



# 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 <sup>M1</sup>Alcoholic Liquor Duties Act 1979 (beer), as that section has effect apart from section 7(1) of the <sup>M2</sup>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.

*Status: Point in time view as at 19/12/2014.*

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- (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 <sup>M3</sup>Alcoholic Liquor Duties Act 1979 (beer duty), as substituted by section 7(1) of the <sup>M4</sup>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,

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- (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 <sup>M5</sup>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.

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- (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.

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#### Marginal Citations

M5 1979 c. 4.

### 6 Mixing of wine and spirits in excise warehouse.

- (1) In subsection (1) of section 58 of the <sup>M6</sup>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

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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.

**F18** .....

#### 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. 1\(3\)](#); S.I. 2005/1523, art. 2 (with art. 3)

### *Hydrocarbon oil duties*

## 9 Rates of duty.

(1) In section 6(1) of the <sup>M7</sup>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)

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## Marginal Citations

M7 1979 c. 5.

## 10 [F<sup>2</sup>Extension 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 [F<sup>3</sup>energy 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 [F<sup>4</sup>or 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 [F<sup>5</sup>as if it fell within such class or description of substance][F<sup>6</sup>as may be so specified].
- (3) In exercising their powers under this section, the Treasury shall so far as practicable secure that [F<sup>7</sup>an 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 [F<sup>8</sup>the substance] to which, when put to that use, it is most closely equivalent.
- [F<sup>9</sup>(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.
- [F<sup>10</sup>(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\(6\)](#)

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## 11 Other fuel substitutes.

- (1) After section 6 of the <sup>M8</sup>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



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- (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 <sup>M9</sup>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.

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## 12 Measurement of volume.

- (1) In ascertaining for the purposes of the <sup>M10</sup>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.

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- (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 <sup>M11</sup>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.

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- (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

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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;”.

<sup>F13</sup>(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.

<sup>F14</sup>(1) .....

<sup>F14</sup>(2) .....

*Status: Point in time view as at 19/12/2014.*

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

<sup>F15</sup>(a) .....

<sup>F16</sup>(b) .....

<sup>F16</sup>(4) .....

<sup>F16</sup>(5) .....

<sup>F17</sup>(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—

<sup>F18</sup>(a) .....

<sup>F19</sup>(b) .....

<sup>F18</sup>(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

<sup>F20</sup>**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))

<sup>F21</sup>**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.

<sup>F22</sup>(1) .....

<sup>F22</sup>(2) .....

<sup>F23</sup>(3) .....

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**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.

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- (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 [<sup>F27</sup>not chargeable (in Great Britain) in respect of a lottery which is an exempt lottery within the meaning of the Gambling Act 2005 (see section 258) [<sup>F28</sup>or is promoted under and operated in accordance with a lottery operating licence under Part 5 of that Act] or (in Northern Ireland) in respect ]—
  - (a) of a lottery promoted as an incident of an exempt entertainment within the meaning of <sup>F29</sup>... the <sup>M12</sup>Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985;
  - (b) of a private lottery within the meaning of that <sup>F30</sup>... Order;
  - (c) of a society's lottery within the meaning of that <sup>F31</sup>... Order in respect of which the conditions set out in <sup>F31</sup>... Article 135(1) of that Order are satisfied;
  - <sup>F32</sup>(d) .....
  - <sup>F33</sup>(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** Words in s. 24(4) substituted (1.9.2007) by [Finance Act 2007 \(c. 11\)](#), [Sch. 25 paras. 14\(a\)](#), 23(2); [S.I. 2007/2532](#), [art. 2](#)
- F28** Words in s. 24(4) inserted (with application in accordance with art. 1(3) of the amending S.I.) by [The Lottery Duty \(Exemption\) Order 2010 \(S.I. 2010/2959\)](#), [arts. 1\(2\)](#), [2](#) (with [art. 1\(3\)](#))
- F29** Words in s. 24(4)(a) repealed (1.9.2007) by [Finance Act 2007 \(c. 11\)](#), [Sch. 25 paras. 14\(b\)](#), 23(2), [Sch. 27 Pt. 6\(3\)](#); [S.I. 2007/2532](#), [art. 2](#)
- F30** Words in s. 24(4)(b) repealed (1.9.2007) by [Finance Act 2007 \(c. 11\)](#), [Sch. 25 paras. 14\(c\)](#), 23(2), [Sch. 27 Pt. 6\(3\)](#); [S.I. 2007/2532](#), [art. 2](#)
- F31** Words in s. 24(4)(c) repealed (1.9.2007) by [Finance Act 2007 \(c. 11\)](#), [Sch. 25 paras. 14\(d\)](#), 23(2), [Sch. 27 Pt. 6\(3\)](#); [S.I. 2007/2532](#), [art. 2](#)
- F32** S. 24(4)(d) repealed (1.9.2007) by [Finance Act 2007 \(c. 11\)](#), [Sch. 25 paras. 14\(e\)](#), 23(2), [Sch. 27 Pt. 6\(3\)](#); [S.I. 2007/2532](#), [art. 2](#)
- F33** 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** [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.



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- (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) <sup>F34</sup>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 <sup>F35</sup>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.].

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#### Textual Amendments

- F34** Words in s. 27(4) substituted (3.5.1994) by 1994 c. 9, s. 9(9), **Sch. 4 Pt. VI para. 67(a)**  
**F35** 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) [<sup>F36</sup>Where a person] contravenes or does not comply with any regulations under subsection (2) above [<sup>F37</sup>his contravention or failure to comply shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties).].

#### Textual Amendments

- F36** Words in s. 28(3) substituted (3.5.1994) by 1994 c. 9, s. 9(9), **Sch. 4 para. 68(a)**  
**F37** 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—

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- (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) [<sup>F38</sup>Where a person] contravenes or fails to comply with any requirements imposed by regulations under subsection (3)(c) above [<sup>F39</sup>his contravention or failure to comply shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties)].

#### Textual Amendments

**F38** Words in s. 29(8) substituted (3.5.1994) by 1994 c. 9, s. 9, Sch. 4 para. 68(a)

**F39** 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 <sup>M13</sup>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—

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- “(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 <sup>M14</sup>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**

**M13** 1979 c. 2.

**M14** 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.

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## 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.

- F40(1) . . . . .
- F40(2) . . . . .
- F40(3) . . . . .
- F41(4) . . . . .
- F41(5) . . . . .

### Textual Amendments

- F40** 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)
- F41** S. 36(4)(5) repealed (N.I.) (27.3.2006) by [The Insolvency \(Northern Ireland\) Order 2005 \(S.I. 2005/1455 \(N.I. 10\)\)](#), art. 1(3), [Sch. 9](#); S.R. 2006/21, art. 2 (subject to S.R. 2006/22, arts. 2-7)

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### 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 [<sup>F42</sup>Gambling Commission], or
  - (c) to an authorised officer of the Secretary of State [<sup>F42</sup>or Gambling Commission],
 for the purpose of assisting the Secretary of State [<sup>F42</sup>or Gambling Commission] (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 [<sup>F43</sup>Gambling Commission ], or
  - (c) an authorised officer of the Secretary of State [<sup>F43</sup>or Gambling Commission],
 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.

#### Textual Amendments

**F42** Words in s. 37(1) substituted (19.7.2007) by [Finance Act 2007 \(c. 11\)](#), [Sch. 25 paras. 15\(a\)](#), 23(1)

**F43** Words in s. 37(2) substituted (19.7.2007) by [Finance Act 2007 \(c. 11\)](#), [Sch. 25 paras. 15\(b\)](#), 23(1)

### *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.

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- (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 <sup>M16</sup>Betting and Gaming Duties Act 1981 (pool betting duty)—

- <sup>F44</sup>(a) .....  
(b) subsection (4) shall cease to have effect.

#### Textual Amendments

**F44** 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

**M16** 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.**

*Status: Point in time view as at 19/12/2014.*

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## CHAPTER III

### VALUE ADDED TAX

<sup>F45</sup>**42** .....

#### Textual Amendments

**F45** [S. 42](#) repealed (1.9.1994) by [1994 c. 23](#), s. 100, [Sch. 15](#) (with [Sch. 13 para. 9](#))

<sup>F46</sup>**43** .....

#### Textual Amendments

**F46** [S. 43](#) repealed (1.9.1994) by [1994 c. 23](#), s. 100, [Sch. 15](#) (with [Sch. 13 para. 9](#))

<sup>F47</sup>**44** .....

#### Textual Amendments

**F47** [S. 44](#) repealed (1.9.1994) by [1994 c. 23](#), s. 100, [Sch. 15](#) (with [Sch. 13 para. 9](#))

<sup>F48</sup>**45** .....

#### Textual Amendments

**F48** [S. 45](#) repealed (1.9.1994) by [1994 c. 23](#), s. 100, [Sch. 15](#) (with [Sch. 13 para. 9](#))

<sup>F49</sup>**46** .....

#### Textual Amendments

**F49** [S. 46](#) repealed (1.9.1994) by [1994 c. 23](#), s. 100, [Sch. 15](#) (with [Sch. 13 para. 9](#))

<sup>F50</sup>**47** .....

#### Textual Amendments

**F50** [S. 47](#) repealed (1.9.1994) by [1994 c. 23](#), s. 100, [Sch. 15](#) (with [Sch. 13 para. 9](#))



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<sup>F51</sup>**48** .....

**Textual Amendments**

**F51** [S. 48](#) repealed (1.9.1994) by [1994 c. 23](#), s. 100, [Sch. 15](#) (with [Sch. 13 para. 9](#))

<sup>F52</sup>**49** .....

**Textual Amendments**

**F52** [S. 49](#) repealed (1.9.1994) by [1994 c. 23](#), s. 100, [Sch. 15](#) (with [Sch. 13 para. 9](#))

<sup>F53</sup>**50** .....

**Textual Amendments**

**F53** [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*

<sup>F54</sup>**51** **Charge and rates of income tax for 1993-94.**

.....

**Textual Amendments**

**F54** [S. 51](#) repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 3 Pt. 1](#) (with [Sch. 2](#))

<sup>F55</sup>**52** **Personal and married couple's allowances.**

.....

**Textual Amendments**

**F55** [S. 52](#) repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 3 Pt. 1](#) (with [Sch. 2](#))

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### *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.

#### <sup>F56</sup>**54 Small companies.**

.....

##### **Textual Amendments**

**F56** [S. 54](#) repealed (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), [s. 1184\(1\)](#), [Sch. 3 Pt. 1](#) (with [Sch. 2](#))

### *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.

#### <sup>F57</sup>**56** .....

##### **Textual Amendments**

**F57** [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.**

<sup>F58</sup>(1) .....

<sup>F58</sup>(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,

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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.”

<sup>F58</sup>(4) .....

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

<sup>F58</sup>(6) .....

<sup>F59</sup>(7) .....

#### Textual Amendments

**F58** 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

**F59** 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.

## <sup>F60</sup>59 Interest payments to persons not ordinarily resident in UK.

.....

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#### Textual Amendments

**F60** S. 59 repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), **Sch. 3 Pt. 1** (with [Sch. 2](#))

<sup>F61</sup>**60** .....

#### Textual Amendments

**F61** 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*

<sup>F62</sup>**61** .....

#### Textual Amendments

**F62** 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

<sup>F63</sup>**62** .....

#### Textual Amendments

**F63** 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

<sup>F64</sup>**62A** .....

#### Textual Amendments

**F64** 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

<sup>F65</sup>**63** .....

#### Textual Amendments

**F65** 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

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**F66 64** .....

**Textual Amendments**

**F66** 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)

**F67 65** .....

**Textual Amendments**

**F67** 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)

**F68 66** .....

**Textual Amendments**

**F68** 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*

**F69 67 Donations from companies and individuals.**

.....

