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Finance Act 1995

CHAPTER 4

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CHAPTER 4

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Finance Act 1995

1995 CHAPTER 4

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.

[1st May 1995]

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

DUTIES OF EXCISE

Alcoholic liquor duties

Low-strength wine, made-wine and cider.

1979 c. 4.

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

(2) In section 1 (the alcoholic liquors dutiable under the Act) in subsections (4) and (5) (definitions of "wine" and "made-wine") after the words "any liquor" there shall in both cases be inserted "which is of a strength exceeding 1.2 per cent and which is".

(3) In section 1(6) (definition of "cider") after the word "strength" there shall be inserted "exceeding 1.2 per cent but".

(4) In section 59(1) (prohibition on rendering wine and made-wine sparkling) for paragraph (b) there shall be substituted the following paragraph—

PART I

"(b) is wine or made-wine of a strength exceeding 5.5 per cent.".

(5) Subsections (2) and (4) above—

(a) shall apply in relation to liquor imported into, or produced in, the United Kingdom on or after 1st January 1995, and

(b) as regards any provision about liquor removed to the United Kingdom from the Isle of Man, shall also apply in relation to liquor so removed on or after that date.

(6) Subsection (3) above shall apply in relation to liquor imported into, or made in, the United Kingdom on or after 1st January 1995.

Wine and made-wine: rates. 1979 c. 4.

2.—(1) For the Table of rates of duty in Schedule 1 to the Alcoholic Liquor Duties Act 1979 (wine and made-wine) there shall be substituted the Table in Schedule 1 to this Act.

(2) This section shall be deemed to have come into force on 1st January 1995.

Spirits, beer and cider: rates. 1979 c. 5.

3.—(1) In section 5 of the Alcoholic Liquor Duties Act 1979 (spirits) for "£19.81" there shall be substituted "£20.60".

(2) In section 36(1) of that Act (beer) for "£10.45" there shall be substituted "£10.82".

(3) In section 62(1) of that Act (cider) for "£22.82" there shall be substituted "£23.78".

(4) This section shall be deemed to have come into force on 1st January 1995.

Alcoholic ingredients relief.

4.—(1) Subject to the following provisions of this section, where any person proves to the satisfaction of the Commissioners that any dutiable alcoholic liquor on which duty has been paid has been—

(a) used as an ingredient in the production or manufacture of a product falling within subsection (2) below, or

(b) converted into vinegar,

he shall be entitled to obtain from the Commissioners the repayment of the duty paid thereon.

(2) The products falling within this subsection are—

(a) any beverage of an alcoholic strength not exceeding 1.2 per cent.,

(b) chocolates for human consumption which contain alcohol such that 100 kilograms of the chocolates would not contain more than 8.5 litres of alcohol, or

(c) any other food for human consumption which contains alcohol such that 100 kilograms of the food would not contain more than 5 litres of alcohol.

(3) A repayment of duty shall not be made under this section in respect of any liquor except to a person who—

(a) is the person who used the liquor as an ingredient in a product falling within subsection (2) above or, as the case may be, who converted it into vinegar;

(b) carries on a business as a wholesale supplier of products of the applicable description falling within that subsection or, as the case may be, of vinegar;

(c) produced or manufactured the product or vinegar for the purposes of that business;

(d) makes a claim for the repayment in accordance with the following provisions of this section; and

(e) satisfies the Commissioners as to the matters mentioned in paragraphs (a) to (c) above and that the repayment claimed does not relate to any duty which has been repaid or drawn back prior to the making of the claim.

(4) A claim for repayment under this section shall take such form and be made in such manner, and shall contain such particulars, as the Commissioners may direct, either generally or in a particular case.

(5) Except so far as the Commissioners otherwise allow, a person shall not make a claim for a repayment under this section unless—

(a) the claim relates to duty paid on liquor used as an ingredient or, as the case may be, converted into vinegar in the course of a period of three months ending not more than one month before the making of the claim; and

(b) the amount of the repayment which is claimed is not less than £250.

(6) The Commissioners may by order made by statutory instrument increase the amount for the time being specified in subsection (5)(b) above; and a statutory instrument containing an order under this subsection shall be subject to annulment in pursuance of a resolution of the House of Commons.

(7) There may be remitted by the Commissioners any duty charged either—

(a) on any dutiable alcoholic liquor imported into the United Kingdom at a time when it is contained as an ingredient in any chocolates or food falling within subsection (2)(b) or (c) above; or

(b) on any dutiable alcoholic liquor used as an ingredient in the manufacture or production in an excise warehouse of any such chocolates or food.

(8) This section shall be construed as one with the Alcoholic Liquor Duties Act 1979, and references in this section to chocolates or food do not include references to any beverages.

1979 c. 4.

Denatured alcohol.

5.—(1) The liquors on which duty is charged under the Alcoholic Liquor Duties Act 1979 shall not include any denatured alcohol; and any duty so charged on liquor which has become denatured alcohol before the requirement to pay the duty takes effect shall be remitted.

(2) In this section—

"denatured alcohol" means any dutiable alcoholic liquor which has been subjected to the process of being mixed in the prescribed manner with a prescribed substance; and

"prescribed" means prescribed by the Commissioners by regulations made by statutory instrument.

PART I

(3) The power of the Commissioners to make regulations defining denatured alcohol for the purposes of this section shall include—

(a) power, in prescribing any substance or any manner of mixing a substance with a liquor, to do so by reference to such circumstances or other factors, or to the approval or opinion of such persons (including the authorities of another member State), as they may consider appropriate;

(b) power to make different provision for different cases; and

(c) power to make such supplemental, incidental, consequential and transitional provision as the Commissioners think fit;

and a statutory instrument containing any regulations under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

1994 c. 9.

(4) Sections 14 to 16 of the Finance Act 1994 (review and appeals) shall have effect in relation to any decision which—

(a) is made under or for the purposes of any regulations under this section, and

(b) is a decision given to any person as to whether a manner of mixing any substance with any liquor is to be, or to continue to be, approved in his case, or as to the conditions subject to which it is so approved,

as if that decision were a decision specified in Schedule 5 to that Act.

1979 c. 4.

(5) Schedule 2 to this Act (which contains amendments for or in connection with the application to all denatured alcohol of provisions of the Alcoholic Liquor Duties Act 1979 relating to methylated spirits and also makes a consequential amendment of the Finance Act 1994) shall have effect.

(6) This section and Schedule 2 to this Act shall come into force on such day as the Commissioners may by order made by statutory instrument appoint, and different days may be appointed under this subsection for different purposes.

(7) An order under subsection (6) above may make such transitional provisions and savings as appear to the Commissioners to be appropriate in connection with the bringing into force by such an order of any provision for any purposes.

(8) This section shall be construed as one with the Alcoholic Liquor Duties Act 1979.

Hydrocarbon oil duties

Rates of duty.
1979 c. 5.

6.—(1) In section 6(1) of the Hydrocarbon Oil Duties Act 1979 for "£0.3314" (duty on light oil) and "£0.2770" (duty on heavy oil) there shall be substituted "£0.3526" and "£0.3044" respectively.

(2) In section 8 of that Act (duty on road fuel gas) the following subsection shall be substituted for subsections (3) to (5)—

"(3) The rate of the duty under this section shall be £0.3314 a kilogram."

(3) In section 11(1) of that Act (rebate on heavy oil) for "£0.0116" (fuel oil) and "£0.0164" (gas oil) there shall be substituted "£0.0166" and "£0.0214" respectively.

(4) In section 14(1) of that Act (rebate on light oil for use as furnace fuel) for "£0.0116" there shall be substituted "£0.0166".

(5) This section shall be deemed to have come into force at 6 o'clock in the evening of 29th November 1994.

Rates of duty: further provisions. 1979 c. 5.

7.—(1) In section 6(1) of the Hydrocarbon Oil Duties Act 1979, as amended by section 6 above, for "£0.3526" (duty on light oil) and "£0.3044" (duty on heavy oil) there shall be substituted "£0.3614" and "£0.3132" respectively.

(2) This section shall be deemed to have come into force on 1st January 1995.

Hydrocarbon oil: "road vehicle".

8.—(1) In the definition of "road vehicle" in section 27(1) of the Hydrocarbon Oil Duties Act 1979 (road vehicle not to include vehicle of a kind specified in Schedule 1) for the words "of a kind specified in Schedule 1 to this Act" there shall be substituted "which is an excepted vehicle within the meaning given by Schedule 1 to this Act."

(2) The following Schedule shall be substituted for Schedule 1 to that Act—

"SCHEDULE 1

EXCEPTED VEHICLES

Unlicensed vehicles not used on public roads

1.—(1) A vehicle is an excepted vehicle while—

(a) it is not used on a public road, and

(b) no licence under the Vehicle Excise and Registration Act 1994 is in force in respect of it.

1994 c. 22.

(2) A vehicle in respect of which there is current a certificate or document in the form of a licence issued under regulations under section 22(2) of the Vehicle Excise and Registration Act 1994 shall be treated for the purposes of sub-paragraph (1) above as a vehicle in respect of which a licence under that Act is in force.

Tractors

2.—(1) A vehicle is an excepted vehicle if it is—

(a) an agricultural tractor, or

(b) an off-road tractor.

(2) In sub-paragraph (1) above "agricultural tractor" means a tractor used on public roads solely for purposes relating to agriculture, horticulture, forestry or activities falling within sub-paragraph (3) below.

(3) The activities falling within this sub-paragraph are—

(a) cutting verges bordering public roads;

(b) cutting hedges or trees bordering public roads or bordering verges which border public roads.

(4) In sub-paragraph (1) above "off-road tractor" means a tractor which is not an agricultural tractor (within the meaning given by sub-paragraph (2) above) and which is—

(a) designed and constructed primarily for use otherwise than on roads, and

(b) incapable by reason of its construction of exceeding a speed of twenty-five miles per hour on the level under its own power.

Light agricultural vehicles

3.—(1) A vehicle is an excepted vehicle if it is a light agricultural vehicle.

(2) In sub-paragraph (1) above "light agricultural vehicle" means a vehicle which—

(a) has a revenue weight not exceeding 1,000 kilograms,

(b) is designed and constructed so as to seat only the driver,

(c) is designed and constructed primarily for use otherwise than on roads, and

(d) is used solely for purposes relating to agriculture, horticulture or forestry.

1994 c. 22.

(3) In sub-paragraph (2)(a) above "revenue weight" has the meaning given by section 60A of the Vehicle Excise and Registration Act 1994.

Agricultural engines

4. An agricultural engine is an excepted vehicle.

Vehicles used between different parts of land

5. A vehicle is an excepted vehicle if—

(a) it is used only for purposes relating to agriculture, horticulture or forestry,

(b) it is used on public roads only in passing between different areas of land occupied by the same person, and

(c) the distance it travels on public roads in passing between any two such areas does not exceed 1.5 kilometres.

Mowing machines

6. A mowing machine is an excepted vehicle.

Snow clearing vehicles

7. A vehicle is an excepted vehicle when it is—

(a) being used, or

(b) going to or from the place where it is to be or has been used,

for the purpose of clearing snow from public roads by means of a snow plough or similar device (whether or not forming part of the vehicle).

Gritters

8. A vehicle is an excepted vehicle if it is constructed or adapted, and used, solely for the conveyance of machinery for spreading material on roads to deal with frost, ice or snow (with or without articles or material used for the purposes of the machinery).

Mobile cranes

9.—(1) A mobile crane is an excepted vehicle.

(2) In sub-paragraph (1) above "mobile crane" means a vehicle which is designed and constructed as a mobile crane and which—

(a) is used on public roads only as a crane in connection with work carried on at a site in the immediate vicinity or for the purpose of proceeding to and from a place where it is to be or has been used as a crane, and

(b) when so proceeding does not carry any load except such as is necessary for its propulsion or equipment.

Digging machines

10.—(1) A digging machine is an excepted vehicle.

(2) In sub-paragraph (1) above "digging machine" means a vehicle which is designed, constructed and used for the purpose of trench digging, or any kind of excavating or shovelling work, and which—

(a) is used on public roads only for that purpose or for the purpose of proceeding to and from the place where it is to be or has been used for that purpose, and

(b) when so proceeding does not carry any load except such as is necessary for its propulsion or equipment.

Works trucks

11.—(1) A works truck is an excepted vehicle.

(2) In sub-paragraph (1) above "works truck" means a goods vehicle which is designed for use in private premises and is used on public roads only—

(a) for carrying goods between private premises and a vehicle on a road within one kilometre of those premises,

(b) in passing from one part of private premises to another,

(c) in passing between private premises and other private premises in a case where the premises are within one kilometre of each other, or

(d) in connection with road works at the site of the works or within one kilometre of the site of the works.

(3) In sub-paragraph (2) above "goods vehicle" means a vehicle constructed or adapted for use and used for the conveyance of goods or burden of any description, whether in the course of trade or not.

PART I

Road construction vehicles

12.—(1) A vehicle is an excepted vehicle if it is—

(a) a road construction vehicle, and

(b) used or kept solely for the conveyance of built-in road construction machinery (with or without articles or material used for the purposes of the machinery).

(2) In sub-paragraph (1) above "road construction vehicle" means a vehicle—

(a) which is constructed or adapted for use for the conveyance of built-in road construction machinery, and

(b) which is not constructed or adapted for the conveyance of any other load except articles and material used for the purposes of such machinery.

(3) In sub-paragraphs (1) and (2) above "built-in road construction machinery", in relation to a vehicle, means road construction machinery built in as part of, or permanently attached to, the vehicle.

(4) In sub-paragraph (3) above "road construction machinery" means a machine or device suitable for use for the construction or repair of roads and used for no purpose other than the construction or repair of roads.

Road rollers

13. A road roller is an excepted vehicle.

Interpretation

14. In this Schedule "public road" means a road which is repairable at the public expense."

(3) This section shall come into force on 1st July 1995.

Road fuel gas: old stock.
1979 c. 5.

9. In section 8 of the Hydrocarbon Oil Duties Act 1979 (road fuel gas) subsection (7) (no charge on use of gas if delivered or stocked before 3rd July 1972) shall be omitted.

Tobacco products duty

Rates of duty.
1979 c. 7.

10.—(1) For the Table of rates of duty in Schedule 1 to the Tobacco Products Duty Act 1979 there shall be substituted—

"TABLE

1. Cigarettes	An amount equal to 20 per cent. of the retail price plus £55.58 per thousand cigarettes.
2. Cigars	£82.56 per kilogram.
3. Hand-rolling tobacco	£85.94 per kilogram.
4. Other smoking tobacco and chewing tobacco ...	£36.30 per kilogram."

(2) This section shall be deemed to have come into force at 6 o'clock in the evening of 29th November 1994.

Rates of duty: further provisions. 1979 c. 7.

11.—(1) For the Table of rates of duty in Schedule 1 to the Tobacco Products Duty Act 1979, as substituted by section 10 above, there shall be substituted—

"TABLE

1. Cigarettes	An amount equal to 20 per cent. of the retail price plus £57.64 per thousand cigarettes.
2. Cigars	£85.61 per kilogram.
3. Hand-rolling tobacco	£85.94 per kilogram.
4. Other smoking tobacco and chewing tobacco ...	£37.64 per kilogram."

(2) This section shall be deemed to have come into force on 1st January 1995.

Pool betting duty

Pool betting duty. 1981 c. 63.

12.—(1) In section 7(1) of the Betting and Gaming Duties Act 1981 (which specifies 37.50 per cent. as the rate of pool betting duty) for "37.50 per cent." there shall be substituted "32.50 per cent."

(2) This section shall apply in relation to any pool betting duty the requirement to pay which takes effect on or after 6th May 1995.

Gaming machine licence duty

Rates of duty.

13.—(1) In the Betting and Gaming Duties Act 1981 for the Table set out at the end of section 23 (amount of duty) there shall be substituted—

TABLE

(1) *Period (in months) for which licence granted*	*(2)* *Small prize or five-penny machines*	*(3)* *Other machines*
	£	£
1	60	150
2	105	275
3	155	400
4	205	520
5	250	645
6	295	755
7	340	880
8	390	1,005
9	435	1,115
10	480	1,235
11	510	1,305
12	535	1,375

(2) This section shall apply in relation to any gaming machine licence for which an application is made on or after 1st December 1994.

Extension of duty to amusement machines.
1981 c. 63.
1979 c. 2.

14.—(1) Schedule 3 to this Act (which contains amendments for or in connection with the application of the provisions of the Betting and Gaming Duties Act 1981 relating to gaming machine licence duty to amusement machines that are not gaming machines and also makes a consequential amendment of the Customs and Excise Management Act 1979) shall have effect.

(2) Schedule 3 to this Act shall have effect (subject to subsection (3) below) in relation only to the provision of a machine at a time on or after 1st November 1995 and to licences for periods beginning on or after that date and the duty on such licences.

(3) Where a gaming machine licence has been granted before 1st November 1995 for a period ending on or after that date, that licence shall have effect on and after that date, for so long as it remains in force, as an amusement machine licence authorising the provision, in accordance with the licence, of the machines the provision of which was authorised by the licence immediately before that date.

Air passenger duty

Rates of duty.
1994 c. 9.

15.—(1) Section 30 of the Finance Act 1994 (rate of air passenger duty) shall be deemed to have been enacted with the following modifications.

(2) The following subsection shall be substituted for subsection (2) (£5 if journey ends in member State or territory for whose external relations it is responsible)—

"(2) The rate is £5 if that place is in the area specified in subsection (3) below and in—

(a) the United Kingdom or another EEA State, or

(b) any territory for whose external relations the United Kingdom or another member State is responsible."

(3) The following subsection shall be inserted after subsection (8)—

"(9) In this section "EEA State" means a State which is a Contracting Party to the EEA Agreement but until the EEA Agreement comes into force in relation to Liechtenstein does not include the State of Liechtenstein; and "EEA Agreement" here means the Agreement on the European Economic Area signed at Oporto on 2nd May 1992 as adjusted by the Protocol signed at Brussels on 17th March 1993."

Assessment of interest on duty.

16.—(1) In Schedule 6 to the Finance Act 1994 (air passenger duty: administration and enforcement) after paragraph 11 there shall be inserted—

"Assessment of interest

11A.—(1) Where by virtue of paragraph 7 above duty due from any person for an accounting period carries interest, the Commissioners may assess that person to an amount of interest in accordance with this paragraph.

(2) Notice of the assessment shall be given to the person liable for the interest or a representative of his.

(3) The amount of the interest shall be calculated by reference to a period ending on a date ("the due date") no later than the date of the notice.

(4) The notice shall specify—

(a) the amount of the duty which carries the interest assessed ("the specified duty");

(b) the amount of the interest assessed ("the specified interest");

(c) the due date; and

(d) a date by which that amount is required to be paid ("the payment date").

(5) Sub-paragraphs (6) and (7) below apply where the specified duty or any part of it is unpaid on the date of the notice.

(6) If the unpaid amount or any part of it is paid by the payment date, the payment shall be treated for the purposes of paragraph 7 above as made on the due date.

(7) To the extent that the unpaid amount is not paid by the payment date, an assessment may be made under this paragraph in respect of any interest on the unpaid amount which accrues after the due date.

(8) For the purposes of sub-paragraphs (6) and (7) above, a payment—

(a) which purports to be a payment of the unpaid amount or any part of it, but

(b) which is insufficient to discharge both the liability to pay the unpaid amount and the liability to pay the specified interest,

shall be treated as made in discharge (or partial discharge) of the liability to pay the specified interest before it is treated as discharging to any extent the liability to pay the unpaid amount.

(9) A notice of interest assessed under this paragraph may be combined in one document with notification of an assessment under section 12 of this Act which relates to the specified duty.

(10) A notice which is so combined must comply with the requirements of this paragraph which relate to a notice which is not so combined.

(11) The specified interest shall be recoverable as if it were duty due from the person assessed to that interest.

(12) For the purposes of this paragraph a person is a representative of another if—

(a) he is that other's personal representative;

(b) he is that other's trustee in bankruptcy or is a receiver or liquidator appointed in relation to that other or in relation to any of his property; or

(c) he is a person acting in some other representative capacity in relation to that other."

PART I

(2) In Schedule 5 to the 1994 Act (decisions subject to review and appeal) in paragraph 9 (decisions under Chapter IV of Part I of that Act) the word "and" immediately preceding sub-paragraph (d) shall be omitted and after that sub-paragraph there shall be inserted—

"(e) any decision with respect to the amount of any interest specified in an assessment under paragraph 11A of Schedule 6;".

(3) In section 16 of the 1994 Act (appeals to a tribunal) at the beginning of subsection (8) (meaning of "ancillary matter" for the purposes of that section) there shall be inserted "Subject to subsection (9) below" and after that subsection there shall be inserted—

"(9) References in this section to a decision as to an ancillary matter do not include a reference to a decision of a description specified in paragraph 9(e) of Schedule 5 to this Act.

(10) Nothing in this section shall be taken to confer on an appeal tribunal any power to vary an amount of interest specified in an assessment under paragraph 11A of Schedule 6 to this Act except in so far as it is necessary to reduce it to the amount which is appropriate under paragraph 7 of that Schedule."

(4) This section shall apply in relation to accounting periods ending on or after 1st January 1995.

Preferential debts.
1986 c. 45.
S.I.1989/2405 (N.I.19).

17. In section 386(1) of the Insolvency Act 1986 (categories of preferential debts) and in Article 346(1) of the Insolvency (Northern Ireland) Order 1989 (equivalent provision for Northern Ireland) after "lottery duty" there shall be inserted ", air passenger duty".

Vehicle excise duty

Increased rates on 30th November 1994.
1994 c. 22.

18.—(1) Schedule 1 to the Vehicle Excise and Registration Act 1994 (annual rates of duty) shall be amended as follows.

(2) In paragraph 1(b) (rate for vehicle constructed after 1946 and for which no other rate is specified) for "£130" there shall be substituted "£135".

(3) In paragraph 3(1)(a) (rate for hackney carriage with seating capacity under nine) for "£130" there shall be substituted "£135".

(4) In paragraph 10 (trailer supplement)—

(a) in sub-paragraph (2) for "£130" there shall be substituted "£135";

(b) in sub-paragraph (3) for "£360" there shall be substituted "£370".

(5) This section shall apply in relation to licences taken out on or after 30th November 1994.

Vehicle excise and registration: other provisions.

19. Schedule 4 to this Act (which contains other provisions relating to vehicle excise and registration) shall have effect.

PART I

Recovery of overpaid duty

Recovery of overpaid excise duty.
1979 c. 2.

20.—(1) In Part X of the Customs and Excise Management Act 1979, after section 137 (recovery of duties, &c.) insert—

"Recovery of overpaid excise duty.

137A.—(1) Where a person pays to the Commissioners an amount by way of excise duty which is not due to them, the Commissioners are liable to repay that amount.

(2) The Commissioners shall not be required to make any such repayment unless a claim is made to them in such form, and supported by such documentary evidence, as may be prescribed by them by regulations; and regulations under this subsection may make different provision for different cases.

(3) It is a defence to a claim for repayment that the repayment would unjustly enrich the claimant.

(4) No claim for repayment may be made after the expiry of the period of six years beginning with the date of the payment or, if later, the date on which the claimant (or, where the right to repayment has been assigned or otherwise transmitted, any predecessor in title of his) discovered, or could with reasonable diligence have discovered, that the amount was not due.

(5) Except as provided by this section the Commissioners are not liable to repay an amount paid to them by way of excise duty by reason of the fact that it was not due to them.".

(2) In section 17(5) of the Customs and Excise Management Act 1979, after paragraph (b) (restriction on repayment of sums overpaid in error) insert—

"Paragraph (b) above does not apply to a claim for repayment under section 137A below.".

1989 c. 26.

(3) Section 29 of the Finance Act 1989 (recovery of overpaid excise duty and car tax) shall cease to have effect so far as it relates to excise duty.

1994 c. 9.

(4) In section 14(1) of the Finance Act 1994 (decisions subject to review and appeal), after paragraph (b) insert—

"(bb) any decision of the Commissioners on a claim under section 137A of the Customs and Excise Management Act 1979 for repayment of excise duty;".

(5) The provisions of this section have effect in relation to payments made on or after such date as the Commissioners of Customs and Excise may appoint by order made by statutory instrument.

PART II

VALUE ADDED TAX AND INSURANCE PREMIUM TAX

Value added tax

Fuel and power for domestic or charity use.
1994 c. 23.

21.—(1) The Value Added Tax Act 1994 shall be amended as follows.

(2) In section 2 (rate of VAT) in subsection (1) the words "and paragraph 7 of Schedule 13" shall be omitted, and the following subsections shall be inserted after that subsection—

"(1A) VAT charged on—

(a) any supply for the time being falling within paragraph 1 of Schedule A1; or

(b) any equivalent acquisition or importation,

shall be charged at the rate of 8 per cent.

(1B) The reference in subsection (1A) above to an equivalent acquisition or importation, in relation to any supply for the time being falling within paragraph 1 of Schedule A1, is a reference (as the case may be) to—

(a) any acquisition from another member State of goods the supply of which would be such a supply; or

(b) any importation from a place outside the member States of any such goods.

(1C) The Treasury may by order vary Schedule A1 by adding to or deleting from it any description of supply for the time being specified in it or by varying any other provision for the time being contained in it."

(3) The following Schedule shall be inserted immediately before Schedule 1—

"SCHEDULE A1

CHARGE AT REDUCED RATE

The supplies

1.—(1) The supplies falling within this paragraph are supplies for qualifying use of—

(a) coal, coke or other solid substances held out for sale solely as fuel;

(b) coal gas, water gas, producer gases or similar gases;

(c) petroleum gases, or other gaseous hydrocarbons, whether in a gaseous or liquid state;

(d) fuel oil, gas oil or kerosene; or

(e) electricity, heat or air-conditioning.

(2) In this paragraph "qualifying use" means—

(a) domestic use; or

(b) use by a charity otherwise than in the course or furtherance of a business.

(3) Where there is a supply of goods partly for qualifying use and partly not—

(a) if at least 60 per cent. of the goods are supplied for qualifying use, the whole supply shall be treated as a supply for qualifying use; and

(b) in any other case, an apportionment shall be made to determine the extent to which the supply is a supply for qualifying use.

Interpretation

2. For the purposes of this Schedule the following supplies are always for domestic use—

(a) a supply of not more than one tonne of coal or coke held out for sale as domestic fuel;

(b) a supply of wood, peat or charcoal not intended for sale by the recipient;

(c) a supply to a person at any premises of piped gas (that is, gas within paragraph 1(1)(b) above, or petroleum gas in a gaseous state, provided through pipes) where the gas (together with any other piped gas provided to him at the premises by the same supplier) was not provided at a rate exceeding 150 therms a month or, if the supplier charges for the gas by reference to the number of kilowatt hours supplied, 4397 kilowatt hours a month;

(d) a supply of petroleum gas in a liquid state where the gas is supplied in cylinders the net weight of each of which is less than 50 kilogrammes and either the number of cylinders supplied is 20 or fewer or the gas is not intended for sale by the recipient;

(e) a supply of petroleum gas in a liquid state, otherwise than in cylinders, to a person at any premises at which he is not able to store more than two tonnes of such gas;

(f) a supply of not more than 2,300 litres of fuel oil, gas oil or kerosene;

(g) a supply of electricity to a person at any premises where the electricity (together with any other electricity provided to him at the premises by the same supplier) was not provided at a rate exceeding 1000 kilowatt hours a month.

3.—(1) For the purposes of this Schedule supplies not within paragraph 2 above are for domestic use if and only if the goods supplied are for use in—

(a) a building, or part of a building, which consists of a dwelling or number of dwellings;

(b) a building, or part of a building, used for a relevant residential purpose;

(c) self-catering holiday accommodation;

(d) a caravan; or

(e) a houseboat.

(2) For the purposes of this Schedule use for a relevant residential purpose means use as—

(a) a home or other institution providing residential accommodation for children;

(b) a home or other institution providing residential accommodation with personal care for persons in need of personal care by reason of old age, disablement, past or present dependence on alcohol or drugs or past or present mental disorder;

(c) a hospice;

(d) residential accommodation for students or school pupils;

(e) residential accommodation for members of any of the armed forces;

(f) a monastery, nunnery or similar establishment; or

(g) an institution which is the sole or main residence of at least 90 per cent. of its residents,

except use as a hospital, a prison or similar institution or an hotel or inn or similar establishment.

(3) For the purposes of this Schedule self-catering holiday accommodation includes any accommodation advertised or held out as such.

(4) In this Schedule "houseboat" means a boat or other floating decked structure designed or adapted for use solely as a place of permanent habitation and not having means of, or capable of being readily adapted for, self-propulsion.

4.—(1) Paragraph 1(1)(a) above shall be deemed to include combustible materials put up for sale for kindling fires but shall not include matches.

1979 c. 5.

(2) Paragraph 1(1)(b) and (c) above shall not include any road fuel gas (within the meaning of the Hydrocarbon Oil Duties Act 1979) on which a duty of excise has been charged or is chargeable.

(3) Paragraph 1(1)(d) above shall not include hydrocarbon oil on which a duty of excise has been or is to be charged without relief from, or rebate of, such duty by virtue of the provisions of the Hydrocarbon Oil Duties Act 1979.

(4) In this Schedule "fuel oil" means heavy oil which contains in solution an amount of asphaltenes of not less than 0.5 per cent. or which contains less than 0.5 per cent. but not less than 0.1 per cent. of asphaltenes and has a closed flash point not exceeding 150°C.

(5) In this Schedule "gas oil" means heavy oil of which not more than 50 per cent. by volume distils at a temperature not exceeding 240°C and of which more than 50 per cent. by volume distils at a temperature not exceeding 340°C.

(6) In this Schedule "kerosene" means heavy oil of which more than 50 per cent. by volume distils at a temperature not exceeding 240°C.

(7) In this Schedule "heavy oil" shall have the same meaning as in the Hydrocarbon Oil Duties Act 1979."

(4) In section 97 (orders etc.) in subsection (4) (orders requiring approval) the following paragraph shall be inserted immediately before paragraph (a)—

"(aa) an order under section 2(1C);".

(5) In Schedule 13 (transitional provisions and savings) paragraph 7 (fuel and power) shall be omitted.

(6) This section shall apply in relation to any supply made on or after 1st April 1995 and any acquisition or importation taking place on or after that date.

Imported works of art, antiques, etc.

1994 c. 23.

22.—(1) In subsection (1) of section 21 of the Value Added Tax Act 1994 (value of imported goods), for "and (3)" there shall be substituted "to (4)"; and after subsection (3) there shall be inserted the following subsections—

"(4) For the purposes of this Act, the value of any goods falling within subsection (5) below which are imported from a place outside the member States shall be taken to be an amount equal to 14.29 per cent. of the amount which, apart from this subsection, would be their value for those purposes.

(5) The goods which fall within this subsection are—

(a) any work of art which was obtained by any person before 1st April 1973 otherwise than by his producing it himself or by succession on the death of the person who produced it;

(b) any work of art which was—

(i) exported from the United Kingdom before 1st April 1973,

(ii) exported from the United Kingdom on or after that date and before 1st January 1993 by a person who, had he supplied it in the United Kingdom at the date when it was exported, would not have had to account for VAT on the full value of the supply, or

(iii) exported from the United Kingdom on or after 1st January 1993 by such a person to a place which, at the time, was outside the member States,

being, in each case, a work of art which has not been imported between the time when it was exported and the importation in question;

(c) any antique more than one hundred years old, being neither a work of art nor pearls or loose gem stones; and

(d) collectors' pieces of zoological, botanical, mineralogical, anatomical, historical, archaeological, paleontological or ethnographic interest.

(6) In this section 'work of art' means goods falling within any of the following descriptions, that is to say—

(a) paintings, drawings and pastels executed by hand but not comprised in manufactured articles that have been hand-painted or hand-decorated;

(b) original engravings, lithographs and other prints;

(c) original sculptures and statuary, in any material.

(7) An order under section 2(2) may contain provision making such alteration of the percentage for the time being specified in subsection (4) above as the Treasury consider appropriate in consequence of any increase or decrease by that order of the rate of VAT."

(2) This section shall have effect in relation to goods imported at any time on or after the day on which this Act is passed.

PART II

Agents acting in their own names.
1994 c. 23.

23.—(1) In subsection (1) of section 47 of the Value Added Tax Act 1994 (agents etc.), for "the goods may" there shall be substituted "then, if the taxable person acts in relation to the supply in his own name, the goods shall".

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

"(2A) Where, in the case of any supply of goods to which subsection (1) above does not apply, goods are supplied through an agent who acts in his own name, the supply shall be treated both as a supply to the agent and as a supply by the agent."

(3) In subsection (3) of that section, the words "goods or" shall be omitted.

(4) This section shall have effect—

(a) so far as it amends section 47(1) of that Act, in relation to goods acquired or imported on or after the day on which this Act is passed; and

(b) for other purposes, in relation to any supply taking place on or after that day.

Margin schemes.

24.—(1) After section 50 of the Value Added Tax Act 1994 there shall be inserted the following section—

"Margin schemes.

50A.—(1) The Treasury may by order provide, in relation to any such description of supplies to which this section applies as may be specified in the order, for a taxable person to be entitled to opt that, where he makes supplies of that description, VAT is to be charged by reference to the profit margin on the supplies, instead of by reference to their value.

(2) This section applies to the following supplies, that is to say—

(a) supplies of works of art, antiques or collectors' items;

(b) supplies of motor vehicles;

(c) supplies of second-hand goods; and

(d) any supply of goods through a person who acts as an agent, but in his own name, in relation to the supply.

(3) An option for the purposes of an order under this section shall be exercisable, and may be withdrawn, in such manner as may be required by such an order.

(4) Subject to subsection (7) below, the profit margin on a supply to which this section applies shall be taken, for the purposes of an order under this section, to be equal to the amount (if any) by which the price at which the person making the supply obtained the goods in question is exceeded by the price at which he supplies them.

(5) For the purposes of this section the price at which a person has obtained any goods and the price at which he supplies them shall each be calculated in accordance

with the provisions contained in an order under this section; and such an order may, in particular, make provision stipulating the extent to which any VAT charged on a supply, acquisition or importation of any goods is to be treated as included in the price at which those goods have been obtained or are supplied.

(6) An order under this section may provide that the consideration for any services supplied in connection with a supply of goods by a person who acts as an agent, but in his own name, in relation to the supply of the goods is to be treated for the purposes of any such order as an amount to be taken into account in computing the profit margin on the supply of the goods, instead of being separately chargeable to VAT as comprised in the value of the services supplied.

