3)**

4 In section 407 of the Taxes Act 1988 (relationship between group relief and other relief) in subsection (2) at the end of paragraph (b) there shall be inserted " and ", and after that paragraph there shall be inserted—

"(c) relief under section 131(7) of the Finance Act 1993 in respect of the whole or part of a relievable amount for an accounting period after the accounting period the profits of which are being computed;

and the reference in paragraph (c) above to a relievable amount shall be construed in accordance with section 131 of the Finance Act 1993. "

5 In section 826 of the Taxes Act 1988 (interest on tax overpaid) the following subsection shall be inserted after subsection (7B)—

"(7C) In a case where—

(a) there is for an accounting period of a company ("the later period") a relievable amount within the meaning of section 131 of the Finance Act 1993 (non-trading exchange gains and losses),

(b) as a result of a claim under subsection (5) or (6) of that section the whole or part of the relievable amount for the later period is set off against the exchange profits (as defined in subsection (10) of that section) of an earlier accounting period ("the earlier period"), and

(c) a repayment falls to be made of corporation tax for the earlier period,

then, in determining the amount of interest (if any) payable under this section on the repayment of corporation tax for the earlier period, no account shall be taken of any increase in the amount of the repayment resulting from the claim under subsection (5) or (6) (as the case may be) of that section except so far as concerns interest for any time after the date on which any corporation tax for the later period became (or, as the case may be, would have become) due and payable, as mentioned in subsection (2) above."

6 In Schedule 27 to the Taxes Act 1988 (distributing funds) in paragraph 5 (United Kingdom equivalent profits) the following sub-paragraph shall be inserted after sub-paragraph (2)—

"(2A) In applying sub-paragraph (1) above the effect of sections 125 to 133 of the Finance Act 1993 (exchange gains and losses) shall be ignored."

Finance Act 1989 (c. 26)

F236 7 . . . . . .

Textual Amendments

F236 Sch. 18 para. 7 repealed (29.4.1996 coming into force in accordance with the provisions of Chapter II of Part IV of the amending Act) by 1996 c. 8, s. 205, **Sch. 41 Pt. V(3)**

SCHEDULE 19

Section 173.

LLOYD'S UNDERWRITERS: ASSESSMENT AND COLLECTION OF TAX

Modifications etc. (not altering text)

C23 Sch. 19 extended (with modifications) (3.5.1994) by 1994 c. 9, **s. 221(1)** (subject to s. 221(2))

PART I

DETERMINATION OF A SYNDICATE'S PROFIT OR LOSS

Preliminary

1 In this Part of this Schedule "profit or loss", in relation to a syndicate, means the aggregate amount of such of the profits or losses of all the members of the syndicate (taken together) as arise—

(a) directly from their membership of the syndicate, or

(b) from assets forming part of **[**F237premium**]** trust funds,

and "profits" and "losses" shall be construed accordingly.

Textual Amendments

F237 Word in Sch. 19 para. 1(b) substituted (1.12.2001) by S.I. 2001/3629, **arts. 1(2)**, 82(f)

Returns by managing agent

2 (1) An inspector may, at any time **[**F238after the beginning of a year of assessment**]**, by notice in writing to a syndicate's managing agent require him to deliver to the inspector, on or before the final day determined under sub-paragraph (2) below, a return of the syndicate's profit or loss for the year of assessment—

(a) containing such information as may be required in pursuance of the notice; and

(b) accompanied by such accounts, statements and reports as may be so required.

(2) The final day for the delivery of any return required by a notice under sub-paragraph (1) above is whichever is the later of—

(a) **[**F239 1st September in the year of assessment**]**; and

(b) the end of the period of three months beginning on the day following that on which the notice was served.

(3) If a syndicate's managing agent, having been required by a notice under sub-paragraph (1) above to deliver a return, fails to deliver the return on or before the final date for its delivery, he shall be liable to a penalty equal to the prescribed amount multiplied by the number of days on which the failure continues.

(4) In sub-paragraph (3) above "the prescribed amount" means £60 for each fifty members of the syndicate (counting any number of members less than fifty, and any number left over, as fifty).

(5) If a syndicate's managing agent fraudulently or negligently delivers an incorrect return under sub-paragraph (1) above, he shall be liable to a penalty not exceeding £3,000 multiplied by the number of members of the syndicate.

(6) In relation to a return required by a notice under sub-paragraph (1) above—

(a) any reference in sub-paragraph (2) or (3) above to the delivery of the return is a reference to its delivery together with the accompanying documents referred to in sub-paragraph (1) above; and

(b) the reference in sub-paragraph (5) above to the return being incorrect includes a reference to any of those documents being incorrect.

Textual Amendments

F238 Words in Sch. 19 para. 2(1) substituted (3.5.1994 with effect for the year 1997-98 and subsequent years of assessment) by 1994 c. 9, s. 228, **Sch. 21 para. 9(1)(3)**

F239 Words in Sch. 19 para. 2(2) substituted (3.5.1994 with effect for the year 1997-98 and subsequent years of assessment) by 1994 c. 9, s. 228, **Sch. 21 para. 9(2)(3)**

Determinations by inspector

3 (1) If the inspector is satisfied that a return under paragraph 2(1) above affords correct and complete information concerning the syndicate's profit or loss for a year of assessment, he shall determine that profit or loss accordingly.

(2) If for a year of assessment the inspector is dissatisfied with a return under paragraph 2(1) above, or there is no such return, the inspector shall determine the syndicate's profit or loss for that year to the best of his judgment.

(3) If the inspector discovers that a determination under sub-paragraph (1) or (2) above—

(a) understates the syndicate's profits for the year of assessment; or

(b) overstates the syndicate's losses for that year,

he may, by a determination under this sub-paragraph, vary the first-mentioned determination accordingly.

(4) Notice of a determination under this paragraph shall be served on the syndicate's managing agent and shall state the time within which any appeal against the determination may be made under paragraph 4 below.

(5) After notice of a determination under this paragraph has been served on the syndicate's managing agent, the determination shall not be altered except in accordance with the express provisions of the Taxes Acts.

Appeals

4 (1) A syndicate's managing agent may appeal against a determination under paragraph 3 above by a notice of appeal in writing given to the inspector within thirty days after the date of the notice of determination.

(2) An appeal under this paragraph shall be to the General Commissioners, except that the agent may elect (in accordance with section 46(1) of the Management Act) to bring the appeal before the Special Commissioners instead of the General Commissioners.

(3) Subsections **[**F240(5) and (6) of section 31A and subsections (2) to (7) of section 31D**]** of the Management Act shall apply for the purposes of an election under sub-paragraph (2) above as they apply for the purposes of an election under subsection **[**F240(1) of section 31D of that Act**]**.

Textual Amendments

F240 Words in Sch. 19 para. 4(3) substituted (11.5.2001) by 2001 c. 9, s. 88, **Sch. 29 para. 36(2)(a)(b)**

Modification of determinations pending appeal

5 (1) Where a syndicate's managing agent appeals against a determination under paragraph 3 above, then, for the purpose of establishing, in the event of a member of the syndicate appealing against an assessment made on him, the amount of tax the payment of which should, pending the determination of that appeal, be postponed under section 55 of the Management Act, that section shall apply to the first-mentioned appeal with the modifications specified in sub-paragraph (2) below.

(2) The modifications are as follows—

(a) any reference to the notice of assessment shall be construed as a reference to the notice of determination;

(b) any reference to the appellant believing that he is overcharged to tax by the assessment shall be construed as a reference to him believing that the determination overstates the syndicate's profits, or understates the syndicate's losses, for the year of assessment;

(c) any reference to the appellant having grounds for so believing, or there being reasonable grounds for so believing, shall be construed in accordance with paragraph (b) above;

(d) any reference to a determination of the amount of tax the payment of which should be postponed pending the determination of the appeal shall be construed as a reference to a direction that the determination shall, pending the determination of the appeal, have effect for the purpose stated in sub-paragraph (1) above as if the syndicate's profits there stated were reduced, or the syndicate's losses there stated were increased, by such amount as may be specified in the direction;

(e) any reference to an amount of tax so determined, or to the amount of tax which should be so postponed, shall be construed in accordance with paragraph (d) above; and

(f) subsections (2) and (9) and, in subsection (6), paragraphs (a) and (b) and the word "and" immediately preceding paragraph (a) shall be omitted.

Apportionments of syndicate's profit or loss

6 (1) Where a determination of a syndicate's profit or loss for a year of assessment is made, varied or modified (whether under the foregoing provisions of this Schedule or on appeal), the inspector may, by notice in writing to the syndicate's managing agent, require him to make to the inspector, within the specified period, a return apportioning, between the members of the syndicate, the syndicate's profit or loss as stated in the determination as so made, varied or modified.

(2) If a syndicate's managing agent, having been required by a notice under sub-paragraph (1) above to deliver a return within the specified period, fails to deliver the return within that period, he shall be liable to a penalty equal to the prescribed amount multiplied by the number of days on which the failure continues.

(3) In sub-paragraph (2) above "the prescribed amount" means £5 for each fifty members of the syndicate (counting any number of members less than fifty, and any number left over, as fifty).

(4) In this paragraph "the specified period" means such period, not being less than thirty days and beginning with the day following the date of the notice under sub-paragraph (1) above, as may be specified in that notice.

Individual members: effect of determinations

7 (1) A determination of a syndicate's profit or loss for a year of assessment (whether as originally made or as varied or modified) shall, for the purpose of determining the liability to tax of each member of the syndicate, be conclusive against that member that the syndicate's profit or loss for that year is as there stated.

(2) Where a determination of a syndicate's profit or loss for a year of assessment is varied or modified at any time after the issue of a notice of assessment assessing any member of the syndicate to tax—

(a) **[**[F241]section 31A**]** of the Management Act (right of appeal) and section 55 of that Act (postponement of tax) shall have effect, in relation to that member, as if any reference to the date of the notice of assessment, or the date of the issue of the notice of assessment, were a reference to the date of the variation or modification; and

(b) in the case of a variation, an assessment which gives effect to the determination as varied shall not be out of time if it is made within one year of the date of the variation.

(3) Sub-paragraph (2)(b) above shall not apply in the case of a variation under paragraph 3(3) above which is made later than six years after the end of the closing year.

Textual Amendments

F241 Words in Sch. 19 para. 7(2)(a) substituted (11.5.2001) by 2001 c. 9, s. 88, **Sch. 29 para. 36(3)**

Modifications etc. (not altering text)

C24 Sch. 19 para. 7 excluded (28.7.2000 with effect as mentioned in S. 107(12)(a) of the amending Act) by 2000 c. 17, **s. 107(10)**

Assessment of individual members: time limits

8 For the purposes of sections 36 and 40 of the Management Act (extension of time in cases of fraudulent or negligent conduct) anything done or omitted to be done by a syndicate's managing agent shall be deemed to have been done or omitted to be done by each member of the syndicate.