**Textual Amendments**

**F69** S. 67 repealed (31.1.2013) by Statute Law (Repeals) Act 2013 (c. 2), s. 3(2), **Sch. 1 Pt. 10** Group 1

**F70 68 Payroll deduction schemes.**

.....

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### Textual Amendments

**F70** 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](#))

## <sup>F71</sup>69 Contributions to agent's expenses.

.....

### Textual Amendments

**F71** S. 69 repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), **Sch. 3 Pt. 1** (with [Sch. 2 Pts. 1, 2](#))

### *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*

<i>Cylinder capacity of car in cubic centimetres</i>	<i>Age of car at end of relevant year of assessment</i>	
	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*

<i>Original market value of car</i>	<i>Age of car at end of relevant year of assessment</i>
-------------------------------------	---

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	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*

<i>Original market value of car</i>	<i>Age of car at end of relevant year of assessment</i>	
	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

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

TABLE AB

<i>Cylinder capacity of car in cubic centimetres</i>	<i>Cash equivalent</i>
2,000 or less	£550
More than 2,000	£710

TABLE B

<i>Original market value of car</i>	<i>Cash equivalent</i>
Less than £6,000	£600

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£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.

## <sup>F72</sup> **Car and car fuel benefits: 1994-95 onwards.**

.....

### **Textual Amendments**

**F72** [S. 72](#) repealed (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\)](#), s. 381(1), **Sch. 10 Pt. 13** (with [Sch. 9](#) paras. 1-9, 22)

## <sup>F73</sup> **Vans.**

.....

### **Textual Amendments**

**F73** [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](#))

## <sup>F73</sup> **Heavier commercial vehicles.**

.....

### **Textual Amendments**

**F73** [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](#))

## <sup>F73</sup> **Sporting and recreational facilities.**

.....

### **Textual Amendments**

**F73** [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](#))

## <sup>F73</sup> **Removal expenses and benefits.**

.....



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#### Textual Amendments

**F73** 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.

<sup>F74</sup>(1) .....

<sup>F74</sup>(2) .....

<sup>F75</sup>(3) .....

<sup>F76</sup>(4) .....

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

#### Textual Amendments

**F74** 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

**F75** 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](#))

**F76** [S. 77\(4\)](#) repealed (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), **Sch. 3 Pt. 1** (with [Sch. 2](#))

<sup>F77</sup>**78** .....

#### Textual Amendments

**F77** [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.

<sup>F78</sup>(2) .....

<sup>F79</sup>(3) .....

#### Textual Amendments

**F78** [S. 79\(2\)](#) repealed (31.1.2013) by [Statute Law \(Repeals\) Act 2013 \(c. 2\)](#), s. 3(2), **Sch. 1 Pt. 10** Group 1

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**F79** 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

**F80 80 Transitional relief for charities etc.**

.....

**Textual Amendments**

**F80** S. 80 repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 355](#), [Sch. 3 Pt. 1](#) (with [Sch. 2](#))

**F81 81 .....**

**Textual Amendments**

**F81** 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 <sup>M17</sup>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**

**M17** 1992 c. 12.

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

(1) In section 3(3) of the <sup>M18</sup>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**

**M18** 1992 c. 12.

*Status: Point in time view as at 19/12/2014.*

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## 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 <sup>M19</sup>Capital Gains Tax Act 1979 and the <sup>M20</sup>Finance Act 1984 as correspond to those provisions and have effect in relation to that accounting period.

### Marginal Citations

M19 1979 c. 14.

M20 1984 c. 43.

*Status: Point in time view as at 19/12/2014.*

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## 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 <sup>M21</sup>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 [<sup>F82</sup>an EU] instrument).”

- [<sup>F83</sup>(2) The Treasury may by order made by statutory instrument amend section 155 of the Taxation of Chargeable Gains Act 1992 (roll-over relief: relevant classes of assets) so as to add to or amend the classes of assets specified in that section.

(2A) But an order under subsection (2) may not restrict the assets which fall within a class listed in that section (whether by virtue of subsection (2) or otherwise).

(2B) An order under subsection (2) may make such consequential amendments of section 156ZB of, or Schedule 7AB to, the Taxation of Chargeable Gains Act 1992 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 <sup>M22</sup>Capital Gains Tax Act 1979.

### Textual Amendments

**F82** Words in Act substituted (22.4.2011) by [The Treaty of Lisbon \(Changes in Terminology\) Order 2011 \(S.I. 2011/1043\)](#), arts. 2, 3, 6 (with art. 3(2)(3), 4(2), 6(4)(5))

**F83** S. 86(2)-(2B) substituted for s. 86(2) (17.7.2012) by [Finance Act 2012 \(c. 14\)](#), s. 37(2)

*Status: Point in time view as at 19/12/2014.*

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#### **Marginal Citations**

**M21** 1992 c. 12.

**M22** 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 <sup>M23</sup>Capital Gains Tax Act 1979; and
  - (b) references in the Schedule so inserted to provisions of the <sup>M24</sup>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.

*Status: Point in time view as at 19/12/2014.*

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### Marginal Citations

**M23** 1979 c. 14.

**M24** 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.

<sup>F84</sup>90 .....

### Textual Amendments

**F84** 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 <sup>M25</sup>Finance 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.

<sup>F85</sup>(2) .....

(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—

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- (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.”

<sup>F86</sup>(5) .....

<sup>F87</sup>(6) .....

#### Textual Amendments

**F85** S. 91(2) omitted (17.7.2012) by virtue of Finance Act 2012 (c. 14), Sch. 16 para. 91

**F86** S. 91(5) repealed (19.7.2007) by Finance Act 2007 (c. 11), Sch. 27 Pt. 2(10)

**F87** S. 91(6) repealed (19.7.2007) by Finance Act 2007 (c. 11), Sch. 27 Pt. 2(10)

#### Marginal Citations

**M25** 1990 c. 29.

### Corporation tax: currency

#### <sup>F88</sup>92 The basic rule: sterling to be used

.....

#### Textual Amendments

**F88** Ss. 92-92E repealed (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), Sch. 1 para. 277, Sch. 3 Pt. 1 (with Sch. 2)

#### <sup>F88</sup>92A Company operating in sterling and preparing accounts in another currency

.....

#### Textual Amendments

**F88** Ss. 92-92E repealed (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), Sch. 1 para. 277, Sch. 3 Pt. 1 (with Sch. 2)

#### <sup>F88</sup>92B Company operating in currency other than sterling and preparing accounts in another currency

.....

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#### Textual Amendments

**F88** Ss. 92-92E repealed (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), Sch. 1 para. 277, **Sch. 3 Pt. 1** (with Sch. 2)

### <sup>F88</sup>92C Company preparing accounts in currency other than sterling

.....

#### Textual Amendments

**F88** Ss. 92-92E repealed (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), Sch. 1 para. 277, **Sch. 3 Pt. 1** (with Sch. 2)

### <sup>F88</sup>92D Sterling equivalents: the basic rule

.....

#### Textual Amendments

**F88** Ss. 92-92E repealed (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), Sch. 1 para. 277, **Sch. 3 Pt. 1** (with Sch. 2)

### <sup>F88</sup>92DAsterling equivalents: carried-back amounts

.....

#### Textual Amendments

**F88** Ss. 92-92E repealed (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), Sch. 1 para. 277, **Sch. 3 Pt. 1** (with Sch. 2)

### <sup>F88</sup>92DBSterling equivalents: carried-forward amounts

.....

#### Textual Amendments

**F88** Ss. 92-92E repealed (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), Sch. 1 para. 277, **Sch. 3 Pt. 1** (with Sch. 2)

### <sup>F88</sup>92DCAdjustment of sterling losses: carried-back amounts

.....



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#### Textual Amendments

**F88** Ss. 92-92E repealed (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), Sch. 1 para. 277, **Sch. 3 Pt. 1** (with Sch. 2)

### <sup>F88</sup>**92DD** Adjustment of sterling losses: carried-forward amounts

.....

#### Textual Amendments

**F88** Ss. 92-92E repealed (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), Sch. 1 para. 277, **Sch. 3 Pt. 1** (with Sch. 2)

### <sup>F88</sup>**92DE** Meaning of “carried-back amount” and “carried-forward amount”

.....

#### Textual Amendments

**F88** Ss. 92-92E repealed (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), Sch. 1 para. 277, **Sch. 3 Pt. 1** (with Sch. 2)

### <sup>F88</sup>**92E** Interpretation of sections 92A to 92DD

.....

#### Textual Amendments

**F88** Ss. 92-92E repealed (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), Sch. 1 para. 277, **Sch. 3 Pt. 1** (with Sch. 2)

### <sup>F89</sup>**95** .....

#### Textual Amendments

**F89** 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)**

### [<sup>F90</sup>**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—

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- “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 <sup>M26</sup>Companies 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

**F90** S. 96 repealed (*retrospectively*) by 1995 c. 4, s. 162, **Sch. 29 Pt. VIII(18)**, Note

#### Marginal Citations

**M26** 1985 c. 6.

### *Overseas life insurance companies*

#### **<sup>F91</sup>97 Modification of Taxes Act 1988.**

.....

#### Textual Amendments

**F91** S. 97 repealed (with effect in accordance with reg. 1 of the amending S.I.) by **The Overseas Life Insurance Companies Regulations 2006 (S.I. 2006/3271)**, reg. 1, **Sch. Pt. 1**

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**<sup>F92</sup>98 Modification of section 440 of Taxes Act 1988.**

.....

**Textual Amendments**

**F92** [S. 98](#) repealed (with effect in accordance with reg. 1 of the amending S.I.) by [The Overseas Life Insurance Companies Regulations 2006 \(S.I. 2006/3271\)](#), reg. 1, [Sch. Pt. 1](#)

**<sup>F93</sup>99 .....**

**Textual Amendments**

**F93** [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.**

**<sup>F94</sup>(1)** .....

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

**<sup>F94</sup>(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**

**F94** [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

**<sup>F95</sup>101 Modification of Finance Act 1989.**

.....

**Textual Amendments**

**F95** [S. 101](#) repealed (with effect in accordance with reg. 1 of the amending S.I.) by [The Overseas Life Insurance Companies Regulations 2006 \(S.I. 2006/3271\)](#), reg. 1, [Sch. Pt. 1](#)

**<sup>F96</sup>102 Modification of Taxation of Chargeable Gains Act 1992.**

.....

*Status: Point in time view as at 19/12/2014.*

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### Textual Amendments

- F96** S. 102 repealed (with effect in accordance with reg. 1 of the amending S.I.) by [The Overseas Life Insurance Companies Regulations 2006 \(S.I. 2006/3271\)](#), reg. 1, **Sch. Pt. 1**

## 103 Amendment of definition and repeals.

<sup>F97</sup>(1) .....

(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).

<sup>F98</sup>(3) .....

<sup>F99</sup>(4) .....

### Textual Amendments

- F97** S. 103(1) omitted (17.7.2012) by virtue of [Finance Act 2012 \(c. 14\)](#), **Sch. 16 para. 247(e)**
- F98** S. 103(3) omitted (17.7.2012) by virtue of [Finance Act 2012 \(c. 14\)](#), **Sch. 16 para. 247(e)**
- F99** 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 <sup>M27</sup>Taxation 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,

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- (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

**M27** 1992 c. 12.

## 105 Expenditure on shares.

**F100** (1) .....

**F100** (2) .....

- (3) In section 32A(5) of the <sup>M28</sup>Capital 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 <sup>M29</sup>Finance Act 1991), or
    - (b) subsection (6A) of that section.”
- (4) The <sup>M30</sup>amendments 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

**F100** 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](#))

*Status: Point in time view as at 19/12/2014.*

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#### 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

- M28** 1979 c. 14.  
**M29** 1991 c. 31.  
**M30** 1992 c. 12.