(7) An order under this section may provide for the total profit margin on all the goods of a particular description supplied by a person in any prescribed accounting period to be calculated by—

(a) aggregating all the prices at which that person obtained goods of that description in that period together with any amount carried forward to that period in pursuance of paragraph (d) below;

(b) aggregating all the prices at which he supplies goods of that description in that period;

(c) treating the total profit margin on goods supplied in that period as being equal to the amount (if any) by which, for that period, the aggregate calculated in pursuance of paragraph (a) above is exceeded by the aggregate calculated in pursuance of paragraph (b) above; and

(d) treating any amount by which, for that period, the aggregate calculated in pursuance of paragraph (b) above is exceeded by the aggregate calculated in pursuance of paragraph (a) above as an amount to be carried forward to the following prescribed accounting period so as to be included, for the period to which it is carried forward, in any aggregate falling to be calculated in pursuance of paragraph (a) above.

(8) An order under this section may—

(a) make different provision for different cases; and

(b) make provisions of the order subject to such general or special directions as may, in accordance with the order, be given by the Commissioners with respect to any matter to which the order relates."

(2) Section 32 of that Act (relief on supply of certain second-hand goods) shall cease to have effect on such day as the Commissioners of Customs and Excise may by order made by statutory instrument appoint.

PART II

Groups of companies. 1994 c. 23.

25.—(1) Section 43 of the Value Added Tax Act 1994 (groups of companies) shall be amended as follows.

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

"(1A) Paragraph (a) of subsection (1) above shall not apply in relation to any supply of goods or services by one member of a group to another unless both the body making the supply and the body supplied continue to be members of that group until—

(a) in the case of a supply of goods which are to be removed in pursuance of the supply, a time after the removal;

(b) in the case of any other supply of goods, a time after the goods have been made available, in pursuance of the supply, to the body supplied; or

(c) in the case of a supply of services, a time after the services have been performed.";

and in subsection (1)(b), for "other supply" there shall be substituted "supply which is a supply to which paragraph (a) above does not apply and is a supply".

(3) In subsection (5) (applications to be treated or to cease to be treated as members of a group etc.), for the words after paragraph (d) there shall be substituted—

"unless the Commissioners refuse the application under subsection (5A) below."

(4) After subsection (5) there shall be inserted the following subsection—

"(5A) If it appears to the Commissioners necessary to do so for the protection of the revenue, they may—

(a) refuse any application made to the effect mentioned in paragraph (a) or (c) of subsection (5) above; or

(b) refuse any application made to the effect mentioned in paragraph (b) or (d) of that subsection in a case that does not appear to them to fall within subsection (6) below."

(5) Subsection (2) above has effect in relation to—

(a) any supply made on or after 1st March 1995, and

(b) any supply made before that date in the case of which both the body making the supply and the body supplied continued to be members of the group in question until at least that date,

and subsections (3) and (4) above have effect in relation to applications made on or after the day on which this Act is passed.

Co-owners etc. of buildings and land.

26.—(1) After section 51 of the Value Added Tax Act 1994 there shall be inserted the following section—

"Co-owners etc. of buildings and land.

51A.—(1) This section applies to a supply consisting in the grant, assignment or surrender of any interest in or right over land in a case where there is more than one person by whom the grant, assignment or surrender is made or treated as made; and for this purpose—

(a) a licence to occupy land, and

(b) in relation to land in Scotland, a personal right to call for or be granted any interest or right in or over land,

shall be taken to be a right over land.

(2) The persons who make or are treated as making a supply to which this section applies ('the grantors') shall be treated, in relation to that supply and in relation to any other such supply with respect to which the grantors are the same, as a single person ('the property-owner') who is distinct from each of the grantors individually.

(3) Registration under this Act of the property-owner shall be in the name of the grantors acting together as a property-owner.

(4) The grantors shall be jointly and severally liable in respect of the obligations falling by virtue of this section on the property-owner.

(5) Any notice, whether of assessment or otherwise, which is addressed to the property-owner by the name in which the property-owner is registered and is served on any of the grantors in accordance with this Act shall be treated for the purposes of this Act as served on the property-owner.

(6) Where there is any change in some, but not all, of the persons who are for the time being to be treated as the grantors in relation to any supply to which this section applies—

(a) that change shall be disregarded for the purposes of this section in relation to any prescribed accounting period beginning before the change is notified in the prescribed manner to the Commissioners; and

(b) any notice (whether of assessment or otherwise) which is served, at any time after such a notification, on the property-owner for the time being shall, so far as it relates to, or to any matter arising in, such a period, be treated for the purposes of this Act as served on whoever was the property-owner in that period."

(2) Paragraph 8 of Schedule 10 to that Act (persons to whom the benefit of consideration for the grant of an interest accrues to be treated as person making the grant) shall become sub-paragraph (1) of that paragraph, and after that sub-paragraph there shall be inserted the following sub-paragraphs—

"(2) Where the consideration for the grant of an interest in, right over or licence to occupy land is such that its provision is enforceable primarily—

(a) by the person who, as owner of an interest or right in or over that land, actually made the grant, or

(b) by another person in his capacity as the owner for the time being of that interest or right or of any other interest or right in or over that land,

that person, and not any person (other than that person) to whom a benefit accrues by virtue of his being a beneficiary under a trust relating to the land, or the proceeds of sale of any land, shall be taken for the purposes of this paragraph to be the person to whom the benefit of the consideration accrues.

(3) Sub-paragraph (2) above shall not apply to the extent that the Commissioners, on an application made in the prescribed manner jointly by—

(a) the person who (apart from this sub-paragraph) would be taken under that sub-paragraph to be the person to whom the benefit of the consideration accrues, and

(b) all the persons for the time being in existence who, as beneficiaries under such a trust as is mentioned in that sub-paragraph, are persons who have or may become entitled to or to a share of the consideration, or for whose benefit any of it is to be or may be applied,

may direct that the benefit of the consideration is to be treated for the purposes of this paragraph as a benefit accruing to the persons falling within paragraph (b) above, and not (unless he also falls within paragraph (b) above) to the person falling within paragraph (a) above."

(3) 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 purposes.

Set-off of credits.
1994 c. 23.

27.—(1) Section 81 of the Value Added Tax Act 1994 (which includes provision as to the setting off of credits) shall be amended as follows.

(2) For subsection (4) there shall be substituted the following subsections—

"(4A) Subsection (3) above shall not require any such amount as is mentioned in paragraph (a) of that subsection ('the credit') to be set against any such sum as is mentioned in paragraph (b) of that subsection ('the debit') in any case where—

(a) an insolvency procedure has been applied to the person entitled to the credit;

(b) the credit became due after that procedure was so applied; and

(c) the liability to pay the debit either arose before that procedure was so applied or (having arisen afterwards) relates to, or to matters occurring in the course of, the carrying on of any business at times before the procedure was so applied.

(4B) Subject to subsection (4C) below, the following are the times when an insolvency procedure is to be taken, for the purposes of this section, to be applied to any person, that is to say—

(a) when a bankruptcy order, winding-up order, administration order or award of sequestration is made in relation to that person;

(b) when that person is put into administrative receivership;

(c) when that person, being a corporation, passes a resolution for voluntary winding up;

(d) when any voluntary arrangement approved in accordance with Part I or VIII of the Insolvency Act 1986, or Part II or Chapter II of Part VIII of the Insolvency (Northern Ireland) Order 1989, comes into force in relation to that person;

1986 c. 45.
S.I.1989/2405 (N.I.19).

(e) when a deed of arrangement registered in accordance with the Deeds of Arrangement Act 1914 or Chapter I of Part VIII of that Order of 1989 takes effect in relation to that person;

1914 c. 47.

(f) when that person's estate becomes vested in any other person as that person's trustee under a trust deed.

(4C) In this section references, in relation to any person, to the application of an insolvency procedure to that person shall not include—

(a) the making of a bankruptcy order, winding-up order, administration order or award of sequestration at a time when any such arrangement or deed as is mentioned in subsection (4B)(d) to (f) above is in force in relation to that person;

(b) the making of a winding-up order at any of the following times, that is to say—

(i) immediately upon the discharge of an administration order made in relation to that person;

(ii) when that person is being wound up voluntarily;

(iii) when that person is in administrative receivership;

or

(c) the making of an administration order in relation to that person at any time when that person is in administrative receivership.

(4D) For the purposes of this section a person shall be regarded as being in administrative receivership throughout any continuous period for which (disregarding any temporary vacancy in the office of receiver) there is an administrative receiver of that person, and the reference in subsection (4B) above to a person being put into administrative receivership shall be construed accordingly."

(3) In subsection (5) (definitions), for "subsection (4) above" there shall be substituted "this section".

(4) This section shall have effect in relation to amounts becoming due from the Commissioners of Customs and Excise at times on or after the day on which this Act is passed.

PART II

Transactions treated as supplies for purposes of zero-rating etc.

1994 c. 23.

28.—(1) In section 30 of the Value Added Tax Act 1994 (zero-rated supplies) for subsection (5) (transactions described in Schedule 8 to the Act to be treated as supplies) there shall be substituted—

"(5) The export of any goods by a charity to a place outside the member States shall for the purposes of this Act be treated as a supply made by the charity—

(a) in the United Kingdom, and

(b) in the course or furtherance of a business carried on by the charity."

(2) This section shall have effect in relation to transactions occurring on or after the day on which this Act is passed.

Goods removed from warehousing regime.

29. In section 18 of the Value Added Tax Act 1994 (place and time of acquisition or supply of goods subject to warehousing regime) for subsection (5) (regulations about payment of VAT on supply of such goods) there shall be substituted the following subsections—

"(5) The Commissioners may by regulations make provision for enabling a taxable person to pay the VAT he is required to pay by virtue of paragraph (b) of subsection (4) above at a time later than that provided for by that paragraph.

(5A) Regulations under subsection (5) above may in particular make provision for either or both of the following—

(a) for the taxable person to pay the VAT together with the VAT chargeable on other supplies by him of goods and services;

(b) for the taxable person to pay the VAT together with any duty of excise deferment of which has been granted to him under section 127A of the Customs and Excise Management Act 1979;

1979 c. 2.

and they may make different provision for different descriptions of taxable person and for different descriptions of goods."

Fuel supplied for private use.

30.—(1) Section 57 of the Value Added Tax Act 1994 (determination of consideration for fuel supplied for private use) shall be amended as follows.

(2) The following subsection shall be inserted after subsection (1)—

"(1A) Where the prescribed accounting period is a period of 12 months, the consideration appropriate to any vehicle is that specified in relation to a vehicle of the appropriate description in the second column of Table A below."

(3) In subsection (2) (consideration where prescribed accounting period is period of 3 months) for "second" there shall be substituted "third".

(4) In subsection (3) (consideration where prescribed accounting period is period of one month) for "third" there shall be substituted "fourth".

(5) The following Table shall be substituted for Table A—

TABLE A

Description of vehicle (Type of engine and cylinder capacity in cubic centimetres)	*12 month period*	*3 month period*	*1 month period*
	£	*£*	*£*
Diesel engine			
2000 or less	605	151	50
More than 2000	780	195	65
Any other type of engine			
1400 or less	670	167	55
More than 1400 but not more than 2000	850	212	70
More than 2000	1260	315	105

(6) This section shall apply in relation to prescribed accounting periods beginning on or after 6th April 1995.

(7) Nothing in this section shall be taken to prejudice any practice by which the consideration appropriate to a vehicle is arrived at where a prescribed accounting period beginning before 6th April 1995 is a period of 12 months.

Appeals: payment of amounts shown in returns.
1994 c. 23.

31.—(1) In section 84(2) of the Value Added Tax Act 1994 (appeal not to be entertained unless amounts shown in returns paid, except in certain cases) the words ", except in the case of an appeal against a decision with respect to the matter mentioned in section 83(l)," shall be omitted.

(2) This section shall apply in relation to appeals brought after the day on which this Act is passed.

Penalties for failure to notify etc.

32.—(1) In section 67 of the Value Added Tax Act 1994 (failure to notify and unauthorised issue of invoices) in subsection (4) (the specified percentage)—

(a) in paragraph (a) for "10 per cent." there shall be substituted "5 per cent.";

(b) in paragraph (b) for "20 per cent." there shall be substituted "10 per cent."; and

(c) in paragraph (c) for "30 per cent." there shall be substituted "15 per cent."

1985 c. 54.

(2) Section 15(3A) of the Finance Act 1985 (provision which is repealed by the 1994 Act and which corresponds to section 67(4)) shall have effect subject to the amendments made by subsection (1) above.

(3) Subject to subsection (4) below, subsections (1) and (2) above shall apply where a penalty is assessed on or after 1st January 1995.

(4) Subsections (1) and (2) above shall not apply in the case of a supplementary assessment if the original assessment was made before 1st January 1995.

Correction of consolidation errors.

33.—(1) The Value Added Tax Act 1994 shall have effect, and be deemed always to have had effect, as if it had been enacted as follows.

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PART II

(2) Section 35(1) (refund of VAT to persons constructing certain buildings) shall be deemed to have been enacted with the word "building" substituted for the word "dwelling" in each place where it occurs.

(3) Paragraph 5(5) and (6)(b) of Schedule 4 and paragraph 7(b) of Schedule 6 (which contain references to paragraph 5(3) of Schedule 4 which should be references to paragraph 5(4) of that Schedule) shall be deemed to have been enacted—

(a) in the case of paragraph 5(5) and (6)(b), with "sub-paragraph (4) above" substituted for "sub-paragraph (3) above", in each case; and

(b) in the case of paragraph 7(b), with "paragraph 5(4)" substituted for "paragraph 5(3)".

(4) In paragraph 9 of Schedule 13 (which contains transitional provisions relating to bad debt relief), the following sub-paragraph shall be deemed to have been enacted instead of sub-paragraph (2) of that paragraph, that is to say—

"(2) Claims for refunds of VAT shall not be made in accordance with section 36 of this Act in relation to—

(a) any supply made before 1st April 1989; or

(b) any supply as respects which a claim is or has been made under section 22 of the 1983 Act."

1994 c. 9.

(5) In paragraph 13 of Schedule 14 (consequential amendment of the Finance Act 1994), the following sub-paragraph shall be deemed to have been enacted instead of sub-paragraph (a) of that paragraph, that is to say—

"(a) in subsection (4) for '25 and 29 of the Finance Act 1985' and '40 of the Value Added Tax Act 1983' there shall be substituted, respectively, '85 and 87 of the Value Added Tax Act 1994' and '83 of that Act';".

Insurance premium tax

Insurance premium tax.

34. Schedule 5 to this Act (which relates to insurance premium tax) shall have effect.

PART III

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

Income tax: charge, rates and reliefs

Charge and rates of income tax for 1995-96.

35.—(1) Income tax shall be charged for the year 1995-96, and for that year—

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

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

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

(2) For the year 1995-96 section 1(2) of the Taxes Act 1988 shall apply as if the amount specified in paragraph (aa) were £3,200 (the lower rate limit); and accordingly section 1(4) of that Act (indexation) so far as relating to that paragraph shall not apply for the year 1995-96.

Personal allowance.

36. Section 257 of the Taxes Act 1988 (personal allowance) shall apply for the year 1995-96 as if—

(a) the amount specified in subsection (2) (persons of 65 or upwards) were £4,630, and

(b) the amount specified in subsection (3) (persons of 75 or upwards) were £4,800;

and accordingly section 257C(1) of that Act (indexation) so far as relating to section 257(2) and (3) shall not apply for the year 1995-96.

Corporation tax: charge and rate

Charge and rate of corporation tax for 1995.

37. Corporation tax shall be charged for the financial year 1995 at the rate of 33 per cent.

Small companies.

38. For the financial year 1995—

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

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

Taxation of income from land

Income chargeable under Schedule A.

39.—(1) Section 15 of the Taxes Act 1988 (charge to Schedule A) shall have effect, except for the purpose of being applied by virtue of section 9 of that Act for the purposes of corporation tax, as if the following provisions were substituted for the Schedule A set out in subsection (1) of that section—

"SCHEDULE A

1.—(1) Tax under this Schedule shall be charged on the annual profits or gains arising from any business carried on for the exploitation, as a source of rents or other receipts, of any estate, interest or rights in or over any land in the United Kingdom.

(2) To the extent that any transaction entered into by any person is entered into for the exploitation, as a source of rents or other receipts, of any estate, interest or rights in or over any land in the United Kingdom that transaction shall be taken for the purposes of this Schedule to have been entered into in the course of such a business as is mentioned in sub-paragraph (1) above.

(3) In this paragraph 'receipts', in relation to any land, includes—

(a) any payment in respect of any licence to occupy or otherwise to use any land or in respect of the exercise of any other right over land; and

(b) rentcharges, ground annuals and feu duties and any other annual payments reserved in respect of, or charged on or issuing out of, that land.

2. Paragraph 1 above does not apply to—

(a) any profits or gains arising from any person's entitlement to receive any yearly interest;

(b) any profits or gains arising from a person's occupation of any woodlands which are managed on a commercial basis and with a view to the realisation of profits; or

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(c) any profits or gains charged to tax under Schedule D by virtue of section 53 or 55 or arising from any person's entitlement to receive payments so charged under section 119 or 120;

and that paragraph has effect subject to the provisions of section 98 with respect to tied premises.

3.—(1) For the purposes of paragraph 1 above a right of any person to use a caravan or houseboat shall be deemed, where the use to which the caravan or houseboat may be put in pursuance of that right is confined to its use at only one location in the United Kingdom, to be a right the entitlement to confer which derives, in the case of the person conferring it, from an estate or interest in land in the United Kingdom.

(2) In sub-paragraph (1) above—

1960 c. 62.

'caravan' has the meaning given by section 29(1) of the Caravan Sites and Control of Development Act 1960; and

'houseboat' means a boat or similar structure designed or adapted for use as a place of human habitation.

4.—(1) In any case where—

(a) a sum (whether rent or otherwise) is payable in respect of the use of any premises,

(b) the tenant or other person entitled to the use of the premises is also entitled to the use, in connection therewith, of furniture, and

(c) any part of the sum payable in respect of the use of the premises would fall to be taken into account as a receipt in computing the profits or gains chargeable to tax under this Schedule,

any amount payable as part of, or in connection with, the sums payable in respect of the use of the premises, in so far as it is payable for the use of the furniture, shall also be so taken into account.

(2) Sub-paragraph (1) above does not apply to any amount which, apart from that sub-paragraph, would fall to be taken into account as a trading receipt in computing the profits or gains of any trade that consists in or involves the making available for use in any premises of any furniture.

(3) In sub-paragraph (1) above any reference to a sum shall be construed as including the value of any consideration, and references to a sum being payable shall be construed accordingly.

(4) In this paragraph 'premises' includes a caravan or houseboat within the meaning of paragraph 3 above."

(2) For section 21 of that Act (persons chargeable under Schedule A) there shall be substituted the following section—

"Persons chargeable and computation of amounts chargeable.

21.—(1) Income tax under Schedule A shall be charged on and paid by the persons receiving or entitled to the income in respect of which the tax is directed by the Income Tax Acts to be charged.

(2) Income tax under Schedule A shall be computed on the full amount of the profits or gains arising in the year

of assessment.

(3) Except in so far as express provision to the contrary is made by the Income Tax Acts, the profits or gains of a Schedule A business and the amount of any loss incurred in such a business shall be computed as if Chapter V of Part IV applied in relation to the business as it applies in relation to a trade the profits or gains of which are chargeable to tax under Case I of Schedule D.

(4) All the businesses and transactions carried on or entered into by any particular person or partnership, so far as they are businesses or transactions the profits or gains of which are chargeable to tax under Schedule A, shall be treated for the purposes of that Schedule as, or as entered into in the course of carrying on, the one business.

(5) Sections 103 to 106, 108, 109A and 110 shall apply in the case of the permanent discontinuance of a business the profits or gains of which are chargeable to income tax under Schedule A as they apply in the case of the permanent discontinuance of a trade.

(6) Section 111 shall apply in relation to a Schedule A business carried on in partnership as it applies in the case of a partnership whose business was set up and commenced on or after 6th April 1995.

(7) Subsections (1) and (2) of section 113 shall apply in relation to a change in the persons engaged in carrying on a Schedule A business as they apply in relation to a change in the persons carrying on a trade set up and commenced on or after 6th April 1995.

(8) The preceding provisions of this section do not apply for the purposes of the Corporation Tax Acts."

(3) That Act and the other enactments specified in Schedule 6 to this Act shall have effect with the further modifications set out in that Schedule; and, without prejudice to section 20(2) of the Interpretation Act 1978 (construction of references), a reference in any enactment to another enactment shall have effect, where the other enactment is applied or modified by virtue of this section or that Schedule, as including a reference to that other enactment as so applied or modified.

1978 c. 30.

(4) This section and Schedule 6 to this Act shall have effect, subject to subsection (5) below—

(a) for the year 1995-96 and subsequent years of assessment, and

(b) so far as they make provision having effect for the purposes of corporation tax, in relation to accounting periods ending on or after 31st March 1995.

(5) This section and Schedule 6 to this Act shall not have effect for the year 1995-96 in relation to the profits or gains or losses arising or accruing from any source to any person where—

(a) that source is a source in respect of the profits or gains from which that person is chargeable to tax for the year 1994-95 under Schedule A or Case VI of Schedule D; and

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(b) that source ceases, in the course of the year 1995-96, to be a source from which any such profits or gains arise to that or any other person as would be chargeable to tax under Schedule A or Case VI of Schedule D if the amendments for which this section and Schedule 6 to this Act provide were to be disregarded; and

(c) that person is not a person who sets up and commences a Schedule A business in the course of the year 1995-96;

1990 c. 1.

and the provisions of that Schedule relating to the Capital Allowances Act 1990 shall not apply for the year 1995-96 in the case of any person who has a source of income for the whole or any part of that year which is a source falling within paragraphs (a) and (b) above and who is a person to whom paragraph (c) above applies.

Non-residents and their representatives.

40.—(1) The following section shall be inserted after section 42 of the Taxes Act 1988—

"Non-residents and their representatives.

42A.—(1) The Board may by regulations make provision for the charging, assessment, collection and recovery on or from prescribed persons falling within subsection (2) below of prescribed amounts in respect of the tax which is or may become chargeable under Schedule A on the income of any person who has his usual place of abode outside the United Kingdom ('the non-resident').

(2) A person falls within this subsection if he is—

(a) a person by whom any such sums are payable to the non-resident as fall, or would fall, to be treated as receipts of a Schedule A business carried on by the non-resident; or

(b) a person who acts on behalf of the non-resident in connection with the management or administration of any such business.

(3) A person on whom any obligation to make payments to the Board is imposed by regulations under this section shall be entitled—

(a) to be indemnified by the non-resident for all such payments; and

(b) to retain, out of any sums otherwise due from him to the non-resident, or received by him on behalf of the non-resident, amounts sufficient for meeting any liabilities under the regulations to make payments to the Board which have been discharged by that person or to which he is subject.

(4) Without prejudice to the generality of the preceding provisions of this section, regulations under this section may include any or all of the following provisions, that is to say—

(a) provision for the amount of any payment to be made to the Board in respect of the tax on any income to be calculated by reference to such factors as may be prescribed;

(b) provision for the determination in accordance with any such regulations of the period for which, the circumstances in which and the times at which any payments are to be made to the Board;

(c) provision for requiring the payment of interest on amounts which are not paid to the Board at the times required under any such regulations;

(d) provision as to the certificates to be given in prescribed circumstances to the non-resident by a person falling within subsection (2) above, and as to the particulars to be included in any such certificate;

(e) provision for the making of repayments of tax to the non-resident and for such repayments to be made in prescribed cases to persons falling within subsection (2) above;

(f) provision for the payment of interest by the Board on sums repaid under any such regulations;

(g) provision for the rights and obligations arising under any such regulations to depend on the giving of such notices and the making of such claims and determinations as may be prescribed;

(h) provision for the making and determination of applications for requirements of any such regulations not to apply in certain cases, and for the variation or revocation, in prescribed cases, of the determinations made on such applications;

(i) provision for appeals with respect to questions arising under any such regulations;

(j) provision requiring prescribed persons falling within subsection (2)(b) above to register with the Board;

(k) provision requiring persons registered with the Board and other prescribed persons falling within subsection (2) above to make returns and supply prescribed information to the Board and to make available prescribed books, documents and other records for inspection on behalf of the Board;

(l) provision for the partnership, as such, to be treated as the person falling within subsection (2) above in a case where a liability to make any payment under the regulations arises from amounts payable or things done in the course of a business carried on by any persons in partnership;

(m) provision which, in relation to payments to be made by virtue of this section in respect of any tax or to any sums retained in respect of such

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payments, applies (with or without modifications) any enactment or subordinate legislation having effect apart from this section with respect to cases in which tax is or is treated as deducted from any income.

(5) Interest required to be paid by any regulations under this section shall be paid without deduction of tax and shall not be taken into account in computing any income, profits or losses for any tax purposes.

(6) Regulations under this section may—

(a) make different provision for different cases; and

(b) contain such supplementary, incidental, consequential and transitional provision as appears to the Board to be appropriate;

and the provision that may be made by virtue of paragraph (b) above may include provision which, in connection with any other provision made by any such regulations, modifies the operation in any case of section 59A of the Management Act or Schedule 21 to the Finance Act 1995 (payments on account of income tax).

(7) In this section—

'prescribed' means prescribed by, or determined by an officer of the Board in accordance with, regulations made by the Board under this section; and

'subordinate legislation' has the same meaning as in the Interpretation Act 1978.

1978 c. 30.

(8) This section shall have effect—

(a) as if references in this section to a Schedule A business included references to any activities which would be comprised in a Schedule A business if they were carried on by an individual, rather than by a company; and

(b) in relation to companies that carry on such activities, as if the reference in subsection (1) above to tax which is or may become chargeable under Schedule A included a reference to tax which is or may become chargeable under Case VI of Schedule D."

(2) In the Table in section 98 of the Management Act (penalties in respect of certain information provisions), after the entry in the first column relating to section 42 of the Taxes Act 1988 and after the entry in the second column relating to section 41(2) of the Taxes Act 1988, there shall, in each case, be inserted the following entry—

"regulations under section 42A;".

(3) Section 43 of the Taxes Act 1988 (payments to non-residents of amounts chargeable under Schedule A) shall not have effect in relation to any payment made on or after 6th April 1996.

Income from overseas property.

41.—(1) In section 65 of the Taxes Act 1988 (general provision about Cases IV and V assessments), after subsection (2) there shall be inserted the following subsections—

"(2A) Subject to section 65A and to the provisions of section 41(5) to (9) of the Finance Act 1995 (which contain transitional provisions for the years 1995-96 to 1997-98), income tax chargeable under Case V of Schedule D on income which—

(a) arises from any business carried on for the exploitation, as a source of rents or other receipts, of any estate, interest or rights in or over any land outside the United Kingdom; and

(b) is not income immediately derived by any person from the carrying on by him of any trade, profession or vocation, either solely or in partnership,

shall be computed in accordance with the rules which are applicable under the Income Tax Acts to the computation of the profits or gains of a Schedule A business.

(2B) The provisions of Schedule A shall apply for determining for the purposes of subsection (2A) above whether income falls within paragraph (a) of that subsection as they would apply if—

(a) the land in question were in the United Kingdom, or

(b) a caravan or houseboat which is to be used at a location outside the United Kingdom were to be used at a location in the United Kingdom;

and any provision of the Income Tax Acts in pursuance of which there is deemed in certain cases to be a Schedule A business in relation to any land in the United Kingdom shall have effect, where the corresponding circumstances arise with respect to land outside the United Kingdom, as if, for the purposes of that subsection, there were deemed to be a business such as is mentioned in that paragraph.";

and in subsection (4) of that section for "Subsections (1), (2) and (3)" there shall be substituted "Subsections (1) to (3)".

(2) After section 65 of that Act there shall be inserted the following section—

"Case V income from land overseas etc.

65A.—(1) Notwithstanding anything in section 21(4), subsection (2A) of section 65 shall require the rules referred to in that subsection to be applied separately in relation to—

(a) any business which is treated for the purposes of that subsection as if it were a Schedule A business, and

(b) any actual Schedule A business of the person chargeable,

as if, in each case, that business were the only Schedule A business carried on by that person.

(2) Section 21(3), so far as applied by virtue of section 65(2A) for the purposes of the computation of the amount of any income chargeable to tax under Case V of Schedule

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D, shall have effect as if it required sections 80 and 81 to be disregarded in the computation of the amount of any profits or gains, or losses, of a Schedule A business.

(3) Sections 503 and 504 of this Act and section 29 of the 1990 Act (furnished holiday accommodation) shall be disregarded in the computation in accordance with section 65(2A) of any income chargeable to tax under Case V of Schedule D.

(4) Section 65(2A) and this section shall not apply for the purposes of corporation tax."

1990 c. 1.

(3) In section 161 of the Capital Allowances Act 1990 (interpretative provisions), after subsection (2) there shall be inserted the following subsection—

"(2A) This Act applies in accordance with subsection (2A) of section 65 of the principal Act in relation to cases where a person is treated for the purposes of that subsection as if any actual or deemed business of his were a Schedule A business as it applies in relation to cases where a person is carrying on a Schedule A business."

1992 c. 12.

(4) In Schedule 8 to the Taxation of Chargeable Gains Act 1992 (which contains provision excluding from the charge to capital gains tax premiums taxed under Schedule A), after paragraph 7 there shall be inserted the following paragraph—

"7A. References in paragraphs 5 to 7 above to an amount brought into account as a receipt of a Schedule A business shall include references to any amount which, in accordance with section 65(2A) of the Taxes Act, is brought into account for the purposes of Case V of Schedule D as if it were such a receipt."

(5) Where any income falling within paragraphs (a) and (b) of subsection (2A) of section 65 of the Taxes Act 1988 which is chargeable to tax for any year of assessment under Case V of Schedule D would (apart from this section) be computed, wholly or partly, on an amount of income arising in the year preceding the year of assessment, that subsection shall have effect as if the income chargeable to tax for that year under Schedule A were to be computed, to the same extent, by reference to the year preceding the year of assessment (instead of being computed in accordance with the rule in section 21(2) of that Act), and as if the rules applied by section 65(2A) of that Act had effect accordingly.

(6) Notwithstanding anything in section 21(4) of the Taxes Act 1988, for the years 1995-96 and 1996-97 subsection (2A) of section 65 shall be treated as requiring the rules referred to in that subsection to be applied, in a case where a person is chargeable under Case V of Schedule D in respect of the rents or other receipts from more than one property situated outside the United Kingdom, separately in relation to each property outside the United Kingdom—

(a) as if a separate Schedule A business were carried on in relation to each property, and

(b) in the case of each such business, as if that business were the only Schedule A business carried on by the person chargeable.

(7) Where subsection (5) above applies for the computation of the income from any property for any year of assessment, then for that year

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no allowance or charge under the Capital Allowances Act 1990 shall be made on any person by virtue of this section for any purpose connected with the taxation of the income from that property.

1990 c. 1.

(8) Section 379A of the Taxes Act 1988 (Schedule A losses) shall not apply by virtue of section 65(2A) of that Act for the computation of any income chargeable to tax under Case V of Schedule D for any year of assessment before the year 1998-99.

(9) Section 65(2A) of the Taxes Act 1988 shall not apply in any case which, if the land in question were in the United Kingdom, would be a case falling within section 39(5) above.

(10) Subject to subsections (5) to (9) above, this section has effect for the year 1995-96 and subsequent years of assessment.

Abolition of interest relief for commercially let property.

42.—(1) In section 355 of the Taxes Act 1988, paragraph (b) of subsection (1) (relief for property that is commercially let) shall cease to have effect.

(2) That Act shall be further amended as follows—

(a) in section 353(1B), in the words after paragraph (b), for "sections 237(5)(b) and 355(4)" there shall be substituted "section 237(5)(b)";

(b) in section 355, for the words "subsection (1)(a) above", wherever occurring, there shall be substituted "subsection (1) above";

(c) in sections 356(1) and 356B(5), for "355(1)(a)" there shall be substituted "355(1)";

(d) in sections 357A(7) and 357B(1)(c) and (6), for the words from "and is such" onwards there shall be substituted "by virtue of section 354"; and

(e) in section 357C—

(i) in subsection (1)(e), for the words from "and would have been" onwards, and

(ii) in subsection (2), for the words from "and was such" onwards,

there shall, in each case, be substituted "by virtue of section 354".

(3) Subject to subsections (4) to (6) below, this section shall have effect in relation to any payment of interest made on or after 6th April 1995.

(4) Where—

(a) the profits or gains of any source of income that ceases in the course of the year 1995-96 are taxed, by virtue of section 39(5) or 41(9) above, without reference to the Schedule A that has effect by virtue of section 39(1) above, and

(b) that source of income includes any land, caravan or house-boat with respect to which the condition specified in section 355(1)(b) of the Taxes Act 1988 would be satisfied in the case of any loan,

this section shall not apply to any payment of interest on that loan which is made before the time in the year 1995-96 when that source of income ceases.

(5) Subject to paragraph 19(3) of Schedule 6 to this Act, no relief in respect of any payment of interest before 6th April 1995 shall be given

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under section 355(4) of the Taxes Act 1988 (income against which relief available) against any income for the year 1995-96 or any subsequent year of assessment except in a case where the income falls within subsection (4)(a) above.

(6) Schedule 7 to this Act (which makes amendments in relation to corporation tax which are consequential on this section) shall have effect in relation to accounting periods ending after 31st March 1995.

Benefits in kind

Cars available for private use.

43.—(1) After section 157 of the Taxes Act 1988 there shall be inserted—

"Cars available for private use: cash alternative, etc.

157A. Where, in any year in the case of a person employed in employment to which this Chapter applies—

(a) a car is made available as mentioned in section 157, and

(b) an alternative to the benefit of the car is offered,

the mere fact that the alternative is offered shall not make the benefit chargeable to tax under section 19(1)."

(2) In section 158 of the Taxes Act 1988 (car fuel) in subsection (1) for the words "which is made available as mentioned in section 157," there shall be substituted "the benefit of which is chargeable to tax under section 157 as his income,".

(3) In section 167 of the Taxes Act 1988 (employments to which Chapter II of Part V of that Act applies) at the beginning of subsection (2) (calculation of emoluments) there shall be inserted "Subject to subsection (2B) below" and after that subsection there shall be inserted—

"(2B) Where, in any relevant year—

(a) a car is made available as mentioned in section 157, and

(b) an alternative to the benefit of the car is offered,

subsection (2)(a) above shall have effect as if, in connection with the benefit of the car, the amount produced under subsection (2C) below together with any amounts falling within (2D) below were the amounts to be included in the emoluments.