[F242]PART II

PAYMENTS ON ACCOUNT OF TAX

Textual Amendments

F242 Sch. 19 Pt. II repealed (3.5.1994 with effect for the year 1994-95 and subsequent years of assessment) by 1994 c. 9, ss. 228, 258, Sch. 21 para. 10, **Sch. 26 Pt. V(25)** Note 6

Modifications etc. (not altering text)

C25 Sch. 19 Pt. II modified (9.3.1995 with effect for the years of assessment 1992-93 and 1993-94 only) by S.I. 1995/352, **reg. 3(1)(3)**

Preliminary

. . . . . .

9 In this Part of this Schedule "profit or loss", in relation to a member and any person who is his members' agent, means the aggregate amount of the profits or losses which, in the accounts of the syndicates of which he is a member and in relation to which that person is his members' agent, are shown as arising to him, and "profit" and "loss" shall be construed accordingly.

Returns by members' agent

. . . . . .

10 (1) An inspector may, at any time after the end of the closing year for a year of assessment, by notice in writing to a members' agent require him to deliver to the inspector, on or before the final day determined under sub-paragraph (4) below and as respects each member for whom he acts, a return of the member's profit or loss for the year of assessment—

(a) containing such information as may be required in pursuance of the notice, and

(b) accompanied by such statements and reports as may be so required, and

(c) in the case of a profit, containing a statement of the amount of tax which would be payable on that profit if income tax were payable on the whole of it at the basic rate in force for the year of assessment.

(2) For the purposes of a return under sub-paragraph (1) above of a member's profit, there shall be added to that profit—

(a) any amount which in respect of the year of assessment is paid out of his special reserve fund;

(b) in the case of the year 1992-93, 40 per cent. of any relevant depreciation for the underwriting year 1992; and

(c) in the case of the year 1993-94, 15 per cent. of any relevant depreciation for the underwriting year 1993.

(3) For the purposes of a return under sub-paragraph (1) above of a member's profit, there may be deducted from that profit—

(a) any amount which in respect of the year of assessment is paid into his special reserve fund;

(b) any of the following which is or is intended to be claimed in his return for the year as being deductible from his profit, namely—

(i) any amount in respect of disbursements and expenses wholly and exclusively laid out for the purposes of his underwriting business, and

(ii) any amount which is so deductible by virtue of section 178(1) of this Act;

(c) in the case of the year 1992-93, 40 per cent. of any relevant appreciation for the underwriting year 1992; and

(d) in the case of the year 1993-94, 15 per cent. of any relevant appreciation for the underwriting year 1993.

(4) In sub-paragraph (2) above "relevant depreciation", in relation to the underwriting year 1992 or 1993, means any amount representing the depreciation in value for that year of assets forming part of a premiums trust fund of the member; and in sub-paragraph (3) above "relevant appreciation" shall be construed accordingly.

(5) The final day for the delivery of any return required by a notice under sub-paragraph (1) above is whichever is the later of—

(a) 1st October in the year of assessment following the closing year for the year of assessment; and

(b) the end of the period of three months beginning on the day following that on which the notice was served.

(6) If a members' agent, having been required by a notice under sub-paragraph (1) above to deliver a return, fails to deliver the return on or before the final day for its delivery, he shall be liable to a penalty equal to the prescribed amount multiplied by the number of days on which the failure continues.

(7) In sub-paragraph (6) above "the prescribed amount" means £60 for each fifty members for whom he acts and in respect of whom there is such a failure (counting any number of such members less than fifty, and any number left over, as fifty).

(8) If a members' agent fraudulently or negligently delivers an incorrect return under sub-paragraph (1) above, he shall be liable to a penalty not exceeding £3,000 multiplied by the number of members for whom he acts and in respect of whose returns there is such fraud or negligence.

(9) In relation to a return required by a notice under sub-paragraph (1) above—

(a) any reference in sub-paragraph (1) or (5) above to the delivery of the return is a reference to its delivery together with the accompanying documents referred to in sub-paragraph (1) above; and

(b) the reference in sub-paragraph (8) above to the return being incorrect includes a reference to any of those documents being incorrect.

Payments on account of tax

. . . . . .

11 (1) In the case of a member's profit for a year of assessment, his members' agent shall, on or before the 1st January next following the end of the closing year for that year, pay to the collector, on account of the member's liability to tax, the amount stated in his return for that year under paragraph 10(1)(c) above.

(2) Where an amount is paid to the collector under sub-paragraph (1) above for a year of assessment, the following provisions shall apply as between the member and his members' agent—

(a) where the amount so paid exceeds the amount deducted by the agent in accounting to the member for the member's profit, the amount of the excess shall be paid by the member to the agent; and

(b) where the amount so paid is less than the amount deducted by the agent in accounting to the member for the member's profit, the amount of the excess shall be paid by the agent to the member.

(3) Where an amount is paid to the collector under sub-paragraph (1) above for a year of assessment, the following provisions shall apply as respects the member's liability to tax for that year—

(a) where the amount in which the member is charged to tax exceeds the amount so paid, the amount of the excess shall be the amount of tax due and payable; and

(b) where that amount exceeds the amount in which the member is so charged, the amount of the excess shall be treated as tax overpaid.

(4) Any amount which is payable under sub-paragraph (1) above shall carry interest at the rate applicable under section 178 of the Finance Act 1989 from the date when it becomes payable until payment, whether or not that date is a non-business day within the meaning of the Bills of Exchange Act 1882.

(5) Section 90 of the Management Act shall apply for the purposes of this paragraph as it applies for the purposes of any provision of Part IX of that Act.

Assessment on members' agent

. . . . . .

12 (1) If a members' agent delivers a return in accordance with paragraph 10 above but does not pay to the collector in accordance with paragraph 11 above the amount of tax stated in the return, the inspector may make an assessment on the agent in that amount whether or not it has been paid when the assessment is made.

(2) If for a year of assessment the inspector is dissatisfied with a return under paragraph 10 above, or there is no such return, he may make an assessment on the members' agent to the best of his judgment.

(3) Any income tax due under an assessment made by virtue of sub-paragraph (1) or (2) above shall be treated for the purposes of interest on unpaid tax as having been payable at the time when it would have been payable if a correct return had been made.

PART III

REPAYMENT OF TAX DEDUCTED ETC. FROM INVESTMENT INCOME

13 (1) In relation to an underwriting year, a syndicate's managing agent may, by notice in writing at any time during the period of six years beginning with the 1st March next following the end of the closing year for that year, make a claim to the inspector—

(a) for the repayment of tax suffered by way of deduction on such of the syndicate's investment income as is allocated to that year in accordance with the rules or practice of Lloyd's; [F243]. . .

[F243](b) . . . . . .

(2) The syndicate's managing agent shall provide such information in support of the claim as the inspector may reasonably require.

(3) Where an amount is repaid [F244]. . . to a syndicate's managing agent under this paragraph, he shall—

(a) apportion that amount between the members of the syndicate in proportion to their interests in that part of the syndicate's investment income which has suffered tax by way of deduction [F244]. . .; and

(b) except in so far as it is required to meet a share of a loss of the syndicate, pay the amount so apportioned to each member, within 90 days of the repayment, to the members' agent of that member.

[F245](3A) . . . . . .

(4) The provisions of section 824 of the Taxes Act 1988 (repayment supplements: individuals and others) **[**[F246] and section 749 of the Income Tax (Trading and Other Income) Act 2005 (exemption of interest paid under repayment supplements) so far as it relates to interest paid under section 824 of the Taxes Act 1988 **]** shall not apply to any repayment of tax made under this paragraph.

[F247](4A) . . . . . .

(5) In this paragraph "investment income", in relation a syndicate, means the aggregate amount of the profits arising to all the members of the syndicate (taken together) from assets forming part of premiums trust funds.

Textual Amendments

F243 Sch. 19 para. 13(1)(b) and word preceding it repealed (31.7.1997 with effect in relation to distributions made on or after 2.7.1997) by 1997 c. 58, s. 52, **Sch. 8 Pt. II(5)** Note

F244 Words in Sch. 19 para. 13(3) repealed (31.7.1997 with effect in relation to distributions made on or after 2.7.1997) by 1997 c. 58, s. 52, **Sch. 8 Pt. II(5)** Note

F245 Sch. 19 para. 13(3A) repealed (31.7.1997 with effect in relation to distributions made on or after 2.7.1997) by 1997 c. 58, s. 52, **Sch. 8 Pt. II(5)** Note

F246 Words in Sch. 19 para. 13(4) inserted (with effect in accordance with s. 883(1) of the amending Act) by Income Tax (Trading and Other Income) Act 2005 (c. 5), s. 883(1), **Sch. 1 para. 465** (with Sch. 2)

F247 Sch. 19 para. 13(4A) repealed (31.7.1997 with effect in relation to distributions made on or after 2.7.1997) by 1997 c. 58, s. 52, **Sch. 8 Pt. II(5)** Note

SCHEDULE 20

Section 175.

LLOYD'S UNDERWRITERS: SPECIAL RESERVE FUNDS

Modifications etc. (not altering text)

C28 Sch. 20 excluded (1.12.1997 with effect with respect to accounting periods of Lloyd's Scottish limited partnerships ending on or after that date) by S.I. 1997/2681, **reg. 7(1)**

PART I

REQUIREMENTS FOR AND TAX CONSEQUENCES OF NEW-STYLE FUNDS

Preliminary

1 (1) In this Part of this Schedule—

"the arrangements" means the arrangements mentioned in section 175(1) of this Act;

"cash call" means a request for funds which, in pursuance of a contract made in accordance with the rules and practices of Lloyd's, is made to a member by the agent of a syndicate of which he is a member;

"overall premium limit", in relation to a member and an underwriting year, means the maximum amount which, under the rules of Lloyd's, the member may accept by way of premiums in that year;

[[F248]"payment", unless the contrary intention appears, means a payment in money;**]**

"stop-loss payment" means a payment of insurance money under a stop-loss insurance or a payment out of the High Level Stop Loss Fund;

"syndicate profit", in relation to a member and an underwriting year, means the amount by which the aggregate of his profits exceeds the aggregate of his losses for the year, and "syndicate loss" shall be construed accordingly.

(2) For the purposes of the definitions of "syndicate profit" and "syndicate loss" in sub-paragraph (1) above—

(a) any reference to profits or losses of a member is a reference to profits or losses which, in the accounts of the syndicates of which he is a member, are shown as arising to him, [F249]. . .

(b) any payments under paragraph 3(1), 4(1), (2), (3) or (6), 5(1), (4) or (7) or 6(2) below shall be disregarded.