*Indexation: miscellaneous*

### **<sup>F101</sup>106 Earnings cap etc: no indexation in 1993-94.**

.....

#### Textual Amendments

- F101** S. 106 repealed (6.4.2006) by [Finance Act 2004 \(c. 12\)](#), **Sch. 42 Pt. 3** (with [Sch. 36](#))

### **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.

<sup>F102</sup>(2) .....

- (3) In section 257C—

<sup>F103</sup>(a) .....

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

<sup>F104</sup>(4) .....

<sup>F104</sup>(5) .....

<sup>F104</sup>(6) .....

<sup>F104</sup>(7) .....

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

#### Textual Amendments

- F102** S. 107(2) repealed (31.1.2013) by [Statute Law \(Repeals\) Act 2013 \(c. 2\)](#), s. 3(2), **Sch. 1 Pt. 10** Group 1

- F103** S. 107(3)(a) omitted (with effect in accordance with Sch. 1 para. 7 of the amending Act) by virtue of [Finance Act 2009 \(c. 10\)](#), **Sch. 1 para. 6(e)**

- F104** S. 107(4)-(7) repealed (6.4.2006) by [Finance Act 2004 \(c. 12\)](#), **Sch. 42 Pt. 3** (with [Sch. 36](#))

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### *Miscellaneous provisions about reliefs*

#### **<sup>F105</sup>108 Counselling services for employees.**

.....

##### **Textual Amendments**

**F105** S. 108 repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), **Sch. 3 Pt. 1** (with [Sch. 2 Pts. 1, 2](#))

#### **109 Pre-trading expenditure.**

**<sup>F106</sup>(1)** .....

**<sup>F106</sup>(2)** .....

**<sup>F107</sup>(3)** .....

**<sup>F108</sup>(4)** .....

##### **Textual Amendments**

**F106** S. 109(1)(2) repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), **Sch. 3 Pt. 1** (with [Sch. 2 Pts. 1, 2](#))

**F107** S. 109(3) repealed (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), **Sch. 3 Pt. 1** (with [Sch. 2](#))

**F108** S. 109(4) repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), **Sch. 3 Pt. 1** (with [Sch. 2 Pts. 1, 2](#))

#### **<sup>F109</sup>110 Waste disposal expenditure.**

.....

##### **Textual Amendments**

**F109** S. 110 repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), **Sch. 3 Pt. 1** (with [Sch. 2 Pts. 1, 2](#))

#### **<sup>F110</sup>111 Business expansion scheme: loan linked investments.**

.....

##### **Textual Amendments**

**F110** S. 111 repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), **Sch. 3 Pt. 2** (with [Sch. 2](#))

#### **<sup>F111</sup>112 Employers' pension contributions.**

.....

*Status: Point in time view as at 19/12/2014.*

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#### Textual Amendments

**F111** S. 112 repealed (6.4.2006) by Finance Act 2004 (c. 12), Sch. 42 Pt. 3 (with Sch. 36)

### *Capital allowances*

**F112** 113 .....

#### Textual Amendments

**F112** 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

**F113** 114 .....

#### Textual Amendments

**F113** 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

**F114** 115 .....

#### Textual Amendments

**F114** 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

**F115** 116 .....

#### Textual Amendments

**F115** 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

**F116** 117 Transactions between connected persons etc.  
 .....

#### Textual Amendments

**F116** 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



*Status: Point in time view as at 19/12/2014.*

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## Miscellaneous

### <sup>F117</sup> 118 Scottish trusts.

.....

#### Textual Amendments

**F117** S. 118 repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), Sch. 1 para. 356, **Sch. 3 Pt. 1** (with [Sch. 2](#))

### 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 <sup>M31</sup>Taxes Management Act 1970, the Taxes Act 1988 and the <sup>M32</sup>Finance Act 1989 with a view to, or in connection with, the introduction of “pay and file”) shall have effect.

#### Marginal Citations

**M31** 1970 c. 9.

**M32** 1989 c. 26.

### <sup>F118</sup> 121 .....

#### Textual Amendments

**F118** 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

*Status: Point in time view as at 19/12/2014.*

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## 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.

## <sup>F119</sup>123 Expenditure involving crime.

.....

### Textual Amendments

**F119** S. 123 repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), [Sch. 3 Pt. 1](#) (with [Sch. 2 Pts. 1, 2](#))

## <sup>F120</sup>124 Expenses of Members of Parliament.

.....

### Textual Amendments

**F120** 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\(1\)](#)

*Status: Point in time view as at 19/12/2014.*

*Changes to legislation: Finance Act 1993 is up to date with all changes known to be in force on or before 30 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. (See end of Document for details)*

- C4** 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)  
 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*

**F121** 125 .....

#### **Textual Amendments**

**F121** 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)

**F122** 126 .....

#### **Textual Amendments**

**F122** 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)

**F123** 127 .....

#### **Textual Amendments**

**F123** 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*

**F124** 128 .....

#### **Textual Amendments**

**F124** 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*

**F125** 129 .....

*Status: Point in time view as at 19/12/2014.*

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#### Textual Amendments

**F125** 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)

**F126** **130** .....

#### Textual Amendments

**F126** 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*

**F130** **134** .....

#### Textual Amendments

**F130** 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*

**F131** **135** .....

#### Textual Amendments

**F131** 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)

**F132** **135A** .....

#### Textual Amendments

**F132** 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)

*Status: Point in time view as at 19/12/2014.*

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### *Arm's length test*

<sup>F133</sup>136 .....

#### Textual Amendments

**F133** 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)

<sup>F134</sup>136A .....

#### Textual Amendments

**F134** 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)

<sup>F135</sup>137 .....

#### Textual Amendments

**F135** 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)

<sup>F136</sup>138 .....

#### Textual Amendments

**F136** 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*

<sup>F137</sup>139 .....

#### Textual Amendments

**F137** 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)

<sup>F138</sup>140 .....

*Status: Point in time view as at 19/12/2014.*

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#### Textual Amendments

**F138** 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)

**F139** 141 .....

#### Textual Amendments

**F139** 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)

**F140** 142 .....

#### Textual Amendments

**F140** 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)

**F141** 143 .....

#### Textual Amendments

**F141** 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*

**F142** 144 .....

#### Textual Amendments

**F142** 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)

**F143** 145 .....

#### Textual Amendments

**F143** 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)

*Status: Point in time view as at 19/12/2014.*

*Changes to legislation: Finance Act 1993 is up to date with all changes known to be in force on or before 30 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. (See end of Document for details)*

### *Currency contracts: special cases*

<sup>F144</sup>**146** .....

#### **Textual Amendments**

**F144** 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)

<sup>F145</sup>**147** .....

#### **Textual Amendments**

**F145** 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*

<sup>F146</sup>**148** .....

#### **Textual Amendments**

**F146** 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*

<sup>F147</sup>**149** .....

#### **Textual Amendments**

**F147** 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*

<sup>F148</sup>**150** .....

*Status: Point in time view as at 19/12/2014.*

*Changes to legislation: Finance Act 1993 is up to date with all changes known to be in force on or before 30 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. (See end of Document for details)*

#### Textual Amendments

**F148** 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)

**F149** **151** .....

#### Textual Amendments

**F149** 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*

**F150** **152** .....

#### Textual Amendments

**F150** 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*

**F151** **153** .....

#### Textual Amendments

**F151** 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)

**F152** **154** .....

#### Textual Amendments

**F152** 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

**F153** **155** .....



*Status: Point in time view as at 19/12/2014.*

*Changes to legislation: Finance Act 1993 is up to date with all changes known to be in force on or before 30 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. (See end of Document for details)*

#### Textual Amendments

**F153** 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

**F154** **156** .....

#### Textual Amendments

**F154** 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

**F155** **157** .....

#### Textual Amendments

**F155** 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*

**F156** **158** .....

#### Textual Amendments

**F156** 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)

**F157** **159** .....

#### Textual Amendments

**F157** 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)

**F158** **160** .....

#### Textual Amendments

**F158** 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)

*Status: Point in time view as at 19/12/2014.*

*Changes to legislation: Finance Act 1993 is up to date with all changes known to be in force on or before 30 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. (See end of Document for details)*

**F159** 161 .....

#### Textual Amendments

**F159** 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)

**F160** 162 .....

#### Textual Amendments

**F160** 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)

**F161** 163 .....

#### Textual Amendments

**F161** 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)

**F162** 164 .....

#### Textual Amendments

**F162** 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

**F163** 165 .....

#### Textual Amendments

**F163** 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)

**F164** 166 .....

*Status: Point in time view as at 19/12/2014.*

*Changes to legislation: Finance Act 1993 is up to date with all changes known to be in force on or before 30 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. (See end of Document for details)*

#### Textual Amendments

**F164** 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)

<sup>F165</sup>**167** .....

#### Textual Amendments

**F165** 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)

<sup>F166</sup>**168** .....

#### Textual Amendments

**F166** 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)

<sup>F167</sup>**168A** .....

#### Textual Amendments

**F167** 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)

<sup>F168</sup>**169** .....

#### Textual Amendments

**F168** 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.

*Status: Point in time view as at 19/12/2014.*

*Changes to legislation: Finance Act 1993 is up to date with all changes known to be in force on or before 30 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. (See end of Document for details)*

## 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—
  - <sup>F169</sup>(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.

<sup>F170</sup>(2A) .....

<sup>F171</sup>(2B) [<sup>F172</sup>[<sup>F173</sup>Sections 397(1) and [<sup>F174</sup>397A(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 [<sup>F175</sup>premium] trust fund.]

<sup>F176</sup>(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

- F169** 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](#))
- F170** 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
- F171** 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\(1\)\(7\)](#)
- F172** 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](#))

*Status: Point in time view as at 19/12/2014.*

*Changes to legislation: Finance Act 1993 is up to date with all changes known to be in force on or before 30 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. (See end of Document for details)*

- F173** Words in s. 171(2B) substituted (with effect in accordance with s. 34(2) of the amending Act) by [Finance Act 2008 \(c. 9\)](#), [Sch. 12 para. 16](#)
- F174** Word in s. 171(2B) substituted (with effect in accordance with Sch. 19 para. 14 of the amending Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 19 para. 11](#)
- F175** Word in s. 171(2B) substituted (1.12.2001) by [S.I. 2001/3629](#), [arts. 1\(2\)](#), 82(a)
- F176** 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—
- <sup>[F177]</sup>(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 <sup>[F178]</sup>premium] 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**

- F177** [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\(1\)\(2\)](#)
- F178** 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\(1\)\(b\)](#)

<sup>F179</sup>**173 Assessment and collection of tax.**

.....

**Textual Amendments**

- F179** [S. 173](#) repealed (20.7.2005 for specified purposes, 6.4.2006 in so far as not already in force) by [Finance \(No. 2\) Act 2005 \(c. 22\)](#), s. 45(1)(8)(9), [Sch. 11 Pt. 2\(11\)](#); [S.I. 2005/3337](#), [art. 3](#)

*Status: Point in time view as at 19/12/2014.*

*Changes to legislation: Finance Act 1993 is up to date with all changes known to be in force on or before 30 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. (See end of Document for details)*

### Members' trust funds

#### 174 [F180Premium] trust funds.

- [F181(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 [F182premium] 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 [F182premium] 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 [F182premium] 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.
- [F183(4) .....]
- [F183(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

**F180** S. 174: words in sidenote substituted (1.12.2001) by S.I. 2001/3629, arts. 1(2), 82(c)

**F181** 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

**F182** Word in s. 174(1)(a)(2)(3) substituted (1.12.2001) by S.I. 2001/3629, arts. 1(2), 82(c)

**F183** 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

*Status: Point in time view as at 19/12/2014.*

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## 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—
  - <sup>F184</sup>(a) section 636 of ITA 2007 (exception where there is a transfer to a legatee);]
  - <sup>F185</sup>(b) .....
  - <sup>F185</sup>(c) .....
  - <sup>F185</sup>(d) .....
 shall apply where the individual concerned is a member and the security concerned forms part of an ancillary trust fund of his.