(2C) The amount produced under this subsection is the higher of—

(a) the amount equal to the aggregate of—

(i) whatever is the cash equivalent (ascertained in accordance with Schedule 6) of the benefit of the car; and

(ii) whatever is the cash equivalent (ascertained in accordance with section 158) of the benefit of any fuel provided, by reason of the employee's employment, for the car; and

(b) the amount which would be chargeable to tax under section 19(1), if the benefit of the car were chargeable under that section by reference to the alternative offered to that benefit.

(2D) The amounts which fall within this subsection are those which would come into charge under section 141, 142 or 153 if the section in question applied in connection with the car."

(4) This section shall have effect for the year 1995-96 and subsequent years of assessment.

Cars: accessories for the disabled.

44.—(1) At the end of section 168A(11) of the Taxes Act 1988 (mobile telephones not accessories for purpose of determining price of car) there shall be inserted "or equipment which falls within section 168AA".

(2) After section 168A of the Taxes Act 1988 there shall be inserted—

"Equipment to enable disabled person to use car.

168AA.—(1) Equipment falls within this section if it is designed solely for use by a chronically sick or disabled person.

(2) Equipment also falls within this section if—

(a) at the time when the car is first made available to the employee, the employee holds a disabled person's badge, and

(b) the equipment is made available for use with the car because the equipment enables him to use the car in spite of the disability entitling him to hold the badge.

(3) In subsection (2) above "disabled person's badge" means a badge—

(a) which is issued to a disabled person under section 21 of the Chronically Sick and Disabled Persons Act 1970 or section 14 of the Chronically Sick and Disabled Persons (Northern Ireland) Act 1978 (or which has effect as if so issued), and

1970 c. 44.
1978 c. 53.

(b) which is not required to be returned to the issuing authority under or by virtue of the section in question.

(4) Subsection (12) of section 168A applies for the purposes of this section as it applies for the purposes of that."

(3) This section shall have effect for the year 1995-96 and subsequent years of assessment.

Beneficial loan arrangements: replacement loans.

45.—(1) In Chapter II of Part V of the Taxes Act 1988 (benefits in kind, &c.), section 160 (beneficial loan arrangements) is amended as follows.

(2) In subsection (5) (interpretation), paragraph (b) (references to loan to include any replacement loan) shall cease to have effect.

(3) After subsection (3) (deemed continuance of employment to which that Chapter applies) insert—

"(3A) Where subsection (3) above applies, a loan which—

(a) is applied directly or indirectly to the replacement of any such loan as is mentioned in paragraph (a) of that subsection, and

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(b) would, if the employment referred to in that subsection had not terminated or, as the case may be, ceased to be employment to which this Chapter applies, have been a loan the benefit of which was obtained by reason of that employment,

shall, unless it is a loan the benefit of which was obtained by reason of other employment, be treated as a loan the benefit of which was obtained by reason of that employment.".

(4) In paragraph 4 of Schedule 7 to the Taxes Act 1988 (loans obtained by reason of employment: normal method of calculation of benefit (averaging)), make the present provision sub-paragraph (1) and after it insert—

"(2) Where an employment-related loan is replaced, directly or indirectly—

(a) by a further employment-related loan, or

(b) by a non-employment-related loan which in turn is, in the same year of assessment or within 40 days thereafter, replaced, directly or indirectly, by a further employment-related loan,

sub-paragraph (1) above applies as if the replacement loan or, as the case may be, each of the replacement loans were the same loan as the first-mentioned employment-related loan.

(3) For the purposes of sub-paragraph (2) above "employment-related loan" means a loan the benefit of which is obtained by reason of a person's employment (and "non-employment-related loan" shall be construed accordingly).

(4) The references in sub-paragraph (2) above to a further employment-related loan are to an employment-related loan the benefit of which is obtained by reason of—

(a) the same or other employment with the person who is the employer in relation to the first-mentioned employment-related loan, or

(b) employment with a person who is connected (within the meaning of section 839) with that employer.".

(5) The above amendments have effect for the year 1995-96 and subsequent years of assessment and apply to loans whether made before or after the passing of this Act.

Chargeable gains

Relief on re-investment: property companies etc.

1992 c. 12.

46.—(1) Chapter IA of Part V of the Taxation of Chargeable Gains Act 1992 (roll-over relief on re-investment) shall be amended as follows.

(2) In section 164A (relief on re-investment for individuals) the following subsection shall be inserted after subsection (12)—

"(13) Where an acquisition is made on or after 29th November 1994 section 164H shall be ignored in deciding whether it is an acquisition of a qualifying investment for the purposes of this section."

(3) In section 164F (failure of conditions of relief) the following subsection shall be inserted after subsection (2)—

"(2A) In deciding for the purposes of subsection (2)(b) above whether a company is a qualifying company at a time falling on or after 29th November 1994 section 164H shall be ignored."

(4) In section 164I (qualifying trades) the following subsection shall be inserted after subsection (4)—

"(4A) In deciding whether a trade complies with this section at a time falling on or after 29th November 1994 paragraphs (g) and (h) of subsection (2) above shall be ignored."

Relief on re-investment: amount of relief, etc.

1992 c. 12.

47.—(1) Chapter IA of Part V of the Taxation of Chargeable Gains Act 1992 (roll-over relief on re-investment) shall be amended as follows.

(2) In section 164A after subsection (13) (inserted by section 46 above) there shall be inserted—

"(14) This section is subject to sections 164FF and 164FG."

(3) In section 164F after subsection (10B) there shall be inserted—

"(10C) Subsection (10A) above is subject to sections 164FF and 164FG."

(4) After section 164F there shall be inserted—

"Qualifying investment acquired from husband or wife.

164FF.—(1) This section applies where—

(a) a claim is made under subsection (2) of section 164A or subsection (10A) of section 164F; and

(b) the qualifying investment as respects which the claim is made is acquired by a disposal to which section 58 applies.

(2) The amounts by reference to which the reduction is determined shall be treated as including the amount of the consideration which the claimant would under this Act be treated as having given for the qualifying investment if he had, immediately upon acquiring the qualifying investment, disposed of it on a disposal which was not a no gain/no loss disposal.

(3) Where—

(a) the claimant makes a disposal, which is not a no gain/no loss disposal, of the qualifying investment, and

(b) any disposal after 31st March 1982 and before he acquired the qualifying investment was a no gain/no loss disposal,

nothing in paragraph 1 of Schedule 3, section 35 or section 55 shall operate to defeat the reduction falling to be made under section 164A(2)(b) or, as the case may be, section 164F(10A)(b) in the consideration for the acquisition of the qualifying investment.

(4) Where—

(a) the claimant makes a disposal of the qualifying investment and that disposal is a disposal to which section 58 applies, and

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(b) any disposal after 31st March 1982 and before the claimant acquired the qualifying investment was a no gain/no loss disposal,

nothing in the application of paragraph 1 of Schedule 3, section 35 or section 55 to the person to whom the claimant makes the disposal of the qualifying investment shall operate to defeat the reduction made under section 164A(2)(b) or, as the case may be, section 164F(10A)(b).

(5) For the purposes of this section a no gain/no loss disposal is one on which by virtue of any of the enactments specified in section 35(3)(d) neither a gain nor a loss accrues."

(5) After section 164FF (inserted by subsection (4) above) there shall be inserted—

"Multiple claims.

164FG.—(1) This section applies where—

(a) a reduction is claimed by a person as respects a qualifying investment under subsection (2) of section 164A or subsection (10A) of section 164F; and

(b) any other reduction has been or is being claimed by that person under either subsection as respects that investment.

(2) Subject to subsection (5) below, the reductions shall be treated as claimed separately in such sequence as the claimant elects or an officer of the Board in default of an election determines.

(3) In relation to a later claim as respects the qualifying investment under either subsection, the subsection shall have effect as if each of the relevant amounts were reduced by the aggregate of any reductions made in the amount or value of the consideration for the acquisition of that investment by virtue of any earlier claims as respects that investment.

(4) In subsection (3) above "the relevant amounts" means—

(a) if the claim is under section 164A(2), the amounts referred to in subsection (2)(a)(ii) and (iii) and any amount required to be included by virtue of section 164FF(2); and

(b) if the claim is under section 164F(10A), the amounts referred to in subsection (10A)(a)(i) and (ii) and any amount required to be included by virtue of section 164FF(2).

(5) A claim that has become final shall be treated as made earlier than any claim that has not become final.

(6) For the purposes of subsection (5) above, a claim becomes final when—

(a) it may no longer be amended, or

(b) it is finally determined,

whichever occurs first."

(6) Subsection (4) above (and subsections (1) to (3) above so far as relating to subsection (4) above) shall apply to a claim as respects a qualifying investment if—

(a) the qualifying investment is acquired on or after 20th June 1994; or

(b) the claim is under section 164A(2) and relates to a disposal on or after that day; or

(c) the claim is under subsection (10A) of section 164F and relates to a gain which (apart from that subsection) would accrue on or after that day.

(7) Subsection (5) above (and subsections (1) to (3) above so far as relating to subsection (5) above) shall apply to a claim as respects a qualifying investment if—

(a) the qualifying investment is acquired on or after 20th June 1994; or

(b) the claim is under section 164A(2) and relates to a disposal on or after that day; or

(c) the claim is under subsection (10A) of section 164F and relates to a gain which (apart from that subsection) would accrue on or after that day; or

(d) there is another claim as respects that qualifying investment which is under section 164A(2) and which relates to a disposal on or after that day; or

(e) there is another claim as respects that qualifying investment which is under subsection (10A) of section 164F and which relates to a gain which (apart from that subsection) would accrue on or after that day.

(8) Any such adjustment as is appropriate in consequence of this section may be made (whether by discharge or repayment of tax, the making of an assessment or otherwise).

Roll-over relief and groups of companies.
1992 c. 12.

48.—(1) In section 175 of the Taxation of Chargeable Gains Act 1992 (replacement of business assets by members of a group), after subsection (2) there shall be inserted the following subsections—

"(2A) Section 152 shall apply where—

(a) the disposal is by a company which, at the time of the disposal, is a member of a group of companies,

(b) the acquisition is by another company which, at the time of the acquisition, is a member of the same group, and

(c) the claim is made by both companies,

as if both companies were the same person.

(2B) Section 152 shall apply where a company which is a member of a group of companies but is not carrying on a trade—

(a) disposes of assets (or an interest in assets) used, and used only, for the purposes of the trade which (in accordance with subsection (1) above) is treated as carried on by the members of the group which carry on a trade, or

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(b) acquires assets (or an interest in assets) taken into use, and used only, for those purposes,

as if the first company were carrying on that trade.

(2C) Section 152 shall not apply if the acquisition of, or of the interest in, the new assets—

(a) is made by a company which is a member of a group of companies, and

(b) is one to which any of the enactments specified in section 35(3)(d) applies."

1992 c. 12.

(2) In section 247 of the Taxation of Chargeable Gains Act 1992 (roll-over relief on compulsory acquisition of land), after subsection (5) there shall be inserted the following subsection—

"(5A) Subsections (2A) and (2C) of section 175 shall apply in relation to this section as they apply in relation to section 152 (but as if the reference in subsection (2C) to the new assets were a reference to the new land)."

(3) Subject to subsection (4) below—

(a) the subsection inserted into section 175 of the Taxation of Chargeable Gains Act 1992 by subsection (1) above as subsection (2A) shall be deemed always to have had effect; and

(b) the earlier enactments corresponding to that section shall be deemed to have contained provision to the same effect as that subsection (2A).

(4) Paragraph (c) of that subsection (2A) shall not apply unless the claim is made on or after 29th November 1994.

(5) The subsection inserted into section 175 of the Taxation of Chargeable Gains Act 1992 by subsection (1) above as subsection (2B) shall apply where the disposal or the acquisition is on or after 29th November 1994; and the subsection so inserted as subsection (2C) shall apply where the acquisition is on or after that date.

(6) The subsection inserted into section 247 of the Taxation of Chargeable Gains Act 1992 by subsection (2) above shall apply—

(a) so far as it relates to section 175(2A), where the disposal or the acquisition is on or after 29th November 1994; and

(b) so far as it relates to section 175(2C), where the acquisition is on or after that date.

De-grouping charges.

49.—(1) In section 179 of the Taxation of Chargeable Gains Act 1992 (de-grouping charges), after subsection (2) there shall be inserted the following subsections—

"(2A) Where—

(a) a company that has ceased to be a member of a group of companies ('the first group') acquired an asset from another company which was a member of that group at the time of the acquisition,

(b) subsection (2) above applies in the case of that company's ceasing to be a member of the first group so that subsection (1) above does not have effect as respects the acquisition of that asset,

(c) the company that made the acquisition subsequently ceases to be a member of another group of companies ('the second group'), and

(d) there is a connection between the two groups,

subsection (1) above shall have effect in relation to the company's ceasing to be a member of the second group as if it had been the second group of which both companies had been members at the time of the acquisition.

(2B) For the purposes of subsection (2A) above there is a connection between the first group and the second group if, at the time when the chargeable company ceases to be a member of the second group, the company which is the principal company of that group is under the control of—

(a) the company which is the principal company of the first group or, if that group no longer exists, which was the principal company of that group when the chargeable company ceased to be a member of it;

(b) any company which controls the company mentioned in paragraph (a) above or which has had it under its control at any time in the period since the chargeable company ceased to be a member of the first group; or

(c) any company which has, at any time in that period, had under its control either—

(i) a company which would have fallen within paragraph (b) above if it had continued to exist, or

(ii) a company which would have fallen within this paragraph (whether by reference to a company which would have fallen within that paragraph or to a company or series of companies falling within this sub-paragraph)."

(2) After subsection (9) of that section there shall be inserted the following subsection—

"(9A) Section 416(2) to (6) of the Taxes Act (meaning of control) shall have effect for the purposes of subsection (2B) above as it has effect for the purposes of Part XI of that Act; but a person carrying on a business of banking shall not for the purposes of that subsection be regarded as having control of any company by reason only of having, or of the consequences of having exercised, any rights of that person in respect of loan capital or debt issued or incurred by the company for money lent by that person to the company in the ordinary course of that business."

(3) This section has effect in relation to a company in any case in which the time of the company's ceasing to be a member of the second group is on or after 29th November 1994.

Corporate bonds. 1992 c. 12.

50. In section 117 of the Taxation of Chargeable Gains Act 1992 (qualifying corporate bonds) the following subsection shall be inserted after subsection (2)—

"(2A) Where it falls to be decided whether at any time on or after 29th November 1994 a security (whenever issued) is a corporate bond for the purposes of this section, a security which falls within

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1989 c. 26.

paragraph 2(2)(c) of Schedule 11 to the Finance Act 1989 (quoted indexed securities) shall be treated as not being a corporate bond within the definition in subsection (1) above."

Insurance companies and friendly societies

Companies carrying on life assurance business.

51. Schedule 8 to this Act has effect in relation to companies carrying on life assurance business, as follows—

Part I contains general amendments,

Part II contains amendments of provisions relating to overseas life insurance companies, and

Part III contains supplementary provisions.

Meaning of "insurance company".

52.—(1) In section 431(2) of the Taxes Act 1988 (interpretation of provisions relating to insurance companies), for the definition of "insurance company" there shall be substituted the following definition—

"'insurance company' means any company which is—

1982 c. 50.

(a) a company to which Part II of the Insurance Companies Act 1982 applies, or

(b) an EC company carrying on insurance business through a branch or agency in the United Kingdom,

and in this definition 'EC company' and 'insurance business' have the same meanings as in that Act of 1982;".

1993 c. 34.

(2) In section 168(7) of the Finance Act 1993 (meaning of "insurance company" for the purposes of provisions relating to exchange gains and losses), for the words from "a company" onwards there shall be substituted "any company which carries on any insurance business (within the meaning of the Insurance Companies Act 1982)."

1994 c. 9.

(3) In section 177(1) of the Finance Act 1994 (interpretation of provisions relating to financial instruments), in the definition of "insurance company", for the words "to which Part II of the Insurance Companies Act 1982 applies" there shall be substituted "which carries on any insurance business (within the meaning of the Insurance Companies Act 1982);".

1984 c. 51.

(4) In section 59(3)(b) of the Inheritance Tax Act 1984 (interests of insurance companies acquired before 14th March 1975 to be qualifying interests in possession), for the words from "if" onwards there shall be substituted "if the company is an insurance company (within the meaning of Chapter I of Part XII of the Taxes Act 1988) and either—

(i) is authorised to carry on long term business under section 3 or 4 of the Insurance Companies Act 1982; or

(ii) carries on through a branch or agency in the United Kingdom the whole or any part of any long term business which it is authorised to carry on by an authorisation granted outside the United Kingdom for the purposes of the first long term insurance Directive;

and in paragraph (b) above 'long term business' and 'the first long term insurance Directive' have the same meanings as in that Act of 1982."

(5) Subsections (1) to (3) above shall have effect in relation to any accounting period ending after 30th June 1994; and subsection (4) above

shall have effect for the purposes of the making, on an anniversary or other occasion after that date, of any charge to tax under section 64 or 65 of the Inheritance Tax Act 1984.

1984 c. 51.

Transfer of life insurance business.

53.—(1) The amendments specified in Schedule 9 to this Act (which relate to enactments referring to the transfer of the whole or part of the long term business of an insurance company) shall have effect.

(2) This section and that Schedule shall have effect in relation to any transfers sanctioned or authorised after 30th June 1994.

Friendly societies.

54. Schedule 10 to this Act (which makes provision about friendly societies) shall have effect.

Insurance policies

Qualifying life insurance policies.

55.—(1) Subject to subsections (2) and (3) below—

(a) paragraph 21 of Schedule 15 to the Taxes Act 1988 (certification of policies and of standard forms etc.) shall not apply, in relation to any time on or after 5th May 1996, for determining whether a policy is or would be a qualifying policy at that time; and

(b) no certificate may be issued under that paragraph at any time on or after that date except, in the case of a certificate under sub-paragraph (1)(a) of that paragraph, in relation to a time before that date.

(2) Subsection (1) above shall not affect the right of any person to bring or continue with an appeal under paragraph 21(3) of that Schedule against either a refusal before 5th May 1996 to certify any policy or a refusal on or after that date to certify any policy in relation to times before that date.

(3) A certificate issued—

(a) before 5th May 1996 in pursuance of paragraph 21(1)(a) of that Schedule, or

(b) in pursuance of a determination on an appeal determined after that date by virtue of subsection (2) above,

shall, in relation to any time on or after that date or, as the case may be, the date on which it is issued, be conclusive evidence that the policy to which it relates is (subject to any variation of the policy) a qualifying policy.

(4) Paragraph 22 of that Schedule (certificates from body issuing policy) shall cease to have effect in relation to any time on or after 5th May 1996.

(5) Paragraph 24 of that Schedule (policies issued by non-resident companies) shall have effect in relation to times on or after 5th May 1996—

(a) with the substitution of the following sub-paragraphs for sub-paragraph (2)—

"(2) Subject to section 55(3) of the Finance Act 1995 (transitional provision for the certification of certain policies), a new non-resident policy that falls outside sub-paragraph (2A) below shall not be a qualifying policy until such time as the conditions in sub-paragraph (3) are fulfilled with respect to it.

(2A) A policy falls outside this sub-paragraph unless, at the time immediately before 5th May 1996, it was a qualifying policy by virtue of sub-paragraphs (2)(b) and (4) of this paragraph, as they had effect in relation to that time.";

and

(b) with the omission, in sub-paragraph (3), of the word "first" and of sub-paragraph (4).

(6) In paragraph 25 of that Schedule (policies substituted for policies issued by non-resident companies), for sub-paragraph (2) there shall be substituted the following sub-paragraph—

"(2) The modifications are the following—

(a) if, apart from paragraph 24, the old policy or any related policy (within the meaning of paragraph 17(2)(b)) of which account falls to be taken would have been a qualifying policy, that policy shall be assumed to have been a qualifying policy for the purposes of paragraph 17(2); and

(b) if, apart from this paragraph, the new policy would be a qualifying policy, it shall not be such a policy unless the circumstances are as specified in paragraph 17(3); and

(c) in paragraph 17(3)(c) the words 'either by a branch or agency of theirs outside the United Kingdom or' shall be omitted;

and references in this sub-paragraph to being a qualifying policy shall have effect, in relation to any time before 5th May 1996, as including a reference to being capable of being certified as such a policy."

(7) In paragraph 27(1) of that Schedule, except so far as it has effect for the purposes of any case to which paragraph 21 of that Schedule applies by virtue of the preceding provisions of this section, for "paragraphs 21 and" there shall be substituted "paragraph".

(8) In section 553 of the Taxes Act 1988 (which contains provisions referring to paragraph 24(3) or (4) of Schedule 15 to that Act)—

(a) in subsection (2), for the words from "neither" to "fulfilled" there shall be substituted "the conditions in paragraph 24(3) of Schedule 15 to this Act are not fulfilled"; and

(b) in subsection (7), for "either sub-paragraph (3) or sub-paragraph (4)" there shall be substituted "sub-paragraph (3)";

but this subsection shall not affect the operation of Chapter II of Part XIII of that Act in relation to any policy in relation to which the conditions in paragraph 24(4) of Schedule 15 to that Act, as it then had effect, were fulfilled at times in accounting periods before those in relation to which section 103 of the Finance Act 1993 (which repealed section 445 of the Taxes Act 1988) had effect.

1993 c. 34.

Foreign life policies etc.

56.—(1) In section 547 of the Taxes Act 1988 (charging of certain gains arising in connection with insurance policies etc.), in subsection (5A), for "subsection (7)" there shall be substituted "subsection (6A) or (7)"; and after subsection (6) of that section there shall be inserted the following subsection—

"(6A) Subsection (6) above shall not apply in relation to a gain treated as arising in connection with a contract for a life annuity in any case where the Board are satisfied, on a claim made for the purpose—

(a) that the company liable to make payments under the contract ('the grantor') has not, at any time ('a relevant time') between the date on which it entered into the contract and the date on which the gain is treated as arising, been resident in the United Kingdom;

(b) that at all relevant times the grantor has—

(i) as a body deriving its status as a company from the laws of a territory outside the United Kingdom,

(ii) as a company with its place of management in such a territory, or

(iii) as a company falling, under the laws of such a territory, to be regarded, for any other reason, as resident or domiciled in that territory,

been within a charge to tax under the laws of that territory;

(c) that that territory is a territory within the European Economic Area when the gain is treated as arising;

(d) that the charge to tax mentioned in paragraph (b) above has at all relevant times been such a charge made otherwise than by reference to profits as (by disallowing their deduction in computing the amount chargeable) to require sums payable and other liabilities arising under contracts of the same class as the contract in question to be treated as sums or liabilities falling to be met out of amounts subject to tax in the hands of the grantor;

(e) that the rate of tax fixed for the purposes of that charge in relation to the amounts subject to tax in the hands of the grantor (not being amounts arising or accruing in respect of investments that are of a particular description for which a special relief or exemption is generally available) has at all relevant times been at least 20 per cent.; and

(f) that none of the grantor's obligations under the contract in question to pay any sum or to meet any other liability arising under that contract is or has been the subject, in whole or in part, of any reinsurance contract relating to anything other than the risk that the annuitant will die or will suffer any sickness or accident;

and subsection (6) above shall also not apply where the case would fall within paragraphs (a) to (f) above if references to a relevant time did not include references to any time when the contract fell to be regarded as forming part of so much of any basic life assurance and general annuity business the income and gains of which were subject to corporation tax as was being carried on through a branch or agency in the United Kingdom."

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(2) In section 553 of that Act (non-resident policies and off-shore capital redemption policies), in subsection (6), for "subsection (7)" there shall be substituted "subsections (6A) and (7)"; and after that subsection there shall be inserted the following subsection—

"(6A) Paragraphs (a) and (b) of subsection (6) above do not apply to a gain in a case where the Board are satisfied, on a claim made for the purpose—

(a) that the insurer has not, at any time ('a relevant time') between the making of the insurance and the date on which the gain is treated as arising, been resident in the United Kingdom;

(b) that at all relevant times the insurer has—

(i) as a body deriving its status as a company from the laws of a territory outside the United Kingdom,

(ii) as a company with its place of management in such a territory, or

(iii) as a company falling, under the laws of such a territory, to be regarded, for any other reason, as resident or domiciled in that territory,

been within a charge to tax under the laws of that territory;

(c) that that territory is a territory within the European Economic Area when the gain is treated as arising;

(d) that the charge to tax mentioned in paragraph (b) above has at all relevant times been such a charge made otherwise than by reference to profits as (by disallowing their deduction in computing the amount chargeable) to require sums payable and other liabilities arising under policies of the same class as the policy in question to be treated as sums or liabilities falling to be met out of amounts subject to tax in the hands of the insurer;

(e) that the rate of tax fixed for the purposes of that charge in relation to the amounts subject to tax in the hands of the insurer (not being amounts arising or accruing in respect of investments that are of a particular description for which a special relief or exemption is generally available) has at all relevant times been at least 20 per cent.; and

(f) that none of the insurer's obligations under the policy in question to pay any sum or to meet any other liability arising under that policy is or has been the subject, in whole or in part, of any reinsurance contract relating to anything other than the risk that the person whose life is insured by the policy will die or will suffer any sickness or accident;

and paragraphs (a) and (b) of subsection (6) above shall also not apply where the case would fall within paragraphs (a) to (f) above if references to a relevant time did not include references to any time when the conditions required to be fulfilled in relation to that time for the purposes of subsection (7) below were fulfilled."

(3) For the purpose of securing that section 547(5) of the Taxes Act 1988 has effect in other cases (in addition to those specified in sections 547(6A) and 553(6A)) where it appears to the Board appropriate for section 547(6) or 553(6) to be disapplied by reference to tax chargeable

under the laws of a territory outside the United Kingdom, the Board may by regulations provide that the cases described in subsection (6A) of each of sections 547 and 553 of that Act are to be treated as including cases, being cases which would not otherwise fall within the subsection, where the conditions specified in the regulations are fulfilled in relation to any time (including one before the making of the regulations).

(4) This section shall apply in relation to any gain arising on or after 29th November 1994 and in relation to any gain arising before that date the income tax on which has not been the subject of an assessment that became final and conclusive before that date.

Duties of insurers in relation to life policies etc.

57.—(1) In section 552 of the Taxes Act 1988 (duties of insurers of life policies etc.), the following subsection shall be inserted after subsection (2) in relation to times on or after the day on which this Act is passed—

"(2A) Where the obligations under any policy or contract of the body that issued, entered into or effected it ('the original insurer') are at any time the obligations of another body ('the transferee') to whom there has been a transfer of the whole or any part of a business previously carried on by the original insurer, this section shall have effect in relation to that time, except where the chargeable event—

(a) happened before the transfer, and

(b) in the case of a death or assignment, is an event of which the notification mentioned in subsection (1) above was given before the transfer,

as if the policy or contract had been issued, entered into or effected by the transferee."

(2) In that section, the following subsections shall be inserted after subsection (4)—

"(4A) The Board may by regulations—

(a) make provision as to the form which is to be taken by certificates under this section (including provision enabling such a certificate to be delivered otherwise than in the form of a document); and

(b) make such provision as they think fit for securing that they are able to ascertain whether there has been or is likely to be any contravention of the requirements of this section and to verify any such certificate.

(4B) Regulations by virtue of subsection (4A)(b) above may include, in particular, provision requiring persons to whom premiums under any policy are or have at any time been payable to supply information to the Board and to make available books, documents and other records for inspection on behalf of the Board.

(4C) Regulations under subsection (4A) above may—

(a) make different provision for different cases; and

(b) contain such supplementary, incidental, consequential and transitional provision as appears to the Board to be appropriate."

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(3) In the second column of the Table in section 98 of the Management Act (penalties in respect of certain information provisions), for the entry relating to section 552 of the Taxes Act 1988 there shall be substituted the following entries—

"section 552(1) to (4);
regulations under section 552(4A);".

Pensions

Personal pensions: income withdrawals.

58. Schedule 11 to this Act has effect for the purpose of enabling income withdrawals to be made under a personal pension scheme where the purchase of an annuity is deferred.

Pensions: meaning of insurance company etc.

59.—(1) Part XIV of the Taxes Act 1988 (pension schemes etc.) shall be amended as follows.

(2) In section 591 (discretionary approval of retirement benefits schemes) the following subsection shall be substituted for subsection (3)—

"(3) In subsection (2)(g) above "insurance company" has the meaning given by section 659B."

(3) In section 599 (charge to tax: commutation of entire pension in special circumstances) the following subsection shall be substituted for subsection (8)—

"(8) In subsection (7) above "insurance company" has the meaning given by section 659B."

(4) In section 630 (personal pension schemes: interpretation) the following definition shall be substituted for the definition of "authorised insurance company"—

""authorised insurance company" has the meaning given by section 659B."

(5) The following sections shall be inserted after section 659A—

"Definition of insurance company.

659B.—(1) In sections 591(2)(g) and 599(7) "insurance company" means one of the following—

1982 c. 50.

(a) a person authorised under section 3 or 4 of the Insurance Companies Act 1982 (or any similar previous enactment) to carry on long term business;

(b) a friendly society carrying on long term business;

(c) an EC company falling within subsection (3) below.

(2) In Chapter IV of this Part "authorised insurance company" means a company that is an insurance company within the meaning given by subsection (1) above.

(3) An EC company falls within this subsection if it—

(a) lawfully carries on long term business, or lawfully provides long term insurance, in the United Kingdom, and

(b) fulfils the requirement under subsection (5) below or that under subsection (6) below or that under subsection (7) below.

(4) For the purposes of subsection (3) above an EC company—

(a) lawfully carries on long term business in the United Kingdom if it does so through a branch in respect of which such of the requirements of Part I of Schedule 2F to the Insurance Companies Act 1982 as are applicable have been complied with;

1982 c. 50.

(b) lawfully provides long term insurance in the United Kingdom if such of those requirements as are applicable have been complied with in respect of the insurance.

(5) The requirement under this subsection is that—

(a) a person who falls within subsection (8) below is for the time being appointed by the company to be responsible for securing the discharge of the duties mentioned in subsection (9) below, and

(b) his identity and the fact of his appointment have been notified to the Board by the company.

(6) The requirement under this subsection is that there are for the time being other arrangements with the Board for a person other than the company to secure the discharge of those duties.

(7) The requirement under this subsection is that there are for the time being other arrangements with the Board designed to secure the discharge of those duties.

(8) A person falls within this subsection if—

(a) he is not an individual and has a business establishment in the United Kingdom, or

(b) he is an individual and is resident in the United Kingdom.

(9) The duties are the following duties that fall to be discharged by the company—

(a) any duty to pay by virtue of section 203 and regulations made under it tax charged under section 597(3);

(b) any duty to pay tax charged under section 599(3) and (7);

(c) any duty imposed by regulations made under section 605;

(d) any duty to pay by virtue of section 203 and regulations made under it tax charged under section 648A(1).

(10) For the purposes of this section—

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1982 c. 50.

(a) references to an EC company shall be construed in accordance with section 2(6) of the Insurance Companies Act 1982;

(b) references to long term business shall be construed in accordance with section 1(1) of that Act;

(c) references to the provision of long term insurance in the United Kingdom shall be construed in accordance with section 96A(3A) of that Act;

1992 c. 40.

(d) a friendly society is a friendly society within the meaning of the Friendly Societies Act 1992 (including any society that by virtue of section 96(2) of that Act is to be treated as a registered friendly society within the meaning of that Act).

Effect of appointment or arrangements under section 659B.

659C.—(1) This section shall have effect where—

(a) in accordance with section 659B(5) a person is for the time being appointed to be responsible for securing the discharge of duties, or

(b) in accordance with section 659B(6) there are for the time being arrangements for a person to secure the discharge of duties.

(2) In such a case the person concerned—

(a) shall be entitled to act on the company's behalf for any of the purposes of the provisions relating to the duties;

(b) shall secure (where appropriate by acting on the company's behalf) the company's compliance with and discharge of the duties;

(c) shall be personally liable in respect of any failure of the company to comply with or discharge any such duty as if the duties imposed on the company were imposed jointly and severally on the company and the person concerned."

Application of section 59.

60.—(1) Section 59(2) above and the new section 659B, so far as relating to section 591(2)(g), shall apply in relation to a scheme not approved by virtue of section 591 before the day on which this Act is passed.

(2) Section 59(3) above and the new section 659B, so far as relating to section 599(7), shall apply where tax is charged under section 599 on or after the day on which this Act is passed.

(3) Section 59(4) above and the new section 659B, so far as relating to Chapter IV of Part XIV, shall apply in relation to a scheme not approved under that Chapter before the day on which this Act is passed.

(4) Subsection (5) below applies where—

(a) a scheme is approved under Chapter IV of Part XIV before the day on which this Act is passed,

(b) on or after that day the person who established the scheme proposes to amend it, and

(c) the scheme as proposed to be amended would make provision such that, if the scheme had not been approved before that day, section 59(4) above and the new section 659B (so far as relating to that Chapter) would allow the Board to approve it.

(5) The Board may at their discretion approve the amendment notwithstanding anything in Chapter IV of Part XIV, and if the amendment is made—

(a) section 59(4) above and the new section 659B, so far as relating to that Chapter, shall apply in relation to the scheme, and

(b) any question as to the validity of the Board's approval of the scheme shall be determined accordingly.

Cessation of approval of certain retirement benefits schemes.

61.—(1) After section 591B of the Taxes Act 1988 there shall be inserted—

"Cessation of approval: tax on certain schemes.

591C.—(1) Where an approval of a scheme to which this section applies ceases to have effect, tax shall be charged in accordance with this section.

(2) The tax shall be charged under Case VI of Schedule D at the rate of 40 per cent. on an amount equal to the value of the assets which immediately before the date of the cessation of the approval of the scheme are held for the purposes of the scheme (taking that value as it stands immediately before that date).

(3) Subject to section 591D(4), the person liable for the tax shall be the administrator of the scheme in his capacity as such.

(4) This section applies to a retirement benefits scheme in respect of which either of the conditions set out below is satisfied.

(5) The first condition is satisfied in respect of a scheme if, immediately before the date of the cessation of the approval of the scheme, the number of individuals who are members of the scheme is less than twelve.

(6) The second condition is satisfied in respect of a scheme if at any time within the period of one year ending with the date of the cessation of the approval of the scheme, a person who is or has been a controlling director of a company which has contributed to the scheme is a member of the scheme.

(7) For the purposes of subsection (6) above a person is a controlling director of a company if he is a director of it and within section 417(5)(b) in relation to it.

Section 591C: supplementary.

591D.—(1) For the purposes of section 591C(2) the value of an asset is, subject to subsection (2) below, its market value, construing "market value" in accordance with section 272 of the 1992 Act.