[[F250](c) where the accounts of a syndicate remain open beyond the end of the underwriting year which is the closing year for that syndicate, profits or losses shown in the accounts of the syndicate as arising to a member in any subsequent underwriting year shall be profits or losses of the member for the last underwriting year but one preceding that subsequent underwriting year.**]**

Textual Amendments

F248 Definition in Sch. 20 para. 1(1) inserted (3.5.1994 with effect for the underwriting year 1992 and subsequent years of assessment) by 1994 c. 9, s. 228, **Sch. 21 para. 12(1)(3)**

F249 Word in Sch. 20 para. 1(2) omitted (9.3.1995 with effect for the year 1992-93 and subsequent years of assessment) by virtue of S.I. 1995/353, **regs. 1**, 3(2)

F250 Sch. 20 para. 1(2)(c) added (9.3.1995 with effect for the year 1992-93 and subsequent years of assessment) by S.I. 1995/353, **regs. 1**, 3(3)

Modifications etc. (not altering text)

C29 Sch. 20 paras. 1, 3-6, 8 modified (9.3.1995 with effect for the year 1994-95 and subsequent years of assessment) by S.I. 1995/353, **reg. 7(1)(3)(a)**

General requirements

2 (1) The arrangements must provide—

(a) for the setting up, in relation to any member, of a special reserve fund vested in one or more trustees who have control over it, and

(b) for the appointment of an authorised fund manager (who may be the trustees or one of the trustees) to invest the capital of the fund and to vary the investments;

and in this sub-paragraph "authorised" means authorised under the rules of Lloyd's.

[F251(2) The arrangements must be such as to secure that—

(a) any income arising to the trustee or trustees of the special reserve fund shall be added to the capital of the fund and held on the same trusts as the fund; and

(b) except as required or permitted by this Schedule, no payments shall be made into or out of the special reserve fund.**]**

Textual Amendments

F251 Sch. 20 para. 2(2) substituted for Sch. 20 para. 2(2)(3) (retrospective to 27.7.1993) by 1995 c. 4, **s. 143**

Payments into fund out of syndicate profits

3 (1) The arrangements must be such as to secure that, if the member has made a syndicate profit for an underwriting year, he has the right to make, into his special reserve fund, payments the amount of which is not in the aggregate greater than whichever of the following is the less, namely—

(a) 50 per cent. of that profit; and

(b) the amount (if any) by which 50 per cent. of the member's overall premium limit for the closing year exceeds the value of the fund as at the end of that year.

(2) Any payments which a member is entitled to make by virtue of sub-paragraph (1) above must be made before the end of such period as may be prescribed.

(3) Where the member did not accept premiums in the closing year, the reference in sub-paragraph (1)(b) above to the member's overall premium limit for that year shall be construed as a reference to that limit for the latest underwriting year in which he did so.

Modifications etc. (not altering text)

C30 Sch. 20 paras. 1, 3-6, 8 modified (9.3.1995 with effect for the year 1994-95 and subsequent years of assessment) by S.I. 1995/353, **reg. 7(1)(3)(a)**

Payments out of fund to cover cash calls

4 (1) The arrangements must be such as to secure that, if a cash call is made on the member in respect of an underwriting year, there shall be made into a **[**F252premium**]** trust fund of his, out of his special reserve fund, payments the amount of which is equal in the aggregate to the amount of the call, or the amount of his special reserve fund, whichever is the less.

[F253(1A) References in sub–paragraph (1) above to a cash call include references to a cash call made in respect of an underwriting year determined by paragraph 1(2)(c) above ("the relevant cash call") if and to the extent that the aggregate amount of the relevant cash call and any previous cash calls made on the member in respect of the syndicate concerned exceeds the net amount of losses arising to the member from that syndicate which have been declared before the date of the relevant cash call after deducting the amount of profits arising to him from that syndicate which have been so declared.**]**

(2) Where the aggregate amount of any payments made under sub-paragraph (1) above in respect of any year is found to exceed the amount of the member's syndicate loss for the year, there shall be made into his special reserve fund, out of a **[**F252premium**]** trust fund or ancillary trust fund of his, payments the amount of which is equal in the aggregate to the amount of the excess.

(3) Where a stop-loss payment is made to the member in respect of his syndicate loss for any year, so much of the stop-loss payment as does not exceed the requisite amount shall be paid into his special reserve fund.

(4) In sub-paragraph (3) above "the requisite amount" means so much of the amount (if any) given by sub-paragraph (5) below as does not exceed the aggregate amount mentioned in paragraph (b) of that sub-paragraph.

(5) The amount given by this sub-paragraph is the amount by which—

(a) the amount of the stop-loss payment, and

(b) the aggregate amount of the payments under sub-paragraph (1) above as reduced by the aggregate amount of any payments under sub-paragraph (2) above,

exceeds in the aggregate the amount of the member's syndicate loss.

(6) Where the whole or any part of a stop-loss payment made to a member is repaid, there shall be made to the member or his personal representatives or assigns, out of his special reserve fund, payments the amount of which is equal in the aggregate to the amount (if any) to which sub-paragraph (7) below applies or the amount of his special reserve fund, whichever is the less.

(7) This sub-paragraph applies to any amount which—

(a) has been paid into the member's special reserve fund under sub-paragraph (2) or (3) above, but

(b) would not have been so paid but for the stop-loss payment or (as the case may be) the part repaid.

(8) Any payments required by sub-paragraph (1), (2), (3) or (6) above shall be made before the end of such period as may be prescribed.

Textual Amendments

F252 Word in Sch. 20 para. 4(1)(2) substituted (1.12.2001) by S.I. 2001/3629, **arts. 1(2)**, 82(g)(i)

F253 Sch. 20 para. 4(1A) inserted (9.3.1995 with effect for the year 1992-93 and subsequent years of assessment) by S.I. 1995/353, **regs. 1**, 4(2)

Modifications etc. (not altering text)

C31 Sch. 20 paras. 1, 3-6, 8 modified (9.3.1995 with effect for the year 1994-95 and subsequent years of assessment) by S.I. 1995/353, **reg. 7(1)(3)(a)**

Payments out of fund to cover syndicate losses

5 (1) The arrangements must be such as to secure that, if the member has sustained a syndicate loss for an underwriting year, there shall be made into a **[**[F254]premium**]** trust fund of his, out of his special reserve fund, payments the amount of which is equal in the aggregate to the net amount of the loss or the amount of his special reserve fund, whichever is the less.

(2) Sub-paragraphs (3) and (4) below apply where a stop-loss payment is made to the member in respect of his syndicate loss for any year.

(3) If any payments are subsequently made for the year under sub-paragraph (1) above, the aggregate amount of those payments shall be determined as if the net amount of the syndicate loss were reduced by the amount of the stop-loss payment.

(4) If any payments have previously been made for the year under sub-paragraph (1) above, so much of the stop-loss payment as does not exceed the requisite amount shall be paid into his special reserve fund.

(5) In sub-paragraph (4) above "the requisite amount" means so much of the amount (if any) given by sub-paragraph (6) below as does not exceed the amount mentioned in paragraph (b) of that sub-paragraph.

(6) The amount given by this sub-paragraph is the amount by which—

(a) the amount of the stop-loss payment, and

(b) the aggregate amount of the payments made under sub-paragraph (1) above,

exceeds in the aggregate the net amount of the member's syndicate loss.

(7) Where the whole or any part of a stop-loss payment made to a member is repaid, there shall be made to the member or his personal representatives or assigns, out of his special reserve fund, payments the amount of which is equal in the aggregate to the aggregate of the amounts (if any) to which sub-paragraphs (8) and (9) below apply or the amount of his special reserve fund, whichever is the less.

(8) This sub-paragraph applies to any amount which—

(a) has not been paid out of the member's special reserve fund under sub-paragraph (1) above, but

(b) would have been so paid but for the stop-loss payment or (as the case may be) the part repaid.

(9) This sub-paragraph applies to any amount which—

(a) has been paid into the member's special reserve fund under sub-paragraph (4) above, but

(b) would not have been so paid but for the stop-loss payment or (as the case may be) the part repaid.

(10) Any payments required by sub-paragraph (1), (4) or (7) above shall be made before the end of such period as may be prescribed.

(11) In this paragraph "net amount", in relation to a member's syndicate loss for any year, means the amount of the loss as reduced by the amount of any payments made under paragraph 4(1) above for the year.

Textual Amendments

F254 Word in Sch. 20 para. 5(1) substituted (1.12.2001) by S.I. 2001/3629, **arts. 1(2)**, 82(g)(ii)

Modifications etc. (not altering text)

C32 Sch. 20 paras. 1, 3-6, 8 modified (9.3.1995 with effect for the year 1994-95 and subsequent years of assessment) by S.I. 1995/353, **reg. 7(1)(3)(a)**

Valuation and payments out of fund of excess amounts

6 (1) The arrangements must be such as to secure that the fund manager of a member's special reserve fund—

(a) shall determine in the prescribed manner the value of the fund as at the end of the year 1994 and each subsequent underwriting year; and

(b) shall report the value so determined to the member;

and the report shall also state such other matters as may be prescribed.

(2) If the value **[**F255(determined under sub-paragraph (1) above) of the fund as at the end**]** of any underwriting year exceeds 50 per cent. of—

[F256(a) the higher of—

(i) the member's overall premium limit for that year, and

(ii) his overall premium limit for the immediately preceding year; or**]**

(b) where he did not accept premiums in **[**F257either of those years**]**, his overall premium limit for the last underwriting year in which he did so,

there shall be made to the member or his personal representatives or assigns, out of his special reserve fund, payments the amount of which is equal in the aggregate to the excess.

(3) The payments required by sub-paragraph (2) above shall be made before the end of such period as may be prescribed.

Textual Amendments

F255 Words in Sch. 20 para. 6(2) substituted (31.12.1999) by S.I. 1999/3308, **reg. 3(a)**

F256 Sch. 20 para. 6(2)(a) substituted (31.12.1999) by S.I. 1999/3308, **reg. 3(b)**

F257 Words in Sch. 20 para. 6(2)(b) substituted (31.12.1999) by S.I. 1999/3308, **reg. 3(c)**

Modifications etc. (not altering text)

C33 Sch. 20 paras. 1, 3-6, 8 modified (9.3.1995 with effect for the year 1994-95 and subsequent years of assessment) by S.I. 1995/353, **reg. 7(1)(3)(a)**

Payments out of fund on cessation

7 (1) The arrangements must provide that, on the member ceasing to carry on his underwriting business, whether by reason of death or otherwise, the amount of his special reserve fund, so far as not required for giving effect to the requirements of paragraph 4 or 5 above, shall be paid over to the member or his personal representatives or assigns.

(2) For the purposes of sub-paragraph (1) above, a payment of an amount shall be in money or **[**F258in assets forming part of the fund**]** or both, as the member or his personal representatives or assigns may direct.

Textual Amendments

F258 Words in Sch. 20 para. 7(2) substituted (3.5.1994 with effect for the year 1992-93 and subsequent years of assessment) by 1994 c. 9, s. 228, **Sch. 21 para. 12(2)(3)**

Entitlement of member for tax purposes

[F259**8** (1) Subject to sub-paragraph (2) **[**F260and paragraph 11(2)-(4)**]**below, a member shall be treated for the purposes of the Income Tax Acts and the Gains Tax Acts as absolutely entitled as against the trustees to the assets forming part of his special reserve fund.