*Status: Point in time view as at 19/12/2014.*

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- (4) In a case where subsection (3)(a) above applies, the deceased's personal representatives shall be treated for the purposes of <sup>F186</sup>Part 12 of ITA 2007 and section 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

- F184** S. 176(3)(a) substituted (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), **Sch. 1 para. 357(2)** (with [Sch. 2](#))
- F185** 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)**
- F186** Words in s. 176(4) substituted (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), **Sch. 1 para. 357(3)** (with [Sch. 2](#))

#### 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*

<sup>F187</sup>**177** .....

#### Textual Amendments

- F187** [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
  - <sup>F188</sup>(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 <sup>F189</sup>a 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,



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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 [<sup>F190</sup>was 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 [<sup>F191</sup>4 years]), and
- (b) the inspector is not entitled, after that time, to make any such assessment or further assessment by virtue of section 36 ([<sup>F192</sup>loss of tax brought about carelessly or deliberately]) 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.

[<sup>F193</sup>(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.]

[<sup>F194</sup>(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

**F188** 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**

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- F189** 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)**
- F190** 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)**
- F191** Words in s. 178(3)(a) substituted (1.4.2010) by Finance Act 2008 (c. 9), s. 118(2), **Sch. 39 para. 63(a)**; S.I. 2009/403, art. 2(2) (with art. 10)
- F192** Words in s. 178(3)(b) substituted (1.4.2010) by Finance Act 2008 (c. 9), s. 118(2), **Sch. 39 para. 63(b)**; S.I. 2009/403, art. 2(2) (with art. 10)
- F193** 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**
- F194** 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 <sup>F195</sup> . . . 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.
- <sup>F196</sup> (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

- F195** 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
- F196** 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)**

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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\(1\)](#)

## **[<sup>F197</sup>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**

**F197** 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\(1\)](#)

## **[<sup>F198</sup>179B] Conversion to [<sup>F199</sup>underwriting through partnership or company]**

Schedule 20A to this Act (which makes provision for certain reliefs to be available where a member converts to limited liability underwriting [<sup>F200</sup>or a Lloyd's partnership converts to underwriting through a company]) shall have effect.]

### **Textual Amendments**

**F198** S. 179B inserted (22.7.2004) by [Finance Act 2004 \(c. 12\)](#), [Sch. 25 para. 2](#)

**F199** Words in s. 179B heading substituted (19.12.2014) by [The Lloyd's Underwriters \(Conversion of Partnerships to Underwriting through Successor Companies\) \(Tax\) Regulations 2014 \(S.I. 2014/3133\)](#), [regs. 1, 3\(b\)](#)

**F200** Words in s. 179B inserted (19.12.2014) by [The Lloyd's Underwriters \(Conversion of Partnerships to Underwriting through Successor Companies\) \(Tax\) Regulations 2014 \(S.I. 2014/3133\)](#), [regs. 1, 3\(a\)](#)

## **180 Underwriting profits to be [<sup>F201</sup>relevant UK earnings etc].**

- (1) In relation to any member, all profits arising to him from his underwriting business—

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- (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
- [<sup>F202</sup>(b) accordingly, shall constitute—
  - (i) for the purposes of Part 4 of the Finance Act 2004, relevant UK earnings within section 189(2)(b) of that Act, and
  - (ii) income in relation to which the treatment in section 836(2) of ITA 2007 does not apply.]
- (2) This section does not apply in relation to profits of the year 1992-93 or earlier years of assessment.

#### Textual Amendments

**F201** Words in s. 180 heading substituted (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 358\(3\)](#) (with [Sch. 2](#))

**F202** S. 180(1)(b) substituted (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 358\(2\)](#) (with [Sch. 2](#))

#### 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 <sup>M33</sup>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

**M33** 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 <sup>F203</sup>. . . ;
  - (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;
  - [<sup>F204</sup>(ca) . . . . .
  - (d) for giving credit for foreign tax.

*Status: Point in time view as at 19/12/2014.*

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<sup>F205</sup>(2) .....

<sup>F205</sup>(3) .....

<sup>F205</sup>(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 <sup>M34</sup>Finance 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.

[<sup>F206</sup>(6) Any power to make regulations conferred by this section includes power to make—

- (a) different provision for different cases or different purposes, and
- (b) incidental, supplemental or transitional provision and savings.]

#### Textual Amendments

**F203** Words in s. 182(1)(a) repealed (20.7.2005 for specified purposes, 6.4.2006 in so far as not already in force) by [Finance \(No. 2\) Act 2005 \(c. 22\), s. 45\(2\)\(8\)\(9\)](#), Sch. 11 Pt. 2(11); [S.I. 2005/3337, art. 3](#)

**F204** S. 182(1)(ca) repealed (31.1.2013) by [Statute Law \(Repeals\) Act 2013 \(c. 2\), s. 3\(2\)](#), [Sch. 1 Pt. 10](#) Group 1

**F205** 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

**F206** S. 182(6) inserted (20.7.2005 for specified purposes, 6.4.2006 in so far as not already in force) by [Finance \(No. 2\) Act 2005 \(c. 22\), s. 45\(3\)\(8\)\(9\)](#); [S.I. 2005/3337, art. 3](#)

#### Marginal Citations

**M34** [1989 c. 26](#).

### 183 Consequential amendments.

<sup>F207</sup>(1) .....

<sup>F208</sup>(2) .....

<sup>F209</sup>(3) .....

<sup>F210</sup>(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 <sup>M35</sup>Finance Act 1990,

the words from “his special reserve fund” to the end shall be omitted.

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- (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 <sup>M36</sup>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

- F207** 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](#))
- F208** S. 183(2) repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 3 Pt. 1](#) (with [Sch. 2](#))
- F209** 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
- F210** 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

- M35** [1990 c. 29](#).  
**M36** [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 [<sup>F211</sup>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 <sup>F212</sup>. . . ;  
 “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;

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*Status: Point in time view as at 19/12/2014.*

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“the Gains Tax Act” means the <sup>M37</sup>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;

[<sup>F213</sup>“Lloyd's partnership” means—

- (a) a limited partnership formed under the law of Scotland which is a member of Lloyd's and is or has been an underwriting member, or
- (b) a limited liability partnership formed under the law of any part of the United Kingdom which is a member of Lloyd's and is or has been an underwriting member;]

“the Management Act” means the <sup>M38</sup>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” [<sup>F214</sup>(except in Part 1A of Schedule 20A)] means [<sup>F215</sup>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 [<sup>F216</sup>the Lloyd's Underwriters (Tax) Regulations 2005] 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;

[<sup>F217</sup>“premium trust fund” means a trust fund into which premiums receivable by members are paid in compliance with a trust deed under [<sup>F218</sup>Rule 8.2.19 of the][<sup>F219</sup>Prudential Sourcebook for Insurers made by the Prudential Regulation Authority] under the Financial Services and Markets Act 2000;]

“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 [<sup>F220</sup>, except insurance taken out by entering a quota share contract (within the meaning of section 178 above)];



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“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 [<sup>F221</sup>premium] trust fund or an ancillary trust fund; and
- (c) any charge made on a member by the [<sup>F222</sup>managing agent] of a syndicate of which he is a member, and any expense incurred on his behalf by the [<sup>F222</sup>managing 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

- F211** S. 184(1): word in the definition of “ancillary trust fund” substituted (1.12.2001) by [S.I. 2001/3629](#), [arts. 1\(2\)](#), [82\(e\)](#)
- F212** 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
- F213** Words in s. 184(1) inserted (19.12.2014) by [The Lloyd's Underwriters \(Conversion of Partnerships to Underwriting through Successor Companies\) \(Tax\) Regulations 2014 \(S.I. 2014/3133\)](#), [regs. 1](#), [4\(a\)](#)
- F214** Words in s. 184(1) inserted (19.12.2014) by [The Lloyd's Underwriters \(Conversion of Partnerships to Underwriting through Successor Companies\) \(Tax\) Regulations 2014 \(S.I. 2014/3133\)](#), [regs. 1](#), [4\(b\)](#)
- F215** 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\(1\)\(b\)](#)
- F216** Words in s. 184(1) substituted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Lloyds Underwriters \(Tax\) Regulations 2005 \(S.I. 2005/3338\)](#), [regs. 1\(1\)](#), [16](#)
- F217** S. 184(1): definition of “premium trust fund” substituted (1.12.2001) by [S.I. 2001/3629](#), [arts. 1\(2\)](#), [79](#)
- F218** Words in s. 184(1) substituted (31.12.2006) by [The Lloyds Sourcebook \(Finance Act 1993 and Finance Act 1994\) \(Amendment\) Order 2006 \(S.I. 2006/3273\)](#), [arts. 1](#), [2](#)
- F219** Words in s. 184(1) substituted (1.4.2013) by [The Financial Services Act 2012 \(Consequential Amendments\) Order 2013 \(S.I. 2013/636\)](#), [art. 1\(2\)](#), [Sch. para. 3](#)
- F220** 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](#)
- F221** Word in s. 184(2)(b) substituted (1.12.2001) by [S.I. 2001/3629](#), [arts. 1\(2\)](#), [82\(e\)](#)
- F222** 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\(16\)\(b\)\(19\)](#)



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#### Marginal Citations

M37 1992 c. 12.

M38 1970 c. 9.

### PART III

#### OIL TAXATION

#### 185 Abolition of PRT for oil fields with development consents on or after 16th March 1993.

[<sup>F223</sup>(A1) In this Part of this Act—

“non-taxable field” means an oil field which meets the conditions in subsection (1), (1ZA) or (1A), and

“taxable field” means an oil field which is not a non-taxable field.]

(1) [<sup>F224</sup>An oil field meets the conditions in this subsection if it is 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;

<sup>F225</sup> .....

[<sup>F226</sup>(1ZA) An oil field meets the conditions in this subsection if—

(a) the field does not meet the conditions in subsection (1), and

(b) an election under [<sup>F227</sup>Schedule 20B] that the field is to be non-taxable is in effect.]

[<sup>F228</sup>(1A) An oil field meets the conditions in this subsection if—

[<sup>F229</sup>(za) the field does not meet the conditions in subsection (1),]

(a) the Secretary of State has at any time approved one or more abandonment programmes under Part 4 of the Petroleum Act 1998 (or Part 1 of the Petroleum Act 1987) in relation to all assets of the field which are relevant assets;

(b) those programmes have been carried out to the satisfaction of the Secretary of State;

(c) a development decision is made in relation to the field; and

(d) that decision is made on or after 16th March 1993 and after those programmes have been so carried out.

(1B) For the purposes of subsection (1A)(a) above, an asset is a relevant asset of an oil field if—

(a) it has at any time been a qualifying asset (within the meaning of the 1983 Act) in relation to any participator in the field; and

(b) it has at any time been used for the purpose of winning oil from the field.

(1C) For the purposes of subsection (1A)(c) and (d) above, a development decision is made in relation to an oil field when—

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- (a) consent for development is granted to a licensee by the Secretary of State in respect of the whole or part of the field; or
  - (b) a programme of development is served on a licensee or approved by the Secretary of State for the whole or part of the 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 [<sup>F230</sup>this section] above “development”, in relation to an oil field, means—

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- (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.