(2) Where an asset held for the purposes of a scheme is a right or interest in respect of any money lent (directly or indirectly) to any person mentioned in subsection (3)

below, the value of the asset shall be treated as being the amount owing (including any unpaid interest) on the money lent.

(3) The persons are—

(a) any employer who has at any time contributed to the scheme;

(b) any company connected with such an employer;

(c) any member of the scheme;

(d) any person connected with any member of the scheme.

(4) Where the administrator of the scheme is constituted by persons who include a person who is an approved independent trustee in relation to a scheme, that person shall not be liable for tax chargeable by virtue of section 591C.

(5) A person is an approved independent trustee in relation to a scheme only if he is—

(a) approved by the Board to act as a trustee of the scheme; and

(b) not connected with—

(i) a member of the scheme;

(ii) any other trustee of the scheme; or

(iii) an employer who has contributed to the scheme.

(6) For the purposes of section 596A(9) income and gains accruing to a scheme shall not be regarded as brought into charge to tax merely because tax is charged in relation to the scheme in accordance with section 591C.

(7) The reference in section 591C(1) to an approval of a scheme ceasing to have effect is a reference to—

(a) the scheme ceasing to be an approved scheme by virtue of section 591A(2);

(b) the approval of the scheme being withdrawn under section 591B(1); or

(c) the approval of the scheme no longer applying by virtue of section 591B(2);

and any reference in section 591C to the date of the cessation of the approval of the scheme shall be construed accordingly.

(8) For the purposes of section 591C and this section a person is a member of a scheme at a particular time if at that time a benefit—

(a) is being provided under the scheme, or

(b) may be so provided,

in respect of any past or present employment of his.

(9) Section 839 shall apply for the purposes of this section."

(2) After section 239 of the Taxation of Chargeable Gains Act 1992 there shall be inserted—

1992 c. 12.

"Retirement benefits schemes

Cessation of approval of certain schemes.

239A.—(1) This section applies where tax is charged in accordance with section 591C of the Taxes Act (tax on certain retirement benefits schemes whose approval ceases to have effect).

(2) For the purposes of this Act the assets which at the relevant time are held for the purposes of the scheme—

(a) shall be deemed to be acquired at that time for a consideration equal to the amount on which tax is charged by virtue of section 591C(2) of the Taxes Act by the person who would be chargeable in respect of a chargeable gain accruing on a disposal of the assets at that time; but

(b) shall not be deemed to be disposed of by any person at that time;

and in this subsection "the relevant time" means the time immediately before the date of the cessation of the approval of the scheme.

(3) Expressions used in subsection (2) above and in section 591C of the Taxes Act have the same meanings in that subsection as in that section."

(3) This section shall apply in relation to any approval of a retirement benefits scheme which ceases to have effect on or after 2nd November 1994 other than an approval ceasing to have effect by virtue of a notice given before that day under section 591B(1) of the Taxes Act 1988.

Saving and investment: general

Follow-up TESSAs.

62.—(1) The Taxes Act 1988 shall be amended as follows.

(2) After section 326B there shall be inserted—

"Follow-up TESSAs.

326BB.—(1) Subsection (2) below applies where—

(a) an individual, within the period of six months from the day on which a tax-exempt special savings account held by him matured, opens another account ("a follow-up account") which is a tax-exempt special savings account at the time it is opened; and

(b) the total amount deposited in the matured account, before it matured, exceeded £3,000.

(2) In relation to the follow-up account section 326B(2)(a) shall apply as if the reference to £3,000 were a reference to the total amount so deposited.

(3) For the purposes of subsection (1) above a tax-exempt special savings account held by an individual

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matures when a period of five years throughout which the account was a tax-exempt special savings account comes to an end.

(4) An account is not connected with another account for the purposes of section 326A(8) merely because one of them is a follow-up account."

(3) In section 326C(1) (regulations about tax-exempt special savings accounts) after paragraph (c) there shall be inserted—

"(cc) providing that subsection (2) of section 326BB does not apply in relation to a follow-up account unless at such time as may be prescribed by the regulations the building society or institution with which the account is held has a document of a prescribed description containing such information as the regulations may prescribe;

(cd) requiring building societies and other institutions operating tax-exempt special savings accounts which mature to give to the individuals who have held them certificates containing such information as the regulations may prescribe;".

(4) In section 326C(1)(e) for "and 326B" there shall be substituted "326B and 326BB".

(5) In section 326C after subsection (1) there shall be inserted—

"(1A) In paragraph (cc) of subsection (1) above "document" includes a record kept by means of a computer; and regulations made by virtue of that paragraph may prescribe different documents for different cases.

(1B) Subsection (3) of section 326BB applies for the purposes of subsection (1) above as it applies for the purposes of subsection (1) of that section."

(6) In section 326C(2) for "section 326B" there shall be substituted "sections 326B and 326BB".

TESSAs: European institutions.

63.—(1) Section 326A of the Taxes Act 1988 (tax-exempt special savings accounts) shall be amended as mentioned in subsections (2) and (3) below.

1987 c. 22.

(2) In subsection (4) (account must be with building society or institution authorised under Banking Act 1987) after "1987" there shall be inserted "or a relevant European institution".

(3) The following subsection shall be inserted after subsection (9)—

"(10) In this section "relevant European institution" means an institution which—

S.I. 1992/3218.

(a) is a European authorised institution within the meaning of the Banking Co-ordination (Second Council Directive) Regulations 1992, and

(b) may accept deposits in the United Kingdom in accordance with those regulations."

(4) The following section shall be inserted after section 326C of the Taxes Act 1988 (regulations about tax-exempt special savings accounts etc.)—

"Tax-exempt special savings accounts: tax representatives.

326D.—(1) Without prejudice to the generality of section 326C(1), the Board may make regulations providing that an account held with a relevant European institution shall not be a tax-exempt special savings account at the time it is opened, or shall cease to be a tax-exempt special savings account at a given time, unless at the time concerned one of the following three requirements is fulfilled.

(2) The first requirement is that—

(a) a person who falls within subsection (5) below is appointed by the institution to be responsible for securing the discharge of prescribed duties which fall to be discharged by the institution, and

(b) his identity and the fact of his appointment have been notified to the Board by the institution.

(3) The second requirement is that there are other arrangements with the Board for a person other than the institution to secure the discharge of such duties.

(4) The third requirement is that there are other arrangements with the Board designed to secure the discharge of such duties.

(5) A person falls within this subsection if—

(a) he is not an individual and has a business establishment in the United Kingdom, or

(b) he is an individual and is resident in the United Kingdom.

(6) Different duties may be prescribed as regards different institutions or different descriptions of institution.

(7) The regulations may provide that—

(a) the first requirement shall not be treated as fulfilled unless the person concerned is of a prescribed description;

(b) the appointment of a person in pursuance of that requirement shall be treated as terminated in prescribed circumstances.

(8) The regulations may provide that—

(a) the second requirement shall not be treated as fulfilled unless the person concerned is of a prescribed description;

(b) arrangements made in pursuance of that requirement shall be treated as terminated in prescribed circumstances.

(9) The regulations may provide as mentioned in subsection (10) below as regards a case where—

(a) in accordance with the first requirement a person is at any time appointed to be responsible for securing the discharge of duties, or

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(b) in accordance with the second requirement there are at any time arrangements for a person to secure the discharge of duties.

(10) In such a case the regulations may provide that the person concerned—

(a) shall be entitled to act on the institution's behalf for any of the purposes of the provisions relating to the duties;

(b) shall secure (where appropriate by acting on the institution's behalf) the institution's compliance with and discharge of the duties;

(c) shall be personally liable in respect of any failure of the institution to comply with or discharge any such duty as if the duties imposed on the institution were imposed jointly and severally on the institution and the person concerned.

(11) Regulations under this section may include provision that section 326B(3) shall have effect as if the reference to subsection (1) included a reference to the regulations.

(12) In this section "prescribed" means prescribed by the regulations."

(5) Subsection (2) above shall apply in relation to accounts opened after such day as the Board may by order made by statutory instrument appoint.

Personal equity plans: tax representatives.

64.—(1) The following section shall be inserted after section 333 of the Taxes Act 1988 (personal equity plans)—

"Personal equity plans: tax representatives.

333A.—(1) Regulations under section 333 may include provision that a European institution cannot be a plan manager unless one of the following three requirements is fulfilled.

(2) The first requirement is that—

(a) a person who falls within subsection (5) below is for the time being appointed by the institution to be responsible for securing the discharge of prescribed duties which fall to be discharged by the institution, and

(b) his identity and the fact of his appointment have been notified to the Board by the institution.

(3) The second requirement is that there are for the time being other arrangements with the Board for a person other than the institution to secure the discharge of such duties.

(4) The third requirement is that there are for the time being other arrangements with the Board designed to secure the discharge of such duties.

(5) A person falls within this subsection if—

(a) he is not an individual and has a business establishment in the United Kingdom, or

(b) he is an individual and is resident in the United Kingdom.

(6) Different duties may be prescribed as regards different institutions or different descriptions of institution.

(7) The regulations may provide that—

(a) the first requirement shall not be treated as fulfilled unless the person concerned is of a prescribed description;

(b) the appointment of a person in pursuance of that requirement shall be treated as terminated in prescribed circumstances.

(8) The regulations may provide that—

(a) the second requirement shall not be treated as fulfilled unless the person concerned is of a prescribed description;

(b) arrangements made in pursuance of that requirement shall be treated as terminated in prescribed circumstances.

(9) The regulations may provide as mentioned in subsection (10) below as regards a case where—

(a) in accordance with the first requirement a person is for the time being appointed to be responsible for securing the discharge of duties, or

(b) in accordance with the second requirement there are for the time being arrangements for a person to secure the discharge of duties.

(10) In such a case the regulations may provide that the person concerned—

(a) shall be entitled to act on the institution's behalf for any of the purposes of the provisions relating to the duties;

(b) shall secure (where appropriate by acting on the institution's behalf) the institution's compliance with and discharge of the duties;

(c) shall be personally liable in respect of any failure of the institution to comply with or discharge any such duty as if the duties imposed on the institution were imposed jointly and severally on the institution and the person concerned.

(11) In this section—

(a) "European institution" has the same meaning as in the Banking Co-ordination (Second Council Directive) Regulations 1992;

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(b) "prescribed" means prescribed by the regulations.

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(12) The preceding provisions of this section shall apply in the case of a relevant authorised person as they apply in the case of a European institution; and "relevant authorised person" here means a person who is an authorised person for the purposes of the Financial Services Act 1986 by virtue of section 31 of that Act."

1986 c. 60.

1992 c. 12.

(2) In section 151 of the Taxation of Chargeable Gains Act 1992 (personal equity plans) the following subsection shall be inserted after subsection (2)—

"(2A) Section 333A of the Taxes Act (personal equity plans: tax representatives) shall apply in relation to regulations under subsection (1) above as it applies in relation to regulations under section 333 of that Act."

Contractual savings schemes.

65. Schedule 12 to this Act (which contains provisions about contractual savings schemes) shall have effect.

Enterprise investment scheme: ICTA amendments.

66.—(1) Chapter III of Part VII of the Taxes Act 1988 as it has effect in relation to shares issued on or after 1st January 1994 (the enterprise investment scheme) shall be amended as follows.

(2) In section 292 (which denies relief where parallel trades are involved) the following subsection shall be inserted after subsection (4)—

"(5) This section shall not apply where the shares mentioned in subsection (1) above are issued on or after 29th November 1994."

(3) In section 293 (qualifying companies) the following subsection shall be inserted after subsection (8A) (which defines "the relevant period" for certain purposes)—

"(8B) In arriving at the relevant period for the purposes of sections 294 to 296 any time falling on or after 29th November 1994 shall be ignored; and subsection (8A) above shall have effect subject to the preceding provisions of this subsection."

(4) In section 305 (reorganisation of share capital) the following subsections shall be inserted after subsection (4)—

"(5) Subsection (2) above shall not apply where the reorganisation occurs on or after 29th November 1994.

(6) Subsection (2) above shall not apply by virtue of subsection (3) above where the rights are disposed of on or after 29th November 1994."

Enterprise investment scheme: TCGA amendments.

67. Schedule 13 to this Act (which contains amendments relating to chargeable gains as regards the enterprise investment scheme) shall have effect.

Business expansion scheme: ICTA amendments

68.—(1) Chapter III of Part VII of the Taxes Act 1988 as it has effect in relation to shares issued before 1st January 1994 (the business expansion scheme) shall be amended as follows.

(2) In section 289 (the relief) the following subsection shall be inserted after subsection (12) (which defines "the relevant period" for the purposes of the Chapter)—

"(12A) In arriving at the relevant period for the purposes of sections 294 to 296 any time falling on or after 29th November 1994 shall be ignored; and subsection (12) above shall have effect subject to the preceding provisions of this subsection."

(3) In section 305 (reorganisation of share capital) the following subsections shall be inserted after subsection (4)—

"(5) Subsection (2) above shall not apply where the reorganisation occurs on or after 29th November 1994.

(6) Subsection (2) above shall not apply by virtue of subsection (3) above where the rights are disposed of on or after 29th November 1994."

Business expansion scheme: TCGA amendments.
1992 c. 12.

69. In section 150 of the Taxation of Chargeable Gains Act 1992 (business expansion schemes) the following subsections shall be inserted after subsection (8) (which disapplies provisions about exchanges, reconstructions or amalgamations in certain circumstances)—

"(8A) Subsection (8) above shall not have effect to disapply section 135 or 136 where—

(a) the new holding consists of new ordinary shares carrying no present or future preferential right to dividends or to a company's assets on its winding up and no present or future preferential right to be redeemed,

(b) the new shares are issued on or after 29th November 1994 and after the end of the relevant period, and

(c) the condition in subsection (8B) below is fulfilled.

(8B) The condition is that at some time before the issue of the new shares—

(a) the company issuing them issued eligible shares, and

(b) a certificate in relation to those eligible shares was issued by the company for the purposes of subsection (2) of section 306 of the Taxes Act and in accordance with that section.

(8C) In subsection (8A) above—

(a) "new holding" shall be construed in accordance with sections 126, 127, 135 and 136;

(b) "relevant period" means the period found by applying section 289(12)(a) of the Taxes Act by reference to the company issuing the shares referred to in subsection (8) above and by reference to those shares."

Venture capital trusts

Approval of companies as trusts.

70.—(1) After section 842 of the Taxes Act 1988 (investment trusts) there shall be inserted the following section—

"Venture capital trusts.

842AA.—(1) In the Tax Acts 'venture capital trust' means a company which is not a close company and which is for the time being approved for the purposes of this section by the Board; and an approval for the purposes of this section shall have effect as from such time as may be specified in the approval, being a time which, if it falls before the time when the approval is given, is no

earlier than—

(a) in the case of an approval given in the year 1995-96, 6th April 1995; or

(b) in any other case, the time when the application for approval was made.

(2) Subject to the following provisions of this section, the Board shall not approve a company for the purposes of this section unless it is shown to their satisfaction in relation to the most recent complete accounting period of the company—

(a) that the company's income in that period has been derived wholly or mainly from shares or securities;

(b) that at least 70 per cent. by value of the company's investments has been represented throughout that period by shares or securities comprised in qualifying holdings of the company;

(c) that at least 30 per cent. by value of the company's qualifying holdings has been represented throughout that period by holdings of eligible shares;

(d) that no holding in any company, other than a venture capital trust or a company which would qualify as a venture capital trust but for paragraph (e) below, has at any time during that period represented more than 15 per cent. by value of the company's investments;

(e) that the shares making up the company's ordinary share capital (or, if there are such shares of more than one class, those of each class) have throughout that period been quoted on the Stock Exchange; and

(f) that the company has not retained more than 15 per cent. of the income it derived in that period from shares and securities.

(3) Where, in the case of any company, the Board are satisfied that the conditions specified in subsection (2) above are fulfilled in relation to the company's most recent complete accounting period, they shall not approve the company for the purposes of this section unless they are satisfied that the conditions will also be fulfilled in relation to the accounting period of the company which is current when the application for approval is made.

(4) The Board may approve a company for the purposes of this section notwithstanding that conditions specified in subsection (2) above are not fulfilled with respect to that company in relation to its most recent complete accounting period if they are satisfied—

(a) in the case of any of the conditions specified in paragraphs (a), (d), (e) and (f) of that subsection which are not fulfilled, that the conditions will be fulfilled in relation to the accounting period of the company which is current when the application for approval is made or in relation to its next accounting period;

(b) in the case of any of the conditions specified in paragraphs (b) and (c) of that subsection which are not fulfilled, that the conditions will be fulfilled in relation to an accounting period of the company beginning no more than three years after the time when they give their approval or, if earlier, when the approval takes effect; and

(c) in the case of every condition which is not fulfilled but with respect to which the Board are satisfied as mentioned in paragraph (a) or (b) above, that the condition will continue to be fulfilled in relation to accounting periods following the period in relation to which they are satisfied as so mentioned.

(5) For the purposes of subsection (2)(b) to (d) above the value of any holding of investments of any description shall be taken—

(a) unless—

(i) it is added to by a further holding of investments of the same description, or

(ii) any such payment is made in discharge, in whole or in part, of any obligation attached to the holding as (by discharging the whole or any part of that obligation) increases the value of the holding,

to be its value when acquired, and

(b) where it is so added to or such a payment is made, to be its value immediately after the most recent addition or payment.

(6) The Board may withdraw their approval of a company for the purposes of this section wherever it at any time appears to them that there are reasonable grounds for believing—

(a) that the conditions for the approval of the company were not fulfilled at the time of the approval;

(b) in a case where the Board were satisfied for the purposes of subsection (3) or (4) above that a condition would be fulfilled in relation to any period, that that condition is one which will not be or, as the case may be, has not been fulfilled in relation to that period;

(c) in the case of a company approved in pursuance of subsection (4) above, that the company has not fulfilled such other conditions as may be prescribed by regulations made by the Board in relation to, or to any part of, the period of three years mentioned in subsection (4)(b) above; or

(d) that the company's most recent complete accounting period or its current one is a period in relation to which there has been or will be a failure of a condition specified in subsection (2) above to be fulfilled, not being a failure which, at the time of the approval, was allowed for in relation to that period by virtue of subsection (4) above.

(7) Subject to subsections (8) and (9) below, the withdrawal of the approval of any company for the purposes of this section shall have effect as from the time when the notice of the withdrawal is given to the company.

(8) If, in the case of a company approved for the purposes of this section in exercise of the power conferred by subsection (4) above, the approval is withdrawn at a time before all the conditions specified in subsection (2) above have been fulfilled with respect to that company in relation either—

(a) to a complete accounting period of twelve months, or

(b) to successive complete accounting periods constituting a continuous period of twelve months or more,

the withdrawal of the approval shall have the effect that the approval shall, for all purposes, be deemed never to have been given.

(9) A notice withdrawing the approval of a company for the purposes of this section may specify a time falling before the time mentioned in subsection (7) above as the time as from which the withdrawal is to be treated as having taken effect for the purposes of section 100 of the 1992 Act; but the time so specified shall be no earlier than the beginning of the accounting period in relation to which it appears to the Board that the condition by reference to which the approval is withdrawn has not been, or will not be, fulfilled.

(10) Notwithstanding any limitation on the time for making assessments, an assessment to any tax chargeable in consequence of the withdrawal of any approval given for the purposes of this section may be made at any time before the end of the period of three years beginning with the time when the notice of withdrawal is given.

(11) The following provisions of section 842 shall apply as follows for the purposes of this section as they apply for the purposes of that section, that is to say—

(a) subsections (1A) and (2) of that section shall apply in relation to subsection (2)(d) above (but with the omission of subsection (2)(a) of that section) as they apply in relation to subsection (1)(b) of that section;

(b) subsections (2A) to (2C) of that section shall apply in relation to subsection (2)(f) above as they apply in relation to subsection (1)(e) of that section; and

(c) without prejudice to their application in relation to provisions applied by paragraph (a) or (b) above, subsections (3) and (4) of that section shall apply in relation to any reference in this section to a holding or an addition to a holding as they apply in relation to any such reference in that section.

(12) In this section, and in the provisions of section 842 as applied for the purposes of this section, 'securities', in relation to any company—

(a) includes any liability of the company in respect of a loan (whether secured or not) which has been made to the company on terms that do not allow any person to require the loan to be repaid, or any stock or security relating to that loan to be re-purchased or redeemed, within the period of five years from the making of the loan or, as the case may be, the issue of the stock or security; but

(b) does not include any stock or security relating to a loan which has been made to the company on terms which allow any person to require the loan to be repaid, or the stock or security to be re-purchased or redeemed, within that period.

(13) Schedule 28B shall have effect for construing the references in this section to a qualifying holding.

(14) In this section 'eligible shares' means shares in a company which are comprised in the ordinary share capital of the company and carry no present or future preferential right to dividends or to the company's assets on its winding up and no present or future preferential right to be redeemed."

(2) Schedule 14 to this Act (meaning of "qualifying holdings") shall be inserted, before Schedule 29 to the Taxes Act 1988, as Schedule 28B to that Act, and shall be construed accordingly.

71.—(1) In Chapter IV of Part VII of the Taxes Act 1988 (special provisions), after section 332 there shall be inserted the following section— Income tax relief.

"Venture capital trusts: relief. 332A. Schedule 15B shall have effect for conferring relief from income tax in respect of investments in venture capital trusts and distributions by such trusts."

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(2) Schedule 15 to this Act (relief in respect of holdings in a venture capital trust) shall be inserted, before Schedule 16 to the Taxes Act 1988, as Schedule 15B to that Act, and shall be construed accordingly.

(3) In the Table in section 98 of the Management Act (penalties in respect of certain information provisions)—

(a) after the entry in the first column relating to paragraph 14(5) of Schedule 15 to the Taxes Act 1988 there shall be inserted the following entry—

"Schedule 15B, paragraph 5(2);"

and

(b) after the entry in the second column relating to paragraph 14(4) of Schedule 15 to the Taxes Act 1988 there shall be inserted the following entry—

"Schedule 15B, paragraph 5(1);".

(4) This section has effect for the year 1995-96 and subsequent years of assessment.

Capital gains. 1992 c. 12.

72.—(1) The Taxation of Chargeable Gains Act 1992 shall be amended as follows.

(2) In section 100(1) (exemption from charge for gains accruing to authorised unit trusts, investment trusts etc.), after "investment trust" there shall be inserted "a venture capital trust".

(3) In Chapter III of Part IV (miscellaneous provisions relating to securities), after section 151 there shall be inserted the following sections—

"Venture capital trusts: reliefs.

151A.—(1) A gain or loss accruing to an individual on a qualifying disposal of any ordinary shares in a company which—

(a) was a venture capital trust at the time when he acquired the shares, and

(b) is still such a trust at the time of the disposal,

shall not be a chargeable gain or, as the case may be, an allowable loss.

(2) For the purposes of this section a disposal of shares is a qualifying disposal in so far as—

(a) it is made by an individual who has attained the age of eighteen years;

(b) the shares disposed of were not acquired in excess of the permitted maximum for any year of assessment; and

(c) that individual acquired those shares for bona fide commercial purposes and not as part of a scheme or arrangement the main purpose of which, or one of the main purposes of which, is the avoidance of tax.

(3) Schedule 5C shall have effect for providing relief in respect of gains invested in venture capital trusts.

(4) In determining for the purposes of this section whether a disposal by any person of shares in a venture capital trust relates to shares acquired in excess of the permitted maximum for any year of assessment, it shall be assumed (subject to subsection (5) below)—

(a) as between shares acquired by the same person on different days, that those acquired on an earlier day are disposed of by that person before those acquired on a later day; and

(b) as between shares acquired by the same person on the same day, that those acquired in excess of the permitted maximum are disposed of by that person before he disposes of any other shares acquired on that day.

(5) It shall be assumed for the purposes of subsection (1) above that a person who disposes of shares in a venture capital trust disposes of shares acquired at a time when it was not such a trust before he disposes of any other shares in that trust.

(6) References in this section to shares in a venture capital trust acquired in excess of the permitted maximum for any year of assessment shall be construed in accordance with the provisions of Part II of Schedule 15B to the Taxes Act; and the provisions of that Part of that Schedule shall apply (with subsections (4) and (5) above) for identifying the shares which are, in any case, to be treated as representing shares acquired in excess of the permitted maximum.

(7) In this section and section 151B 'ordinary shares', in relation to a company, means any shares forming part of the company's ordinary share capital (within the meaning of the Taxes Act).

Venture capital trusts: supplementary.

151B.—(1) Sections 104, 105 and 107 shall not apply to any shares in a venture capital trust which are eligible for relief under section 151A(1).

(2) Subject to the following provisions of this section, where—

(a) an individual holds any ordinary shares in a venture capital trust,

(b) some of those shares fall within one of the paragraphs of subsection (3) below, and

(c) others of those shares fall within at least one other of those paragraphs,

then, if there is within the meaning of section 126 a reorganisation affecting those shares, section 127 shall apply separately in relation to the shares (if any) falling within each of the paragraphs of that subsection (so that shares of each kind are treated as a separate holding of original shares and identified with a separate new holding).

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(3) The kinds of shares referred to in subsection (2) above are—

(a) any shares in a venture capital trust which are eligible for relief under section 151A(1) and by reference to which any person has been given or is entitled to claim relief under Part I of Schedule 15B to the Taxes Act;

(b) any shares in a venture capital trust which are eligible for relief under section 151A(1) but by reference to which no person has been given, or is entitled to claim, any relief under that Part of that Schedule;

(c) any shares in a venture capital trust by reference to which any person has been given, or is entitled to claim, any relief under that Part of that Schedule but which are not shares that are eligible for relief under section 151A(1); and

(d) any shares in a venture capital trust that do not fall within any of paragraphs (a) to (c) above.

(4) Where—

(a) an individual holds ordinary shares in a company ('the existing holding'),

(b) there is, by virtue of any such allotment for payment as is mentioned in section 126(2)(a), a reorganisation affecting the existing holding, and

(c) immediately following the reorganisation, the shares or the allotted holding are shares falling within any of paragraphs (a) to (c) of subsection (3) above,

sections 127 to 130 shall not apply in relation to the existing holding.

(5) Sections 135 and 136 shall not apply where—

(a) the exchanged holding consists of shares falling within paragraph (a) or (b) of subsection (3) above; and

(b) that for which the exchanged holding is or is treated as exchanged does not consist of ordinary shares in a venture capital trust.

(6) Where—

(a) the approval of any company as a venture capital trust is withdrawn, and

(b) the withdrawal of the approval is not one to which section 842AA(8) of the Taxes Act applies,

any person who at the time when the withdrawal takes effect is holding shares in that company which (apart from the withdrawal) would be eligible for relief under section 151A(1) shall be deemed for the purposes of this Act, at

that time, to have disposed of and immediately re-acquired those shares for a consideration equal to their market value at that time.

(7) The disposal that is deemed to take place by virtue of subsection (6) above shall be deemed for the purposes of section 151A to take place while the company is still a venture capital trust; but, for the purpose of applying sections 104, 105 and 107 to the shares that are deemed to be re-acquired, it shall be assumed that the re-acquisition for which that subsection provides takes place immediately after the company ceases to be such a trust.

(8) For the purposes of this section—

(a) shares are eligible for relief under section 151A(1) at any time when they are held by an individual whose disposal of the shares at that time would (on the assumption, where it is not the case, that the individual attained the age of eighteen years before that time) be a disposal to which section 151A(1) would apply; and

(b) shares shall not, in relation to any time, be treated as shares by reference to which relief has been given under Part I of Schedule 15B to the Taxes Act if that time falls after—

(i) any relief given by reference to those shares has been reduced or withdrawn,

(ii) any chargeable event (within the meaning of Schedule 5C) has occurred in relation to those shares, or

(iii) the death of a person who held those shares immediately before his death;

and

(c) the references, in relation to sections 135 and 136, to the exchanged holding is a reference to the shares in company B or, as the case may be, to the shares or debentures in respect of which shares or debentures are issued under the arrangement in question."

(4) Schedule 16 to this Act (relief on re-investment in venture capital trusts) shall be inserted before Schedule 6, as Schedule 5C, and shall be construed accordingly.

(5) In section 257(1) (gifts to charities etc.), after paragraph (b) there shall be inserted—

"and the disposal is not one in relation to which section 151A(1) has effect."

(6) In section 260, after the subsection (6A) inserted by Schedule 13 to this Act (no reduction in the case of a disposal which is a chargeable event for the purposes of Schedule 5B), there shall be inserted—

"(6B) Subsection (3) above does not apply, so far as any gain accruing in accordance with paragraphs 4 and 5 of Schedule 5C is concerned, in relation to the disposal which constitutes the chargeable event by virtue of which that gain accrues."

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(7) In section 288(1) (interpretation), after the definition of "trading stock" there shall be inserted the following definition—

"'venture capital trust' has the meaning given by section 842AA of the Taxes Act;".

(8) Subsection (2) above shall have effect in relation to gains accruing on or after 6th April 1995 and the other provisions of this section have effect for the year 1995-96 and subsequent years of assessment.

Regulations.

73.—(1) The Treasury may by regulations make such provision as they may consider appropriate for—

(a) giving effect to any relief for which provision is made by Schedule 15B to the Taxes Act 1988 or section 151A of, and Schedule 5C to, the Taxation of Chargeable Gains Act 1992; and

1992 c. 12.

(b) preventing such relief from being given except where a claim is made in accordance with the regulations and where such other requirements as may be imposed by the regulations have been complied with.

(2) Without prejudice to the generality of subsection (1) above, regulations under this section may make provision—

(a) as to the making of applications for approvals under section 842AA of the Taxes Act 1988 and otherwise as to the procedure in relation to any such applications and the giving of such approvals;

(b) as to the procedure to be followed in connection with the withdrawal of any such approval;

(c) as to the manner in which, and the persons by whom, relief is to be claimed;

(d) as to the obligations of a company which is a venture capital trust if it should appear to the company that the conditions for it to continue to be approved as such a trust are not satisfied;

(e) as to the accounts, records, returns and other information to be kept, and furnished or otherwise made available to the Board, by companies which are or have been venture capital trusts and by persons who hold or have held shares in such companies; and

(f) as to the persons liable to account for any tax becoming due where the approval of a company as a venture capital trust is withdrawn.

(3) Regulations under this section may make provision, in relation to tax credits to which any persons are entitled in respect of distributions of venture capital trusts—

(a) for the credits not to be set against income tax but to be claimed by and paid to the trusts; and

(b) for amounts equal to the credits to be paid by the trusts to the persons who receive or are entitled to receive the distributions;

and any such regulations may provide for sections 234 and 252 of the Taxes Act 1988 (information relating to distributions and rectification of excessive tax credit) to have effect, in relation to the distributions of venture capital trusts or, as the case may be, any provision made by virtue of paragraph (a) or (b) above, with such modifications as may be specified in the regulations.

(4) Regulations under this section may apply the following provisions of the Management Act, as they have effect in the case of repayments in respect of income tax, in relation to cases where amounts are paid to any person in pursuance of regulations made by virtue of subsection (3) above, that is to say—

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

(b) section 30 (tax repaid in error);

(c) section 88 (interest); and

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

(5) In the Table in section 98 of the Management Act (penalties in respect of certain information provisions), at the end of the entries in the second column there shall be inserted the following entry—

"regulations under section 73 of the Finance Act 1995;".

(6) In this section "venture capital trust" has the meaning given by section 842AA of the Taxes Act 1988.

Settlements and estates

Settlements: liability of settlor.

74.—(1) Schedule 17 to this Act has effect with respect to settlements and the liability of the settlor, as follows—

Part I inserts new provisions in place of sections 660 to 676 and 683 to 685 of the Taxes Act 1988,

Part II makes minor and consequential amendments of that Act, and

Part III contains consequential amendments of other enactments.

(2) The amendments made by Schedule 17 have effect for the year 1995-96 and subsequent years of assessment and apply to every settlement, wherever and whenever it was made or entered into.

Deceased persons' estates: taxation of beneficiaries.

75. Part XVI of the Taxes Act 1988 (deceased persons' estates) shall have effect with the amendments specified in Schedule 18 to this Act.

Untaxed income of a deceased person's estate.

76.—(1) In section 246D of the Taxes Act 1988 (foreign income dividends), after subsection (3) there shall be inserted the following subsection—

"(3A) Without prejudice to subsection (3) above, a foreign income dividend paid as mentioned in that subsection to personal representatives shall not be treated for the purposes of income tax as income of the personal representatives as such."

(2) In section 547 of that Act (method of charging certain gains to tax)—

(a) in subsection (1)(c) (case where rights vested in personal representatives), after "gain" there shall be inserted "(so far as it is not otherwise comprised in that income)"; and

(b) after subsection (7) there shall be inserted the following subsection—

"(7A) Where, in the case of any gain—

(a) this section has effect by virtue of subsection (5A) or (7) above with the omission of subsection (5) above, and

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(b) the rights conferred by the contract or policy were vested immediately before the happening of the chargeable event in question in personal representatives within the meaning of Part XVI,

the gain shall be deemed for the purposes of income tax to be income of the personal representatives as such."

(3) In section 553 of that Act (non-resident policies), after subsection (7) there shall be inserted the following subsection—

"(7A) Where, in the case of a gain to which subsection (6)(a) and (b) above applies, the rights conferred by the policy were vested immediately before the happening of the chargeable event in question in personal representatives within the meaning of Part XVI, the gain shall be deemed for the purposes of income tax to be income of the personal representatives as such."

(4) After section 699 of that Act there shall be inserted the following section—

"Untaxed sums comprised in the income of the estate.

699A.—(1) In this section 'a relevant amount' means so much of any amount which a person is deemed by virtue of this Part to receive or to have a right to receive as is or would be paid out of sums which—

(a) are included in the aggregate income of the estate of the deceased by virtue of any of sections 246D(3), 249(5), 421(2) and 547(1)(c); and

(b) are sums in respect of which the personal representatives are not directly assessable to United Kingdom income tax.

(2) In determining for the purposes of this Part whether any amount is a relevant amount—

(a) such apportionments of any sums to which subsection (1)(a) and (b) above applies shall be made between different persons with interests in the residue of the estate as are just and reasonable in relation to their different interests; and

(b) subject to paragraph (a) above, the assumption in section 701(3A)(b) shall apply, but (subject to that) it shall be assumed that payments are to be made out of other sums comprised in the aggregate income of the estate before they are made out of any sums to which subsection (1)(a) and (b) above applies.

(3) In the case of a foreign estate, and notwithstanding anything in section 695(4)(b) or 696(6), a relevant amount shall be deemed—

(a) to be income of such amount as would, after deduction of income tax for the year in which it is deemed to be paid, be equal to the relevant amount; and

(b) to be income that has borne tax at the applicable rate.