(2) Where an asset is disposed of by a member to the trustees of his special reserve fund, nothing in sub-paragraph (1) above shall affect the operation of the Gains Tax Acts in relation to that disposal.**]**

Textual Amendments

F259 Sch. 20 para. 8 substituted (3.5.1994 with effect for the year 1994-95 and subsequent years of assessment) by 1994 c. 9, s. 228, **Sch. 21 para. 13**

F260 Words in Sch. 20 para. 8 inserted (31.12.1999 with effect for the year 2000-01 and subsequent years of assessment and in relation to payments and transfers of assets made on or after 1.1.2000) by S.I. 1999/3308, **regs. 1**, 4

Tax exemption for profits arising from assets of fund

9 (1) Profits or losses arising from assets forming part of a special reserve fund shall be excluded for the purposes of income tax under the Income Tax Acts, and for the purposes of capital gains tax under the Gains Tax Acts.

(2) Where for any underwriting year income tax has been deducted from any profits arising from assets forming part of a special reserve fund, the fund manager may, at any time after the end of that year, claim repayment of that tax.

F261(3) . . . . . .

Textual Amendments

F261 Sch. 20 para. 9(3) repealed (31.7.1997 with effect in relation to distributions made on or after 6.5.1999) by 1997 c. 58, ss. 34, 52, Sch. 4 Pt. II para. 30(1)(a)(2), **Sch. 8 Pt. II(10)** Note

Tax consequences of payments into and out of fund

[F262**10** (1) In computing for the purposes of income tax the profits of a member's underwriting business for any year of assessment, the aggregate amount of any payments which, in respect of the **[**F263relevant**]** underwriting year, are made into his special reserve fund under paragraph 3(1) above shall be deducted as an expense.

(2) In computing for the purposes of income tax the profits of a member's underwriting business for any year of assessment—

(a) the aggregate amount of any payments which, in respect of the **[**F263relevant**]** underwriting year, are made out of his special reserve fund under paragraph 4(1) or 5(1) above shall be treated as a trading receipt; and

(b) the aggregate amount of any payments which, in respect of that year, are made into that fund under paragraph 4(2) or (3) or 5(4) above shall be deducted as an expense.

(3) In computing for the purposes of income tax the profits of a member's underwriting business for any year of assessment, the aggregate amount of any payments which, as a result of the repayment of stop-loss payments in the **[**F263relevant**]** underwriting year, are made out of his special reserve fund under paragraph 4(6) or 5(7) above shall be treated as a trading receipt.

(4) In computing for the purposes of income tax the profits of a member's underwriting business for any year of assessment, the aggregate amount of any payments which, in respect of the **[**F263relevant**]** underwriting year's closing year, are made out of his special reserve fund under paragraph 6(2) above **[**F264(including where they are also made under paragraph 7(1) above)**]**shall be treated as a trading receipt.

F265 **[** (5) In this paragraph "the relevant underwriting year", in relation to a year of assessment, means the underwriting year next but two before its corresponding underwriting year.**]]**

Textual Amendments

F262 Sch. 20 para. 10 omitted (3.5.1994) (*temp.* for the years 1994-95, 1995-96 and 1996-97) by virtue of 1994 c. 9, s. 228, **Sch. 21 para. 14(3)**

F263 Words in Sch. 20 para. 10(1)-(4) substituted (3.5.1994 but without effect for the years 1994-95, 1995-96 and 1996-97) by 1994 c. 9, s. 228, **Sch. 21 para. 14(1)(3)**

F264 Words in Sch. 20 para. 10(4) substituted (31.12.1999 with effect for the year 2000-01 and subsequent years of assessment and in relation to payments and transfers of assets made on or after 1.1.2000) by S.I. 1999/3308, **reg. 5**

F265 Sch. 20 para. 10(5) inserted (3.5.1994 but without effect for the years 1994-95, 1995-96 and 1996-97) by 1994 c. 9, s. 228, **Sch. 21 para. 14(2)(3)**

Modifications etc. (not altering text)

C34 Sch. 20 paras. 10 modified (9.3.1995 with effect for the year 1997-98 and subsequent years of assessment) by S.I. 1995/353, **reg. 7(1)(3)(b)**

Tax consequences of cessation

11 (1) This paragraph applies where a member ceases to carry on his underwriting business,whether by reason of death or otherwise.

F266 (2) In computing for the purposes of income tax the profits of the member's underwriting business for **[**F267the relevant year of assessment**]**, any payment under paragraph 7(1) above **[**F268(except where they are also made under paragraph 6(2) above)**]**which is made to him or his personal representatives or assigns out of his special reserve fund shall be treated—

(a) **[**F269subject to sub-paragraph (2A) below,**]** as made immediately after the end of **[**F267the relevant underwriting year**]**; and

(b) as being a **[**F270single**]** trading receipt of an amount equal to that mentioned in sub-paragraph (3) below.

[F271(2A) Where the member ceases to carry on his underwriting business by reason of his death, any payment falling within sub-paragraph (2) above shall be treated, for the purposes of sections 59C and 86 of the Management Act F272, as if made immediately after the commencement of his final year of assessment.**]**

(3) The amount referred to in sub-paragraph (2) above is the value of the fund, as determined under paragraph 6(1) above for **[**F273the penultimate underwriting year**]** and—

(a) as reduced by the aggregate amount of any payments under paragraph 4(1) or (6) or 5(1) or (7) above made after the end of that year;

(b) as increased by the aggregate amount of any payments under paragraph **[**F274**]**3(1),**]**4(2) or (3) or 5(4) above so made; F275. . .

(c) as increased by the amount of any tax repayment F276. . . under paragraph 9(2) F276. . . above after the end of that year.

[F277(d) as increased by an amount equal to any profits, and reduced by an amount equal to any losses, arising to the trustees from assets after the end of that year (excluding any gains or losses on assets whose transfer is treated as an acquisition by sub-paragraph (4)(a) or (b) below); and

(e) as increased by the aggregate amount of any payments made—

(i) by the trustees to the member or his personal representatives or assigns,

(ii) out of his special reserve fund under paragraph 7(1) above (except where they are also made under paragraph 6(2) above), or otherwise than out of his special reserve fund, and

(iii) before the end of that year,

and for this purpose the amount of any payment which is made by way of the transfer of an asset shall be taken to be the market value of the asset at the date of the transfer and "market value" shall be construed in accordance with section 272 of the Taxation of Chargeable Gains Act 1992 F278.**]**

(4) Where an asset is transferred to the member or his personal representatives or assigns under paragraph 7(1) above **[**F279or otherwise than out of his special reserve fund**]**, the transfer shall be treated, for the purposes of the Gains Tax Acts **[**F280—

(a) in a case where the asset was held by the trustees at the end of the penultimate underwriting year, as an acquisition of the asset by the member or his personal representatives or assigns at the end of that year for a consideration equal to its market value at that time;

(b) in a case where the asset was acquired by the trustees after the end of the penultimate underwriting year, as an acquisition of the asset by the member or his personal representatives or assigns, at the date on which, and for the consideration for which, the asset was acquired by the trustees; and

(c) in a case where the asset was both acquired by the trustees and transferred by them to the member or his personal representatives or assigns before the end of the penultimate underwriting year, as an acquisition of the asset by the member

or his personal representatives or assigns at the date of the transfer and for a consideration equal to its market value at that time.**]**

[F281(5) In this paragraph, subject to the provisions of any regulations made by the Board—

"the penultimate underwriting year" means the underwriting year **[**F282corresponding to the year of assessment immediately preceding the member's final year of assessment;**]**

[F283"the relevant underwriting year" means—

(a) where a member dies before the occurrence of any of the events specified in sub–paragraph (6) below, the underwriting year immediately preceding that corresponding to the relevant year of assessment; and

(b) in any other case, the underwriting year corresponding to the year of assessment immediately preceding the member's final year of assessment.**]**

"the relevant year of assessment" means—

(a) **[**F284where a member dies before the occurrence of any of the events specified in sub-paragraph (6) below, the year of assessment at the end of which he is treated, by virtue of section 179A(2) of this Act F285, as having died;**]**

(b) in any other case, his final year of assessment.**]**

[F286(6) For the purposes of the definitions of "the relevant underwriting year" and "the relevant year of assessment" in sub–paragraph (5) above the events specified before the occurrence of which a member dies are the following—

(a) the member's deposit at Lloyd's is paid over to him or his assigns, or to a person other than the member or his assigns;

(b) the member or another person is released from any arrangement entered into by the member or that person in order to satisfy the requirement on the part of the member to provide a deposit at Lloyd's;

(c) the last open year of account of any syndicate of which he was a member is closed.

(7) For the purposes of sub–paragraph (6)(c) above, the last open year of account of any syndicate of which a person was a member shall be regarded as having closed either—

(a) when the member is treated under the rules or practice of Lloyd's as having been discharged of all his liabilities in relation to that syndicate, whether by the syndicate closing its accounts or by the member or his personal representatives or assigns entering into a quota share contract, or

(b) in a case where the member entered, or his personal representatives or assigns have entered, into a quota share contract before the end of the closing year of the syndicate, at the end of the underwriting year in which the contract was made.**]**

Textual Amendments

F266 By S.I. 1999/3308, **reg. 6(2)(a)**, it is provided that for the words "any payment which is" there shall be substituted (31.12.1999 with effect for the year 2000-01 and subsequent years of assessment and in relation to payments and transfers of assets made on or after 1.1.2000) the words "the aggregate of any payments which are"

F267 Words in Sch. 20 para. 11(2) substituted (3.5.1994 with effect for the year 1994-95 and subsequent years of assessment) by 1994 c. 9, s. 228, **Sch. 21 para. 15(1)**

F268 Words in Sch. 20 para. 11(2) inserted (31.12.1999 with effect for the year 2000-01 and subsequent years of assessment and in relation to payments and transfers of assets made on or after 1.1.2000) by S.I. 1999/3308, **reg. 6(2)(b)**

F269 Words in Sch. 20 para. 11(2)(a) inserted (31.12.1999 with effect for the year 2000-01 and subsequent years of assessment and in relation to payments and transfers of assets made on or after 1.1.2000) by S.I. 1999/3308, **reg. 6(2)(c)**

F270 Word in Sch. 20 para. 11(2)(b) inserted (31.12.1999 with effect for the year 2000-01 and subsequent years of assessment and in relation to payments and transfers of assets made on or after 1.1.2000) by S.I. 1999/3308, **reg. 6(2)(d)**

F271 Sch. 20 para. 11(2A) inserted (31.12.1999 with effect for the year 2000-01 and subsequent years of assessment and in relation to payments and transfers of assets made on or after 1.1.2000) by S.I. 1999/3308, **reg. 6(3)**

F272 1970 c.9; section 59C was inserted by section 194 of the Finance Act 1994, and amended by section 109(1) of the Finance Act 1995. Section 86 was substituted by section 110(1) of the Finance Act 1995.