#### Textual Amendments

- F223** S. 185(A1) inserted (21.7.2008) by [Finance Act 2008 \(c. 9\), s. 107\(2\)](#)
- F224** Words in s. 185(1) substituted (21.7.2008) by [Finance Act 2008 \(c. 9\), s. 107\(3\)\(a\)](#)
- F225** Words in s. 185(1) omitted (21.7.2008) by virtue of [Finance Act 2008 \(c. 9\), s. 107\(3\)\(b\)](#)
- F226** S. 185(1ZA) inserted (21.7.2008) by [Finance Act 2008 \(c. 9\), s. 107\(4\)](#)
- F227** Words in s. 185(1ZA)(b) substituted (21.7.2009) by [Finance Act 2009 \(c. 10\), Sch. 45 para. 3\(2\)\(c\)](#)
- F228** S. 185(1A)-(1C) inserted (19.7.2007) by [Finance Act 2007 \(c. 11\), s. 102\(3\)](#) (with s. 102(5))
- F229** S. 185(1A)(za) inserted (21.7.2008) by [Finance Act 2008 \(c. 9\), s. 107\(5\)](#)
- F230** Words in s. 185(7) substituted (19.7.2007) by [Finance Act 2007 \(c. 11\), s. 102\(4\)](#)

### 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

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- (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 <sup>M39</sup>Finance Act 1982.”

#### Marginal Citations

**M39** 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 <sup>M40</sup>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 ”;
 and paragraph 7 (which is superseded by the following provisions of this section) shall be omitted.

- <sup>F231</sup>(2) .....
- <sup>F231</sup>(3) .....
- <sup>F231</sup>(4) .....
- <sup>F231</sup>(5) .....
- <sup>F231</sup>(6) .....
- <sup>F231</sup>(7) .....
- <sup>F231</sup>(8) .....

#### Textual Amendments

**F231** S. 187(2)-(8) omitted (1.4.2010) by virtue of [The Finance Act 2009, Section 96 and Schedule 48 \(Appointed Day, Savings and Consequential Amendments\) Order 2009 \(S.I. 2009/3054\)](#), art. 1, [Sch. para. 5\(a\)](#) (with [art. 5](#))

#### Marginal Citations

**M40** 1970 c. 9.

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## **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

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- (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,

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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”;
  - <sup>F232</sup>(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

**F232** [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

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- (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 <sup>M41</sup>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.



*Status: Point in time view as at 19/12/2014.*

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- (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**

**M41** 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—

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“(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 [<sup>F233</sup>section 1122 of the Corporation Tax Act 2010] (connected persons) applies for the purposes of subsection (2)(c) above.

#### Textual Amendments

**F233** Words in s. 193(6) substituted (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), **Sch. 1 para. 278** (with **Sch. 2**)

#### <sup>F234</sup>**194 Double taxation relief in relation to petroleum revenue tax.**

.....

#### Textual Amendments

**F234** S. 194 repealed (with effect in accordance with s. 381(1) of the amending Act) by Taxation (International and Other Provisions) Act 2010 (c. 8), s. 381(1), **Sch. 8 para. 49**, **Sch. 10 Pt. 1** (with **Sch. 9 paras. 1-9, 22**)

*Status: Point in time view as at 19/12/2014.*

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## **195 Interpretation of Part III and consequential amendments of assessments etc.**

(1) In this Part—

- (a) “the principal Act” means the <sup>M42</sup>Oil Taxation Act 1975 ;
- (b) “the 1983 Act” means the <sup>M43</sup>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<sup>F235</sup> ... shall be construed as one with Part I of the principal Act.

### **Textual Amendments**

**F235** Words in s. 195(3) repealed (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\), s. 381\(1\), Sch. 8 para. 50, Sch. 10 Pt. 1](#) (with [Sch. 9 paras. 1-9, 22](#))

### **Marginal Citations**

**M42** [1975 c. 22.](#)

**M43** [1983 c. 56.](#)

## **PART IV**

### **INHERITANCE TAX**

## **196 Rate bands: no indexation in 1993.**

The Table substituted by section 72(1) of the <sup>M44</sup>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 <sup>M45</sup>Inheritance Tax Act 1984 (indexation of rate bands) shall not apply to such transfers.

### **Marginal Citations**

**M44** [1992 c. 48.](#)

**M45** [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 ”.

*Status: Point in time view as at 19/12/2014.*

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- (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 <sup>M46</sup>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.

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#### Marginal Citations

M46 1984 c. 51.

### 199 Fall in value relief: interests in land.

- (1) In the <sup>M47</sup>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

M47 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.

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- (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

**F236** 201 .....

#### Textual Amendments

**F236** 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 <sup>M48</sup>Housing 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 [<sup>F237</sup>Part 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 [<sup>F238</sup>Part II of Schedule 13 to the Finance Act 1999 (lease)] but shall be chargeable with stamp duty under [<sup>F239</sup>Part I of that Schedule (conveyance or transfer on sale)] as if it were a conveyance on sale;

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- (b) for the purposes of the enactments relating to stamp duty chargeable under [<sup>F240</sup>Part 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 <sup>M49</sup>Housing 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

- F237** 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)
- F238** 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)
- F239** 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)
- F240** 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

- M48** 1985 c. 68.  
**M49** 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 <sup>M50</sup>Housing (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 [<sup>F241</sup>Part 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

- F241** 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

- M50** 1987 c. 26.

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## **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 <sup>F242</sup> . . . execution) the method shall be treated as being in accordance with the law in force at the time when the instrument was <sup>F242</sup> . . . 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**

**F242** 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 <sup>M51</sup>Provisional Collection of Taxes Act 1968 shall be amended as follows.



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- (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.
- <sup>F243</sup>(3) .....
- <sup>F244</sup>(4) .....
- (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.

#### Textual Amendments

- F243** S. 205(3) repealed (31.1.2013) by [Statute Law \(Repeals\) Act 2013](#) (c. 2), s. 3(2), [Sch. 1 Pt. 10](#) Group 1
- F244** S. 205(4) repealed (30.12.2011) by [Finance Act 2011](#) (c. 11), [s. 88\(8\)\(a\)\(9\)](#) (with [s. 88\(10\)](#)); [S.I. 2011/2934](#), [art. 2](#)

#### Marginal Citations

- M51** [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.

<sup>F245</sup>(2) .....

<sup>F246</sup>(3) .....

#### Textual Amendments

- F245** S. 206(2) repealed (29.4.1996) by [1996 c. 8](#), s. 205, [Sch. 41 Pt. V\(13\)](#)
- F246** 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 <sup>M52</sup>Finance 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”;

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- (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

**M52** 1973 c. 51.

### Miscellaneous

#### 208 Residence: available accommodation.

**F247** (1) .....

- (2) In section 9 of the <sup>M53</sup>Taxation 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 <sup>M54</sup>Inheritance 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.

#### Textual Amendments

**F247** S. 208(1) repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 3 Pt. 1](#) (with [Sch. 2](#))

#### Marginal Citations

**M53** 1992 c. 12.

**M54** 1984 c. 51.

**F248** 209 .....

#### Textual Amendments

**F248** 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

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## 210 Trading funds.

Schedule 22 to this Act (which contains provisions about trading funds) shall have effect.

<sup>F249</sup>211 .....

### Textual Amendments

**F249** 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 <sup>M55</sup>Income and Corporation Taxes Act 1988 [<sup>F250</sup>, and “ITA 2007” means the Income Tax Act 2007].

### Textual Amendments

**F250** Words in s. 212 inserted (6.4.2007) by [Income Tax Act 2007 \(c. 3\), s. 1034\(1\), Sch. 1 para. 360](#) (with [Sch. 2](#))

### Marginal Citations

**M55** [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.

*Status: Point in time view as at 19/12/2014.*

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## 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.

<i>Description of wine or made-wine</i>	<i>Rates of duty per hectolitre</i>
	£
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

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## PART II

WINE OR MADE-WINE OF A STRENGTH EXCEEDING 22 PER CENT.

<i>Description of wine or made-wine</i>	<i>Rates of duty per litre of alcohol in the wine or made-wine</i>
	£
Wine or made-wine of a strength exceeding 22 per cent.	19.81”

### <sup>F251</sup>SCHEDULE 2

Section 49.

#### Textual Amendments

**F251** Sch. 2 repealed (1.9.1994) by 1994 c. 23, ss. 100(2), 101(1), [Sch. 15](#)

### <sup>F252</sup>SCHEDULE 3

Section 72.

#### Textual Amendments

**F252** 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](#))

### <sup>F253</sup>SCHEDULE 4

Section 73.

#### Textual Amendments

**F253** 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](#))

### <sup>F254</sup>SCHEDULE 5

Section 76.

*Status: Point in time view as at 19/12/2014.*

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### Textual Amendments

**F254** 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), <sup>F255</sup> . . . , <sup>F256</sup> . . . 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

**F255** 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

**F256** 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\(8\)](#)

<sup>F257</sup>2 . . . . .

### Textual Amendments

**F257** 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](#))

<sup>F258</sup>3 . . . . .

### Textual Amendments

**F258** 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

<sup>F259</sup>4 . . . . .

### Textual Amendments

**F259** 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

<sup>F260</sup>5 . . . . .

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#### Textual Amendments

**F260** 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

**F261** 6 .....

#### Textual Amendments

**F261** 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](#))

**F262** 7 .....

#### Textual Amendments

**F262** 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](#))

**F263** 8 .....

#### Textual Amendments

**F263** [Sch. 6 para. 8](#) repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\), s. 1034\(1\)](#), [Sch. 3 Pt. 1](#) (with [Sch. 2](#))

**F264** 9 .....

#### Textual Amendments

**F264** [Sch. 6 para. 9](#) repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\), s. 1034\(1\)](#), [Sch. 3 Pt. 1](#) (with [Sch. 2](#))

**F265F266** 10 .....

#### Textual Amendments

**F265** Sch. 6 para. 10 repealed (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\), s. 381\(1\)](#), [Sch. 10 Pt. 13](#) (with [Sch. 9 paras. 1-9, 22](#))

**F266** [Sch. 6 para. 10](#) repealed (31.1.2013) by [Statute Law \(Repeals\) Act 2013 \(c. 2\), s. 3\(2\)](#), [Sch. 1 Pt. 10](#) Group 1

**F267** 11 .....

#### Textual Amendments

**F267** [Sch. 6 para. 11](#) repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\), s. 1329\(1\)](#), [Sch. 3 Pt. 1](#) (with [Sch. 2 Pts. 1, 2](#))

**F268** 12 .....

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#### Textual Amendments

**F268** 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

**F269** 13 .....

#### Textual Amendments

**F269** [Sch. 6 para. 13](#) repealed (6.4.2007) by [Income Tax Act 2007](#) (c. 3), s. 1034(1), [Sch. 3 Pt. 1](#) (with [Sch. 2](#))

**F270** 14 .....

#### Textual Amendments

**F270** 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\(1\)](#)

**F271** 15 .....

#### Textual Amendments

**F271** [Sch. 6 para. 15](#) repealed (6.4.2007) by [Income Tax Act 2007](#) (c. 3), s. 1034(1), [Sch. 3 Pt. 1](#) (with [Sch. 2](#))

**F272** 16 .....

#### Textual Amendments

**F272** 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

**F273** 17 .....

#### Textual Amendments

**F273** 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

**F274** 18 .....

#### Textual Amendments

**F274** 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\(3\)](#)

**F275** 19 .....



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### Textual Amendments

**F275** 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 <sup>F276</sup> . . . (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

**F276** 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)*

<sup>F277</sup>**21** . . . . .