(4) Sums to which subsection (1)(a) and (b) above applies shall be assumed, for the purpose of determining the applicable rate in relation to any relevant amount, to bear tax—

(a) in the case of sums included by virtue of section 246D(3), 249(5) or 421(2), at the lower rate, and

(b) in the case of sums included by virtue of section 547(1)(c), at the basic rate.

(5) No repayment shall be made of any income tax which by virtue of this Part is treated as having been borne by the income that is represented by a relevant amount.

(6) For the purposes of sections 348 and 349(1) the income represented by a relevant amount shall be treated as not brought into charge to income tax."

(5) In section 701 of that Act (interpretation), after subsection (10), there shall be inserted the following subsection—

"(10A) Amounts to which section 699A(1)(a) and (b) applies shall be disregarded in determining whether an estate is a United Kingdom estate or a foreign estate, except that any estate the aggregate income of which comprises only such amounts shall be a United Kingdom estate."

(6) This section has effect for the year 1995-96 and subsequent years of assessment.

Securities

Interest on gilt-edged securities payable without deduction of tax.

77. After section 51 of the Taxes Act 1988 there shall be inserted the following section—

"Gilt-edged securities held under authorised arrangements.

51A.—(1) Subject to the provisions of any regulations under section 51B, where gilt-edged securities of an eligible person are for the time being held under arrangements that satisfy the applicable requirements—

(a) those securities shall be deemed to have been issued subject to the condition that the interest on them is paid without deduction of income tax; and

(b) that interest shall be so paid accordingly, but shall be chargeable under Case III of Schedule D.

(2) For the purposes of this section gilt-edged securities are securities of an eligible person so long as—

(a) they are in the beneficial ownership of a company, local authority or local authority association or of any health service body (within the meaning of section 519A) and that company, authority, association or body is beneficially entitled to the interest on them;

(b) they are in the beneficial ownership of a person who does not fall within paragraph (a) above but is of any such description as may be

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prescribed by regulations made by the Treasury and that person is beneficially entitled to the interest on those securities;

(c) the circumstances in which they are held are such that any income from them is eligible for relief from tax by virtue of section 505(1)(c), or would be so eligible but for section 505(3);

(d) the circumstances in which they are held are such that any income from them is eligible for relief from tax by virtue of section 592(2), 608(2)(a), 613(4), 614(2), (3) or (4), 620(6) or 643(2);

1982 c. 50.

(e) they are assets of any such trust fund as is referred to in section 83 of the Insurance Companies Act 1982 (premiums trust funds of members of Lloyd's); or

(f) the circumstances in which they are held are such that any income from them falls to be treated as the income of, or of the government of, a sovereign power or of an international organisation.

(3) For the purposes of this section the arrangements under which any gilt-edged securities are held shall be taken to satisfy the applicable requirements if—

(a) such conditions as may be imposed by or under any such regulations as may be made by the Treasury are satisfied in relation to those arrangements; and

(b) a declaration with respect to the satisfaction of those conditions has been made in accordance with any such regulations by such person having an entitlement to or in respect of the securities as may be determined under the regulations.

(4) The conditions that may, for the purposes of subsection (3)(a) above, be imposed by regulations under this section in relation to arrangements for the holding of any gilt-edged securities shall include—

(a) conditions as to the accounts in which the securities are to be held under the arrangements and as to the accounts into which interest on the securities is to be paid;

(b) conditions requiring persons holding the securities, or otherwise having functions under or in connection with the arrangements, to be persons of a description specified in the regulations or to be approved in accordance with the regulations;

(c) conditions requiring persons who, for purposes connected with the arrangements, act directly or indirectly—

(i) on behalf of the person beneficially entitled to the securities, or

(ii) on behalf of the person who holds them,

to be persons registered with the Board in accordance with the regulations; and

(d) conditions as to the provision about transfers of securities held under the arrangements that is to be contained in the arrangements.

(5) Regulations made by the Treasury for the purposes of this section may—

(a) impose requirements in relation to any such persons as are mentioned in subsection (4)(b) and (c) above with respect to the manner in which their functions under or in connection with the arrangements are exercised;

(b) require such persons—

(i) to consider the accuracy of any declaration made for the purposes of subsection (3)(b) above; and

(ii) themselves to make declarations as to the extent to which conditions or other requirements imposed for the purposes of this section appear to be, or to have been, satisfied or complied with;

(c) make provision—

(i) about the making of applications for approval or registration under any such regulations;

(ii) for the circumstances in which any approval or registration is to be or may be given or refused;

(iii) for the withdrawal or cancellation of any approval or registration;

(iv) for appeals against any refusal to grant an approval or to register any person, or against the withdrawal or cancellation of any approval or registration;

(d) make provision for the publication of information showing the effect of any determinations in pursuance of regulations made by virtue of paragraph (c) above;

(e) make provision for notices to be issued by the Board to such persons as may be described in the regulations where the Board are satisfied that this section has effect, or does not have effect, in relation to any gilt-edged securities;

(f) impose obligations—

(i) on persons having any rights in relation to gilt-edged securities held under arrangements described in the regulations,

(ii) on any such persons as are mentioned in subsection (4)(b) and (c) above, and

(iii) on persons who are applying to be approved or registered for the purposes of this section,

as to the provision of information, and the production of documents, to the Board or, on request, to an officer of the Board;

and

(g) impose requirements, framed wholly or partly by reference to the opinion of the Board, as to—

(i) the contents of any declaration to be made in accordance with regulations under this section,

(ii) the form and manner in which any declaration or information is to be made or provided in accordance with any such regulations, and

(iii) the keeping and production to, or to an officer of, the Board of any document in which any such declaration or information is contained.

(6) Any person who—

(a) contravenes, or fails to comply with, any requirement imposed on him by or under any regulations under this section, or

(b) fraudulently or negligently makes or produces any incorrect declaration, information or document in pursuance of any such requirement,

shall be liable to a penalty not exceeding £25,000.

(7) In this section 'gilt-edged securities' means any securities which—

(a) are gilt-edged securities for the purposes of the 1992 Act; or

(b) will be such securities on the making of any order under paragraph 1 of Schedule 9 to that Act the making of which is anticipated in the prospectus under which they were issued.

(8) In this section 'international organisation' means an organisation of which two or more sovereign powers, or the governments of two or more sovereign powers, are members; and if, in any proceedings, any question arises whether a person is an international organisation for the purposes of this section a certificate issued by or under the authority of the Secretary of State stating any fact relevant to that question shall be conclusive evidence of that fact.

(9) Regulations made by the Treasury for the purposes of this section may—

(a) make different provision for different cases; and

(b) contain such supplementary, incidental, consequential and transitional provision as appears to the Treasury to be appropriate.

(10) This section shall not apply to any interest paid before such day as the Treasury may by order appoint, and different days may be appointed under this subsection for different purposes."

Periodic accounting for tax on interest on gilt-edged securities.

78.—(1) After the section 51A of the Taxes Act 1988 inserted by section 77 above there shall be inserted the following section—

"Periodic accounting for tax on interest on gilt-edged securities.

51B.—(1) The Treasury may by regulations provide for persons to whom payments of interest on relevant gilt-edged securities are made without deduction of tax to be required to make periodic returns to an officer of the Board of—

(a) amounts of any payments of such interest made to that person, and

(b) amounts of tax for which, assuming the payments to bear tax at the basic rate for the relevant year of assessment, that person is to be accountable under the regulations in respect of those payments;

and any such regulations may further provide for the amounts of tax required to be included in any such return to become due, at the time when the return is required to be made, from the person required to make it.

(2) Regulations made by the Treasury for the purposes of this section may—

(a) specify such periods as the Treasury may consider appropriate as the periods for which returns are to be made, and in respect of which any person is to account for tax, under the regulations;

(b) make provision for enabling returns under the regulations to be combined with returns under Schedule 16 and for requiring particulars of claims and calculations made for the purposes of the regulations to be set out in the returns;

(c) provide, in respect of any period for which a return is to be made by any person under the regulations, for that person to be obliged, before the end of the period, to make a payment on account of amounts that may become due from him in respect of that period;

(d) impose a requirement for a special return to be made for the purposes of any obligation imposed by virtue of paragraph (c) above;

(e) provide for the amount which, under the regulations, is to be due from any person in respect of any period to be reduced by reference to amounts which—

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(i) are paid by or on behalf of that person under contracts or arrangements relating to transfers of gilt-edged securities; and

(ii) are or fall to be treated as representative of interest on those securities;

(f) authorise amounts in respect of which there is an obligation to account for tax under the regulations to be treated for specified purposes of the Tax Acts as payments on which a person has borne income tax by deduction;

(g) make provision for the assessment of amounts due under the regulations and for the repayment in specified circumstances of amounts paid under the regulations;

(h) make provision for interest to be payable, at such rate as may be determined by or under the regulations, on amounts that have become due under the regulations but have not been paid;

(i) make provision, where payments of interest on any relevant gilt-edged securities would be comprised in the income of a member of Lloyd's, for obligations that may be imposed by regulations under this section on the person to whom the interest is paid to be imposed, instead, on such other person as may be described in the regulations.

(3) Regulations made by the Treasury for the purposes of this section may—

(a) include provision which for the purposes of the regulations makes any provision corresponding, with or without modifications, to any of the provisions of Schedule 16;

(b) make provision modifying the operation of Schedule 19AB in relation to cases where payments of interest on relevant gilt-edged securities are made without deduction of tax to companies carrying on pension business;

(c) include provision which requires obligations and liabilities under the regulations to be treated as obligations and liabilities to which provisions of Schedule 23 to the Finance Act 1995 (UK representatives) apply; and

(d) include provision which, for any of the purposes of the regulations, applies provisions of sections 126 and 127 of, and Schedule 23 to, that Act in relation to times before those provisions otherwise come into force.

(4) Regulations made by the Treasury for the purposes of this section may—

(a) make different provision for different cases; and

(b) contain such supplementary, incidental, consequential and transitional provision as appears to the Treasury to be appropriate;

and subsection (3) of section 178 of the Finance Act 1989 (extent of powers to set rates of interest) shall apply for the purposes of the power conferred by virtue of subsection (2)(h) above as it applies for the purposes of the power to make regulations under that section.

1989 c. 26.

(5) In this section 'relevant gilt-edged securities' means securities which are gilt-edged securities within the meaning of section 51A, other than any to which a direction of the Treasury under section 50 relates.

(6) In this section 'relevant year of assessment'—

(a) in relation to a manufactured payment, means the year of assessment in which it is received by the person to whom it is paid; and

(b) in relation to any other payment of interest, means the year of assessment in which the payment is made;

and in this subsection 'manufactured payment' means any payment which for the purposes of Schedule 23A is a payment of manufactured interest."

(2) In the Table in section 98 of the Management Act (penalties in respect of certain information provisions), immediately before the entry in the second column relating to section 124(3) of the Taxes Act 1988 there shall be inserted the following entry—

"regulations under section 51B;".

Sale and repurchase of securities: exclusion from accrued income scheme.

79.—(1) In Chapter II of Part XVII of the Taxes Act 1988 (transfers of securities) after section 727 insert—

"Exception for sale and repurchase of securities.

727A.—(1) Where securities are transferred under an agreement to sell them, and under the same or any related agreement the transferor or a person connected with him—

(a) is required to buy back the securities, or

(b) acquires an option, which he subsequently exercises, to buy back the securities,

section 713(2) and (3) and section 716 do not apply to the transfer by the transferor or the transfer back.

(2) For the purposes of this section agreements are related if they are entered into in pursuance of the same arrangement (regardless of the date on which either agreement is entered into).

(3) Section 839 (connected persons) applies for the purposes of this section.

(4) References in this section to buying back securities include buying similar securities.

For this purpose securities are similar if they entitle their holders—

(a) to the same rights against the same persons as to capital and interest, and

(b) to the same remedies for the enforcement of those rights,

notwithstanding any difference in the total nominal amounts of the respective securities or in the form in which they are held or the manner in which they can be transferred.

(5) For the purposes of this section—

(a) a person connected with the transferor who is required to buy securities sold by the transferor shall be treated as being required to buy the securities back, and

(b) a person connected with the transferor who acquires an option to buy securities sold by the transferor shall be treated as acquiring an option to buy the securities back,

notwithstanding that it was not he who sold them.".

(2) In section 728 of the Taxes Act 1988 (information) in subsections (1) and (5) for "sections 710 to 727" substitute "sections 710 to 727A".

(3) The above amendments have effect where the agreement to sell the securities is entered into on or after the date on which this Act is passed.

(4) If the appointed day for the purposes of section 737A of the Taxes Act 1988 in relation to any description of securities falls after the date on which this Act is passed, the reference in subsection (3) above to the date on which this Act is passed shall be construed in relation to an agreement relating to securities of that description and to which section 737A would apply if it were in force as a reference to that appointed day.

Treatment of price differential on sale and repurchase of securities.

80.—(1) After section 730 of the Taxes Act 1988 there shall be inserted the following sections—

"Treatment of price differential on sale and repurchase of securities.

730A.—(1) Subject to subsection (8) below, this section applies where—

(a) a person ('the original owner') has transferred any securities to another person ('the interim holder') under an agreement to sell them;

(b) the original owner or a person connected with him is required to buy them back either—

(i) in pursuance of an obligation to do so imposed by that agreement or by any related agreement, or

(ii) in consequence of the exercise of an option acquired under that agreement or any related agreement;

and

(c) the sale price and the repurchase price are different.

(2) The difference between the sale price and the repurchase price shall be treated for the purposes of the Tax Acts—

(a) where the repurchase price is more than the sale price, as a payment of interest made by the repurchaser on a deemed loan from the interim holder of an amount equal to the sale price; and

(b) where the sale price is more than the repurchase price, as a payment of interest made by the interim holder on a deemed loan from the repurchaser of an amount equal to the repurchase price.

(3) Where any amount is deemed under subsection (2) above to be a payment of interest, that payment shall be deemed for the purposes of the Tax Acts to be one that becomes due at the time when the repurchase price becomes due and, accordingly, is treated as paid when that price is paid.

(4) Where any amount is deemed under subsection (2) above to be a payment of interest, the repurchase price shall be treated for the purposes of the Tax Acts (other than this section and sections 737A and 737C) and (in cases where section 263A of the 1992 Act does not apply) for the purposes of the 1992 Act—

(a) in a case falling within paragraph (a) of that subsection, as reduced by the amount of the deemed payment; and

(b) in a case falling within paragraph (b) of that subsection, as increased by the amount of the deemed payment.

(5) For the purposes of section 209(2)(d) and (da) any amount which is deemed under subsection (2)(a) above to be a payment of interest shall be deemed to be interest in respect of securities issued by the repurchaser and held by the interim holder.

(6) Any amount which—

(a) is deemed under subsection (2) above to be a payment of interest, and

(b) does not fall (apart from this subsection) to be treated as yearly interest,

shall be treated for the purposes of section 338 as if the reference to yearly interest in subsection (3)(a) of that section included a reference to that amount.

(7) The Treasury may by regulations provide for any amount which is deemed under subsection (2) above to be received as a payment of interest to be treated, in such circumstances and to such extent as may be described in the regulations, as comprised in income that is eligible for relief from tax by virtue of section 438, 592(2), 608(2)(a), 613(4), 614(2), (3) or (4), 620(6) or 643(2).

(8) Except where regulations under section 737E otherwise provide, this section does not apply if—

(a) the agreement or agreements under which provision is made for the sale and repurchase are not such as would be entered into by persons dealing with each other at arm's length; or

(b) all of the benefits or risks arising from fluctuations, before the repurchase takes place, in the market value of the securities sold accrue to, or fall on, the interim holder.

(9) In this section references to the repurchase price are to be construed—

(a) in cases where section 737A applies, and

(b) in cases where section 737A would apply if it were in force in relation to the securities in question,

as references to the repurchase price which is or, as the case may be, would be applicable by virtue of section 737C(3)(b), (9) or (11)(c).

Interpretation of section 730A.

730B.—(1) For the purposes of section 730A agreements are related if they are entered into in pursuance of the same arrangement (regardless of the date on which either agreement is entered into).

(2) References in section 730A to buying back securities—

(a) shall include references to buying similar securities; and

(b) in relation to a person connected with the original owner, shall include references to buying securities sold by the original owner or similar securities,

notwithstanding (in each case) that the securities bought have not previously been held by the purchaser; and references in that section to repurchase or to a repurchaser shall be construed accordingly.

(3) In section 730A and this section 'securities' has the same meaning as in section 737A.

(4) For the purposes of this section securities are similar if they entitle their holders—

(a) to the same rights against the same persons as to capital, interest and dividends, and

(b) to the same remedies for the enforcement of those rights,

notwithstanding any difference in the total nominal amounts of the respective securities or in the form in which they are held or the manner in which they can be transferred.

(5) Section 839 (connected persons) applies for the purposes of section 730A."

(2) In section 729 of that Act (sale and repurchase of securities), after subsection (5) there shall be inserted the following subsection—

"(5A) This section shall not apply where section 737A applies; and this section shall be disregarded in determining whether the condition in subsection (2)(b) of that section is fulfilled in any case."

(3) In subsections (3)(b), (9) and (11)(c) of section 737C of that Act (adjustment of repurchase price), for "the Tax Acts other than section 737A and of the 1992 Act" there shall be substituted, in each case, "section 730A"; and after subsection (11) of that section there shall be inserted the following subsection—

"(11A) The deemed increase of the repurchase price which is made for the purposes of section 730A by subsection (3)(b), (9) or (11)(c) above shall also have effect—

(a) for all the purposes of the Tax Acts, other than section 737A, and

(b) in cases where section 263A of the 1992 Act does not apply, for the purposes of the 1992 Act,

wherever in consequence of that increase there is for the purposes of section 730A no difference between the sale price and the repurchase price."

(4) After section 263 of the Taxation of Chargeable Gains Act 1992 there shall be inserted the following section—

1992 c. 12.

"Agreements for sale and repurchase of securities.

263A.—(1) Subject to subsections (2) to (4) below, in any case falling within subsection (1) of section 730A of the Taxes Act (treatment of price differential on sale and repurchase of securities) and in any case which would fall within that subsection if the sale price and the repurchase price were different—

(a) the acquisition of the securities in question by the interim holder and the disposal of those securities by him to the repurchaser, and

(b) except where the repurchaser is or may be different from the original owner, the disposal of those securities by the original owner and any acquisition of those securities by the original owner as the repurchaser,

shall be disregarded for the purposes of capital gains tax.

(2) Subsection (1) above does not apply in any case where the repurchase price of the securities in question falls to be calculated for the purposes of section 730A of the Taxes Act by reference to provisions of section 737C of that Act that are not in force in relation to those securities when the repurchase price becomes due.

(3) Subsection (1) above does not apply if—

(a) the agreement or agreements under which provision is made for the sale and repurchase are not such as would be entered into by persons dealing with each other at arm's length; or

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(b) any of the benefits or risks arising from fluctuations, before the repurchase takes place, in the market value of the securities sold accrues to, or falls on, the interim holder.

(4) Subsection (1) above does not apply in relation to any disposal or acquisition of qualifying corporate bonds in a case where the securities disposed of by the original owner or those acquired by him, or by any other person, as the repurchaser are not such bonds.

(5) Expressions used in this section and in section 730A of the Taxes Act have the same meanings in this section as in that section."

(5) This section shall have effect where the agreement to sell the securities is entered into on or after the date on which this Act is passed.

Manufactured interest payments: exclusion from bond-washing provisions.

81.—(1) Section 731 of the Taxes Act 1988 (application of sections 732 to 734) is amended as follows.

(2) After subsection (2) insert—

"(2A) The relevant provisions do not apply where the first buyer is required under the arrangements for the purchase of the securities to make to the person from whom he purchased the securities, not later than the date on which he subsequently sells the securities, a payment of an amount representative of the interest, or is treated by virtue of section 737A(5) as required to make such a payment.".

(3) In consequence of the above amendment—

(a) in subsection (2) for "Subject to subsections (3) to (10) below" substitute "Subject to subsections (2A) to (10) below, and for "relate" substitute "apply";

(b) in subsection (3) for "relate to cases" substitute "apply".

(4) The above amendments have effect where the date on which the payment referred to in the inserted subsection (2A) is required to be made, or treated as required to be made, is after the passing of this Act.

Manufactured interest on gilt-edged securities.

82.—(1) In section 737 of the Taxes Act 1988 (manufactured dividends and interest)—

(a) after subsection (1A) there shall be inserted the following subsection—

"(1B) Subject to subsection (5AA) below, subsection (1) above shall not apply where the interest in question is interest on gilt-edged securities.";

(b) at the beginning of subsections (2) and (5), there shall be inserted, in each case, "Subject to subsection (5AA) below,";

(c) after subsection (5) there shall be inserted the following subsection—

"(5AA) Regulations made by the Treasury may make provision in relation to any such case where the securities in question are gilt-edged securities as may be specified in the regulations—

(a) for subsections (1B), (2) and (5) above to be disregarded in determining whether the case is one where subsection (1) above applies; or

(b) for this section to have effect as if subsections (1B) and (2) above were omitted and the words in subsection (5) from 'unless' to the end of paragraph (b) were modified in such manner as may be set out in the regulations.";

and

(d) in subsection (6), after the definition of "foreign income dividend" there shall be inserted the following definition—

"'gilt-edged securities' has the same meaning as in section 51A;".

(2) In Schedule 23A to that Act, at the beginning of sub-paragraphs (2) and (3) of paragraph 3, there shall be inserted, in each case, "Subject to paragraph 3A below,"; and after that paragraph there shall be inserted the following paragraph—

"3A.—(1) This paragraph applies, except in so far as dividend manufacturing regulations otherwise provide, in any case where paragraph 3 above applies and the United Kingdom securities in question are gilt-edged securities.

(2) In a case where this paragraph applies, sub-paragraphs (2) and (3) of paragraph 3 above shall not have effect, but the gross amount of the manufactured interest shall be treated—

(a) in relation to the interest manufacturer, for all the purposes of the Tax Acts except the determination of whether a deduction of tax is liable to be made on the making of the manufactured payment, and

(b) in relation to the recipient and all persons claiming title through or under him, for all the purposes of those Acts,

as if it were the gross amount of a periodical payment of interest on those gilt-edged securities, but made by the interest manufacturer.

(3) Sub-paragraph (4) of paragraph 3 above shall apply for the purposes of this paragraph as it applies for the purposes of that paragraph.

(4) In this paragraph 'gilt-edged securities' has the same meaning as in section 51A."

(3) In paragraph 5(6) of that Schedule (construction of references to securities in provisions relating to interest passing through the market), after "United Kingdom securities" there shall be inserted ", other than gilt-edged securities (within the meaning of section 51A),".

(4) This section shall have effect in relation to any payments made on or after such day as the Treasury may by order appoint, and different days may be appointed under this subsection for different purposes.

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Power to make special provision for special cases.

83.—(1) Immediately before section 738 of the Taxes Act 1988 there shall be inserted the following sections—

"Power to provide for manufactured payments to be eligible for relief.

737D.—(1) The Treasury may by regulations provide for any manufactured payment made to any person to be treated, in such circumstances and to such extent as may be described in the regulations, as comprised in income of that person that is eligible for relief from tax by virtue of section 438, 592(2), 608(2)(a), 613(4), 614(2), (3) or (4), 620(6) or 643(2).

(2) In this section 'manufactured payment' means any manufactured dividend, manufactured interest or manufactured overseas dividend, within the meaning of Schedule 23A.

Power to modify sections 727A, 730A and 737A to 737C.

737E—(1) The Treasury may by regulations make provision for all or any of sections 727A, 730A and 737A to 737C to have effect with modifications in relation to cases involving any arrangement for the sale and repurchase of securities where—

(a) the obligation to make the repurchase is not performed or the option to repurchase is not exercised;

(b) provision is made by or under any agreement for different or additional securities to be treated as, or as included with, securities which, for the purposes of the repurchase, are to represent securities transferred in pursuance of the original sale;

(c) provision is made by or under any agreement for any securities to be treated as not included with securities which, for the purposes of the repurchase, are to represent securities transferred in pursuance of the original sale;

(d) provision is made by or under any agreement for the sale price or repurchase price to be determined or varied wholly or partly by reference to fluctuations, occurring in the period after the making of the agreement for the original sale, in the value of securities transferred in pursuance of that sale, or in the value of securities treated as representing those securities; or

(e) provision is made by or under any agreement for any person to be required, in a case where there are any such fluctuations, to make any payment in the course of that period and before the repurchase price becomes due.

(2) The Treasury may by regulations make provision for all or any of sections 727A, 730A and 737A to 737C to have effect with modifications in relation to cases where—

(a) arrangements, corresponding to those made in cases involving an arrangement for the sale and repurchase of securities, are made by any

agreement, or by one or more related agreements, in relation to securities that are to be redeemed in the period after their sale; and

(b) those arrangements are such that the person making the sale or a person connected with him (instead of being required to repurchase the securities or acquiring an option to do so) is granted rights in respect of the benefits that will accrue from their redemption.

(3) The Treasury may by regulations provide that section 730A is to have effect with modifications in relation to cases involving any arrangement for the sale and repurchase of securities where there is an agreement relating to the sale or repurchase which is not such as would be entered into by persons dealing with each other at arm's length.

(4) The powers conferred by subsections (1) and (2) above shall be exercisable in relation to section 263A of the 1992 Act as they are exercisable in relation to section 730A of this Act.

(5) Regulations made for the purposes of this section may—

(a) make different provision for different cases; and

(b) contain such supplementary, incidental, consequential and transitional provision as appears to the Treasury to be appropriate.

(6) The supplementary, incidental and consequential provision that may be made by regulations under this section shall include—

(a) in the case of regulations relating to section 730A, provision modifying subsections (3)(b), (9), (11)(c) and (11A) of section 737C; and

(b) in the case of regulations relating to section 263A of the 1992 Act, provision modifying the operation of that Act in relation to cases where by virtue of the regulations any acquisition or disposal is excluded from those which are to be disregarded for the purposes of capital gains tax.

(7) In this section 'modifications' includes exceptions and omissions; and any power under this section to provide for an enactment to have effect with modifications in any case shall include power to provide for it not to apply (if it otherwise would do) in that case.

(8) References in this section to a case involving an arrangement for the sale and repurchase of securities are references to any case where—

(a) a person makes a sale of any securities under any agreement ('the original sale'); and

(b) that person or a person connected with him either—

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(i) is required under that agreement or any related agreement to buy them back; or

(ii) acquires, under that agreement or any related agreement, an option to buy them back.

(9) Section 730B shall apply for the purposes of this section as it applies for the purposes of section 730A."

1993 c. 34.
1994 c. 9.

(2) In section 182(1) of the Finance Act 1993 and section 229 of the Finance Act 1994 (powers to modify provisions relating to Lloyd's), the following paragraph shall be inserted, in each case, after paragraph (c)—

"(ca) for modifying the application of this Chapter in relation to cases where assets forming part of a premiums trust fund are the subject of—

(i) any such arrangement as is mentioned in section 129(1), (2) or (2A) of the Taxes Act 1988 (stock lending etc.); or

(ii) any such arrangements or agreements as are mentioned in section 737E(2) and (8) of the Taxes Act 1988 (sale and repurchase of securities etc.);".

Stock lending: power to modify rules.

84.—(1) In subsection (1) of section 129 of the Taxes Act 1988 (description of stock lending arrangements)—

(a) for "subsection (4)" there shall be substituted "subsections (2B) and (4)"; and

(b) the words "has contracted to sell securities, and to enable him to fulfil the contract, he" shall be omitted.

(2) In subsection (2A) of that section, for "A to fulfil his contract" there shall be substituted "B to make the transfer to A or his nominee".

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

"(2B) Except in so far as the Treasury by regulations otherwise provide, this section applies only if A enters into the arrangement mentioned in subsection (1) above to enable him to fulfil a contract under which he is required to sell securities."

(4) After subsection (4) of that section there shall be inserted the following subsections—

"(4A) Regulations under subsection (4) above relating to section 271(9) of the 1992 Act may include provision modifying the operation of that Act in relation to cases where, by virtue of the regulations, any acquisition or disposal is excluded from those which are to be disregarded for the purposes of capital gains tax.

(4B) In such cases as the Treasury may by regulations provide, this section shall have effect as if references to a transfer of securities of the same kind and amount as those subject to a previous transfer included references to the grant of equivalent rights in respect of benefits accruing from the redemption of securities of the same kind and amount."

1992 c. 12.

(5) For subsection (9) of section 271 of the Taxation of Chargeable Gains Act 1992 (exemption for arrangements to which section 129 applies) there shall be substituted the following subsection—

"(9) Subject to any regulations under subsection (4) of section 129 of the Taxes Act, any disposal and acquisition made in pursuance of an arrangement mentioned in subsection (1), (2) or (2A) of that section shall be disregarded for the purposes of capital gains tax unless it is one in the case of which subsection (2B) of that section has the effect of preventing that section from applying."

Stock lending: interest on cash collateral.

85.—(1) In Chapter VIII of Part IV of the Taxes Act 1988 (provisions relating to the Schedule D charge: miscellaneous and supplementary provisions), after section 129 insert—

"Stock lending: interest on cash collateral.

129A. The provisions of Schedule 5A have effect with respect to the tax treatment of interest earned on cash collateral provided in connection with certain stock lending arrangements.".

(2) In the Taxes Act 1988 insert as Schedule 5A the provisions set out in Schedule 19 to this Act.

(3) This section and that Schedule apply in relation to approved stock lending arrangements (within the meaning of that Schedule) entered into after the passing of this Act.

Interest

Deduction of tax from interest on deposits.

86.—(1) In section 481(4) of the Taxes Act 1988 (meaning of "relevant deposit" for the purposes of provisions relating to the deduction of tax), after paragraph (c) there shall be inserted "or

(d) any interest in respect of the deposit is income arising to the trustees of a discretionary or accumulation trust in their capacity as such;"

and for "subsection (5)" there shall be substituted "any of subsections (5) to (5B)".

(2) After subsection (4) of section 481 of that Act there shall be inserted the following subsection—

"(4A) For the purposes of the relevant provisions a trust is a discretionary or accumulation trust if it is such that some or all of any income arising to the trustees would fall (unless treated as income of the settlor or applied in defraying expenses of the trustees) to be comprised for the year of assessment in which it arises in income to which section 686 applies."

(3) In section 481(5)(k) of that Act (declaration by virtue of which deposit is not a relevant deposit)—

(a) the word "that" before sub-paragraph (i) shall be omitted;

(b) in sub-paragraph (i), at the beginning there shall be inserted "in a case falling within subsection (4)(a) or (b) above, that";

(c) in sub-paragraph (ii), after "above" there shall be inserted ", that"; and

(d) after sub-paragraph (ii) there shall be inserted the following sub-paragraph—

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"(iii) in a case falling within subsection (4)(d) above, that, at the time when the declaration is made, the trustees are not resident in the United Kingdom and do not have any reasonable grounds for believing that any of the beneficiaries of the trust is an individual who is ordinarily resident in the United Kingdom or a company which is resident in the United Kingdom."

(4) After subsection (5A) of section 481 of that Act there shall be inserted the following subsection—

"(5B) In a case falling within subsection (4)(d) above, a deposit shall not be taken to be a relevant deposit in relation to a payment of interest in respect of that deposit if—

(a) the deposit was made before 6th April 1995; and

(b) the deposit-taker has not, at any time since that date but before the making of the payment, been given a notification by the Board or any of the trustees in question that interest in respect of that deposit is income arising to the trustees of a discretionary or accumulation trust."

(5) In section 482(2) of that Act (contents of declaration under section 481(5)(k)), for paragraph (a) there shall be substituted the following paragraph—

"(a) if made under sub-paragraph (i) or (iii), contain an undertaking by the person making it that where—

(i) the individual or any of the individuals in respect of whom it is made becomes ordinarily resident in the United Kingdom,

(ii) the trustees or any company in respect of whom it is made become or becomes resident in the United Kingdom, or

(iii) an individual who is ordinarily resident in the United Kingdom or a company which is resident in the United Kingdom becomes or is found to be a beneficiary of a trust to which the declaration relates,

the person giving the undertaking will notify the deposit-taker accordingly; and".

(6) After subsection (5) of section 482 of that Act there shall be inserted the following subsection—

"(5A) The persons who are to be taken for the purposes of section 481(5)(k)(iii) and subsection (2) above to be the beneficiaries of a discretionary or accumulation trust shall be every person who, as a person falling wholly or partly within any description of actual or potential beneficiaries, is either—

(a) a person who is, or will or may become, entitled under the trust to receive the whole or any part of any income under the trust; or

(b) a person to or for the benefit of whom the whole or any part of any such income may be paid or applied in exercise of any discretion conferred by the trust;

and for the purposes of this subsection references, in relation to a trust, to income under the trust shall include references to so much (if any) of any property falling to be treated as capital under the trust as represents amounts originally received by the trustees as income."

(7) In section 482(6) of that Act (definitions for the purposes of section 481(5)), in the definition of "appropriate person", for "as a personal representative in his capacity as such" there shall be substituted "in his capacity as a personal representative or as a trustee of a discretionary or accumulation trust".

(8) In section 482(11) of that Act (power to make regulations), after paragraph (aa) there shall be inserted the following paragraph—

"(ab) with respect to—

(i) the manner and form in which a notification for the purposes of section 481(5B) is to be given or may be withdrawn, and

(ii) the circumstances in which the deposit-taker is to be entitled to delay acting on such a notification,

and".

(9) In section 482A(1) of that Act (power to make regulations excluding audit requirements in certain cases), after "United Kingdom" there shall be inserted ", or investments of trustees who are not resident in the United Kingdom,".

(10) The preceding provisions of this section apply in relation to any payments made on or after 6th April 1996.

(11) Notwithstanding the repeal of section 67 of the Taxes Act 1988 by the Finance Act 1994 or anything contained in the transitional provisions relating to that repeal, where— 1994 c. 9.

(a) this section has effect so as to require any deposit made before 6th April 1996 to be treated in relation to payments made after a time falling before 6th April 1998 as a relevant deposit for the purposes of section 480A(1) of the Taxes Act 1988, and

(b) section 67(2) of that Act does not otherwise apply in relation to the liability to deduction of tax that begins at that time,

section 67(1) of the Taxes Act 1988 shall apply in respect of payments made before that time as if the deposit were a source of income that the trustees in question ceased to possess at that time.