F273 Words in Sch. 20 para. 11(3) substituted (3.5.1994 with effect for the year 1994-95 and subsequent years of assessment) by 1994 c. 9, s. 228, **Sch. 21 para. 15(2)**

F274 Words in Sch. 20 para. 11(3)(b) inserted (31.12.1999 with effect for the year 2000-01 and subsequent years of assessment and in relation to payments and transfers of assets made on or after 1.1.2000) by S.I. 1999/3308, **reg. 6(4)(a)**

F275 Word in Sch. 20 para. 11(3) omitted (31.12.1999 with effect for the year 2000-01 and subsequent years of assessment and in relation to payments and transfers of assets made on or after 1.1.2000) by virtue of S.I. 1999/3308, **reg. 6(4)(b)**

F276 Words in Sch. 20 para. 11(3)(c) repealed (31.7.1997 with effect in relation to distributions made on or after 6.5.1999) by 1997 c. 58, ss. 34, 52, Sch. 4 Pt. II para. 30(1)(b)(2), **Sch. 8 Pt. II(10)** Note

F277 Sch. 20 para. 11(3)(d)(e) added (31.12.1999 with effect for the year 2000-01 and subsequent years of assessment and in relation to payments and transfers of assets made on or after 1.1.2000) by S.I. 1999/3308, **reg. 6(4)(d)(e)**

F278 1992 c.12; section 272 was amended by paragraph 12 of Schedule 38 to the Finance Act 1996 (c.8).

F279 Words in Sch. 20 para. 11(4) inserted (31.12.1999 with effect for the year 2000-01 and subsequent years of assessment and in relation to payments and transfers of assets made on or after 1.1.2000) by S.I. 1999/3308, **reg. 6(5)(a)**

F280 Words in Sch. 20 para. 11(4) substituted (31.12.1999 with effect for the year 2000-01 and subsequent years of assessment and in relation to payments and transfers of assets made on or after 1.1.2000) by S.I. 1999/3308, **reg. 6(5)(b)**

F281 Sch. 20 para. 11(5) substituted (3.5.1994 with effect for the year 1994-95 and subsequent years of assessment) by 1994 c. 9, s. 228, **Sch. 21 para. 15(3)**

F282 Words in Sch. 20 para. 11(5) substituted (9.3.1995 with effect for the year 1994-95 and subsequent years of assessment) by S.I. 1995/353, **reg. 8(2)(6)**

F283 Definition in Sch. 20 para. 11(5) substituted (9.3.1995 with effect for the year 1994-95 and subsequent years of assessment) by S.I. 1995/353, **reg. 8(3)(6)**

F284 Words in Sch. 20 para. 11(5) substituted (9.3.1995 with effect for the year 1994-95 and subsequent years of assessment) by S.I. 1995/353, **reg. 8(4)(6)**

F285 Section 179A of the Finance Act 1993 was inserted by paragraph 6(2) of Schedule 21 to the Finance Act 1994.

F286 Sch. 20 para. 11(6)-(7) added (9.3.1995 with effect for the year 1994-95 and subsequent years of assessment) by S.I. 1995/353, **reg. 8(5)(6)**

PART II

WINDING UP OF OLD-STYLE FUNDS

Preliminary

12 (1) In this Part of this Schedule—

"new-style fund" means a special reserve fund set up under the arrangements mentioned in section 175(1) of this Act;

"old-style fund" means a special reserve fund set up under the arrangements mentioned in section 452(1) of the Taxes Act 1988;

"the relevant period", in relation to an old-style fund, means the period of three months beginning with the closing date.

(2) For the purposes of sub-paragraph (1) above, the closing date for an old-style fund shall be the earliest date on which each of the following has occurred as respects the year 1991-92 and earlier years of assessments, namely—

(a) the time for making any payments into the fund under section 452(5) of the Taxes Act 1988 has expired, or the member has given notice to the inspector that he will not be making any (or any further) such payments; and

(b) any payments required by section 453(1) of that Act to be made out of the fund have been so made.

Winding up of old-style funds

13 (1) A member may, at any time before the end of the relevant period, direct that so much of the capital of any old-style fund of his as represents sums paid into it under section 452(5) of the Taxes Act 1988 shall be transferred, at the end of that period, into his new-style fund; [F287]. . .

(2) Where an amount of capital is transferred into a member's new-style fund under sub-paragraph (1) above, there shall be paid into that fund by the Board an amount equal to the amount of tax which, if the amount transferred were a net amount corresponding to a gross amount from which income tax had been duly deducted at the basic rate for the year 1992-93, would have been so deducted.

(3) If a member does not give a direction under sub-paragraph (1) above in relation to any old-style fund of his, so much of the capital of that fund as represents sums paid into it under section 452(5) of the Taxes Act 1988 shall be paid over, at the end of the relevant period, to the member or his personal representatives or assigns.

(4) In either event, the remaining capital of any old-style fund of a member shall be paid over, at the end of the relevant period, to the member or his personal representatives or assigns.

(5) For the purposes of sub-paragraphs (1) and (3) above, any payments made out of an old-style fund under section 453(1) of the Taxes Act 1988 shall be treated as having been met, so far as possible, out of payments made into the fund under section 452(5) of that Act.

[[F288](6) A transfer or payment under this paragraph of an amount of capital shall be in money or in assets forming part of the fund or both, as the member may direct.**]**

Textual Amendments

F287 Words in Sch. 20 para. 13(1) repealed (3.5.1994 with effect for the year 1992-93 and subsequent years of assessment) by 1994 c. 9, ss. 228, 258, Sch. 21 para. 16(1)(3), **Sch. 26 Pt. V(25)** Note 6

F288 Sch. 20 para. 13(6) inserted (3.5.1994 with effect for the year 1992-93 and subsequent years of assessment) by 1994 c. 9, s. 228, **Sch. 21 para. 16(2)(3)**

Tax consequences of winding up

14 (1) Where an asset is transferred into a member's new-style fund under paragraph 13(1) above, the transfer shall be treated, for the purposes of the Gains Tax Acts, to be a disposal of the asset by the member for a consideration equal to its market value.

(2) Sub-paragraph (3) below applies where an amount is paid over to the member or his personal representatives or assigns under paragraph 13(3) above.

(3) In computing for the purposes of income tax the profits of the member's underwriting business for the year 1992-93, it shall be assumed—

(a) that the amount paid were a net amount corresponding to a gross amount from which income tax had been duly deducted at the basic rate for that year; and

(b) that the corresponding gross amount were a trading receipt for that year.

[F289SCHEDULE 20A

Section 179B

LLOYD'S UNDERWRITERS: CONVERSION TO LIMITED LIABILITY UNDERWRITING

Textual Amendments

F289 Sch. 20A inserted (22.7.2004) by Finance Act 2004 (c. 12), **Sch. 25 para. 3**

PART 1

CONVERSION TO UNDERWRITING THROUGH SUCCESSOR COMPANIES

Introduction

1 (1) This Part of this Schedule applies if the following conditions are satisfied.

(2) Condition 1 is that—

(a) a member gives notice of his resignation from membership of Lloyd's in accordance with the rules or practice of Lloyd's,

(b) in accordance with such rules or practice, the member does not undertake any new insurance business at Lloyd's after the end of the member's last underwriting year, and

(c) the member does not withdraw that notice.

(3) Condition 2 is that all of the member's outstanding syndicate capacity is disposed of by the member under a conversion arrangement to a successor company ("the syndicate capacity disposal") with effect from the beginning of the underwriting year next following the member's last underwriting year.

(4) Condition 3 is that, immediately before the syndicate capacity disposal,—

(a) the member controls the successor company, and

(b) more than 50% of the ordinary share capital of the successor company is beneficially owned by the member.

(5) Condition 4 is that the syndicate capacity disposal is made in consideration solely of the issue to the member of shares in the successor company.

(6) Condition 5 is that the successor company starts to carry on its underwriting business in the underwriting year ("the successor company's first underwriting year") next following the member's last underwriting year.

(7) In this paragraph "the member's last underwriting year", in relation to a member who gives notice of his resignation from membership of Lloyd's, means the underwriting year during which, or at the end of which, he ceases to be an underwriting member and becomes a non-underwriting member in accordance with the rules or practice of Lloyd's.

(8) In this paragraph "outstanding syndicate capacity", in relation to a member, means the syndicate capacity of the member other than any which—

(a) the member disposes of to a person other than a successor member at or before the end of the member's last underwriting year, or

(b) ceases to exist with effect from the end of that year.

Income tax: carry forward of loss relief following conversion

2 (1) This paragraph applies if—

(a) the member's total income for a year of assessment includes any income derived by the member from the successor company (whether by way of dividends on the shares issued to the member or otherwise), and

(b) throughout the period beginning with the time of the syndicate capacity disposal and ending with the end of that year of assessment,—

(i) the member controls the successor company, and

(ii) more than 50% of the ordinary share capital of the successor company is beneficially owned by the member.

(2) The carry-forward provision shall apply as if the income so derived were profits on which the member was assessed under **[**F290Part 2 of the Income Tax (Trading and Other Income) Act 2005**]** in respect of the member's underwriting business for that year.

(3) But where under the carry-forward provision as applied by sub-paragraph (2) above a loss falls to be deducted from or set off against any income for any year of assessment, the deduction or set-off shall be made in the first place against that part, if any, of the income in respect of which the member has been, or is liable to be, assessed to tax for that year.

(4) In this paragraph "the carry-forward provision" means section 385 of the Taxes Act 1988 (carry-forward of trading losses against subsequent profits).

Textual Amendments

F290 Words in Sch. 20A para. 2(2) substituted (with effect in accordance with s. 883(1) of the amending Act) by Income Tax (Trading and Other Income) Act 2005 (c. 5), s. 883(1), **Sch. 1 para. 466(2)** (with Sch. 2)

Capital gains tax: roll-over relief on disposal of syndicate capacity

3 (1) This paragraph applies if—

(a) the aggregate of any chargeable gains accruing to the member on the syndicate capacity disposal exceeds the aggregate of any allowable losses accruing to him on that disposal, and

(b) the member makes a claim under this paragraph to an officer of the Board.

(2) The amount of the excess mentioned in sub-paragraph (1)(a) above ("the amount of the syndicate capacity gain") shall for the purposes of capital gains tax be reduced by the amount of the rolled-over gain.

(3) For the purpose of computing any chargeable gain accruing to the member on a disposal by him of any issued share or any asset directly or indirectly derived from any issued share—

(a) the amount of the rolled-over gain shall be apportioned between the issued shares as a whole, and

(b) the sums allowable as a deduction under section 38(1)(a) of the Gains Tax Act shall be reduced by the amount apportioned to the issued share under paragraph (a) above; but, in the case of a derived asset, the reduction shall be by an appropriate proportion of that amount;

and if the issued shares are not all of the same class, the apportionment between the shares under paragraph (a) above shall be in accordance with their market values at the time they were acquired by the member.

(4) In this paragraph "the amount of the rolled-over gain" means the lesser of—

(a) the amount of the syndicate capacity gain, and

(b) the aggregate amount of any sums which would be allowable as a deduction under section 38(1)(a) of the Gains Tax Act if the issued shares were disposed of as a whole by the member in circumstances giving rise to a chargeable gain.

(5) In this paragraph the "issued shares" means the shares in the successor company issued to the member in consideration for the syndicate capacity disposal.