### Textual Amendments

**F277** 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)*

<sup>F278</sup>**22** . . . . .

### Textual Amendments

**F278** 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

<sup>F279</sup>**23** . . . . .

### Textual Amendments

**F279** 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

<sup>F280</sup>**24** . . . . .

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### Textual Amendments

**F280** 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.

**F281** (2) .....

**F282** (3) .....

**F282** (4) .....

**F283** (5) .....

### Textual Amendments

**F281** 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

**F282** 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

**F283** 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 <sup>M58</sup>Taxation 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”.

**F284** (2) .....

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#### Textual Amendments

**F284** 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

**M58** 1992 c. 12.

*Extension of references to full-time working directors etc.*

**F285** 2 .....

#### Textual Amendments

**F285** 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) 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,

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- (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

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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.

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- (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) 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—

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- (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.**

- 164(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

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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—

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- (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;



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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) 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—

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- (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—

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- (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) 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,

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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.**

- 164F(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

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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 of 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;

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- (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) Subject to section 164H, a company is a qualifying company for the purposes of this Chapter if it complies with this section.

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- (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—

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- (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 <sup>M59</sup>Insolvency Act 1986 or the <sup>M60</sup>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.**

164(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.



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- (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—

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- (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

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- (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

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- (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.**

- 164I) 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) 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

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- (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.

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- (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

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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 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;

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“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 <sup>M61</sup>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 <sup>M62</sup>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

**M59** 1986 c. 45.

**M60** S.I. 1989/2405 (N.I. 19).

**M61** 1971 c. 61.

**M62** 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 <sup>M63</sup>Taxation of Chargeable Gains Act 1992.



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## “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,

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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—

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- (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—

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- (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,

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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

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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

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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;

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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



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- (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,

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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

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- (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—

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- (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 asset 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

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- (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;

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- (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.

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- (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.

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(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 <sup>M64</sup>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 <sup>M65</sup>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

**M63** 1992 c. 12.

**M64** 1978 c. 30.

**M65** S.I. 1979/1573 (N.I. 13).

#### Textual Amendments

**F286** Sch. 9 repealed (with effect in accordance with reg. 1 of the amending S.I.) by [The Overseas Life Insurance Companies Regulations 2006 \(S.I. 2006/3271\)](#), reg. 1, **Sch. Pt. 1**



*Status: Point in time view as at 19/12/2014.*

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**F287** SCHEDULE 10

Section 101.

OVERSEAS LIFE INSURANCE COMPANIES: AMENDMENT OF FINANCE ACT 1989

**Textual Amendments**

**F287** Sch. 10 repealed (with effect in accordance with reg. 1 of the amending S.I.) by [The Overseas Life Insurance Companies Regulations 2006 \(S.I. 2006/3271\)](#), reg. 1, **Sch. Pt. 1**

**F288** SCHEDULE 11

Section 102.

**Textual Amendments**

**F288** Sch. 11 repealed (with effect in accordance with reg. 1 of the amending S.I.) by [The Overseas Life Insurance Companies Regulations 2006 \(S.I. 2006/3271\)](#), reg. 1, **Sch. Pt. 1**

**F289** SCHEDULE 12

Section 114.

**Textual Amendments**

**F289** 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

**F290** SCHEDULE 13

Section 115.

**Textual Amendments**

**F290** 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**

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## SCHEDULE 14

Section 120.

### PAY AND FILE: MISCELLANEOUS AMENDMENTS

#### *Failure to give notice of liability for corporation tax*

F291<sup>1</sup> .....

##### Textual Amendments

**F291** 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*

F292<sup>2</sup> .....

##### Textual Amendments

**F292** 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 <sup>M68</sup>Finance (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).

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- (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**

**M68** 1987 c. 51.

*Interest on overdue corporation tax: pay and file cases*

4 <sup>F293</sup>(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.”

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### Textual Amendments

**F293** 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*

**F294** 6 .....

### Textual Amendments

**F294** 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 <sup>M69</sup>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.

**F295** (2) .....

**F296** (3) .....

- (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 ”.

**F297** (5) .....

### Textual Amendments

**F295** [Sch. 14 para. 8\(2\)](#) repealed (with effect in accordance with [s. 1184\(1\)](#) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), [s. 1184\(1\)](#), [Sch. 3 Pt. 1](#) (with [Sch. 2](#))

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**F296** Sch. 14 para. 8(3) repealed (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), **Sch. 3 Pt. 1** (with Sch. 2)

**F297** Sch. 14 para. 8(5) repealed (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), **Sch. 3 Pt. 1** (with Sch. 2)

#### Marginal Citations

**M69** 1990 c. 29.

**F298**<sup>9</sup> .....

#### Textual Amendments

**F298** Sch. 14 para. 9 repealed (19.7.2007) by Finance Act 2007 (c. 11), **Sch. 27 Pt. 2(8)**

#### *Interest on tax overpaid*

10 **F299**(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 ”.

**F299**(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 ”.

**F299**(5) .....

**F299**(6) .....

#### Textual Amendments

**F299** 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*

**F300**<sup>11</sup> .....

#### Textual Amendments

**F300** Sch. 14 para. 11 repealed (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), **Sch. 3 Pt. 1** (with Sch. 2)

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#### Textual Amendments

**F301** 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)

### F311 SCHEDULE 16

Section 165.

#### Textual Amendments

**F311** 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)

### F312 SCHEDULE 17

Section 169.

#### Textual Amendments

**F312** 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

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- (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)*

F322<sub>2</sub> .....

**Textual Amendments**

**F322** 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)

F323<sub>3</sub> .....

**Textual Amendments**

**F323** 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

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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.”

F3246 .....

Textual Amendments

F324 Sch. 18 para. 6 repealed (31.1.2013) by Statute Law (Repeals) Act 2013 (c. 2), s. 3(2), Sch. 1 Pt. 10 Group 1

Finance Act 1989 (c. 26)

F3257 .....

Textual Amendments

F325 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)

F326 SCHEDULE 19

Section 173.

.....

Textual Amendments

F326 Sch. 19 repealed (20.7.2005 for specified purposes, 6.4.2006 in so far as not already in force) by Finance (No. 2) Act 2005 (c. 22), s. 45(1)(8)(9), Sch. 11 Pt. 2(11); S.I. 2005/3337, art. 3

SCHEDULE 20

Section 175.

LLOYD’S UNDERWRITERS: SPECIAL RESERVE FUNDS

Modifications etc. (not altering text)

C23 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)



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## 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;
- [<sup>F327</sup>“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 subparagraph (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, <sup>F328</sup> . . .
- (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.
- [<sup>F329</sup>(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

**F327** 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)**

**F328** 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)**

**F329** 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)

**C24** 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)**

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### *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.
- [<sup>F330</sup>(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**

**F330** 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)**

**C25** 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 [<sup>F331</sup>premium] 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.

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- [<sup>F332</sup>(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 [<sup>F331</sup>premium] 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

**F331** Word in Sch. 20 para. 4(1)(2) substituted (1.12.2001) by [S.I. 2001/3629](#), [arts. 1\(2\)](#), [82\(g\)\(i\)](#)

**F332** 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)

**C26** 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\(1\)\(3\)\(a\)](#)

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*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 [<sup>F333</sup>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.

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#### Textual Amendments

**F333** 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)

**C27** 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 [<sup>F334</sup>(determined under sub-paragraph (1) above) of the fund as at the end] of any underwriting year exceeds 50 per cent. of—
- [<sup>F335</sup>(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 [<sup>F336</sup>either 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

**F334** Words in Sch. 20 para. 6(2) substituted (31.12.1999) by [S.I. 1999/3308](#), [reg. 3\(a\)](#)

**F335** Sch. 20 para. 6(2)(a) substituted (31.12.1999) by [S.I. 1999/3308](#), [reg. 3\(b\)](#)

**F336** 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)

**C28** 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.

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- (2) For the purposes of sub-paragraph (1) above, a payment of an amount shall be in money or [<sup>F337</sup>in assets forming part of the fund] or both, as the member or his personal representatives or assigns may direct.

#### Textual Amendments

**F337** 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*

- [<sup>F338</sup>8 (1) Subject to sub-paragraph (2) [<sup>F339</sup>and 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

**F338** 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**

**F339** 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.

<sup>F340</sup>(3) . . . . .

#### Textual Amendments

**F340** 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*

- [<sup>F341</sup>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 [<sup>F342</sup>relevant] underwriting year, are made into his special reserve fund under paragraph 3(1) above shall be deducted as an expense.

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- (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 [<sup>F342</sup>relevant] 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 [<sup>F342</sup>relevant] 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 [<sup>F342</sup>relevant] underwriting year's closing year, are made out of his special reserve fund under paragraph 6(2) above [<sup>F343</sup>(including where they are also made under paragraph 7(1) above)] shall be treated as a trading receipt.
- [ In this paragraph “the relevant underwriting year”, in relation to a year of assessment,
- <sup>F344</sup>(5) means the underwriting year next but two before its corresponding underwriting year.]]

#### Textual Amendments

- F341** 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)**
- F342** 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)**
- F343** 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**
- F344** 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)

- C29** 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.
- <sup>F345</sup>(2) In computing for the purposes of income tax the profits of the member's underwriting business for [<sup>F346</sup>the relevant year of assessment], any payment under paragraph 7(1) above [<sup>F347</sup>(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—



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- (a) [<sup>F348</sup>subject to sub-paragraph (2A) below,] as made immediately after the end of [<sup>F346</sup>the relevant underwriting year]; and
- (b) as being a [<sup>F349</sup>single] trading receipt of an amount equal to that mentioned in sub-paragraph (3) below.

[<sup>F350</sup>(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 <sup>F351</sup>, 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 [<sup>F352</sup>the 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 [<sup>F353</sup>3(1), 4(2) or (3) or 5(4) above so made; <sup>F354</sup> . . .
- (c) as increased by the amount of any tax repayment <sup>F355</sup> . . . under paragraph 9(2) <sup>F355</sup> . . . above after the end of that year.

[<sup>F356</sup>(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 <sup>F357</sup>.]

(4) Where an asset is transferred to the member or his personal representatives or assigns under paragraph 7(1) above [<sup>F358</sup>or otherwise than out of his special reserve fund], the transfer shall be treated, for the purposes of the Gains Tax Acts [<sup>F359</sup>—

- (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



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or his personal representatives or assigns at the date of the transfer and for a consideration equal to its market value at that time.]

[<sup>F360</sup>(5) In this paragraph, subject to the provisions of any regulations made by the Board—

“the penultimate underwriting year” means the underwriting year [<sup>F361</sup>corresponding to the year of assessment immediately preceding the member’s final year of assessment;]

[<sup>F362</sup>“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) [<sup>F363</sup>where 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 <sup>F364</sup>, as having died;]
- (b) in any other case, his final year of assessment.]

[<sup>F365</sup>(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

**F345** 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”

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- F346** 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\(1\)](#)
- F347** 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\(2\)\(b\)](#)
- F348** 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\(2\)\(c\)](#)
- F349** 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\(2\)\(d\)](#)
- F350** 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\(3\)](#)
- F351** [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.
- F352** 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\(2\)](#)
- F353** 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\(4\)\(a\)](#)
- F354** 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\(4\)\(b\)](#)
- F355** 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
- F356** 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\(4\)\(d\)\(e\)](#)
- F357** [1992 c.12](#); section 272 was amended by paragraph 12 of Schedule 38 to the [Finance Act 1996 \(c.8\)](#).
- F358** 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\(5\)\(a\)](#)
- F359** 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\(5\)\(b\)](#)
- F360** 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\(3\)](#)
- F361** 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\(2\)\(6\)](#)
- F362** 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\(3\)\(6\)](#)
- F363** 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\(4\)\(6\)](#)
- F364** Section 179A of the Finance Act 1993 was inserted by paragraph 6(2) of Schedule 21 to the Finance Act 1994.
- F365** 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\(5\)\(6\)](#)

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## 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; <sup>F366</sup> . . .
- (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.
- [<sup>F367</sup>(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.]