(12) An officer of the Board may, by notice to any of the trustees of a trust, require the trustees to provide the Board with the following, that is to say—

(a) information about any notification given by any of the trustees for the purposes of subsection (5B) of section 481 of the Taxes Act 1988; and

(b) such information as the Board may reasonably require for the purposes of themselves giving a notification under that subsection with respect to any income arising to the trustees;

and section 98 of the Management Act (penalties in respect of special returns) shall have effect with a reference to this subsection inserted at the end of the first column of the Table.

(13) Where a notice given by the Board before the passing of this Act requires any such information as is mentioned in subsection (12) above to be provided to the Board, and the period within which that information was required to be so provided does not expire until at least one month after the passing of this Act, that notice shall have effect as if given after the passing of this Act in accordance with that subsection.

1978 c. 30.

(14) Without prejudice to section 20(2) of the Interpretation Act 1978 (references to other enactments) and subject to any provision to the contrary made in exercise of any power to make, revoke or amend any subordinate legislation, the enactments and subordinate legislation having effect, apart from this section, in relation to any provisions of the Taxes Act 1988 amended by this section shall be assumed, in cases where this section applies, to have the corresponding effect in relation to those provisions as so amended.

(15) In this section "subordinate legislation" has the same meaning as in the Interpretation Act 1978.

Interest payments deemed to be distributions.

87.—(1) In subsection (2) of section 209 of the Taxes Act 1988 (meaning of "distribution" for the purposes of the Corporation Tax Acts), after paragraph (d) there shall be inserted the following paragraph—

"(da) any interest or other distribution out of assets of the company ('the issuing company') in respect of securities issued by that company which are held by another company where—

(i) the issuing company is a 75 per cent. subsidiary of the other company or both are 75 per cent. subsidiaries of a third company, and

(ii) the whole or any part of the distribution represents an amount which would not have fallen to be paid to the other company if the companies had been companies between whom there was (apart from in respect of the securities in question) no relationship, arrangements or other connection (whether formal or informal),

except so much, if any, of any such distribution as does not represent such an amount or as is a distribution by virtue of paragraph (d) above or an amount representing the principal secured by the securities;".

(2) In paragraph (e) of that subsection—

(a) for "paragraph (d)" there shall be substituted "paragraph (d) or (da)"; and

(b) sub-paragraphs (iv) and (v) (distribution in respect of securities of subsidiaries of non-resident companies etc.) shall be omitted;

and, in subsection (3) of that section, for "subsection (2)(d)" there shall be substituted "subsection (2)(d), (da)".

(3) After subsection (8) of that section there shall be inserted the following subsections—

"(8A) For the purposes of paragraph (da) of subsection (2) above subsections (2) to (4) of section 808A shall apply as they apply for the purposes of a special relationship provision such as is mentioned in that section but as if—

(a) the references in those subsections to the relationship in question were references to any relationship, arrangements or other connection between the issuing company and the other company mentioned in sub-paragraph (ii) of that paragraph; and

(b) the provision in question required no account to be taken, in the determination of any of the matters mentioned in subsection (8B) below, of (or of any inference capable of being drawn from) any other relationship, arrangements or connection (whether formal or informal) between the issuing company and any person, except where that person—

(i) has no relevant connection with the issuing company, or

(ii) is a company that is a member of the same UK grouping as the issuing company.

(8B) The matters mentioned in subsection (8A)(b) above are the following—

(a) the appropriate level or extent of the issuing company's overall indebtedness;

(b) whether it might be expected that the issuing company and a particular person would have become parties to a transaction involving the issue of a security by the issuing company or the making of a loan, or a loan of a particular amount, to that company; and

(c) the rate of interest and other terms that might be expected to be applicable in any particular case to such a transaction.

(8C) For the purposes of subsection (8A) above a person has a relevant connection with the issuing company if he is connected with it within the terms of section 839 or that person (without being so connected to the issuing company) is—

(a) an effective 51 per cent. subsidiary of the issuing company; or

(b) a company of which the issuing company is an effective 51 per cent. subsidiary.

(8D) For the purposes of subsection (8A) above any question as to what constitutes the UK grouping of which the issuing company is a member or as to the other members of that grouping shall be determined as follows—

(a) where the issuing company has no effective 51 per cent. subsidiaries and is not an effective 51 per cent. subsidiary of a company resident in the United Kingdom, the issuing company shall be taken to be a member of a UK grouping of which it is itself the only member;

(b) where the issuing company has one or more effective 51 per cent. subsidiaries and is not an effective 51 per cent. subsidiary of a company resident in the United Kingdom, the issuing company shall be taken to be a member of a UK grouping of which the only members are the issuing company and its effective 51 per cent. subsidiaries; and

(c) where the issuing company is an effective 51 per cent. subsidiary of a company resident in the United Kingdom ('the UK holding company'), the issuing company shall be taken to be a member of a UK grouping of which the only members are—

(i) the UK holding company or, if there is more than one company resident in the United Kingdom of which the issuing company is an effective 51 per cent. subsidiary, such one of them as is not itself an effective 51 per cent. subsidiary of any of the others, and

(ii) the effective 51 per cent. subsidiaries of the company which is a member of that grouping by virtue of sub-paragraph (i) above.

(8E) For the purposes of subsections (8C) and (8D) above section 170(7) of the 1992 Act shall apply for determining whether a company is an effective 51 per cent. subsidiary of another company but shall so apply as if the question whether the effective 51 per cent. subsidiaries of a company resident in the United Kingdom ('the putative holding company') include either—

(a) the issuing company, or

(b) a company of which the issuing company is an effective 51 per cent. subsidiary,

were to be determined without regard to any beneficial entitlement of the putative holding company to any profits or assets of any company resident outside the United Kingdom.

(8F) References in subsections (8D) and (8E) above to a company that is resident in the United Kingdom shall not include references to a company which is a dual resident company for the purposes of section 404."

(4) In section 212 of that Act (exceptions from the definition of a "distribution" for certain interest and other payments)—

(a) in subsection (1), in paragraph (b), after "within" there shall be inserted "paragraph (da) of section 209(2) or";

(b) in subsection (3)—

(i) at the beginning there shall be inserted "Without prejudice to subsection (4) below,"; and

(ii) at the end there shall be inserted "and does not apply in relation to any interest or distribution falling within section 209(2)(da) if that interest or distribution is otherwise outside the matters in respect of which that company is within the charge to corporation tax."; and

(c) after subsection (3) there shall be inserted the following subsection—

"(4) Where any interest or other distribution is paid to a charity (within the meaning of section 506) or to any of the bodies

mentioned in section 507, the interest or distribution so paid shall not be a distribution for the purposes of the Corporation Tax Acts if it would otherwise fall to be treated as such a distribution by virtue only of paragraph (da) of section 209(2)."

(5) In section 710(3)(a) of that Act (meaning of securities), for "section 209(2)(e)(iv) or (v)" there shall be substituted "section 209(2)(da)".

(6) In paragraph 5(5) of Schedule 4 to that Act (deep discount securities), for "section 209(2)(d)" there shall be substituted "section 209(2)(d), (da)".

(7) This section has effect, subject to subsection (8) below, in relation to any interest or other distribution paid on or after 29th November 1994.

(8) This section shall not have effect in relation to any interest or other distribution paid before 1st April 1995 in respect of any security if the security is one in the case of which a notice given before 29th November 1994 under Regulation 2(2) of the Double Taxation Relief (Taxes on Income) (General) Regulations 1970 was in force immediately before 29th November 1994 as regards payments of interest or other distributions made in respect of that security.

S.I. 1970/488.

Debts

Generalisation of ss.63 to 66 of Finance Act 1993.
1993 c. 34.

88.—(1) In sections 63 to 66 of the Finance Act 1993 (deemed periodic disposal of certain debts), for "the resident company", wherever occurring, substitute "the creditor company".

(2) After section 62 of that Act insert—

"Application of sections 63 to 66: supplementary.

62A. In sections 63 to 66 below as they apply by virtue of section 61 above—

(a) "the creditor company" means the company identified in subsection (1) of that section as the person entitled to the debt (referred to there as "the resident company"); and

(b) "the commencement date" means 1st April 1993.".

(3) In section 63 of that Act, omit subsection (12) (meaning of "commencement date").

(4) The above amendments shall be deemed always to have had effect.

(5) Anything done before the passing of this Act under or by reference to the provisions of sections 63 to 66 of the Finance Act 1993 as originally enacted shall have effect as if done under or by reference to those provisions as amended by this section.

Application of ss.63 to 66 to debts held by associates of banks.

89.—(1) A debt is a qualifying debt for the purposes of sections 63 to 66 of the Finance Act 1993 (deemed periodic disposal of certain debts) at any time if, at that time, the person entitled to the debt is a company which—

(a) is resident in the United Kingdom, and

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(b) is an associated company of a company (whether or not itself resident in the United Kingdom) which carries on a banking business in the United Kingdom,

and the debt is not an exempted debt as defined by the following provisions.

(2) A debt is an exempted debt for those purposes at any time if at that time it is held by the company entitled to it for the purposes of long term insurance business.

(3) A debt is an exempted debt for those purposes at any time if each of the first, second and third conditions mentioned below—

(a) is fulfilled at that time,

(b) has been fulfilled throughout so much of the period of the debt as falls before that time, and

(c) is likely to be fulfilled throughout so much of that period as falls after that time.

(4) The first condition is that the terms of the debt provide that any interest carried by it shall be at a rate which falls into one, and one only, of the following categories—

(a) a fixed rate which is the same throughout the period of the debt,

(b) a rate which bears to a standard published rate the same fixed relationship throughout that period, and

(c) a rate which bears to a published index of prices the same fixed relationship throughout that period.

(5) The second condition is that those terms provide for any such interest to be payable as it accrues at intervals of 12 months or less.

(6) The third condition is that the terms of the debt are not such—

(a) in the case of a debt on a security, that the security is a deep discount or deep gain security, or

(b) in any other case, that if the debt were a debt on a security it would be a deep discount or deep gain security.

1989 c. 26.

In this subsection "deep discount security" has the same meaning as in Schedule 4 to the Taxes Act 1988 and "deep gain security" has the same meaning as in Schedule 11 to the Finance Act 1989, disregarding paragraph 1(4)(c) of that Schedule.

(7) In this section—

"associated company" shall be construed in accordance with section 416 of the Taxes Act 1988;

1982 c. 50.

"long term insurance business" means insurance business of any of the classes specified in Schedule 1 to the Insurance Companies Act 1982; and

"published index of prices" means the retail prices index or any similar general index of prices which is published by, or by an agent of, the government of any territory outside the United Kingdom.

1993 c. 34.

(8) In sections 63 to 66 of the Finance Act 1993 as they apply by virtue of this section "the creditor company" means the company identified in subsection (1) above as the person entitled to the debt.

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(9) In sections 63 to 66 of the Finance Act 1993 as they apply by virtue of this section "the commencement date" means— 1993 c. 34.

(a) in relation to a debt not falling within subsection (10) below, 29th November 1994; and

(b) in relation to a debt falling within that subsection, 1st April 1996.

(10) A debt falls within this subsection if the person liable for it is—

(a) an institution which is a higher education institution for the purposes of section 65 of the Further and Higher Education Act 1992 or Article 30 of the Education and Libraries (Northern Ireland) Order 1993, 1992 c. 13. S.I. 1993/2810 (N.I. 12).

(b) an institution which is an institution within the higher education sector for the purposes of the Further and Higher Education (Scotland) Act 1992, or 1992 c. 37.

(c) a registered housing association within the meaning of the Housing Associations Act 1985 or Part II of the Housing (Northern Ireland) Order 1992, 1985 c. 69. S.I. 1992/1725 (N.I.15).

and that person was so liable at the end of 28th November 1994.

Reliefs

90.—(1) In Chapter VI of Part IV of the Taxes Act 1988 (provisions relating to the Schedule D charge: discontinuance, &c.), after section 109 insert— Relief for post-cessation expenditure.

"Relief for post-cessation expenditure

Relief for post-cessation expenditure. 109A.—(1) Where in connection with a trade, profession or vocation formerly carried on by him which has been permanently discontinued a person makes, within seven years of the discontinuance, a payment to which this section applies, he may, by notice given within twelve months from the 31st January next following the year of assessment in which the payment is made, claim relief from income tax on an amount of his income for that year equal to the amount of the payment.

(2) This section applies to payments made wholly and exclusively—

(a) in remedying defective work done, goods supplied or services rendered in the course of the former trade, profession or vocation or by way of damages (whether awarded or agreed) in respect of any such defective work, goods or services; or

(b) in defraying the expenses of legal or other professional services in connection with any claim that work done, goods supplied or services rendered in the course of the former trade, profession or vocation was or were defective;

(c) in insuring against any liabilities arising out of any such claim or against the incurring of such expenses; or

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(d) for the purpose of collecting a debt taken into account in computing the profits or gains of the former trade, profession or vocation.

(3) Where a payment of any of the above descriptions is made in circumstances such that relief under this section is available, the following shall be treated as sums to which section 103 applies (whether or not they would be so treated apart from this subsection)—

(a) in the case of a payment within paragraph (a) or (b) of subsection (2) above, any sum received, by way of the proceeds of insurance or otherwise, for the purpose of enabling the payment to be made or by means of which it is reimbursed,

(b) in the case of a payment within paragraph (c) of that subsection, any sum (not falling within paragraph (a) above) received by way of refund of premium or otherwise in connection with the insurance, and

(c) in the case of a payment within paragraph (d) of that subsection, any sum received to meet the costs of collecting the debt;

and no deduction shall be made under section 105 in respect of any such sums.

Where such a sum is received in a year of assessment earlier than that in which the related payment is made, it shall be treated as having been received in that later year and not in the earlier year; and any such adjustment shall be made, by way of modification of any assessment or discharge or repayment of tax, as is required to give effect to this subsection.

(4) Where a trade, profession or vocation carried on by a person has been permanently discontinued and subsequently an unpaid debt which was taken into account in computing the profits or gains of that trade, profession or vocation and to the benefit of which he is entitled—

(a) is proved to be bad, or

(b) is released, in whole or in part, as part of a relevant arrangement or compromise (within the meaning of section 74),

he shall be treated as making a payment to which this section applies of an amount equal to the amount of the debt or, as the case may be, the amount released or, if he was entitled to only part of the benefit of the debt, to an appropriate proportion of that amount.

If any sum is subsequently received by him in payment of a debt for which relief has been given by virtue of this subsection, the sum shall be treated as one to which section 103 applies; and no deduction shall be made under section 105 in respect of any such sum.

(5) Where in the case of a trade, profession or vocation which has subsequently been permanently discontinued a deduction was made in computing the profits or losses of the trade, profession or vocation in respect of an expense not actually paid (an "unpaid expense"), then—

(a) if relief under this section in connection with that trade, profession or vocation is claimed in respect of any year of assessment, the amount of the relief shall be reduced by the amount of any unpaid expenses at the end of that year;

(b) for the purposes of the application of paragraph (a) above in relation to a subsequent year of assessment, any amount by which relief under this section has been reduced by virtue of that paragraph shall be treated as having been paid in respect of the expense in question; and

(c) if subsequently any amount is in fact paid in respect of an expense in respect of which a reduction has been made under paragraph (a), that amount (or, if less, the amount of the reduction) shall be treated as a payment to which this section applies.

(6) Relief shall not be given under this section in respect of an amount for which relief has been given or is available under any other provision of the Income Tax Acts.

In applying this subsection relief available under section 105 shall be treated as given in respect of other amounts before any amount in respect of which relief is available under this section.

(7) This section does not apply for the purposes of corporation tax.".

(2) Section 109A(1) of the Taxes Act 1988 (inserted by subsection (1) above) has effect as respects the years 1994-95 and 1995-96 with the substitution for the words "twelve months from the 31st January next following" of the words "two years after".

(3) In section 110(1) of the Taxes Act 1988 (interpretation, &c.) for "sections 103 to 109" substitute "sections 103 to 109A".

(4) Where under section 109A of the Taxes Act 1988 (inserted by subsection (1) above) a person makes a claim for relief for a year of assessment in respect of an amount which is available for relief under that section, he may in the notice by which the claim is made make a claim to have so much of that amount as cannot be set off against his income for the year (the "excess relief") treated for the purposes of capital gains tax as an allowable loss accruing to him in that year.

(5) No relief shall be available by virtue of subsection (4) above in respect of so much of the excess relief as exceeds the amount on which the claimant would be chargeable to capital gains tax for that year if the following (and the effect of that subsection) were disregarded—

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(a) any allowable losses falling to be carried forward to that year from a previous year for the purposes of section 2(2) of the Taxation of Chargeable Gains Act 1992;

1992 c. 12.

(b) section 3(1) of that Act (the annual exempt amount); and

(c) any relief against capital gains tax under section 72 of the Finance Act 1991 (deduction of trading losses).

1991 c. 31.

(6) In section 105(2) of the Taxes Act 1988 (deductions allowed against post-cessation receipts: exclusion of amounts allowed elsewhere), after "any other provision of the Tax Acts" insert "or by virtue of section 90(4) of the Finance Act 1995".

(7) This section has effect in relation to payments made or treated as made (see subsection (4) of section 109A of the Taxes Act 1988 inserted by subsection (1) above) on or after 29th November 1994.

Employee liabilities and indemnity insurance.

91.—(1) After section 201 of the Taxes Act 1988 there shall be inserted the following section—

"Employee liabilities and indemnity insurance.

201AA.—(1) Subject to the provisions of this section, the following may be deducted from the emoluments of any office or employment to be assessed to tax, if defrayed out of those emoluments, that is to say—

(a) any amount paid in or towards the discharge of a qualifying liability of the person who is the holder of the office or employment;

(b) costs or expenses incurred in connection with any claim that that person is subject to such a liability or with any proceedings relating to or arising out of such a claim; and

(c) so much (if any) of any premium paid under a qualifying contract of insurance as relates to the indemnification of that person against a qualifying liability or to the payment of any such costs or expenses.

(2) For the purposes of this section a liability is a qualifying liability, in relation to any office or employment, if it is imposed either—

(a) in respect of any acts or omissions of a person in his capacity as the holder of that office or employment or in any other capacity in which he acts in the performance of the duties of that office or employment; or

(b) in connection with any proceedings relating to or arising out of a claim that a person is subject to a liability imposed in respect of any such acts or omissions.

(3) For the purposes of this section a qualifying contract of insurance is a contract of insurance which—

(a) so far as the risks insured against are concerned, relates exclusively to one or more of the matters mentioned in subsection (4) below;

(b) is not connected with any other contract;

(c) does not contain provision entitling the insured, in addition to cover for the risks insured against and any right to renew the policy, to receive any payment or other benefit the entitlement to which is something to which a significant part of the premium under the contract is reasonably attributable; and

(d) is a contract the period of insurance under which does not exceed two years (except by virtue of one or more renewals each for a period of two years or less) and is not a contract which the insured is required to renew for any period.

(4) The matters referred to in subsection (3)(a) above in relation to any contract of insurance are the following, that is to say—

(a) the indemnification of any person holding any office or employment against any qualifying liability;

(b) the indemnification of any person against any vicarious liability in respect of acts or omissions giving rise, in the case of another, to such a qualifying liability;

(c) the payment of some or all of the costs or expenses incurred by or on behalf of that or any other person in connection with any claim that a person is subject to a liability to which the insurance relates or with any proceedings relating to or arising out of such a claim; and

(d) the indemnification of any person against any loss from the payment by him (whether or not in discharge of any liability) to a person holding an office or employment under him of any amount in respect of a qualifying liability or of any such costs or expenses.

(5) For the purposes of this section a contract of insurance is connected with another contract at any time at or after the time when they have both been entered into if—

(a) either of them was entered into by reference to the other or with a view to enabling the other to be entered into on particular terms or to facilitating the other being entered into on particular terms; and

(b) the terms on which either of them was entered into would have been significantly different if it had not been entered into in anticipation of the other being entered into or if the other had not also been entered into.

(6) Two or more contracts of insurance shall not be prevented by virtue of paragraph (b) of subsection (3) above from being qualifying contracts if—

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(a) they each satisfy the requirements of paragraphs (a), (c) and (d) of that subsection; and

(b) the only respects in which there is a significant difference between the terms on which any of those contracts is entered into and what would have been those terms if the other contract or contracts had not been entered into consist in such reductions of premium as are reasonably attributable to—

(i) the fact that, where different contracts have been entered into as part of a single transaction, the premium under each of the contracts has been fixed by reference to the appropriate proportion of what would have been the premium under a single contract relating to all the risks covered by the different contracts; or

(ii) the fact that the contract in question contains a right to renew or is entered into by way of renewal or in pursuance of such a right.

(7) For the purpose of determining the different parts of any premium under any contract of insurance which are to be treated for the purposes of this section as paid in respect of the different risks, different persons and different offices and employments to which the contract relates, such apportionment of that premium shall be made as may be reasonable.

(8) Where it would be unlawful for a person under whom any other person holds any office or employment to enter into a contract of insurance in respect of liabilities of any description or in respect of costs or expenses of any description, no deduction may be made under this section in respect of—

(a) the discharge of any liability of that other person which is a liability of that description; or

(b) any costs or expenses incurred by or on behalf of that other person which are costs or expenses of that description.

(9) References in this section to a premium, in relation to a contract of insurance, are references to any amount payable under the contract to the insurer."

(2) In sections 141(3), 142(2), 153(2) and 156(8) of that Act (which make provision, in relation to non-cash vouchers, credit-tokens, expenses and benefits in kind, about amounts which would have been deductible under certain provisions if paid out of a person's emoluments), after "201", in each case, there shall be inserted "201AA".

(3) This section has effect for the year 1995-96 and subsequent years of assessment.

Post-employment deductions.

92.—(1) Subject to the following provisions of this section, where any individual who has held any office or employment ("the former

employee") defrays any amount to which this section applies, he shall be entitled, on making a claim for the purpose, to a deduction of that amount in computing, for income tax purposes, his total income for the year of assessment in which that amount is defrayed.

(2) This section applies to any amount defrayed by the former employee where that amount—

(a) is defrayed by him in the period beginning when he ceased to hold the relevant office or employment and ending with the sixth year of assessment after that in which he ceased to hold it; and

(b) is not deductible in pursuance of section 201AA of the Taxes Act 1988 from the emoluments of that office or employment to be assessed for tax but would be so deductible if—

(i) the former employee had continued to hold that office or employment, and

(ii) that amount had been defrayed out of the emoluments of that office or employment for the year of assessment in which it is in fact defrayed.

(3) In determining for the purposes of subsection (2) above whether any amount would be deductible as mentioned in paragraph (b) of that subsection, the assumption in sub-paragraph (i) of that paragraph shall be disregarded when identifying the liabilities which are to be regarded as qualifying liabilities within the meaning of section 201AA of the Taxes Act 1988.

(4) This section shall not apply to any amount defrayed by the former employee in so far as the cost of defraying that amount, without being met out of his relevant retirement benefits or post-employment emoluments, is borne—

(a) by the person under whom he held the relevant office or employment;

(b) by a person for the time being carrying on the whole or any part of the business or other undertaking for the purposes of which the former employee held that office or employment;

(c) by a person who is for the time being subject to any of the liabilities with respect to that business or other undertaking of the person mentioned in paragraph (a) above;

(d) by a person who within the terms of section 839 of the Taxes Act 1988 is connected with a person falling within any of paragraphs (a) to (c) above; or

(e) out of the proceeds of any contract of insurance relating to the matters in respect of which the amount is defrayed.

(5) In so far as the amount of any expenditure which is either—

(a) defrayed by any person mentioned in subsection (4)(a) to (d) above, or

(b) borne as mentioned in subsection (4)(a) to (e) above,

is an amount which falls to be treated as a relevant retirement benefit or post-employment emolument of the former employee, that amount shall be deemed for the purposes of this section to be an amount defrayed by the former employee out of that benefit or emolument.

(6) Subject to subsection (7) below, if an amount to which this section applies exceeds by any amount ("the excess relief") the amount from

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which it is deductible in accordance with subsection (1) above, the former employee shall be entitled, on making a claim for the purpose, to have the amount of the excess relief treated for the purposes of capital gains tax as an allowable loss accruing to that person for that year of assessment.

(7) No relief shall be available by virtue of this section in respect of so much of the excess relief for any year of assessment as exceeds the maximum amount.

(8) For the purposes of subsection (7) above the maximum amount, in relation to the excess relief for any year of assessment, is the amount on which the claimant would be chargeable to capital gains tax for that year if the following (together with any relief available under this section) were disregarded, that is to say—

(a) any allowable losses falling to be carried forward to that year from a previous year for the purposes of section 2(2) of the Taxation of Chargeable Gains Act 1992;

1992 c. 12.

(b) section 3(1) of that Act (the annual exempt amount); and

(c) any relief against capital gains tax under section 72 of the Finance Act 1991 (deduction of trading losses) or under section 90(4) of this Act.

1991 c. 31.

(9) In this section—

"post-employment emolument", in relation to the former employee, means so much of any amount as, having been received when the relevant office or employment is no longer held by the former employee, is treated for the purposes of the Income Tax Acts as an emolument of that office or employment;

"the relevant office or employment", in relation to the former employee, means the office or employment in respect of which he is the former employee; and

"relevant retirement benefit", in relation to the former employee, means so much of any amount as, in accordance with section 596A of the Taxes Act 1988, is chargeable to tax as a benefit received by him under a retirement benefits scheme of which he is a member in respect of the relevant office or employment.

(10) Tax shall not be charged under section 148 of the Taxes Act 1988 (payments on retirement or removal from office or employment) in respect of any payment made or treated as made to any individual, or to any individual's executors or administrators, in so far as the payment is made for meeting the cost of defraying any amount which, without being an amount to which this section applies in relation to that individual, would fall to be treated as such an amount if—

(a) subsection (4) of this section were omitted; and

(b) where that individual has died, he had not died but had himself defrayed any amounts defrayed by his executors or administrators;

and this subsection shall have effect in the case of any valuable consideration that is deemed under section 148(3) to be a payment as if the consideration were deemed, to the extent that it is or represents a benefit equivalent to meeting the cost of defraying such an amount, to be a payment made for meeting such a cost.

(11) This section applies for the year 1995-96 and subsequent years of assessment.

93.—(1) In section 141 of the Taxes Act 1988 (non-cash vouchers), after subsection (6B) there shall be inserted the following subsections—

Incidental overnight expenses etc.

"(6C) Subsection (1) above shall not apply in relation to a non-cash voucher to the extent that it is used by the employee to obtain goods, services or money where—

(a) obtaining the goods or services is incidental to his being away from his usual place of abode during a qualifying absence from home or, as the case may be, the money is obtained for the purpose of being used to obtain goods or services which would be so incidental;

(b) the authorised maximum is not exceeded in relation to that qualifying absence; and

(c) the cost of obtaining the goods or services would not be deductible as mentioned in subsection (3) above if incurred by the employee out of his emoluments.

(6D) Subsections (3) to (5) of section 200A shall apply as they apply for the purposes of that section for construing the references in subsection (6C) above to a qualifying absence from home and for determining, for the purposes of that subsection, whether the authorised maximum is exceeded."

(2) In section 142 of that Act (credit-tokens), after subsection (3B) there shall be inserted the following subsections—

"(3C) Subsection (1) above shall not apply in relation to a credit-token to the extent that it is used by the employee to obtain goods, services or money where—

(a) obtaining the goods or services is incidental to his being away from his usual place of abode during a qualifying absence from home or, as the case may be, the money is obtained for the purpose of being used to obtain goods or services which would be so incidental;

(b) the authorised maximum is not exceeded in relation to that qualifying absence; and

(c) the cost of obtaining the goods or services would not be deductible as mentioned in subsection (2) above if incurred by the employee out of his emoluments.

(3D) Subsections (3) to (5) of section 200A shall apply as they apply for the purposes of that section for construing the references in subsection (3C) above to a qualifying absence from home and for determining, for the purposes of that subsection, whether the authorised maximum is exceeded."

(3) In section 155 of that Act (exceptions from general charge on benefits in kind for persons in director's or higher-paid employment), after subsection (1A) there shall be inserted the following subsections—

"(1B) Section 154 does not apply in the case of a benefit provided for the employee himself where—

(a) the provision of the benefit is incidental to the employee's being away from his usual place of abode during a qualifying absence from home;

(b) the authorised maximum is not exceeded in relation to that qualifying absence; and

(c) the cost of the benefit would not be deductible as mentioned in section 156(8) if incurred by the employee out of his emoluments.

(1C) Subsections (3) to (5) of section 200A shall apply as they apply for the purposes of that section for construing the references in subsection (1B) above to a qualifying absence from home and for determining, for the purposes of that subsection, whether the authorised maximum is exceeded."

(4) After section 200 of that Act there shall be inserted the following section—

"Incidental overnight expenses.

200A.—(1) Subject to subsection (2) below, sums paid to or on behalf of any person holding an office or employment, to the extent that they are paid wholly and exclusively for the purpose of defraying, or of being used for defraying, any expenses which—

(a) are incidental to that person's being away from his usual place of abode during a qualifying absence from home, but

(b) would not be deductible under section 193, 194, 195, 198 or 332 if incurred out of that person's emoluments,

shall not be regarded as emoluments of the office or employment for any purpose of Schedule E.

(2) Subsection (1) above shall not apply in the case of any qualifying absence in relation to which the authorised maximum is exceeded.

(3) For the purposes of this section a qualifying absence from home, in relation to a person holding an office or employment, is any continuous period throughout which that person is obliged to stay away from his usual place of abode and during which he—

(a) has at least one overnight stay away from that place; but

(b) does not on any occasion stay overnight at a place other than a place the expenses of travelling to which are either—

(i) expenses incurred out of his emoluments and deductible, otherwise than by virtue of section 193(4), 194(2) or 195(6), under any of the provisions mentioned in subsection (1)(b) above, or

(ii) expenses which would be so deductible if so incurred.

(4) In this section 'the authorised maximum', in relation to each qualifying absence from home by any person, means the aggregate amount equal to the sum of the following amounts—

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(a) £5 for every night (if any) during that absence which is a night the whole of which is spent by that person in the United Kingdom; and

(b) £10 for every night (if any) during that absence which is a night the whole or any part of which is spent by that person outside the United Kingdom.

(5) For the purposes of this section the authorised maximum is exceeded in relation to a qualifying absence from home by any person if that maximum is exceeded by the amount which, in the absence of subsection (2) above and of the other requirements of this Act that that maximum is not exceeded, would fall by virtue of this section and sections 141(6C), 142(3C) and 155(1B) to be disregarded, in relation to that qualifying absence, in determining the amount of that person's emoluments.

(6) The Treasury may by order increase either or both of the sums for the time being specified in subsection (4)(a) and (b) above; and such an order shall have effect for determining what emoluments are received by any person on or after the date when the order comes into force."

(5) This section shall have effect for determining what emoluments are received by any person on or after 6th April 1995.

Capital allowances: ships

Deferment of balancing charges in respect of ships.
1990 c. 1.

94. In Chapter II of Part II of the Capital Allowances Act 1990 (ships), after section 33 there shall be inserted the following sections—

"Balancing charges in respect of ship disposals etc.

Deferment of balancing charge.

33A.—(1) This section applies in any case where—

(a) a balancing charge of any amount would, apart from this section, be made for any chargeable period ('the relevant period') on any person ('the shipowner') in respect of a trade carried on by him (his 'actual trade');

(b) there is, in the relevant period, an event falling within section 24(6)(c)(i) to (iii);

(c) that event is one occurring on or after 21st April 1994 with respect to a ship ('the old ship') provided by the shipowner for the purposes of his actual trade and belonging to him at some time in the relevant period;

(d) the old ship was a qualifying ship immediately before that event;

(e) the shipowner's expenditure on the provision of the old ship is not expenditure treated for any purposes by virtue of section 41(2), 61(1), 79(2) or 80(5) as expenditure incurred for the purposes of a trade carried on separately from his actual trade; and

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(f) the old ship has not begun, and is not treated as having begun, before the event mentioned in paragraph (b) above, to be used partly, but not wholly, for purposes other than those of the shipowner's actual trade.

(2) If—

(a) the shipowner makes a claim in respect of the event mentioned in subsection (1)(b) above for the deferment under this section of the whole or part of the charge which would be made on him, and

(b) none of the amounts specified in subsection (3) below is nil,

the amount for which deferment is claimed, so far as it does not exceed the smallest of those amounts, shall for the purposes of sections 24, 25 and 26 be added to the shipowner's qualifying expenditure for the relevant period in respect of his actual trade.

(3) Subject to the following provisions of this section, those amounts are—

(a) the amount which, in accordance with section 33B, is treated as brought into account in respect of the old ship;

(b) the amount of expenditure which is or is to be incurred by the shipowner on new shipping in the period of six years beginning with the day on which the event mentioned in subsection (1)(b) above occurs;

(c) the amount of the balancing charge which, apart only from the claim in question, would be made on the shipowner for the relevant period in respect of his actual trade; and

(d) the amount which, on the assumption—

(i) that any other additions under this section to the shipowner's qualifying expenditure for the relevant period are taken into account, but

(ii) that amounts carried forward under section 385 or 393 of the principal Act (losses carried forward) are disregarded,

would have the effect of reducing to nil the amount (if any) falling to be taken into account, in computing the shipowner's total profits or total income for that period, as the trading income of that trade or, as the case may be, as profits or gains arising from that trade.

(4) If—

(a) an addition is made under this section to the shipowner's qualifying expenditure for the relevant period in respect of his actual trade, but

(b) the shipowner does not, in the period of six years mentioned in subsection (3)(b) above, incur expenditure on new shipping of an amount equal to or exceeding the addition,

the shipowner shall be assumed not to have been entitled to so much of the addition as exceeds the amount in fact incurred.

(5) Where an addition is made under this section to the shipowner's qualifying expenditure for the relevant period in respect of his actual trade, so much of the expenditure incurred or to be incurred by the shipowner on new shipping, being expenditure of an amount equal to the addition, as for the purposes of subsection (3)(b) or (4) above is (in accordance with section 33D(6)) either—

(a) identified by the shipowner in his claim or by notice to the inspector as the expenditure to which the addition is to be attributed, or

(b) in default of being so identified by the shipowner, determined by the inspector to be the expenditure to which that addition is to be attributed,

shall be disregarded for the purposes of subsections (3)(b) and (4) above in determining the shipowner's entitlement to any other addition under this section to his qualifying expenditure for any period.

(6) A balancing charge falling by virtue of section 41(2), 79(5) or 80(5) to be made for the relevant period in the case of the shipowner's actual trade shall be disregarded in determining the amount referred to in subsection (3)(c) above.

(7) In consequence of paragraph (d) of subsection (3) above, no addition shall be made under this section to the shipowner's qualifying expenditure for the relevant period in respect of his actual trade if—

(a) the amount falling (after disregarding any amounts carried forward under section 385 or 393 of the principal Act) to be taken into account as mentioned in that paragraph would have been nil even apart from this section, or

(b) he has, apart from this section, incurred a loss in that trade for the relevant period.