Capital gains tax: roll-over relief on disposal of assets of ancillary trust fund

4 (1) This paragraph applies if—

(a) at the time of, or after, the syndicate capacity disposal, assets forming some or all of the member's ancillary trust fund are—

(i) withdrawn from the fund, and

(ii) without unreasonable delay, disposed of by him to the successor company (the "ATF disposal"),

(b) the aggregate of any chargeable gains accruing to the member on the ATF disposal exceeds the aggregate of any allowable losses accruing to him on that disposal,

(c) throughout the period beginning with the time of the syndicate capacity disposal and ending with the time of the ATF disposal,—

(i) the member controls the successor company, and

(ii) more than 50% of the ordinary share capital of the successor company is beneficially owned by the member,

(d) the ATF disposal is made in consideration solely of the issue to the member of shares (the "issued shares") in the successor company, and

(e) the member makes a claim under this paragraph to an officer of the Board.

(2) But this paragraph does not apply if—

(a) the member could have made a claim under paragraph 3 above, and

(b) at the time the member makes a claim under this paragraph, no claim under paragraph 3 above is or has been made by him.

(3) The amount of the excess mentioned in sub-paragraph (1)(b) above ("the amount of the ATF assets gain") shall for the purposes of capital gains tax be reduced by the amount of the rolled-over gain.

(4) For the purpose of computing any chargeable gain accruing to the member on a disposal by him of any issued share or any asset directly or indirectly derived from any issued share—

(a) the amount of the rolled-over gain shall be apportioned between the issued shares as a whole, and

(b) the sums allowable as a deduction under section 38(1)(a) of the Gains Tax Act shall be reduced by the amount apportioned to the issued share under paragraph (a) above; but, in the case of a derived asset, the reduction shall be by an appropriate proportion of that amount;

and if the issued shares are not all of the same class, the apportionment between the shares under paragraph (a) above shall be in accordance with their market values at the time they were acquired by the member.

(5) In this paragraph "the amount of the rolled-over gain" means the lesser of—

(a) subject to sub-paragraph (6) below, the amount of the ATF assets gain, and

(b) the aggregate amount of any sums which would be allowable as a deduction under section 38(1)(a) of the Gains Tax Act if the issued shares were disposed of as a whole by the member in circumstances giving rise to a chargeable gain.

(6) If the market value, immediately before the ATF disposal, of the assets disposed of under that disposal exceeds the amount of the ATF assets required, the amount of the ATF assets gain shall for the purposes of sub-paragraph (5)(a) above be reduced by multiplying it by—

$$\frac{R}{T}$$

where—

R is the amount of the ATF assets required, and

T is the market value, immediately before the ATF disposal, of the assets disposed of under that disposal.

(7) In sub-paragraph (6) above "the amount of the ATF assets required" means the lesser of—

(a) the amount of security required to be provided by the member in respect of his underwriting business in the member's last underwriting year, and

(b) the amount of security required to be provided by the successor company in respect of its underwriting business in the successor company's first underwriting year.

(8) This paragraph applies only on the first occasion on or after 6th April 2004 on which the member makes an ATF disposal.

(9) If a claim made by the member under paragraph 3 above is revoked, this paragraph shall apply as if the claim had never been made.

Interpretation of this Part of this Schedule

5 (1) In this Part of this Schedule—

"control" shall be construed in accordance with section 416 of the Taxes Act 1988;

"ordinary share capital" has the meaning given by section 832 (1) of the Taxes Act 1988;

"successor company" means a corporate member (within the meaning of Chapter 5 of Part 4 of the Finance Act 1994) which is a successor member;

"the member's last underwriting year" has the meaning given by paragraph 1(7) above;

"the successor company's first underwriting year" has the meaning given by paragraph 1(6) above;

"the syndicate capacity disposal" has the meaning given by paragraph 1(3) above;

"underwriting business", in relation to a successor company, has the same meaning as in Chapter 5 of Part 4 of the Finance Act 1994.

(2) For the purposes of this Part of this Schedule, shares comprised in any letter of allotment or similar instrument shall be treated as issued unless—

(a) the right to the shares conferred by it remains provisional until accepted, and

(b) there has been no acceptance.

(3) Paragraphs 3 and 4 above (and paragraph 1 above so far as relating to those paragraphs) are to be construed as one with the Gains Tax Act.

PART 2

CONVERSION TO UNDERWRITING THROUGH SUCCESSOR PARTNERSHIPS

Introduction

6 (1) This Part of this Schedule applies if the following conditions are satisfied.

(2) Condition 1 is that—

(a) a member gives notice of his resignation from membership of Lloyd's in accordance with the rules or practice of Lloyd's,

(b) in accordance with such rules or practice, the member does not undertake any new insurance business at Lloyd's after the end of the member's last underwriting year, and

(c) the member does not withdraw that notice.

(3) Condition 2 is that all of the member's outstanding syndicate capacity is disposed of by the member under a conversion arrangement to a successor partnership ("the syndicate capacity disposal") with effect from the beginning of the underwriting year next following the member's last underwriting year.

(4) Condition 3 is that the member is the only person who disposes of syndicate capacity under a conversion arrangement to the successor partnership.

(5) Condition 4 is that the successor partnership starts to carry on its underwriting business in the underwriting year next following the member's last underwriting year.

(6) In this paragraph "the member's last underwriting year", in relation to a member who gives notice of his resignation from membership of Lloyd's, means the underwriting year during which, or at the end of which, he ceases to be an underwriting member and becomes a non-underwriting member in accordance with the rules or practice of Lloyd's.

(7) In this paragraph "outstanding syndicate capacity", in relation to a member, means the syndicate capacity of the member other than any which—

(a) the member disposes of to a person other than a successor member at or before the end of the member's last underwriting year, or

(b) ceases to exist with effect from the end of that year.

Income tax: carry forward of loss relief following conversion

7 (1) This paragraph applies if—

(a) the member's total income for a year of assessment includes profits of the successor partnership's underwriting business, and

(b) throughout the period beginning with the time of the syndicate capacity disposal and ending with the end of that year of assessment, the member is beneficially entitled to more than 50% of the profits of that business.

(2) Section 385 of the Taxes Act 1988 (carry-forward of trading losses against subsequent profits) shall have effect, in its application in relation to the losses of the old underwriting business, as if the profits of the successor partnership's underwriting business to which the member is beneficially entitled for that year were profits on which the member was assessed under **[**[F291] Part 2 of the Income Tax (Trading and Other Income) Act 2005 **]** in respect of the old underwriting business for that year.

(3) In sub-paragraph (2) above "the old underwriting business" means the member's underwriting business carried on otherwise than through the successor partnership.

Textual Amendments

F291 Words in Sch. 20A para. 7(2) substituted (6.4.2005) by Income Tax (Trading and Other Income) Act 2005 (c. 5), s. 883(1), **Sch. 1 para. 466(3)** (with Sch. 2)

Interpretation of this Part of this Schedule

8 In this Part of this Schedule—

"successor partnership" means a limited partnership formed under the law of Scotland which is a successor member;

"the syndicate capacity disposal" has the meaning given by paragraph 6(3) above.

PART 3

SUPPLEMENTARY PROVISIONS

Withdrawal of resignation notice

9 (1) This paragraph applies if a member—

(a) makes a claim for relief under or by virtue of this Schedule, and

(b) subsequently withdraws the notice of his resignation from membership of Lloyd's.

(2) The member must give written notice of such withdrawal to an officer of the Board.

(3) Such a notice must be given no later than six months from the date of the withdrawal of the notice of resignation.

(4) All such adjustments shall be made, whether by discharge or repayment of tax, the making of assessments or otherwise, as are required as a result of the withdrawal of the notice of resignation (notwithstanding any limitation on the time within which any adjustment may be made).

(5) If a member fails, fraudulently or negligently, to comply with sub-paragraphs (2) and (3) above, section 95 of the Taxes Management Act 1970 shall apply to him as if he had fraudulently or negligently made an incorrect return, statement or declaration in connection with the claim for relief made by him under or by virtue of this Schedule.

(6) In this paragraph "tax" means income tax, capital gains tax or inheritance tax.

Interpretation of this Schedule

10 In this Schedule—

"conversion arrangement" means a conversion arrangement made under the rules or practice of Lloyd's;

"successor member" has the meaning given by the rules or practice of Lloyd's;

"syndicate capacity", in relation to a member, means an asset comprising the rights of the member under a syndicate in which he participates.

Application of this Schedule

11 (1) Paragraphs 2 and 3 above (and the other provisions of this Schedule so far as relating to those paragraphs) have effect in relation to syndicate capacity disposals (within the meaning of Part 1 of this Schedule) made on or after 6th April 2004.

(2) Paragraph 4 above (and the other provisions of this Schedule so far as relating to that paragraph) have effect in relation to ATF disposals (within the meaning of that paragraph) made on or after 6th April 2004 (even if the syndicate capacity disposal mentioned in that paragraph was made before that date).

(3) Paragraph 7 above (and the other provisions of this Schedule so far as relating to that paragraph) have effect in relation to syndicate capacity disposals (within the meaning of Part 2 of this Schedule) made on or after 6th April 2004.**]**

SCHEDULE 21

Section 187.

OIL TAXATION: SUPPLEMENTARY PROVISIONS ABOUT INFORMATION

PART I

RESTRICTIONS ON POWERS UNDER SECTION 187

1 References in this Part of this Schedule to subsection (2), subsection (3) or subsection (5) are references to those subsections of section 187 of this Act.

2 Before a notice is given to a person by the Board under subsection (2), subsection (3) or subsection (5), the person must have been given a reasonable opportunity to deliver (or, in the case of subsection (3), to deliver or make available) the documents in question or to furnish the particulars in question; and the Board must not apply for consent under subsection (5) until the person has been given that opportunity.

3 (1) Subject to sub-paragraph (2) below, where a notice is given to any person under subsection (3), the Board shall give a copy of the notice to the taxpayer to whom it relates.

(2) If, on an application by the Board, a Special Commissioner so directs, a copy of a notice under subsection (3) need not be given to the taxpayer to whom it relates; but such a direction shall not be given unless the Commissioner is satisfied that the Board has reasonable grounds for suspecting the taxpayer of fraud.

4 (1) A notice under subsection (2) does not oblige a person to deliver documents or furnish particulars relating to the conduct of any pending appeal by him.

(2) A notice under subsection (3) or subsection (5) does not oblige a person to deliver or make available documents relating to the conduct of a pending appeal by the taxpayer.

(3) In this paragraph, "appeal" means appeal relating to tax.

5 To comply with a notice under subsection (2), and as an alternative to delivering documents to comply with a notice under subsection (3) or subsection (5), copies of documents may be delivered instead of the originals; but—

(a) the copies must be photographic or otherwise by way of facsimile; and

(b) if so required by the Board in the case of any documents specified in the requirement, the originals must be made available for inspection by a named officer of the Board (failure to comply with this requirement counting as failure to comply with the notice).

6 (1) A notice under subsection (3) does not oblige a person to deliver or make available any document the whole of which originates more than six years before the date of the notice.