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### Textual Amendments

- F366** 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
- F367** 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.

[<sup>F368</sup>SCHEDULE 20A

Section 179B

[<sup>F369</sup>CONVERSION TO UNDERWRITING THROUGH PARTNERSHIP OR COMPANY]

### Textual Amendments

- F368** Sch. 20A inserted (22.7.2004) by Finance Act 2004 (c. 12), Sch. 25 para. 3
- F369** Sch. 20A heading substituted (19.12.2014) by The Lloyd's Underwriters (Conversion of Partnerships to Underwriting through Successor Companies) (Tax) Regulations 2014 (S.I. 2014/3133), regs. 1, 5(7)

## 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.

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- (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) [<sup>F370</sup>Section 83 of ITA 2007] shall apply as if the income so derived were profits on which the member was assessed under [<sup>F371</sup>Part 2 of the Income Tax (Trading and Other Income) Act 2005] in respect of the member's underwriting business for that year.

<sup>F372</sup>(3) .....

<sup>F372</sup>(4) .....

*Status: Point in time view as at 19/12/2014.*

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### Textual Amendments

- F370** Words in Sch. 20A para. 2(2) substituted (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 361\(2\)\(a\)](#) (with [Sch. 2](#))
- F371** 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](#))
- F372** Sch. 20A para. 2(3)(4) repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 361\(2\)\(b\)](#), [Sch. 3 Pt. 1](#) (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

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- (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—

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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 [<sup>F373</sup>sections 450 and 451 of the Corporation Tax Act 2010];
  - “ordinary share capital” has the meaning given by [<sup>F374</sup>section 989 of ITA 2007];
  - “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.

#### **Textual Amendments**

**F373** Words in Sch. 20A para. 5(1) substituted (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), [Sch. 1 para. 279](#) (with [Sch. 2](#))

**F374** Words in Sch. 20A para. 5(1) substituted (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 361\(3\)](#) (with [Sch. 2](#))



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## **<sup>F375</sup>PART 1A**

### **CONVERSION OF PARTNERSHIPS TO UNDERWRITING THROUGH SUCCESSOR COMPANIES**

#### **Textual Amendments**

**F375** Sch. 20A Pt. 1A inserted (19.12.2014) by [The Lloyd's Underwriters \(Conversion of Partnerships to Underwriting through Successor Companies\) \(Tax\) Regulations 2014 \(S.I. 2014/3133\)](#), regs. 1, **5(2)**

#### *Introduction*

- 5A. (1) This Part of this Schedule applies if the following conditions are satisfied.
- (2) Condition 1 is that—
- (a) a Lloyd's partnership gives notice of its resignation from membership of Lloyd's in accordance with the rules or practice of Lloyd's,
  - (b) in accordance with the rules or practice, the partnership does not undertake any new insurance business at Lloyd's after the end of the partnership's last underwriting year, and
  - (c) the partnership does not withdraw that notice.
- (3) Condition 2 is that all of the partnership's outstanding syndicate capacity is disposed of by the partnership under a conversion arrangement to a successor company (the "syndicate capacity disposal") with effect from the beginning of the underwriting year next following the partnership's last underwriting year.
- (4) Condition 3 is that, immediately before the syndicate capacity disposal,—
- (a) the converting partners together control the successor company, and
  - (b) the ordinary share capital of the successor company is beneficially owned by the converting partners in the same, or as nearly as may be the same, proportions as those in which pursuant to the partnership agreement the converting partners are at that time treated as having interests in the partnership's syndicate capacity.
- (5) For the purposes of sub-paragraph (4)(b), ignore any interest of a person other than a converting partner in the partnership's syndicate capacity.
- (6) Condition 4 is that the syndicate capacity disposal is made in consideration solely of the issue to the converting partners of shares in the successor company.
- (7) 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 partnership's last underwriting year.
- (8) In this paragraph "the partnership's last underwriting year", in relation to a partnership which gives notice of its resignation from Lloyd's, means the underwriting year during which, or at the end of which, the partnership ceases to be an underwriting member and becomes a non-underwriting member in accordance with the rules or practice of Lloyd's.
- (9) In this paragraph "outstanding syndicate capacity", in relation to a partnership, means the syndicate capacity of the partnership other than any which—

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- (a) the partnership disposes of to a person other than a successor member at or before the end of the partnership's last underwriting year, or
- (b) ceases to exist with effect from the end of that year.

*Capital gains tax: roll-over relief on disposal of syndicate capacity*

- 5B. (1) This paragraph applies if—
- (a) the aggregate of any chargeable gains accruing to a converting partner on the syndicate capacity disposal exceeds the aggregate of any allowable losses accruing to the partner on that disposal, and
  - (b) the partner makes a claim under this paragraph to an officer of Revenue and Customs.
- (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 partner on a disposal by the partner 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 partner.
- (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 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 partner 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 partner in consideration for the syndicate capacity disposal.

*Capital gains tax: roll-over relief on disposal of assets of ancillary trust fund*

- 5C. (1) This paragraph applies if—
- (a) at the time of, or after, the syndicate capacity disposal, assets forming some or all of the ancillary trust fund of the Lloyd's partnership or of a converting partner are—
    - (i) withdrawn from the fund, and
    - (ii) without unreasonable delay, disposed of by the partnership or partner to the successor company (the “ATF disposal”),
  - (b) the aggregate of any chargeable gains accruing to a converting partner (the “relevant partner”) on the ATF disposal exceeds the aggregate of any allowable losses available to the relevant partner on that disposal,

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- (c) throughout the period beginning with the time of the syndicate capacity disposal and ending with the time of the ATF disposal—
    - (i) the converting partners together control the successor company, and
    - (ii) the proportion of the successor company's ordinary share capital beneficially owned by the relevant partner is more than 50% of the proportion of that share capital that was beneficially owned by the relevant partner at the time of the syndicate capacity disposal,
  - (d) the consideration received by the relevant partner on the ATF disposal consists solely of the issue to the relevant partner of shares (the “issued shares”) in the successor company, and
  - (e) the relevant partner makes a claim under this paragraph to an officer of Revenue and Customs.
- (2) But this paragraph does not apply if—
- (a) the relevant partner could have made a claim under paragraph 5B above, and
  - (b) at the time the relevant partner makes a claim under this paragraph, no claim under paragraph 5B above is or has been made by the relevant partner.
- (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 relevant partner on a disposal by the relevant partner 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 are 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 relevant partner.
- (5) In this paragraph “the amount of the rolled-over gain” means the lesser of—
- (a) subject to sub-paragraph (6), 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 relevant partner 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) be reduced by multiplying it by—

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

where—

R is the amount of the ATF assets required, and

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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 relevant partner in respect of the Lloyd’s partnership’s underwriting business in the partnership’s last underwriting year, and
  - (b) the amount of security required to be provided by the relevant partner in respect of the successor company’s underwriting business in its first underwriting year.
- (8) This paragraph applies—
- (a) in relation to assets forming some or all of the Lloyd’s partnership’s ancillary trust fund, only on the first occasion on or after 19th December 2014 on which the partnership makes an ATF disposal, and
  - (b) in relation to assets forming some or all of a converting partner’s ancillary trust fund, only on the first occasion on or after 19th December 2014 on which the partner makes an ATF disposal.
- (9) If a claim made under paragraph 5B is revoked, this paragraph applies as if the claim had never been made.

#### *Interpretation of this Part of this Schedule*

- 5D. (1) In this Part of this Schedule—
- “ancillary trust fund”—
- (a) in relation to a Lloyd’s partnership, does not include a premium trust fund but, subject to that, means any trust fund required or authorised by the rules of Lloyd’s, or required by a member’s agent, and
  - (b) in relation to a converting partner, means any trust fund required or authorised by the rules of Lloyd’s in connection with being a partner in, or member of, the partnership, or required by a member’s agent in that connection;
- “control” is to be construed in accordance with sections 450 and 451 of the Corporation Tax Act 2010;
- “converting partner”, in relation to a syndicate capacity disposal by a Lloyd’s partnership,—
- (a) means any person who, immediately before the disposal, is a partner in, or member of, the partnership and pursuant to the partnership agreement is treated at that time as having an interest in the partnership’s syndicate capacity, but
  - (b) does not include any partner or member whose resignation from the partnership takes effect on the day of the disposal;
- “ordinary share capital” has the meaning given by section 989 of ITA 2007;
- “the partnership’s last underwriting year” has the meaning given by paragraph 5A(8);
- “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;

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“the successor company’s first underwriting year” has the meaning given by paragraph 5A(7);

“syndicate capacity disposal” has the meaning given by paragraph 5A(3);

“underwriting business”—

(a) in relation to a Lloyd’s partnership, means the partnership’s underwriting business as a member of Lloyd’s, and

(b) 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 5B and 5C above (and paragraph 5A 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 member gives notice of his resignation from membership of Lloyd’s in accordance with the rules or practice of Lloyd’s,
  - 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
  - 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—

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- (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) [<sup>F376</sup>Section 83 of ITA 2007] (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 [<sup>F377</sup>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

**F376** Words in Sch. 20A para. 7(2) substituted (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 361\(4\)](#) (with [Sch. 2](#))

**F377** 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—
- [<sup>F378</sup>“successor partnership” means—
  - (a) a limited partnership formed under the law of Scotland which is a successor member, or
  - (b) a limited liability partnership formed under the law of any part of the United Kingdom which is a successor member.]
- “the syndicate capacity disposal” has the meaning given by paragraph 6(3) above.

#### Textual Amendments

**F378** Words in Sch. 20A para. 8 substituted (14.2.2006) by [The Lloyds Underwriters \(Conversion to Limited Liability Underwriting\) \(Tax\) Regulations 2006 \(S.I. 2006/112\)](#), regs. 1, 2

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### 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 [<sup>F379</sup>Part 1 or 2 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.

#### Textual Amendments

**F379** Words in Sch. 20A para. 9(1)(a) inserted (19.12.2014) by [The Lloyd's Underwriters \(Conversion of Partnerships to Underwriting through Successor Companies\) \(Tax\) Regulations 2014 \(S.I. 2014/3133\)](#), regs. 1, **5(3)**

- [<sup>F380</sup>9A. (1) This paragraph applies if—
- (a) a person makes a claim for relief under or by virtue of Part 1A of this Schedule, and
  - (b) the Lloyd's partnership in respect of which the claim is made withdraws the notice of its resignation from Lloyd's.
- (2) The person must give written notice of such withdrawal to an officer of Revenue and Customs.
- (3) Such a notice must be given no later than 6 months from the date on which the person first became aware of the withdrawal of the notice of resignation.
- (4) Unless the person proves otherwise, it shall be assumed that the person became aware of the withdrawal of the notice on the day on which it was withdrawn.
- (5) 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).

*Status: Point in time view as at 19/12/2014.*

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- (6) If a person fails, carelessly or deliberately, to comply with sub-paragraph (2) or (3) above, Schedule 24 to the Finance Act 2007 shall apply as if—
- (a) the person had given HMRC a document of a kind listed in the Table in paragraph 1 of that Schedule, and
  - (b) the document contained an inaccuracy which was careless or deliberate on the person's part and amounted to an understatement of a liability to tax equivalent to the amount of the adjustments required by sub-paragraph (5) to be made.
- (7) In this paragraph “tax” means income tax, capital gains tax or inheritance tax.]