Amount brought into account in respect of the old ship.

33B.—(1) For the purposes of section 33A where—

(a) the old ship is, by virtue of section 31(2), assumed for the purposes of sections 24, 25 and 26 to have been provided wholly and exclusively for the purposes of a single ship trade,

(b) in consequence of the event mentioned in section 33A(1)(b), a disposal value of the old ship falls for the purposes of section 31(7) to be brought

into account for the chargeable period of the single ship trade which corresponds to the relevant period, and

(c) no notice has been given in relation to the single ship trade under section 33(1) or (4),

the amount treated as brought into account in respect of the old ship shall be the amount which under section 31(7)(b) falls to be brought into account for the relevant period of the shipowner's actual trade as an item of disposal value referable to machinery or plant.

(2) In any other case, the amount treated as brought into account in respect of the old ship shall be the amount equal to the amount which, on the assumptions specified in subsection (3) below, would have been the balancing charge for the relevant period in respect of the shipowner's actual trade.

(3) Those assumptions are—

(a) that section 31(2) did not apply with respect to expenditure on the provision of the old ship;

(b) that the old ship was the only item of machinery or plant in respect of which sections 24, 25 and 26 have effect for chargeable periods of the shipowner's actual trade; and

(c) that the allowances made to the shipowner in respect of the provision of the old ship are—

(i) the first-year allowance (if any) which was actually made to the shipowner;

(ii) any first-year allowance falling to be made to him that was postponed under section 30(1)(a) or (c); and

(iii) the maximum amount of any writing-down allowances which, on the preceding assumptions, could have been made for the chargeable periods of that trade ending with the relevant period.

(4) Where a notice under section 33(1) or (4) is given in the case of a single ship trade after the determination for the purposes of section 33A of the amount treated as brought into account in respect of the old ship, subsection (2) above, instead of subsection (1), shall apply, and be deemed always to have applied, in relation to that ship.

(5) In this section and the following provisions of this Chapter 'single ship trade' has the same meaning as in section 31."

Reimposition of deferred charge.
1990 c. 1.

95. In Chapter II of Part II of the Capital Allowances Act 1990 (ships), after the sections inserted by section 94 above there shall be inserted the following section—

"Reimposition of deferred charge.

33C.—(1) Notwithstanding anything in section 31(2), the assumption specified in subsection (2) below shall apply, for the purposes of sections 24, 25 and 26

wherever—

(a) an addition is made under section 33A to the shipowner's qualifying expenditure for the relevant period;

(b) the shipowner incurs expenditure on new shipping within the period mentioned in section 33A(3)(b); and

(c) an identification or determination of the whole or any part of the expenditure on new shipping is made as mentioned in section 33A(5) in relation to the whole or any part of the addition.

(2) That assumption is that an amount equal to so much of the expenditure incurred on new shipping as is expenditure to which the whole or any part of the addition is to be attributed is to be brought into account—

(a) for the chargeable period in which that expenditure is incurred, and

(b) in respect of the single ship trade in respect of which that expenditure falls to be taken into account in determining qualifying expenditure of the shipowner,

as an item of disposal value referable to machinery or plant which in respect of that chargeable period and that trade falls within section 24(6)."

Ships in respect of which charge may be deferred.

1990 c. 1.

96. In Chapter II of Part II of the Capital Allowances Act 1990 (ships), after the section inserted by section 95 above there shall be inserted the following sections—

"Expenditure to which deferments attributed.

33D.—(1) Subject to the following provisions of this section, expenditure is expenditure on new shipping for the purposes of sections 33A to 33C in so far as it is both—

(a) capital expenditure incurred on the provision, wholly and exclusively for the purposes of the shipowner's actual trade, of a ship which it appears—

(i) will be brought into use for the purposes of that trade as a qualifying ship, and

(ii) will continue to be a qualifying ship throughout a period of at least three years after that; and

(b) expenditure falling, by virtue of section 31(2), to be taken into account for the purposes of sections 24, 25 and 26, in determining qualifying expenditure, as an amount of expenditure incurred by the shipowner wholly and exclusively for the purposes of a single ship trade.

(2) Expenditure on the provision of a ship shall not be, and shall be deemed never to have been, expenditure on new shipping if the ship—

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(a) is brought into use for the purposes of any trade of the shipowner or (without having been so brought into use) for the purposes of any trade of a person connected with him;

(b) there is a time after it is first so brought into use when that ship is not a qualifying ship; and

(c) that time is before whichever is the earlier of—

(i) the end of the period of three years beginning with the time when it is first so brought into use, and

(ii) the first occasion after the beginning of that period when neither the shipowner nor any person connected with him is a person to whom the ship belongs.

(3) Where—

(a) a notice under section 33(1) or (4) has the effect, in relation to any expenditure which satisfies the conditions in subsection (1)(a) and (b) above, of requiring any of that expenditure to be attributed for the purposes of sections 24, 25 and 26 to a trade which is not a single ship trade, or

(b) section 42 has effect with respect to expenditure on the provision of a ship in a case where the expenditure would have fallen to be taken into account as mentioned in subsection (1)(b) above if the ship had not been leased as mentioned in section 42(1),

the expenditure which falls to be so attributed or, as the case may be, with respect to which section 42 has effect shall not be, and shall be deemed never to have been, expenditure on new shipping.

(4) Expenditure on the provision of a ship is not expenditure on new shipping if—

(a) the ship had already belonged to the shipowner at some time in the period of six years ending with the time when it first belongs to him in consequence of his incurring that expenditure;

(b) the ship has at any time in that period belonged to a person who has, at a material time, been a person connected with the shipowner; or

(c) the main object, or one of the main objects, of—

(i) the transaction by which the ship was provided for the purposes of the shipowner's actual trade,

(ii) any series of transactions of which that transaction was one, or

(iii) any transaction in such a series,

was to secure the deferment of a charge under section 33A.

(5) In subsection (4)(b) above 'a material time', in relation to any expenditure, means the time when the expenditure is incurred or any earlier time in the period of six years which is applicable in the case in question for the purposes of section 33A(3)(b).

(6) An addition made under section 33A to the shipowner's qualifying expenditure for any period shall not for the purposes of that section or section 33C be attributed to the whole or any part of any expenditure on new shipping if there is other expenditure incurred by the shipowner which—

(a) was incurred before that expenditure in the period of six years which is applicable, in the case of that addition, for the purposes of section 33A(3)(b), and

(b) is expenditure on new shipping or would fall to be treated as such expenditure but for any notice under section 33(1) or (4),

unless the whole amount of the other expenditure has been used for the purposes of attributions made in the case of that addition and of any other additions made under section 33A in respect of events occurring before the beginning of that period of six years.

(7) Notwithstanding any changes in the persons engaged in carrying on any trade previously carried on by the shipowner, expenditure shall be treated for the purposes of this Chapter as incurred by the shipowner if—

(a) it is incurred by the persons for the time being carrying on that trade, and

(b) the only changes in the persons so engaged, between the time when the trade was carried on by the shipowner and the time when the expenditure is incurred, are changes in respect of which that trade is to be treated by virtue of section 113(2) or 343(2) of the principal Act (continuity of trade) as not having been discontinued.

(8) For the purposes of this section a person is connected with the shipowner at any time if—

(a) at that time he is, within the terms of section 839 of the principal Act, connected either with the shipowner or with a person who is connected with the shipowner by virtue of paragraph (b) below, or

(b) any expenditure incurred by him at that time would fall, by virtue of subsection (7) above, to be treated as expenditure incurred by the shipowner.

Qualifying ships.

33E.—(1) Subject to the following provisions of this section, a ship is a qualifying ship for the purposes of sections 33A to 33D if it is a ship of a sea-going kind and

is registered, in any register of shipping established and maintained under the law of the United Kingdom or of any other country or territory, as a ship with a gross tonnage of or in excess of 100 tons.

(2) In any case where the event mentioned in section 33A(1)(b) consists in or results from either—

(a) the total loss of the old ship, or

(b) damage to the old ship that puts it in a condition in which it is impossible, or not commercially worthwhile, for the repair required for restoring it to its previous use to be undertaken,

the references to a qualifying ship in section 33A(1)(d) and section 33D(1) and (2) shall have effect as if in subsection (1) above the words 'as a ship with a gross tonnage of or in excess of 100 tons' were omitted.

(3) A ship is not a qualifying ship if the primary use to which ships of the same kind as that ship are put by the persons to whom they belong or, where their use is made available to others, by those others is use for sport or recreation.

(4) A ship is not a qualifying ship at any time when—

(a) it is an offshore installation for the purposes of the Mineral Workings (Offshore Installations) Act 1971; or

1971 c. 61.

(b) it would be such an installation if the activity for the carrying on of which it is or is to be established or maintained were carried on in or under controlled waters (within the meaning of that Act).

(5) Where, in the case of any ship which has been brought into use for the purposes of a trade of the shipowner or a person connected with him but was not so brought into use before 20th July 1994—

(a) there is a time in the qualifying period when the ship is not registered in a relevant register, and

(b) that time is more than three months after that period began,

the ship shall not, in relation to times after the time mentioned in paragraph (a) above, be a qualifying ship.

(6) In subsection (5) above 'the qualifying period' means the period between—

(a) the time when the ship is first brought into use for the purposes of any trade of the shipowner or (without having been so brought into use) for the purposes of any trade of a person connected with him; and

(b) whichever is the earlier of—

(i) the end of the period of three years beginning with that time, and

(ii) the first occasion after that time when neither the shipowner nor any person connected with him is a person to whom the ship belongs.

(7) In subsection (5) above 'relevant register', in relation to any ship, means any register of shipping established and maintained under the law of any part of the British Islands or of any country or territory which, at a time in the period which in the case of that ship is the qualifying period for the purposes of that subsection, is a member State, another State within the European Economic Area or a colony.

(8) References in subsections (5) and (6) above to a person connected with the shipowner shall be construed in accordance with section 33D(8) but shall have effect in relation to the old ship as if a trade carried on at any time by any person were carried on at that time by a person so connected wherever—

(a) it was subsequently carried on by the shipowner or a person connected with him; and

(b) it underwent, between that time and the time when it was carried on by the shipowner or a person connected with him, only such changes in the persons engaged in carrying it on as are changes in respect of which it is to be treated by virtue of section 113(2) or 343(2) of the principal Act as not having been discontinued."

Procedural provisions relating to deferred charges.

1990 c. 1.

97.—(1) In Chapter II of Part II of the Capital Allowances Act 1990 (ships), after the sections inserted by section 96 above there shall be inserted the following section—

"Procedural provisions relating to deferred charges.

33F.—(1) Schedule A1 to this Act shall apply for the purposes of corporation tax in relation to the making of a claim under section 33A as it applies in relation to the making of a claim for an allowance.

(2) No claim under section 33A shall be allowed for the purposes of income tax unless it is made within twelve months from the 31st January next following the year of assessment in which the relevant period ends.

(3) No claim under section 33A may be made at any time before such date as the Treasury may by order appoint; and where by virtue of anything in subsection (1) or (2) above the period for making any such claim would have expired (but for this subsection) before the end of the period of twelve months beginning with that date, it shall expire, instead, at the end of that period of twelve months.

(4) An attribution made for the purposes of section 33A(5) or 33C may be varied by notice given by the shipowner to the inspector at any time before the end of the period for the making, by the person giving the notice, of claims under section 33A above in respect of events occurring in the earliest chargeable period affected; and

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for the purposes of this subsection a chargeable period is an affected chargeable period, in relation to a variation, if it is one in which expenditure to which the variation relates was incurred.

(5) Where—

(a) a claim for the deferment of any charge has been made under section 33A, and

(b) circumstances subsequently arise that require the deferment claimed to be treated as one to which the shipowner was not entitled, either in whole or in part,

the shipowner shall, no later than three months after the end of the chargeable period in which those circumstances first arise, give notice of that fact, specifying the circumstances, to the inspector.

(6) All such assessments and adjustments shall be made as may be necessary to give effect to the provisions of sections 33A to 33C and subsection (4) above; and, notwithstanding any limitation on the time for making assessments, an assessment to tax chargeable in consequence of any such circumstances as are mentioned in subsection (5) above may be made at any time between—

(a) the time when those circumstances arise, and

(b) the time 12 months after notice of the circumstances is given to the inspector by the shipowner.

(7) In this section references to the shipowner, in relation to the giving of any notice, shall have effect where there have been any such changes as are mentioned in section 33D(7)(b) in the persons engaged in carrying on the shipowner's actual trade, as references to the persons who, in consequence of those changes, are carrying on that trade at the time of the giving of the notice or, as the case may be, when the notice is required to be given."

1990 c. 1.
1994 c. 9.

(2) In section 42(7)(c) of the Management Act (procedure for making claims under the Capital Allowances Act 1990 in the case of a partnership), so far as that section has effect as inserted by paragraph 13 of Schedule 19 to the Finance Act 1994 (self-assessment cases), after "33," there shall be inserted "33A,".

(3) In the second column of the Table in section 98 of the Management Act (penalties in respect of certain information provisions), in the entry relating to sections 23(2), 48 and 49(2) of the Capital Allowances Act 1990, after "23(2)," there shall be inserted "33F(5),".

Deferred charges: commencement and transitional provisions.

98.—(1) Sections 94 to 97 above shall have effect, subject to the following provisions of this section, in relation to every chargeable period ending on or after 21st April 1994.

(2) Those sections do not apply for the purposes of income tax in relation to a chargeable period if—

(a) that period is a year of assessment as respects which Chapter IV of Part IV of the Finance Act 1994 (changes for facilitating self-assessment) does not apply to the shipowner's actual trade ("a transitional year"); and

1994 c. 9.

(b) the basis period for that chargeable period ended before 21st April 1994.

(3) Where the relevant period is a transitional year the references in paragraphs (b) and (c) of section 33A(1) of the Capital Allowances Act 1990 ("the 1990 Act") to the relevant period shall have effect for the purposes of income tax as if they were references to the basis period for the relevant period.

1990 c. 1.

(4) Where the relevant period is a transitional year or any other year of assessment as respects which section 140 of the 1990 Act has effect without the substitution made by section 211 of the Finance Act 1994, section 33A(3)(d) and (7) of the 1990 Act shall have effect for the purposes of income tax—

(a) subject to the assumption for which subsection (5) below provides; and

(b) as if the reference to the shipowner incurring a loss in his actual trade for the relevant period were a reference to his incurring a loss in that trade for the period ("the assessment period") any profits or gains of which would have been the profits or gains on which income tax chargeable for the relevant period in respect of that trade would finally have fallen to be computed.

(5) That assumption is that in computing the profits or gains of the assessment period which arise from the shipowner's actual trade, and in computing whether he has incurred a loss in that trade for that period, all such deductions and additions were to be made as would have to be made if—

(a) allowances falling to be made under the 1990 Act for the relevant period in taxing that trade (excluding any allowances carried forward to the relevant period by virtue of section 140(4) of the 1990 Act) were trading expenses of the trade for the assessment period; and

(b) charges falling to be so made (apart from any allowances so carried forward) were charges on amounts falling to be treated as trading receipts of that trade for the assessment period.

(6) In relation to expenditure incurred in the basis period for a transitional year—

(a) the reference in section 33C(2)(a) of the 1990 Act to the chargeable period in which the expenditure is incurred shall have effect as a reference to the chargeable period in the basis period for which it was incurred; and

(b) the reference in section 33F(4) of the 1990 Act to a chargeable period shall include a reference to a basis period.

(7) Section 33F(2) of the 1990 Act shall not apply to any claim under section 33A for the deferment of the whole or any part of any charge for a transitional year, but no such claim shall be allowed for the purposes of income tax unless it is made—

(a) within two years of the end of the relevant period; and

(b) in a case where the shipowner's actual trade is carried on by two or more persons jointly, by the person required under section 9 of the Management Act (partnership return) to make a return for that period in respect of that trade.

(8) Expressions used in this section and in the provisions inserted by sections 94 to 97 above in the 1990 Act shall have the same meanings in this section as in those provisions.

Capital allowances: other provisions

Highway concessions.

1990 c. 1.

99.—(1) The Capital Allowances Act 1990 shall be amended as follows.

(2) In section 3(5) (right to charge road tolls deemed to be interest in land for the purposes of writing-down allowance), for "charge tolls" there shall be substituted "a highway concession".

(3) In subsection (1) of section 4 (events giving rise to balancing allowances or charges), after paragraph (d) there shall be inserted the following paragraph—

"(da) that interest, being a highway concession, is brought to or comes to an end, or".

(4) After subsection (2) of section 4 there shall be inserted the following subsections—

"(2AA) No balancing allowance or balancing charge shall be made by reason of an event falling within paragraph (da) of subsection (1) above if the period for which the concession was granted is deemed for the purposes of this subsection to be extended to include any period after the end of the concession; and for the purposes of this subsection where in the case of any highway concession that period is or is deemed to be different in relation to different parts of the road in respect of which it has been granted such apportionment shall be made for the purposes of this subsection as may be just and reasonable.

(2AB) Where a highway concession in respect of any road ('the prior concession') is brought to or comes to an end in circumstances in which—

(a) the person entitled to that concession is afforded (whether or not in pursuance of any legally enforceable arrangements), and takes advantage of, an opportunity to be granted a renewal of the concession, on the same or modified terms, in respect of the whole or any part of that road, or

(b) that person, or a person who is connected with that person within the terms of section 839 of the principal Act, is so afforded, and takes advantage of, an opportunity to be granted a new concession, on the same or modified terms, in respect of, or of a road that includes, the whole or any part of that road,

then to the extent that the prior concession and the renewed or new concession relate to the same road, the period of the prior concession shall be deemed, for the purposes of subsection (2AA) above, to have been extended or further extended for the period of the renewed or new concession and any question for the purposes of this Part as to what constitutes the relevant interest at any time after the

renewal, or (as the case may be) the grant of the new concession, shall be determined on the assumption that the renewed or new concession is a continuation of the prior concession."

(5) In section 18(1)(da) (definition of "industrial building or structure" to include structure in use for the purposes of a toll road undertaking), for "toll road" there shall be substituted "highway".

(6) In section 20 (meaning of "the relevant interest")—

(a) in subsection (5), for "a toll road, the right to charge tolls" there shall be substituted "any road, a highway concession"; and

(b) in subsection (6)—

(i) in the words before paragraph (a), for "toll road" there shall be substituted "road";

(ii) in paragraph (b), for "charge tolls" there shall be substituted "a highway concession"; and

(iii) in the words after paragraph (b), for "right to charge tolls" there shall be substituted "highway concession".

(7) After subsection (5) of section 21 (interpretation of Part I) there shall be inserted the following subsection—

"(5AA) In this Part—

'highway concession', in relation to any road, means—

(a) any right, in respect of the fact that the road is or will be used by the general public, to receive sums from the Secretary of State or from the Department of the Environment for Northern Ireland, or

(b) where that road is a toll road, the right to charge tolls in respect of the road,

and

'highway undertaking' means so much of any undertaking relating to the design, building, financing and operation of any roads as is carried on for the purposes of, or in connection with, the exploitation of highway concessions."

(8) In subsections (5A) and (5B) of section 21, for the words "toll road undertaking", in each place where they occur, there shall be substituted "highway undertaking"; and in subsection (5B) for "toll road comprised in it" there shall be substituted "road in relation to which it is carried on".

(9) In section 156 (meaning of sale, insurance, salvage or compensation moneys), after paragraph (d) there shall be inserted the following paragraph—

"(e) where the event is the bringing or coming to an end of a highway concession (within the meaning of Part I), any insurance moneys or other compensation received by him in respect of any expenditure which is, or for the purposes of that Part is deemed to be, capital expenditure on the construction of the road in question, in so far as that compensation consists of capital sums."

(10) This section has effect in relation to expenditure incurred on or after 6th April 1995.

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Arrangements affecting the value of a relevant interest.

1990 c. 1.

100.—(1) After section 10C of the Capital Allowances Act 1990 there shall be inserted the following section—

"Arrangements affecting the value of the purchased interest.

10D.—(1) This section has effect for determining the following amounts, that is to say—

(a) any amount which for the purposes of any of sections 10 to 10C is to be taken to be the sum paid on the sale of the relevant interest in any building or structure; and

(b) any amount which for the purposes of sections 1 to 8 is to be taken to be the amount of any sale, insurance, salvage or compensation moneys payable in respect of any building or structure where—

(i) a person is deemed, under any of sections 10 to 10C, to have incurred expenditure on the construction of the building or structure; and

(ii) the amount of the deemed expenditure is taken, under those sections, to have been equal to the price paid on a sale of the relevant interest in the building or structure;

and in this section 'the relevant amount' means the amount falling to be determined and 'the basic amount' means whatever would be the relevant amount for the purposes of this Part if the provisions of this section were disregarded.

(2) Where—

(a) arrangements falling within subsection (3) below have been entered into, and

(b) those arrangements contain any provision having an artificial effect on pricing,

the relevant amount shall be taken to be equal to the basic amount less so much of the basic amount as, on a just apportionment, represents the extent to which the sale price or, as the case may be, the amount of the sale, insurance, salvage or compensation moneys is more than it would have been if those arrangements had not contained that provision.

(3) The arrangements falling within this subsection are any arrangements relating to, or to any other arrangements made with respect to, any interest in or right over the building or structure in question (whether granted by the person entitled to the relevant interest or by somebody else), so far as they are arrangements which—

(a) were entered into between any two or more persons at or before the time mentioned in subsection (5) below; and

(b) had the effect at the time so mentioned of enhancing the value of the relevant interest in that building or structure.

(4) For the purposes of this section arrangements falling within subsection (3) above in relation to any building or structure shall be treated as containing a provision having an artificial effect on pricing to the extent that they go beyond what, at the time they were entered into, it was reasonable to regard as required, so far as transactions involving interests in or rights over buildings or structures of the same or a similar description were concerned, by the market conditions then prevailing for persons dealing with each other at arm's length in the open market.

(5) The time mentioned in subsection (3)(a) above is—

(a) in relation to the determination of an amount falling within subsection (1)(a) above, the time of the fixing of the sale price for the sale in question; and

(b) in relation to the determination of an amount falling within subsection (1)(b) above, the time of the fixing of the sale price for the sale by reference to which the amount of the deemed expenditure on the construction of the building or structure fell to be determined in accordance with any of sections 10 to 10C."

(2) In section 151 of that Act (procedure on apportionments), after subsection (1) there shall be inserted the following subsection—

"(1A) This section applies in relation to so much of the determination of any price, or of any sale, insurance, salvage or compensation moneys, as is made in accordance with section 10D as it applies in relation to apportionments."

(3) This section has effect in relation to determinations on or after 29th November 1994 except where the time referred to in subsection (5) of the section 10D inserted in the Capital Allowances Act 1990 by this section would, in relation to the amount to be determined, be the time of the fixing of a sale price which either—

1990 c. 1.

(a) became payable before 29th November 1994; or

(b) being an amount becoming payable before 6th April 1995, was fixed by a contract entered into before 29th November 1994.

Import warehouses etc.

101. Section 18(1)(f)(iv) of the Capital Allowances Act 1990 (industrial building or structure to include building or structure used for the storage of goods arriving by sea or air into the United Kingdom) shall have effect, and be deemed always to have had effect, as if for "by sea or air into any part of" there were substituted "in any part of the United Kingdom from a place outside".

Commencement of certain provisions.

1994 c. 9.

102.—(1) Chapter IV of Part IV of the Finance Act 1994 (changes for facilitating self-assessment) shall be deemed to have been enacted with the following modification.

(2) In section 218 (commencement etc. of Chapter IV, sections 213(4) and (8) and 214(4) and (6) of which relate to capital allowances) the following subsection shall be inserted after subsection (1)—

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"(1A) In a case where—

(a) a trade is set up and commenced by a company, and

(b) it is not set up and commenced before 6th April 1994,

sections 213(4) and (8) and 214(4) and (6) have effect only if it is set up and commenced on or after 6th April 1995."

Management: self-assessment etc.

Liability of trustees.

103.—(1) In subsection (2) of section 7 of the Management Act (notice of liability)—

(a) for the words "a person who is" there shall be substituted the words "persons who are"; and

(b) for the words "a trustee" there shall be substituted the words "the relevant trustees".

(2) After subsection (8) of that section there shall be inserted the following subsection—

"(9) For the purposes of this Act the relevant trustees of a settlement are—

(a) in relation to income, the persons who are trustees when the income arises and any persons who subsequently become trustees; and

(b) in relation to chargeable gains, the persons who are trustees in the year of assessment in which the chargeable gains accrue and any persons who subsequently become trustees."

(3) In subsection (1) of section 8A of that Act (trustee's return)—

(a) for the words "a trustee" there shall be substituted the words "the relevant trustees"; and

(b) for the words "the trustee", in the first place where they occur, there shall be substituted the words "any relevant trustee".

(4) After subsection (4) of that section there shall be inserted the following subsection—

"(5) The following references, namely—

(a) references in section 9 or 28C of this Act to a person to whom a notice has been given under this section being chargeable to tax; and

(b) references in section 29 of this Act to such a person being assessed to tax,

shall be construed as references to the relevant trustees of the settlement being so chargeable or, as the case may be, being so assessed."

(5) At the beginning of Part XI of that Act (miscellaneous and supplemental) there shall be inserted the following section—

"Settlements

Relevant trustees.

107A.—(1) Subject to the following provisions of this section, anything which for the purposes of this Act is done at any time by or in relation to any one or more of

the relevant trustees of a settlement shall be treated for those purposes as done at that time by or in relation to the other or others of those trustees.

(2) Subject to subsection (3) below, where the relevant trustees of a settlement are liable—

(a) to a penalty under section 7, 12B, 93, 95 or 97AA of this Act or paragraph 2A of Schedule 1A to this Act, or to interest under section 103A of this Act on such a penalty;

(b) to make a payment in accordance with an assessment under section 30 of this Act, or to make a payment under section 59A or 59B of this Act;

(c) to a surcharge under section 59C of this Act, or to interest under that section on such a surcharge; or

(d) to interest under section 86 of this Act,

the penalty, interest, payment or surcharge may be recovered (but only once) from any one or more of those trustees.

(3) No amount may be recovered by virtue of subsection (2)(a) or (c) above from a person who did not become a relevant trustee until after the relevant time, that is to say—

(a) in relation to so much of a penalty under section 93(3) or 97AA(1)(b) of this Act as is payable in respect of any day, or to interest under section 103A of this Act on so much of such a penalty as is so payable, the beginning of that day;

(b) in relation to a penalty under any other provision of this Act mentioned in subsection (2)(a) above, or to interest under section 103A of this Act on such a penalty, the time when the relevant act or omission occurred; and

(c) in relation to a surcharge under subsection (2) or (3) of section 59C of this Act, or to interest under that section on such a surcharge, the beginning of the day mentioned in that subsection;

and in paragraph (b) above 'the relevant act or omission' means the act or omission which caused the penalty to become payable.

(4) In a case where—

(a) subsection (2)(a) above applies in relation to a penalty under section 93 of this Act, or

(b) subsection (2)(c) above applies in relation to a surcharge under section 59C of this Act,

subsection (8) of section 93 or, as the case may be, subsection (9) of section 59C of this Act shall have effect as if the reference to the taxpayer were a reference to each of the relevant trustees."

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(6) In section 118 of that Act (interpretation), after the definition of "the principal Act" there shall be inserted the following definition—

"'the relevant trustees', in relation to a settlement, shall be construed in accordance with section 7(9) of this Act."

(7) Unless the contrary intention appears, this section, sections 104 to 115 below and Schedule 20 to this Act—

(a) so far as they relate to income tax and capital gains tax, have effect as respects the year 1996-97 and subsequent years of assessment, and

(b) so far as they relate to corporation tax, have effect as respects accounting periods ending on or after the appointed day for the purposes of Chapter III of Part IV of the Finance Act 1994.

1994 c. 9.

Returns and self-assessments.

104.—(1) In each of the following, namely—

(a) subsection (1A) of section 8 of the Management Act (personal return); and

(b) subsection (1A) of section 8A of that Act (trustee's return),

there shall be inserted at the end the words "and the amounts referred to in that subsection are net amounts, that is to say, amounts which take into account any relief, allowance or repayment of tax for which a claim is made and give credit for any income tax deducted at source and any tax credit to which section 231 of the principal Act applies".

(2) In subsection (1B) of section 8 of that Act, for the word "loss" there shall be substituted the words "loss, tax, credit".

(3) After subsection (4) of that section there shall be inserted the following subsection—

"(5) In this section and sections 8A, 9 and 12AA of this Act, any reference to income tax deducted at source is a reference to income tax deducted or treated as deducted from any income or treated as paid on any income."

(4) In subsection (1) of section 9 of that Act (returns to include self-assessment), for the words "on the basis of the information contained in the return" there shall be substituted the following paragraphs—

"(a) on the basis of the information contained in the return; and

(b) taking into account any relief, allowance or repayment of tax a claim for which is included in the return and giving credit for any income tax deducted at source and any tax credit to which section 231 of the principal Act applies,".

(5) In subsection (1) of section 11AA of that Act (return of profits to include self-assessment), for the words "on the basis of the information contained in the return" there shall be substituted the following paragraphs—

"(a) on the basis of the information contained in the return; and

(b) taking into account any relief, allowance or repayment of tax a claim for which is included in the return,".

(6) For subsection (1) of section 12AA of that Act (partnership return) there shall be substituted the following subsections—

"(1) Where a trade, profession or business is carried on by two or more persons in partnership, for the purpose of facilitating the establishment of the following amounts, namely—

(a) the amount in which each partner chargeable to income tax for any year of assessment is so chargeable, and

(b) the amount in which each partner chargeable to corporation tax for any period is so chargeable,

an officer of the Board may act under subsection (2) or (3) below (or both).

(1A) The amounts referred to in paragraphs (a) and (b) of subsection (1) above are net amounts, that is to say, amounts which—

(a) take into account any relief, allowance or repayment of tax for which a claim is made; and

(b) in the case of the amount referred to in paragraph (a) of that subsection, give credit for any income tax deducted at source and any tax credit to which section 231 of the principal Act applies."

(7) For subsection (1) of section 12AB of that Act (partnership return to include partnership statement) there shall be substituted the following subsection—

"(1) Every return under section 12AA of this Act shall include a statement (a partnership statement) of the following amounts, namely—

(a) in the case of each period of account ending within the period in respect of which the return is made—

(i) the amount of income or loss from each source which, on the basis of the information contained in the return and taking into account any relief or allowance a section 42(7) claim for which is included in the return, has accrued to or has been sustained by the partnership for that period,

(ii) each amount of income tax which, on that basis, has been deducted or treated as deducted from any income of the partnership, or treated as paid on any such income, for that period,

(iii) the amount of each tax credit which, on that basis, has accrued to the partnership for that period, and

(iv) the amount of each charge which, on that basis, was a charge on the income of the partnership for that period; and

(b) in the case of each such period and each of the partners, the amount which, on that basis and (where applicable) taking into account any such relief or allowance, is equal to his share of that income, loss, tax, credit or charge."

(8) In subsection (5) of that section, after the definition of "period of account" there shall be inserted the following definitions—

"'section 42(7) claim' means a claim under any of the provisions mentioned in section 42(7) of this Act;

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'tax credit' means a tax credit to which section 231 of the principal Act applies."

Records for purposes of returns.

105.—(1) In subsection (1) of section 12B of the Management Act (records to be kept for purposes of returns), for paragraph (b) there shall be substituted the following paragraph—

"(b) preserve those records until the end of the relevant day, that is to say, the day mentioned in subsection (2) below or, where a return is required by a notice given on or before that day, whichever of that day and the following is the latest, namely—

(i) where enquiries into the return or any amendment of the return are made by an officer of the Board, the day on which, by virtue of section 28A(5) or 28B(5) of this Act, those enquiries are treated as completed; and

(ii) where no enquiries into the return or any amendment of the return are so made, the day on which such an officer no longer has power to make such enquiries."

(2) In subsection (2) of that section, the words from "or, where a return" to the end shall cease to have effect.

(3) After that subsection there shall be inserted the following subsection—

"(2A) Any person who—

(a) is required, by such a notice as is mentioned in subsection (1) above given at any time after the end of the day mentioned in subsection (2) above, to make and deliver a return for a year of assessment or other period; and

(b) has in his possession at that time any records which may be requisite for the purpose of enabling him to make and deliver a correct and complete return for the year or period,

shall preserve those records until the end of the relevant day, that is to say, the day which, if the notice had been given on or before the day mentioned in subsection (2) above, would have been the relevant day for the purposes of subsection (1) above."

(4) In subsection (3) of that section—

(a) in paragraph (a), after the words "subsection (1)" there shall be inserted the words "or (2A)"; and

(b) in paragraph (b), for the words "the day mentioned in subsection (2) above" there shall be substituted the words "the end of the relevant day".

(5) In subsection (4) of that section, after the words "subsection (1)" there shall be inserted the words "or (2A)".

(6) In subsection (5) of that section—

(a) at the beginning there shall be inserted the words "Subject to subsection (5A) below,"; and

(b) after the words "subsection (1)" there shall be inserted the words "or (2A)".

(7) After that subsection there shall be inserted the following subsection—

"(5A) Subsection (5) above does not apply where the records which the person fails to keep or preserve are records which might have been requisite only for the purposes of claims, elections or notices which are not included in the return."

Return of employees' emoluments etc.

106.—(1) For section 15 of the Management Act there shall be substituted the following section—

"Return of employees' emoluments etc.

15.—(1) Every employer, when required to do so by notice from an officer of the Board, shall, within the time limited by the notice, prepare and deliver to the officer a return relating to persons who are or have been employees of his, containing the information required under the following provisions of this section.

(2) An employer shall not be required to include in his return information relating to any year of assessment if the notice is given more than five years after the 31st January next following that year.

(3) A notice under subsection (1) above—

(a) shall specify the employees for whom a return is to be made and may, in particular, specify individuals (by name or otherwise) or all employees of an employer or all his employees who are or have been in employment to which Chapter II of Part V of the principal Act applies; and

(b) shall specify the years of assessment or other periods with respect to which the information is to be provided.

(4) A notice under subsection (1) above may require the return to state the name and place of residence of an employee to whom it relates.

(5) A notice under subsection (1) above may require the return to contain, in respect of an employee to whom it relates, the following particulars—

(a) in the case of relevant payments made by the employer, particulars of the payments;

(b) in the case of relevant payments not falling within paragraph (a) above the making of which by another person has been arranged by the employer—

(i) particulars of the payments; and

(ii) the name and business address of the other person; and

(c) in the case of relevant payments not falling within either of the preceding paragraphs, the name and business address of any person who has, to the employer's knowledge, made the payments.