(2) Sub-paragraph (1) above does not apply where the notice is so expressed as to exclude the restrictions of that sub-paragraph; and it can only be so expressed where the Board has applied to a Special Commissioner for, and obtained, his approval.

(3) For the purpose of sub-paragraph (2) above, the Commissioner shall give approval only if satisfied, on the Board's application, that there is reasonable ground for believing that tax has, or may have been, lost to the Crown owing to the fraud of the taxpayer.

7 A notice under subsection (3) or subsection (5) does not oblige a barrister, advocate or a solicitor to deliver or make available, without his client's consent, any document with respect to which a claim to professional privilege could be maintained.

8 (1) Subject to paragraphs 9 and 10 below, a notice under subsection (3) or subsection (5) —

(a) does not oblige a person who has been appointed as an auditor for the purposes of any enactment to deliver or make available documents which are his property and were created by him or on his behalf for or in connection with the performance of his functions under that enactment; and

(b) does not oblige a tax adviser to deliver or make available documents which are his property and consist of relevant communications.

(2) In sub-paragraph (1) above "relevant communications" means communications between the tax adviser and—

(a) a person in relation to whose tax affairs he has been appointed, or

(b) any other tax adviser of such a person,

the purpose of which is the giving or obtaining of advice about any of those tax affairs; and in this paragraph "tax adviser" means a person appointed to give advice about the tax affairs of another person (whether appointed directly by that other person or by another tax adviser of his).

9 (1) Subject to paragraph 11 below, paragraph 8 above shall not have effect in relation to any document which contains information explaining any information, return, accounts or other document which the person to whom the notice is given has, as tax accountant, assisted any client of his in preparing for, or delivering to, the Board.

(2) For the purposes of this paragraph, a person stands in relation to another as a tax accountant at any time when he assists the other in the preparation or delivery of any information, return, accounts or other document which he knows will be, or is or are likely to be, used for any purpose of tax; and his clients are those to whom he stands or has stood in that relationship.

10 Subject to paragraph 11 below, in the case of a notice under subsection (5), paragraph 8 above shall not have effect in relation to any document which contains information giving the identity or address of any taxpayer to whom the notice relates or of any person who has acted on behalf of any such person.

11 Paragraph 8 above is not disapplied by paragraph 9 or paragraph 10 above in the case of any document if—

(a) the information within paragraph 9 or paragraph 10 is contained in some other document; and

(b) either—

(i) that other document, or a copy of it, has been delivered to the Board, or

(ii) that other document has been inspected by an officer of the Board.

12 Where paragraph 8 above is disapplied by paragraph 9 or paragraph 10 above in the case of a document, the person to whom the notice is given either shall deliver the document to the Board or make it available for inspection by an officer of the Board or shall—

(a) deliver to the Board a copy (which is photographic or otherwise by way of facsimile) of any parts of the document which contain the information within paragraph 9 or paragraph 10; and

(b) if so required by the Board, make available for inspection by a named officer of the Board such parts of the document as contain that information;

and failure to comply with any requirement under sub-paragraph (b) above shall constitute a failure to comply with the notice.

PART II

MEANING OF "DOCUMENTS"

13 In this Part of this Schedule "the relevant provisions" means subsections (2) to (5) of section 187 of this Act and Part I above.

14 (1) Subject to sub-paragraph (2) below, in the relevant provisions "document"**[**F292means anything in which information of any description is recorded**]**.

(2) In the relevant provisions references to documents do not include—

(a) personal records, as defined in section 12 of the M100Police and Criminal Evidence Act 1984 or, as respects Northern Ireland, in Article 14 of the M101Police and Criminal Evidence (Northern Ireland) Order 1989, or

(b) journalistic material, as defined in section 13 of that Act or, as respects Northern Ireland, in Article 15 of that Order,

and references to particulars do not include particulars contained in such personal records or journalistic material.

(3) Subject to sub-paragraph (2) above, references in the relevant provisions to documents and particulars are to those specified or described in the notice in question, and—

(a) the notice shall require documents to be delivered or made available or particulars to be furnished within such period, being a period of not less than thirty days after the date of the notice, as may be specified in the notice; and

(b) the person to whom they are delivered or made available or furnished may take copies of them or of extracts from them.

Textual Amendments

F292 Words in Sch. 21 para. 14(1) substituted (31.1.1997) by 1995 c. 38, s. 15(1), **Sch. 1 para. 18** (with ss. 1(3), 6(4)(5), 14); S.I. 1996/3217, **art. 2**

Marginal Citations

M100 1984 c. 60.
M101 S.I. 1989/1341 (N.I. 12)

SCHEDULE 22

Section 210.

TRADING FUNDS

Introduction

1 The [M102]Government Trading Funds Act 1973 shall be amended as follows.

Marginal Citations

M102 1973 c. 63.

Reserves

2 (1) The following section shall be inserted after section 2—

"**2AA Initial reserves.**

(1) An order providing for any assets and liabilities to be appropriated as assets and liabilities of a trading fund may make—

(a) provision for any part of the amount by which the values of the assets exceed the amounts of the liabilities to be treated as reserves in the accounts of the trading fund, and

(b) provision about the maintenance of such reserves.

(2) For the purposes of subsection (1) above "reserves" means reserves whether general, capital or otherwise; and an order may provide for different kinds of reserves.

(3) Nothing in subsection (1) above shall prejudice the operation of section 4(2) of this Act in relation to a trading fund; and nothing in section 4(2) of this Act shall prejudice the operation of subsection (1) above in relation to a trading fund.

(4) This section applies in relation to an order made after the day on which the Finance Act 1993 was passed."

(2) In section 2(3) (originating debt where fund established) in paragraph (b) after "capital" there shall be inserted " or any amount treated by virtue of the order as reserves or (where the order provides for both public dividend capital and reserves) the aggregate of those amounts ".

(3) In section 2(4) (addition to originating debt where additional assets and liabilities appropriated to fund) in paragraph (b) after "capital" there shall be inserted " for any amount treated by virtue of the order as reserves or (where the order provides for both public dividend capital and reserves) the aggregate of those amounts ".

Public dividend capital etc.

3 In section 2A (public dividend capital) the following subsection shall be inserted after subsection (2) (limited power of Minister to issue public dividend capital to fund)—

"(2A) If the responsible Minister considers it appropriate to do so, he may with Treasury concurrence issue out of money provided by Parliament an amount to the fund as public dividend capital; and this subsection shall have effect instead of subsection (2) above after the day on which the Finance Act 1993 was passed."

Maximum borrowing etc.

4 (1) The following section shall be inserted after section 2B—

"**2C Maximum borrowing etc.**

(1) Where an order made after the day on which the Finance Act 1993 was passed establishes a trading fund, the order shall provide that the aggregate of the following shall not exceed the maximum specified in the order—

(a) the total outstanding at any given time in respect of amounts issued to the fund under section 2B of this Act (other than as originating debt), and

(b) the total at that time constituting public dividend capital issued to the fund under section 2A(2A) of this Act;

and that maximum (or that maximum as varied by a subsequent order) shall be observed accordingly.

(2) Where an order made on or before the day on which the Finance Act 1993 was passed establishes a trading fund, and the order specifies the maximum amount that may be issued to the fund under section 2B of this Act, the order shall be taken to provide that the aggregate of the following shall not exceed that maximum—

(a) the total outstanding at any given time in respect of amounts issued to the fund under section 2B of this Act (other than as originating debt), and

(b) the total at that time constituting public dividend capital issued to the fund under section 2A(2A) of this Act;

and that maximum (or that maximum as varied by a subsequent order) shall be observed accordingly.

(3) The sum of the maxima in force in respect of all trading funds at any time shall not exceed £2,000 million.

(4) The Treasury may by order made by statutory instrument increase or further increase the limit in subsection (3) above by any amount, not exceeding

£1,000 million, specified in the order but not so as to make the limit exceed £4,000 million.

(5) No order under subsection (4) above shall be made unless a draft of a statutory instrument containing it has been laid before the House of Commons and approved by a resolution of that House."

(2) In section 2B (borrowing by funds) subsections (6) to (9) (which are superseded by the new section 2C) shall be omitted.

SCHEDULE 23

Section 213.

REPEALS

PART I

EXCISE DUTIES

Commencement Information

I11 Sch. 23 Pt. I partly in force; Sch. 23 Pt. I partly in force at Royal Assent, Sch. 23 Pt. I(7) in force at 1.2.1994 see S.I. 1993/2842, art. 3(3), otherwise in force in accordance with ss. 4, 11(5), 12(8).

(1) BEER DUTY

Chapter	Short title	Extent of repeal
1979 c. 4.	The Alcoholic Liquor Duties Act 1979.	In section 42, in subsection (2) paragraph (a) and in paragraph (b) the words "or removal to the Isle of Man", and in subsections (3) and (4) the word "remove," in each place where it occurs. Section 43. Section 45(1)(b). Section 51.
1979 c. 58.	The Isle of Man Act 1979.	In Schedule 1, paragraph 30.
1991 c. 31.	The Finance Act 1991.	In Schedule 2, paragraph 10.

These repeals have effect in accordance with section 4 of this Act

(2) BLENDING OF ALCOHOLIC LIQUORS

Chapter	Short title	Extent of repeal
1979 c. 4.	The Alcoholic Liquor Duties Act 1979.	In section 55, paragraph (e) of subsection (5) and the

		word "and" immediately preceding that paragraph, and subsection (5A).

These repeals have effect in accordance with section 5 of this Act.

(3) MIXING OF WINE AND SPIRITS

Chapter	Short title	Extent of repeal
1979 c. 4.	The Alcoholic Liquor Duties Act 1979.	Section 58(2).

This repeal has effect in accordance with section 6 of this Act.

(4) HYDROCARBON OIL DUTY: FUEL SUBSTITUTES

Chapter	Short title	Extent of repeal
1979 c. 5.	The Hydrocarbon Oil Duties Act 1979.	Section 4. Section 7. Section 16. Section 19(6). In section 20AA(1)(a), the words "petrol substitute, spirits used for making power methylated spirits". Section 21(1)(b). In section 27(1), the definitions of "petrol substitute" and "power methylated spirits". Part II of Schedule 3.
1979 c. 8.	The Excise Duties (Surcharges or Rebates) Act 1979.	In section 1(1)(a), the words "(other than power methylated spirits)".
1986 c. 41.	The Finance Act 1986.	In paragraph 4 of Schedule 5, "13".

The power in section 11(5) of this Act applies to these repeals as it applies to that section.

(5) HYDROCARBON OIL DUTY: FUEL MEASUREMENT

Chapter	Short title	Extent of repeal
1979 c. 5.	The Hydrocarbon Oil Duties Act 1979.	Section 2(5). In section 15(1), the words "shown to the satisfaction of the Commissioners to have been".

The power in section 12(8) of this Act applies to these repeals as it applies to that section.