#### Textual Amendments

**F380** Sch. 20A para. 9A inserted (19.12.2014) by [The Lloyd's Underwriters \(Conversion of Partnerships to Underwriting through Successor Companies\) \(Tax\) Regulations 2014 \(S.I. 2014/3133\)](#), regs. 1, **5(4)**

#### *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;
  - [<sup>F381</sup>“syndicate capacity”, in relation to a member or Lloyd's partnership, means an asset comprising the rights of the member or partnership under a syndicate in which the member or partnership participates.]

#### Textual Amendments

**F381** Words in Sch. 20A para. 10 substituted (19.12.2014) by [The Lloyd's Underwriters \(Conversion of Partnerships to Underwriting through Successor Companies\) \(Tax\) Regulations 2014 \(S.I. 2014/3133\)](#), regs. 1, **5(5)**

#### *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).
- [ Paragraph 5B above (and the other provisions of this Schedule so far as relating to
- <sup>F382</sup>(2A) that paragraph) have effect in relation to syndicate capacity disposals (within the meaning of Part 1A of this Schedule) made on or after 19th December 2014.
- (2B) Paragraph 5C 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



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paragraph) made on or after 19th December 2014 (even if the syndicate capacity disposal 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.]

#### Textual Amendments

**F382** Sch. 20A para. 11(2A)(2B) inserted (19.12.2014) by [The Lloyd's Underwriters \(Conversion of Partnerships to Underwriting through Successor Companies\) \(Tax\) Regulations 2014 \(S.I. 2014/3133\)](#), regs. 1, **5(6)**

## [<sup>F383</sup>[<sup>F384</sup>SCHEDULE 20B]

### PRT: ELECTIONS FOR OIL FIELDS TO BECOME NON-TAXABLE

#### Textual Amendments

**F383** Sch. 20A inserted (21.7.2008) by [Finance Act 2008 \(c. 9\)](#), s. 107(6), **Sch. 33 para. 1**

**F384** Sch. 20B: Sch. 20A renumbered as Sch. 20B (21.7.2009) by [Finance Act 2009 \(c. 10\)](#), **Sch. 45 para. 3(1)**

#### *Election by responsible person*

- 1
- (1) The responsible person for a taxable field may make an election that the field is to be non-taxable.
  - (2) An election is irrevocable.
  - (3) The responsible person may not make an election unless each person who is a participator at the time the election is made agrees to the election being made.
  - (4) If the responsible person makes an election, the Commissioners may assume that each participator agrees to the election being made (unless it appears to the Commissioners that a participator does not agree).

#### *Decision by Commissioners*

- 2
- (1) If an election is made, the Commissioners must decide whether or not the field is no longer taxable.
  - (2) For the purposes of this paragraph, the field is no longer taxable if it appears to the Commissioners that one or other of the following conditions is met in relation to each future chargeable period.
  - (3) Condition A is that no assessable profit will accrue to any participator in the field in that period.
  - (4) Condition B is that the assessable profit accruing to each participator in the field in that period will be equal to, or smaller than, the cash equivalent of that participator's share of the oil allowance for the field in that period.

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- (5) The responsible person must give the Commissioners such information as the Commissioners may reasonably require in connection with their making a decision under sub-paragraph (1).
  - (6) The Commissioners may make such assumptions as they think appropriate for the purposes of making a decision under this paragraph (including assumptions about what, if any, participators there will be in the field in future chargeable periods).
  - (7) In this paragraph—
    - “assessable profit” means assessable profit before any reduction under section 7 of OTA 1975 (relief for allowable losses);
    - “future chargeable period”, in relation to a decision by the Commissioners under this paragraph, means a chargeable period that falls at any time after the chargeable period in which the Commissioners make that decision.
- 3 (1) The Commissioners must give the responsible person notice of their decision under paragraph 2(1).
- (2) Within one month of being given notice by the Commissioners of their decision, the responsible person must give copies of the notice to each person who is a participator, or a former participator, at the time the Commissioners' notice is given.
  - (3) But the responsible person is not required to give notice to any person to whom it would be impracticable to give notice.

*When election has effect*

- 4 (1) An election does not have effect unless the Commissioners decide under paragraph 2(1) that the field is no longer taxable.
- (2) In such a case, the election has effect from the start of the first chargeable period to begin after the Commissioners give notice under paragraph 3.
  - (3) The election then continues to have effect indefinitely (unless cancelled in accordance with paragraph 6).

*No unrelievable field losses from field*

- 5 For as long as the election has effect, no allowable loss that accrues from the oil field is an allowable unrelievable field loss for the purposes of petroleum revenue tax.

*Cancellation of election by Commissioners*

- 6 (1) The Commissioners may cancel an election if, within 3 years of their giving notice under paragraph 3, it appears to them that—
- (a) information that the responsible person gave the Commissioners in connection with the election was inaccurate or incomplete at the time it was given, and
  - (b) if the information had not been inaccurate or incomplete, the Commissioners would not have made the decision that they made under paragraph 2.
- (2) For the purposes of sub-paragraph (1) it does not matter whether or not the Commissioners required the information to be given.
- 7 (1) If the Commissioners cancel an election, they must give notice of the cancellation—

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- (a) to the person who made the election, or
  - (b) if it is impracticable to give notice to that person, to a person who is a participator at the time the election is cancelled, or
  - (c) if it is impracticable to give notice to any such person, to a person who is a former participator at the time the election is cancelled;
- but the Commissioners are not required to give notice to a person falling within paragraph (c) if it would be impracticable to give notice to any such person.
- (2) Within one month of being given notice by the Commissioners under sub-paragraph (1), the person must give copies of the notice to each person who is a participator, or a former participator, at the time the Commissioners' notice is given.
  - (3) But that person is not required to give notice to any person to whom it would be impracticable to give notice.

#### *Effect of cancellation*

- 8
- (1) If the Commissioners cancel an election under paragraph 6, the election is to be treated as though it had never had effect.
  - (2) But that does not make a person liable for anything that the person did, or did not do, in consequence of the election having effect before its cancellation.
  - (3) If the Commissioners cancel an election, the enactments relating to petroleum revenue tax apply to the oil field subject to sub-paragraphs (4) to (7).
  - (4) The Commissioners may specify the periods within which PRT returns for the relevant chargeable periods must be delivered.
  - (5) If the Commissioners specify the period within which a PRT return must be delivered, the provisions of OTA 1975 set out in sub-paragraph (6) apply to the specified period as if it were a period for the delivery of a PRT return that has been extended under paragraph 2 or 5 of Schedule 2 to OTA 1975.
  - (6) The provisions of OTA 1975 referred to in sub-paragraph (5) are—
    - (a) paragraph 12A of Schedule 2, and
    - (b) paragraph 2(7) and (8) of Schedule 5 (including those provisions as applied to Schedule 6 to OTA 1975 by paragraph 2 of Schedule 6).
  - (7) For the purposes of paragraph 4 of Schedule 2 to OTA 1975, the “initial period” is the period of thirty days beginning with the date on which the Commissioners give notice in accordance with paragraph 6 of this Schedule.
  - (8) The Commissioners may by regulations make transitional provision (including provision modifying enactments) applicable to cases where elections are made and subsequently cancelled under this Schedule.
  - (9) Regulations under sub-paragraph (8)—
    - (a) are to be made by statutory instrument, and
    - (b) are subject to annulment in pursuance of a resolution of the House of Commons.
  - (10) In this paragraph—

“PRT return” means a return under paragraph 2 or 5 of Schedule 2 to OTA 1975;

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“relevant chargeable periods”, in relation to a cancelled election, means the series of consecutive chargeable periods that—

- (a) begins with the chargeable period from the start of which the election had effect, and
- (b) ends with the chargeable period during which the election is cancelled.

### *Appeals*

- 9 (1) The responsible person may appeal against a decision of the Commissioners under paragraph 2(1).
- (2) Any such appeal must be made within 3 months of the Commissioners giving notice under paragraph 3 of their decision to the responsible person.
- 10 (1) A person who is a participator, or a former participator, at the time the Commissioners cancel an election under paragraph 6 may appeal against the cancellation.
- (2) Any such appeal must be made within 3 months of the Commissioners giving notice under paragraph 7 of the cancellation (whether or not the notice was given to the person making the appeal).
- 11 (1) Any appeal under paragraph 9 or 10 must be made to the Commissioners—
  - (a) by notice in writing, or
  - (b) in any other form authorised by direction of the Commissioners.

<sup>F385</sup>(2) .....

[ The provisions of paragraphs 14A to 14I of Schedule 2 to OTA 1975 shall apply in  
<sup>F386</sup>(3) relation to an appeal under paragraphs 9 or 10 above as they apply in relation to an appeal against an assessment or determination made under that Act, subject to any necessary modifications.]

#### **Textual Amendments**

**F385** Sch. 20A para. 11(2) omitted (1.4.2009) by virtue of [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 194(2)**

**F386** Sch. 20A para. 11(3) inserted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 194(3)**

### *Interpretation*

- 12 (1) In this Schedule—
  - “Commissioners” means the Commissioners for Her Majesty's Revenue and Customs <sup>F387</sup>...;
  - “election” means an election in writing, or in any other form authorised by direction of the Commissioners, made to the Commissioners;
  - “former participator”, in relation to a particular time, means a person who—
    - (a) is not a participator in the chargeable period which includes that time, but
    - (b) was a participator in any earlier chargeable period;
  - “OTA 1975” means the Oil Taxation Act 1975;

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“participator”, in relation to a particular time, means a person who is a participator in the chargeable period which includes that time.

(2) Expressions used in this Schedule and in Part 1 of OTA 1975 have the same meaning in this Schedule as in that Part of OTA 1975.]

#### Textual Amendments

**F387** Words in Sch. 20A para. 12 omitted (1.4.2009) by virtue of [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 194(4)**

## F388 SCHEDULE 21

Section 187.

#### Textual Amendments

**F388** [Sch. 21](#) omitted (1.4.2010) by virtue of [The Finance Act 2009, Section 96 and Schedule 48 \(Appointed Day, Savings and Consequential Amendments\) Order 2009 \(S.I. 2009/3054\)](#), art. 1, **Sch. para. 5(b)**

## SCHEDULE 22

Section 210.

### TRADING FUNDS

#### Introduction

1 The <sup>M75</sup>Government Trading Funds Act 1973 shall be amended as follows.

#### Marginal Citations

**M75** [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.

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- (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

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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

**III** 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.

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		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)”.



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1986 c. 41.	The Finance Act 1986.	In paragraph 4 of Schedule 5, “13”.
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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.

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<b>Chapter</b>	<b>Short title</b>	<b>Extent of repeal</b>
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**

<b>Chapter</b>	<b>Short title</b>	<b>Extent of repeal</b>
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**

<b>Chapter</b>	<b>Short title</b>	<b>Extent of repeal</b>
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**

<b>Chapter</b>	<b>Short title</b>	<b>Extent of repeal</b>
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*Status: Point in time view as at 19/12/2014.*

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1985 c. 54.	The Finance Act 1985.	Section 13(4). Section 19(2)(b).
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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.

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1992 c. 48.	The Finance (No. 2) Act 1992.	Section 26.
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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 subparagraph (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)”.

*Status: Point in time view as at 19/12/2014.*

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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

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		“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

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		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.

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## 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” <sup>F389</sup> .... 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).

**Textual Amendments**

**F389** Words in Sch. 23 Pt. VI repealed (31.1.2013) by [Statute Law \(Repeals\) Act 2013 \(c. 2\)](#), s. 3(2), [Sch. 1 Pt. 10](#) Group 1

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:**

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**Changes to legislation:**

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