(6) VEHICLES EXCISE DUTY

Chapter	Short title	Extent of repeal
1985 c. 54.	The Finance Act 1985.	In Schedule 2, paragraph 6.
1988 c. 39.	The Finance Act 1988.	Section 4(2).
1989 c. 26.	The Finance Act 1989.	Section 6(6).
1990 c. 29.	The Finance Act 1990.	Section 5(7).
1991 c. 31.	The Finance Act 1991.	Section 4(4).
1992 c. 20.	The Finance Act 1992.	Section 4(3) and (4).

These repeals have effect in relation to licences taken out after 16th March 1993.

(7) REPEALS CONNECTED WITH LOTTERY DUTY

Chapter	Short title	Extent of repeal
1979 c. 2.	The Customs and Excise Management Act 1979.	In section 1(1), in the definition of "the revenue trade provisions of the customs and excise Acts", the word "and" at the end of paragraph (b) and, in the definition of "revenue trader", the word "or" at the end of paragraph (a)(i).
1981 c. 63.	The Betting and Gaming Duties Act 1981.	Section 6(4).
1986 c. 41.	The Finance Act 1986.	In Schedule 4, paragraph 2(2).

These repeals come into force in accordance with section 41 of this Act.

PART II

VALUE ADDED TAX

(1) FUEL AND POWER

Chapter	Short title	Extent of repeal
1983 c. 55.	The Value Added Tax Act 1983.	In Schedule 5, Group 7.

This repeal comes into force in accordance with section 42 of this Act.

(2) FUEL SCALES

Chapter	Short title	Extent of repeal
1986 c. 41.	The Finance Act 1986.	In Schedule 6— (a) in paragraph 2(1) and (2), the words "Subject to paragraph 3 below,", in each place where they occur; and (b) paragraph 3 and the Table B set out after that paragraph.

These repeals have effect in relation to any case where the prescribed accounting period begins after 5th April 1993.

(3) ACQUISITIONS

Chapter	Short title	Extent of repeal
1983 c. 55.	The Value Added Tax Act 1983.	In section 5(9), in the words after paragraph (b), the words from "a supply of goods" to "below or there is". Section 32B. In section 48(1), in the definition of "taxable person", the words "(subject to section 32B(3) above)".
1992 c. 48.	The Finance (No. 2) Act 1992.	In paragraph 6(2) of Schedule 3, paragraph (b) and the word "and" immediately preceding it.

These repeals come into force in accordance with section 44(4) of this Act.

(4) PENALTIES

Chapter	Short title	Extent of repeal
1985 c. 54.	The Finance Act 1985.	Section 13(4). Section 19(2)(b).

The repeal of section 13(4) of the Finance Act 1985 has effect in accordance with paragraph 3(3) of Schedule 2 to this Act and the repeal of section 19(2)(b) of that Act has effect in accordance with paragraph 5(3) of that Schedule.

(5) REPEALS CONNECTED WITH ABOLITION OF CAR TAX

Chapter	Short title	Extent of repeal

1983 c. 55.	The Value Added Tax Act 1983.	In Schedule 4, in paragraph 3A(1) the words "or with car tax" and the word "tax" in the second place where it occurs. In Schedule 4A, in paragraph 2(1) the words "or with car tax" and the word "tax" in the second place where it occurs. In Schedule 7, in paragraph 2(3B) the words "or of a chargeable vehicle within the meaning of the Car Tax Act 1983" and the words "or of such a vehicle".

PART III

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

(1) TEMPORARY RELIEF FOR INTEREST PAYMENTS

Chapter	Short title	Extent of repeal
1988 c. 1.	The Income and Corporation Taxes Act 1988.	Section 354(5) and (6). Section 356D(9). Section 357(4). Section 371. In paragraph 10(1) and (2) of Schedule 7, the words "354(5) and (6)", in each place.

These repeals come into force in accordance with section 57 of this Act.

(2) CHARITIES

Chapter	Short title	Extent of repeal
1990 c. 29.	The Finance Act 1990.	Section 24.
1992 c. 48.	The Finance (No. 2) Act 1992.	Section 26.

1 The repeal of section 24 of the Finance Act 1990 has effect for the year 1993-94 and subsequent years of assessment.

(3) CAR BENEFITS

Chapter	Short title	Extent of repeal
1988 c. 1.	The Income and Corporation Taxes Act 1988.	Section 157(4) and (5).

These repeals have effect for the year 1994-95 and subsequent years of assessment.

(4) CAR FUEL

Chapter	Short title	Extent of repeal
1988 c. 1.	The Income and Corporation Taxes Act 1988.	In section 158(5), the words "or 3".

This repeal has effect for the year 1993-94.

(5) HEAVIER COMMERCIAL VEHICLES (CONSEQUENTIAL REPEAL)

Chapter	Short title	Extent of repeal
1988 c. 1.	The Income and Corporation Taxes Act 1988.	In section 159A(8)(a), the word "but" at the end of sub-paragraph (i).

This repeal has effect for the year 1993-94 and subsequent years of assessment.

(6) TAXATION OF DISTRIBUTIONS

Chapter	Short title	Extent of repeal
1988 c. 1.	The Income and Corporation Taxes Act 1988.	In section 233(1)(c), the words "as income which is not chargeable at the lower rate and".
1992 c. 12.	The Taxation of Chargeable Gains Act 1992.	In section 5(2)(a), the words "(liability to income tax at the additional rate)".
1992 c. 48.	The Finance (No. 2) Act 1992.	In section 19, in subsection (3), the words "233(2)" and, in subsection (4), the words "233(1)(c)".

These repeals have effect for the year 1993-94 and subsequent years of assessment.

(7) RETIREMENT RELIEF ETC.

Chapter	Short title	Extent of repeal
1992 c. 12.	The Taxation of Chargeable Gains Act 1992.	In paragraph 1 of Schedule 6, in sub-paragraph (2), the definitions of "family company", "family" and "relative", and sub-paragraphs (3) and (4).

These repeals come into force in accordance with section 87(2) of this Act.

(8) INSURANCE COMPANIES

Chapter	Short title	Extent of repeal
1988 c. 1.	The Income and Corporation Taxes Act 1988.	Section 432A(10).
1992 c. 12.	The Taxation of Chargeable Gains Act 1992.	In section 212— (a) in subsection (2), the words from "and in relation to" onwards; (b) subsections (3), (4), (6) and (8). Section 213(9). Section 214(3) to (5).

The repeal of section 212(8) of the Taxation of Chargeable Gains Act 1992 has effect, in accordance with section 91(1) of this Act, in relation to the accounting periods mentioned in section 212(8), and the other repeals have effect in relation to accounting periods beginning on or after 1st January 1993.

(9) OVERSEAS LIFE INSURANCE COMPANIES

Chapter	Short title	Extent of repeal
1970 c. 9.	The Taxes Management Act 1970.	In section 31(3), the word "445".
1988 c. 1.	The Income and Corporation Taxes Act 1988.	In section 11(3), the words "Subject to section 447,". Section 445. Section 446(1). Section 447(1), (2) and (4). Section 448. Section 449. Section 724(5) to (8). In section 811(2), paragraph (c) and the word "and" immediately preceding it. In Schedule 19AB, paragraph 1(9).
1991 c. 31.	The Finance Act 1991.	In Schedule 7, paragraph 7(1)(a), (2), (4) and (5).

These repeals have effect in accordance with section 103 of this Act.

(10) INDEXATION

Chapter	Short title	Extent of repeal

1988 c. 1.	The Income and Corporation Taxes Act 1988.	Section 1(5). Section 257C(2).
1990 c. 29.	The Finance Act 1990.	Section 17(2).

These repeals have effect in accordance with section 107 of this Act.

(11) PAY AND FILE

Chapter	Short title	Extent of repeal
1988 c. 1.	The Income and Corporation Taxes Act 1988.	In section 343(3), the word "claim", in the second place where it occurs. In section 395, in the words after paragraph (c) of subsection (1) and in subsection (4), the words "to claim relief". In section 400(2)(a), the words "or, if a claim had been made under that subsection, would be".
1991 c. 31.	The Finance Act 1991.	In Schedule 15, paragraphs 2 and 9.

The repeals in the Income and Corporation Taxes Act 1988 and the repeal of paragraph 9 of Schedule 15 to the Finance Act 1991 have effect in relation to accounting periods ending after the day appointed for the purposes of section 10 of the Income and Corporation Taxes Act 1988.

(12) LLOYD'S UNDERWRITERS ETC.

Chapter	Short title	Extent of repeal
1988 c. 1.	The Income and Corporation Taxes Act 1988.	Sections 450 to 457. Section 710(14). In section 711(8), the words "or section 725(9)" and the words "or straddling", in both places where they occur. Section 720(3). In section 721, subsections (5) and (6). Section 725. In Schedule 4, paragraph 18. Schedule 19A.
1989 c. 26.	The Finance Act 1989.	In section 43, subsections (6) and (7). In section 92, subsections (4) to (7). In Schedule 11, paragraph 10.

1990 c. 29.	The Finance Act 1990.	In Schedule 10, paragraph 18.
1992 c. 12.	The Taxation of Chargeable Gains Act 1992.	Sections 206 to 209.
1993 c. 34.	The Finance Act 1993.	In section 183, subsections (4) to (8).

1 The repeal of section 450(6) of the Income and Corporation Taxes Act 1988 has effect in relation to acquisitions or disposals made, or treated as made, after 31st December 1993.

2 The following repeals, namely—

have effect for the year 1994 and subsequent underwriting years.

3 The repeals in section 43 of the Finance Act 1989 have effect in relation to periods of account ending on or after 30th June 1993.

4 The following repeals, namely—

have effect for the year of assessment 1994-95 and subsequent years of assessment.

5 The other repeals have effect for the year 1992-93 and subsequent years of assessment.

PART IV

OIL TAXATION

Chapter	Short title	Extent of repeal
1975 c. 22.	The Oil Taxation Act 1975.	In Schedule 2, in the Table in paragraph 1, in the modification relating to section 98 of the Taxes Management Act 1970, the words “or to paragraph 7 of this Schedule”; and paragraph 7.

PART V

INHERITANCE TAX

Chapter	Short title	Extent of repeal
1984 c. 51.	The Inheritance Tax Act 1984.	In section 267(4), the words “but without regard to any dwelling-house available in the United Kingdom for his use”.

This repeal has effect in accordance with section 208 of this Act.

PART VI

STATUTORY EFFECT OF RESOLUTIONS ETC.

Chapter	Short title	Extent of repeal
1968 c. 2.	The Provisional Collection of Taxes Act 1968.	In section 1, in subsection (1) the words "car tax"and subsection (1A). In section 5(1), paragraph (c) and the word "or" immediately preceding it.
1988 c. 1.	The Income and Corporation Taxes Act 1988.	In section 8, subsections (4) to (6).

The repeals in the Provisional Collection of Taxes Act 1968 have effect in accordance with section 205 of this Act.

PART VII

TRADING FUNDS

Chapter	Short title	Extent of repeal
1973 c. 63.	The Government Trading Funds Act 1973.	In section 2B, subsections (6) to (9).

Status:
Point in time view as at 06/04/2005.

Changes to legislation:
Finance Act 1993 is up to date with all changes known to be in force on or before 20 August 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.