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(6) Any payments made to an employee in respect of his employment are relevant payments for the purposes of this section, including—

(a) payments to him in respect of expenses (including sums put at his disposal and paid away by him);

(b) payments made on his behalf and not repaid; and

(c) payments to him for services rendered in connection with a trade or business, whether the services were rendered in the course of his employment or not.

(7) Where, for the purposes of his return, an employer apportions expenses incurred partly in or in connection with a particular matter and partly in or in connection with other matters—

(a) the return shall contain a statement that the sum included in the return is the result of such an apportionment; and

(b) if required to do so by notice from an officer of the Board, the employer shall prepare and deliver to the officer, within the time limited by the notice, a return containing full particulars as to the amount apportioned and the manner in which, and the grounds on which, the apportionment has been made.

(8) A notice under subsection (1) above may require the return—

(a) to state in respect of an employee to whom it relates whether any benefits are or have been provided for him (or for any other person) by reason of his employment, such as may give rise to charges to tax under the relevant sections, that is to say, sections 141, 142, 143, 144A, 145, 146 and 154 to 165 of the principal Act (miscellaneous benefits in cash or in kind); and

(b) if such benefits are or have been provided, to contain such particulars of those benefits as may be specified in the notice.

(9) Where such benefits are provided the notice may, without prejudice to subsection (8)(b) above, require the return to contain the following particulars—

(a) in the case of benefits which are or have been provided by the employer, particulars of the amounts which may be chargeable to tax by virtue of the relevant sections;

(b) in the case of benefits not falling within paragraph (a) above the provision of which by another person is or has been arranged by the employer—

(i) particulars of the amounts which may be so chargeable; and

(ii) the name and business address of the other person; and

(c) in the case of benefits not falling within either of the preceding paragraphs, the name and business address of any person who has, to the employer's knowledge, provided the benefits.

(10) Where it appears to an officer of the Board that a person has, in any year of assessment, been concerned in making relevant payments to, or providing benefits to or in respect of, employees of another, the officer may at any time up to five years after the 31st January next following that year by notice require that person—

(a) to deliver to the officer, within the time limited by the notice, such particulars of those payments or benefits, or of the amounts which may be chargeable to tax in respect of the benefits, as may be specified in the notice (so far as known to him); and

(b) to include with those particulars the names and addresses (so far as known to him) of the employees concerned.

(11) In determining, in pursuance of a notice under subsection (1) or (10) above, amounts which may be chargeable to tax by virtue of the relevant sections, a person—

(a) shall not make—

(i) any deduction or other adjustment which he is unable to show, by reference to information in his possession or otherwise available to him, is authorised or required by the relevant sections; or

(ii) any deduction authorised by section 141(3), 142(2), 145(3) or 156(8) of the principal Act; but

(b) subject to that, shall make all such deductions and other adjustments as may be authorised or required by the relevant sections.

(12) Where the employer is a body of persons, the secretary of the body or other officer (by whatever name called) performing the duties of secretary shall be treated as the employer for the purposes of this section.

Where the employer is a body corporate, that body corporate, as well as the secretary or other officer, shall be liable to a penalty for failure to comply with this section.

(13) In this section—

'arranged' includes guaranteed and in any way facilitated;

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'employee' means an office holder or employee whose emoluments fall to be assessed under Schedule E, and related expressions are to be construed accordingly;

'relevant payments' has the meaning given by subsection (6) above; and

'the relevant sections' has the meaning given by subsection (8)(a) above."

(2) This section has effect as respects payments made or benefits provided on or after 6th April 1996.

Procedure for making claims etc.

107.—(1) After subsection (1) of section 42 of the Management Act (procedure for making claims etc.) there shall be inserted the following subsection—

"(1A) Subject to subsection (3) below, a claim for a relief, an allowance or a repayment of tax shall be for an amount which is quantified at the time when the claim is made."

(2) In subsection (2) of that section, for the words "subsection (3)" there shall be substituted the words "subsections (3) and (3A)".

(3) In subsection (3) of that section, for the words "Subsection (2)" there shall be substituted the words "Subsections (1A) and (2)".

(4) After subsection (3) of that section there shall be inserted the following subsections—

"(3A) Where a person makes a claim requiring relief for a loss incurred or treated as incurred, or a payment made, in one year of assessment ('the later year') to be given in an earlier year of assessment ('the earlier year')—

(a) subsection (2) above shall not apply in relation to the claim;

(b) the claim shall be made in relation to the later year;

(c) the claim shall be for an amount equal to the difference between—

(i) the amount in which he has been assessed to tax under section 9 of this Act for the earlier year; and

(ii) the amount in which he would have been so assessed if the claim could have been, and had been, included in a return made under section 8 or 8A of this Act for that year; and

(d) effect shall be given to the claim in relation to the later year, whether by repayment or set-off, or by an addition to the aggregate amount given by section 59B(1)(b) of this Act, or otherwise.

(3B) Where no notice under section 8 or 8A of this Act has been given to the person for the earlier year, subsection (3A)(c) above shall have effect as if—

(a) sub-paragraph (i) referred to the amount in which he would have been assessed to tax under section 9 of this Act for that year if such a notice had been so given; and

(b) sub-paragraph (ii) referred to the amount in which he would have been so assessed if such a notice had been so given and the claim could have been, and had been, included in a return made under section 8 or 8A of this Act for that year."

(5) In subsection (4) of that section, there shall be inserted at the beginning the words "Subject to subsection (4A) below,".

(6) After subsection (4) of that section there shall be inserted the following subsection—

"(4A) Subsection (4) above shall not apply where—

(a) the company is wholly exempt from corporation tax or is only not so exempt in respect of trading income; and

(b) the tax credit is not one in respect of which a payment on account may be claimed by the company under Schedule 19AB to the principal Act."

(7) In subsection (5) of that section, for the words "subsections (2) and (4) above" there shall be substituted the words "this section".

(8) In subsection (7)(a) of that section, for the words "sections 84" there shall be substituted the words "sections 62A, 84".

(9) In subsection (10) of that section, after the words "This section" there shall be inserted the words "(except subsection (1A) above)".

(10) In subsection (11) of that section, paragraph (b) and the word "and" immediately preceding that paragraph shall cease to have effect.

(11) Schedule 1A to that Act (claims etc. not included in returns) shall have effect subject to the amendments specified in Schedule 20 to this Act.

Payments on account of income tax.

108.—(1) In subsection (1) of section 59A of the Management Act (payments on account of income tax)—

(a) there shall be inserted at the beginning the words "Subject to subsection (9) below,"; and

(b) in paragraph (a), for the words "has been assessed" there shall be substituted the words "is assessed".

(2) In subsection (2) of that section, for the words "subsection (4)" there shall be substituted the words "subsections (4) and (4A)".

(3) After subsection (4) of that section there shall be inserted the following subsection—

"(4A) If as regards the year immediately preceding the year of assessment—

(a) the taxpayer is assessed to income tax under section 9 of this Act after the date on or before which either payment on account is required to be made, or

(b) his assessment to income tax under that section is amended after that date,

then, subject to subsections (3) and (4) above and to any subsequent application of this subsection, the amount of the payment on account shall be, and shall be deemed always to have been, equal to 50 per cent. of the relevant amount as determined on the basis of the assessment or, as the case may be, the assessment as amended."

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(4) In subsection (5) of that section—

(a) after the words "the taxpayer makes a claim under subsection (3) or (4) above" there shall be inserted the words "or subsection (4A) above applies"; and

(b) after the words "whether by the repayment of amounts paid on account" there shall be inserted the words ", by the making of payments or further payments on account".

(5) For subsection (8) of that section there shall be substituted the following subsections—

"(8) In this section, in relation to a year of assessment, any reference to the amount of any income tax deducted at source is a reference to the amount by which the aggregate of the following, namely—

(a) any income tax deducted or treated as deducted from any income, or treated as paid on any income, in respect of the year, and

(b) any amounts which, in respect of the year, are to be deducted at source under section 203 of the principal Act in subsequent years, or are tax credits to which section 231 of that Act applies,

exceeds the aggregate of any amounts which, in the year, are deducted at source under the said section 203 in respect of previous years.

(9) If, at any time before the 31st January next following a year of assessment, an officer of the Board so directs—

(a) this section shall not apply, and shall be deemed never to have applied, as regards that year to any person specified in the direction; and

(b) there shall be made all such adjustments, whether by the repayment of amounts paid on account or otherwise, as may be required to give effect to the direction."

Surcharges on unpaid tax.

109.—(1) In section 59C of the Management Act (surcharges on unpaid income tax and capital gains tax), in subsection (4) (exceptions to surcharge), for the words "or 95" there shall be substituted the words ", 95 or 95A".

(2) That section of that Act shall apply in relation to any income tax or capital gains tax which—

(a) is charged by an assessment made on or after 6th April 1998; and

(b) is for the year 1995-96 or an earlier year of assessment,

as it applies in relation to any income tax or capital gains tax which becomes payable in accordance with section 55 or 59B of that Act and is for the year 1996-97 or a subsequent year of assessment.

Interest on overdue tax.

110.—(1) For section 86 of the Management Act there shall be substituted the following section—

"Interest on overdue income tax and capital gains tax.

86.—(1) The following, namely—

(a) any amount on account of income tax which becomes due and payable in accordance with section 59A(2) of this Act, and

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(b) any income tax or capital gains tax which becomes due and payable in accordance with section 55 or 59B of this Act,

shall carry interest at the rate applicable under section 178 of the Finance Act 1989 from the relevant date until payment.

1989 c. 26.

(2) For the purposes of subsection (1)(a) above the relevant date is whichever of the dates mentioned in section 59A(2) of this Act is applicable; and for the purposes of subsection (1)(b) above the relevant date is—

(a) in any such case as is mentioned in subsection (3) of section 59B of this Act, the last day of the period of three months mentioned in that subsection; and

(b) in any other case, the date mentioned in subsection (4) of that section.

(3) Subsection (1) above applies even if the relevant date is a non-business day within the meaning of section 93 of the Bills of Exchange Act 1882.

1882 c. 61.

(4) Subsection (5) below applies where as regards a year of assessment—

(a) any person makes a claim under subsection (3) or (4) of section 59A of this Act in respect of the amounts (the section 59A amounts) payable by him in accordance with subsection (2) of that section, and

(b) an amount (the section 59B amount) becomes payable by him in accordance with section 59B(3), (4) or (5) of this Act.

(5) Interest shall be payable under this section as if each of the section 59A amounts had been equal to—

(a) the aggregate of that amount and 50 per cent. of the section 59B amount, or

(b) the amount which would have been payable in accordance with subsection (2) of section 59A of this Act if the claim under subsection (3) or (4) of that section had not been made,

whichever is the less.

(6) In determining for the purposes of subsections (4) and (5) above what amount (if any) is payable by any person in accordance with section 59B(3), (4) or (5) of this Act—

(a) it shall be assumed that both of the section 59A amounts have been paid, and

(b) no account shall be taken of any amount which has been paid on account otherwise than under section 59A(2) of this Act or is payable by way of capital gains tax.

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(7) Subsection (8) below applies where as regards any person and a year of assessment—

(a) amounts (the section 59A amounts) become payable by him in accordance with section 59A(2) of this Act, and

(b) an amount (the section 59B amount) becomes repayable to him in accordance with section 59B (3), (4) or (5) of this Act.

(8) So much of any interest payable under this section on either of the section 59A amounts as is not attributable to the amount by which that amount exceeds 50 per cent. of the section 59B amount shall be remitted.

(9) In determining for the purposes of subsections (7) and (8) above what amount (if any) is repayable to any person in accordance with section 59B(3), (4) or (5) of this Act, no account shall be taken of any amount which has been paid on account otherwise than under section 59A(2) of this Act or is payable by way of capital gains tax."

(2) That section of that Act shall apply in relation to any income tax or capital gains tax which—

(a) is charged by an assessment made on or after 6th April 1998; and

(b) is for the year 1995-96 or an earlier year of assessment,

as it applies in relation to any income tax or capital gains tax which becomes due and payable in accordance with section 55 or 59B of that Act and is for the year 1996-97 or a subsequent year of assessment.

(3) In that section of that Act as it so applies, "the relevant date" means the 31st January next following the year of assessment.

Assessments in respect of income taken into account under PAYE.

111.—(1) For section 205 of the Taxes Act 1988 there shall be substituted the following section—

"Assessments unnecessary in certain circumstances.

205.—(1) Subject to the provisions of this section, no assessment need be made in respect of income assessable to income tax for any year of assessment if the income has been taken into account in the making of deductions or repayments of income tax by virtue of regulations made under section 203.

(2) Subsection (1) above does not apply if the total net tax deducted in the year in question from the income is not the same as it would have been if—

(a) all the relevant circumstances had been known to all parties throughout the year;

(b) deductions and repayments had throughout the year been made accordingly; and

(c) the deductions and repayments had been so made by reference to cumulative tax tables.

(3) Nothing in this section shall be construed as preventing an assessment (whether under section 9 of the

Management Act or otherwise) being made in respect of income assessable to income tax for any year of assessment.

(4) A person as regards whose income for a year of assessment deductions or repayments have been made may by notice, given not later than five years after the 31st October next following that year, require an officer of the Board to give him notice under section 8 of that Act in respect of that year.

(5) In this section—

(a) 'cumulative tax tables' means tax tables prepared under section 203 which are so framed as to require the tax which is to be deducted or repaid on the occasion of each payment made in the year to be ascertained by reference to a total of emoluments paid in the year up to the time of making that payment; and

(b) any reference to the total net tax deducted shall be construed as a reference to the total income tax deducted during the year by virtue of regulations made under section 203, less any income tax repaid by virtue of any such regulations."

(2) In section 206 of that Act (additional provision for certain assessments) the words "under Schedule E" shall cease to have effect.

Recovery of certain amounts deducted or paid under MIRAS.

112.—(1) After section 374 of the Taxes Act 1988 there shall be inserted the following section—

"Interest which never has been relevant loan interest etc.

374A.—(1) This section applies where, in the case of any loan, interest on the loan never has been relevant loan interest or the borrower never has been a qualifying borrower.

(2) Without prejudice to subsection (3) below, in relation to a payment of interest—

(a) as respects which either of the conditions mentioned in paragraphs (a) and (b) of section 374(1) is fulfilled, and

(b) from which a deduction was made as mentioned in section 369(1),

section 369 shall have effect as if the payment of interest were a payment of relevant loan interest made by a qualifying borrower.

(3) Nothing in subsection (2) above shall be taken as regards the borrower as entitling him to make any deduction or to retain any amount deducted and, accordingly, where any amount has been deducted, he shall be liable to make good that amount and an officer of the Board may make such assessments as may in his judgment be required for recovering that amount.

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(4) The Management Act shall apply to an assessment under subsection (3) above as if it were an assessment to income tax for the year of assessment in which the deduction was made and as if—

(a) the assessment were among those specified in section 55(1) of that Act (recovery of tax not postponed);

(b) the assessment were made for the purpose of making good to the Crown a loss of tax wholly attributable to such a failure or error as is mentioned in subsection (1) of section 88 of that Act (interest on tax recovered to make good loss due to taxpayer's fault); and

(c) for the purposes of that section the date when the tax ought to have been paid were the 1st December following the year of assessment.

(5) If the borrower fraudulently or negligently makes any false statement or representation in connection with the making of any deduction, he shall be liable to a penalty not exceeding the amount deducted."

(2) In subsection (2) of section 375 of that Act (interest ceasing to be relevant loan interest etc.), after paragraph (a) there shall be inserted the following paragraph—

"(aa) as respects which any of the conditions mentioned in section 374(1) is fulfilled, and".

(3) For subsection (4) of that section there shall be substituted the following subsections—

"(4) The Management Act shall apply to an assessment under subsection (3) above as it applies, by virtue of subsection (4) of section 374A, to an assessment under subsection (3) of that section.

(4A) If there is any unreasonable delay in the giving of a notice under subsection (1) above, the borrower shall be liable to a penalty not exceeding so much of the aggregate amount that he is liable to make good under subsection (3) above as is attributable to that delay."

(4) After subsection (8) of that section there shall be inserted the following subsection—

"(8A) In any case where an amount to which a person is not entitled is paid to him by the Board in pursuance of regulations made by virtue of subsection (8) above, regulations may—

(a) provide for an officer of the Board to make such assessments as may in his judgment be required for recovering that amount from that person; and

(b) make provision corresponding to that made by subsection (4A) above and subsections (4) and (5) of section 374A."

(5) This section applies in relation to deductions made by borrowers, and payments made by the Board, after the passing of this Act.

Allowable losses: capital gains tax.

1992 c. 12.

113.—(1) After subsection (2) of section 16 of the Taxation of Chargeable Gains Act 1992 (computation of losses) there shall be inserted the following subsection—

"(2A) A loss accruing to a person in a year of assessment shall not be an allowable loss for the purposes of this Act unless, in relation to that year, he gives a notice to an officer of the Board quantifying the amount of that loss; and sections 42 and 43 of the Management Act shall apply in relation to such a notice as if it were a claim for relief."

(2) Deductions under that Act in respect of allowable losses shall be given preference as follows—

(a) a deduction in respect of a loss accruing to a person in the year 1996-97 or a subsequent year of assessment shall be preferred to a deduction in respect of a loss accruing to him in an earlier year of assessment; and

(b) a deduction in respect of a loss accruing to a company in an accounting period ending on or after the appointed day for the purposes of Chapter III of Part IV of the Finance Act 1994 shall be preferred to a deduction in respect of a loss accruing to the company in an accounting period ending before that day.

1994 c. 9.

Liability of trustees and personal representatives: capital gains tax.

114.—(1) For subsection (1) of section 65 of the Taxation of Chargeable Gains Act 1992 (liability for tax of trustees and personal representatives) there shall be substituted the following subsection—

"(1) Subject to subsection (3) below, capital gains tax chargeable in respect of chargeable gains accruing to the trustees of a settlement or capital gains tax due from the personal representatives of a deceased person may be assessed and charged on and in the name of any one or more of the relevant trustees or the relevant personal representatives."

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

"(3) Where section 80 applies as regards the trustees of a settlement ('the migrating trustees'), nothing in subsection (1) above shall enable any person—

(a) who ceased to be a trustee of the settlement before the end of the relevant period, and

(b) who shows that, when he ceased to be a trustee of the settlement, there was no proposal that the trustees might become neither resident nor ordinarily resident in the United Kingdom,

to be assessed and charged to any capital gains tax which is payable by the migrating trustees by virtue of section 80(2).

(4) In this section—

'the relevant period' has the same meaning as in section 82;

'the relevant trustees', in relation to any chargeable gains, means the trustees in the year of assessment in which the chargeable gains accrue and any subsequent trustees of the settlement, and 'the relevant personal representatives' has a corresponding meaning."

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Minor amendments and repeals.

115.—(1) In subsection (7) of section 7 of the Management Act (notice of liability), for the words "income from which" there shall be substituted the words "income on which".

(2) In subsection (3) of section 9 of that Act (returns to include self-assessment), the words "the following provisions of" shall cease to have effect.

(3) Section 11A of that Act (notice of liability to capital gains tax) shall cease to have effect.

(4) In subsection (2) of section 12AA of that Act (partnership return), for the words "such accounts and statements" there shall be substituted the words "such accounts, statements and documents, relating to information contained in the return,".

(5) In subsection (1)(c) of section 30B of that Act (amendment of partnership statement where loss of tax discovered), after the word "relief" there shall be inserted the words "or allowance".

(6) In subsection (6) of section 59B of that Act (payment of income tax and capital gains tax), for the words "under section 29 of this Act shall" there shall be substituted the words "otherwise than under section 9 of this Act shall, unless otherwise provided,".

(7) In subsection (1) of section 100B of that Act (appeals against penalty determinations), after the words "95A of this Act" there shall be inserted the word "and".

(8) In section 103A of that Act (interest on penalties), for the words "Part II or VA" there shall be substituted the words "Part II, IV or VA".

(9) Section 73 of the Taxes Act 1988 (single assessments for purposes of Cases III, IV and V of Schedule D) shall cease to have effect.

(10) In sections 536 and 537B of that Act (taxation of royalties where owner abroad)—

(a) in subsection (2) (exemption from requirement to deduct tax from royalties), the words "are shown on a claim to" shall cease to have effect; and

(b) in subsection (4) (deduction of tax where agent's commission unknown), the words from "and in that case" to the end shall cease to have effect.

(11) In Schedule 3 to that Act (machinery for assessment, charge and payment of income tax under Schedule C and, in certain cases, Schedule D), in paragraph 6E, sub-paragraphs (1) and (3) shall cease to have effect.

1992 c. 12.

(12) Section 7 of the Taxation of Chargeable Gains Act 1992 (time for payment of capital gains tax) shall cease to have effect.

(13) Subsection (3) above has effect as respects the year 1995-96 and subsequent years of assessment.

Transitional provisions.

116.—(1) The provisions of the Management Act specified in Schedule 21 to this Act shall have effect subject to the transitional provisions contained in that Schedule.

1994 c. 9.

(2) Section 198 of the Finance Act 1994 (which is superseded by this section) shall cease to have effect.

Changes for facilitating self-assessment

Treatment of partnerships. 1994 c. 9.

117.—(1) Section 215 of the Finance Act 1994 (treatment of partnerships) shall have effect, and shall be deemed always to have had effect, as if—

(a) for the section set out in subsection (1) of that section there were substituted the section set out in subsection (2) below;

(b) after the said subsection (1) there were inserted the subsection set out in subsection (3) below;

(c) in subsection (2) of section 215, the word "and" were inserted immediately after paragraph (a), and paragraph (c) and the word "and" immediately preceding that paragraph were omitted; and

(d) in subsection (3) of that section, in paragraph (a), for the words from "in subsection (3)" to the end there were substituted the words "subsections (3) and (4)".

(2) Subject to subsection (4) below, the section referred to in subsection (1)(a) above is as follows—

"Treatment of partnerships.

111.—(1) Where a trade or profession is carried on by persons in partnership, the partnership shall not, unless the contrary intention appears, be treated for the purposes of the Tax Acts as an entity which is separate and distinct from those persons.

(2) So long as a trade or profession is carried on by persons in partnership, and any of those persons is chargeable to income tax, the profits or gains or losses arising from the trade or profession ('the actual trade or profession') shall be computed for the purposes of income tax in like manner as if—

(a) the partnership were an individual; and

(b) that individual were an individual resident in the United Kingdom.

(3) A person's share in the profits or gains or losses arising from the actual trade or profession which for any period are computed in accordance with subsection (2) above shall be determined according to the interests of the partners during that period.

(4) Where a person's share in any profits or gains or losses is determined in accordance with subsection (3) above, sections 60 to 63A shall apply as if—

(a) that share of the profits or gains or losses derived from a trade or profession carried on by him alone;

(b) that trade or profession ('the deemed trade or profession') had been set up and commenced by him at the time when he became a partner or, where the actual trade or profession was previously carried on by him alone, the time when the actual trade or profession was set up and commenced;

(c) as regards each year of assessment, any accounting date or accounting change of the actual trade or profession were also an accounting date or accounting change of the deemed trade or profession;

(d) subsection (2) of section 62 applied in relation to any accounting change of the deemed trade or profession if, and only if, on the assumption that the partnership were an individual, that subsection would apply in relation to the corresponding accounting change of the actual trade or profession; and

(e) the deemed trade or profession were permanently discontinued by him at the time when he ceases to be a partner or, where the actual trade or profession is subsequently carried on by him alone, the time when the actual trade or profession is permanently discontinued.

(5) Where section 62(2) does not apply in relation to any accounting change of the deemed trade or profession which is made or treated as made in the year of assessment next following or next but one following the commencement year, sections 60(3)(a) and 61(2)(a) shall apply as if the old date in that year were the accounting date.

(6) For the purpose of determining whether, on the assumption that the partnership were an individual, section 62(2) would apply in relation to an accounting change of the actual trade or profession—

(a) a notice may be given under subsection (3) of section 62A; and

(b) an appeal may be brought under subsection (6) of that section,

by such one of the partners as may be nominated by them for the purposes of this subsection.

(7) Where—

(a) subsections (2) and (3) above apply in relation to the profits or gains or losses of a trade or profession carried on by persons in partnership; and

(b) other income or other relievable losses accrue to those persons by virtue of their being partners,

those subsections shall apply as if references to the profits or gains or losses arising from the trade or profession included references to that other income or those other relievable losses.

(8) Where a person's share in any untaxed income from one or more sources, or in any relievable losses, is

determined in accordance with subsection (3) as applied by subsection (7) above, sections 60 to 63A shall apply as if—

(a) that share of that income or of those losses were profits or gains or losses of a trade or profession carried on by that person alone;

(b) that trade or profession ('the second deemed trade or profession') had been set up and commenced by him at the time when he became a partner;

(c) paragraphs (c) and (d) of subsection (4) and subsection (5) above applied in relation to the second deemed trade or profession as they apply in relation to the other deemed trade or profession;

(d) the second deemed trade or profession were permanently discontinued by him at the time when he ceases to be a partner; and

(e) each source of the income were treated as continuing until the second deemed trade or profession is treated as permanently discontinued.

(9) Where—

(a) the basis period for any year of assessment is given by section 62(2)(b) in the case of a person's second deemed trade or profession, or such a trade or profession is treated as permanently discontinued in any year of assessment; and

(b) the amount falling to be deducted under subsection (1) or (3) of section 63A exceeds that person's share, as determined in accordance with subsection (3) as applied by subsection (7) above, in any untaxed income,

the amount of the excess shall be deducted in computing that person's income for that year.

(10) Subsections (1) to (3) above apply in relation to persons in partnership by whom a business which is not a trade or profession is carried on as they apply in relation to persons in partnership by whom a trade or profession is carried on.

(11) In subsections (2) and (3) above as applied by subsection (10) above, references to the profits or gains or losses arising from the trade or profession shall have effect as references to any income or relievable losses arising from the business.

(12) In this section—

'accounting change' and 'the old date' have the meanings given by section 62(1);

'accounting date' has the meaning given by section 60(5);

'the commencement year', in relation to the deemed trade or profession or the second deemed trade or profession, means the year of assessment in which that trade or profession is deemed to have been set up and commenced;

'income' means any income (whether or not chargeable under Schedule D);

'untaxed income' means income which is not—

(a) income from which income tax has been deducted;

(b) income from or on which income tax is treated as having been deducted or paid; or

(c) income chargeable under Schedule F.

(13) In this section—

(a) any reference to sections 60 to 63A includes a reference to those sections as applied in relation to losses by section 382(3) and (4) and section 385(1); and

(b) any reference to a person becoming or ceasing to be a partner is a reference to his beginning or, as the case may be, ceasing to carry on the actual trade or profession in partnership with other persons."

(3) The subsection referred to in subsection (1)(b) above is as follows—

"(1A) In subsection (2) of section 110 of that Act (interpretation of sections 103 to 109A), for the words from 'any event' to the end there shall be substituted the following paragraphs—

'(a) any event which, under section 113 or 337(1), is to be treated as equivalent to the permanent discontinuance of a trade, profession or vocation; or

(b) in relation to a trade or profession carried on by a person in partnership with other persons, any event which, under subsection (4) of section 111, is to be treated as equivalent to the permanent discontinuance of his deemed trade or profession (within the meaning of that subsection)'."

(4) As respects the year 1994-95, the section set out in subsection (2) above shall have effect as if, in subsection (2) of that section, paragraph (b) and the word "and" immediately preceding that paragraph were omitted.

Loss relief: general.
1994 c. 9.

118. Section 209 of the Finance Act 1994 (loss relief: general) shall have effect, and shall be deemed always to have had effect, as if for subsection (7) (commencement of subsections (3) to (5)) there were substituted the following subsections—

"(7) Subsections (1), (2) and (6) above—

(a) except in their application to a trade set up and commenced on or after 6th April 1994, have effect in relation to losses sustained in the year 1996-97 and subsequent years of assessment; and

(b) in their application to a trade so set up and commenced, have effect in relation to losses sustained in the year 1994-95 and subsequent years of assessment.

(8) Subsections (3) to (5) above—

(a) except in their application to a trade set up and commenced on or after 6th April 1994, have effect in relation to losses sustained in the year 1997-98 and subsequent years of assessment; and

(b) in their application to a trade so set up and commenced, have effect in relation to losses sustained in the year 1994-95 and subsequent years of assessment.

(9) Any reference in subsection (7) or (8) above to a trade includes a reference to a profession, vocation or employment."

Relief for losses on unquoted shares. 1994 c. 9.

119. Section 210 of the Finance Act 1994 (relief for losses on unquoted shares) shall have effect, and shall be deemed always to have had effect, as if, in subsection (2) (commencement), for the words "as respects" there were substituted the words "in relation to losses incurred in".

Relief for pre-trading expenditure.

120.—(1) In section 401 of the Taxes Act 1988 (relief for pre-trading expenditure)—

(a) in subsection (1), for the words from "treated" to the end there shall be substituted the words "treated as incurred on the day on which the trade, profession or vocation is first carried on by him"; and

(b) subsection (2) shall cease to have effect.

(2) This section has effect as respects trades, professions and vocations which are set up and commenced on or after 6th April 1995.

Basis of apportionment for Cases I, II and VI of Schedule D.

121. In section 72(2) of the Taxes Act 1988 (apportionments etc. for purposes of Cases I, II and VI of Schedule D) for the words "months, or fractions of months," there shall be substituted the word "days".

Amendments of transitional provisions.

122.—(1) Schedule 20 to the Finance Act 1994 (changes for facilitating self-assessment: transitional provisions and savings) shall be amended as follows.

(2) In sub-paragraph (4) of paragraph 2 (Cases I and II of Schedule D), after the words "which arise" there shall be inserted the words "after the end of—

(a) the basis period for the year 1996-97; or

(b) in the case of a trade or profession carried on by a person in partnership with other persons, the basis period of the partnership for that year,

and (in either case)".

(3) After that sub-paragraph there shall be inserted the following sub-paragraphs—

"(4A) In calculating the amount of the profits or gains of the basis period for the year 1997-98 which arise as mentioned in sub-paragraph (4) above, any deduction of a capital allowance and any addition of a balancing charge shall be ignored.

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(4B) Sub-paragraph (4A) above does not apply in the case of a trade or profession carried on by persons who include both an individual and a company."

(4) At the beginning of sub-paragraph (5) of paragraph 10 (double taxation relief) there shall be inserted the words "Subject to sub-paragraph (5A) below,".

(5) After that sub-paragraph there shall be inserted the following sub-paragraph—

"(5A) Where the period on the profits or gains of which income tax is chargeable under Case IV or V of Schedule D for the year 1995-96 is that year, sub-paragraph (5) above shall have effect as if for the words from '50 per cent.' to the end there were substituted the words 'the amount of foreign tax paid on income arising, or (as the case may require) received in the United Kingdom, in that year'."

Prevention of exploitation of transitional provisions.
1994 c. 9.

123. Schedule 22 to this Act shall have effect for preventing the exploitation of, and (in certain cases) penalising attempts to exploit, the transitional provisions set out in paragraphs 2(2) and (4), 4(2) and 6(2)(a) and (4) of Schedule 20 to the Finance Act 1994 (changes for facilitating self-assessment: transitional provisions and savings).

Change of residence and non-residents

Change of residence.

124.—(1) In Chapter VI of Part IV of the Taxes Act 1988 (discontinuance and change of basis of computation), after section 110 there shall be inserted the following section—

"Change of residence

Change of residence.

110A.—(1) Where there is a change of residence by an individual who is carrying on any trade, profession or vocation wholly or partly outside the United Kingdom and otherwise than in partnership with others, tax shall be chargeable, and loss relief may be claimed, as if the change—

(a) constituted the permanent discontinuance of the trade, profession or vocation; and

(b) was immediately followed, in so far as the trade, profession or vocation continues to be carried on by that individual, by the setting up and commencement of a new one;

but nothing in this subsection shall prevent any portion of a loss sustained before the change from being carried forward under section 385 and set against profits or gains arising or accruing after the change.

(2) For the purposes of this section there is a change of residence by an individual if—

(a) not being resident in the United Kingdom, he becomes so resident; or

(b) being so resident, he ceases to be so resident."

(2) This section shall have effect as respects the year 1997-98 and subsequent years of assessment and also, in relation only to a trade, profession or vocation set up and commenced on or after 6th April 1994, as respects the years 1995-96 and 1996-97.

Non-resident partners.
1994 c. 9.

125.—(1) The provisions of the Taxes Act 1988 to which sections 215 and 216 of the Finance Act 1994 (partnerships and change of ownership of trade etc.) relate shall have effect as respects the year 1995-96 and subsequent years of assessment as if subsection (5)(b) of section 215 (amendments not to apply until the year 1997-98 to partnerships controlled abroad) were omitted; and the Taxes Act 1988 shall have effect—

(a) as respects the year 1997-98 and subsequent years of assessment, and

(b) in its application with the amendments made by those sections to partnerships whose trades, professions or businesses were set up and commenced on or after 6th April 1994, as respects the years 1995-96 and 1996-97,

with the further amendments specified in the following provisions of this section.

(2) For subsections (1) to (3) of section 112 (partnerships controlled abroad) there shall be substituted the following subsections—

"(1) So long as a trade, profession or business is carried on by persons in partnership and any of those persons is not resident in the United Kingdom, section 111 shall have effect for the purposes of income tax in relation to the partner who is not so resident as if—

(a) the reference in subsection (2)(b) to an individual resident in the United Kingdom were a reference to an individual who is not so resident; and

(b) in subsection (4)(a), after 'carried on' there were inserted 'in the United Kingdom'.

(1A) Where—

(a) any persons are carrying on a trade, profession or business in partnership,

(b) the trade, profession or business is carried on wholly or partly outside the United Kingdom,

(c) the control and management of the trade, profession or business is situated outside the United Kingdom, and

(d) any of the partners who is an individual resident in the United Kingdom satisfies the Board that he is not domiciled in the United Kingdom or that, being a Commonwealth citizen or a citizen of the Republic of Ireland, he is not ordinarily resident in the United Kingdom,

section 111 shall have effect in accordance with subsection (1) above as if that partner were not resident in the United Kingdom and, in addition (as respects that partner as an individual who is in fact resident in the United Kingdom), his interest as a partner, so far as it entitles him to a share of any profits or gains arising from the carrying on of the trade, profession or business otherwise than

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within the United Kingdom, shall be treated for the purposes of Case V of Schedule D as if it were a possession outside the United Kingdom.

(1B) Where any persons are carrying on a trade or profession in partnership, the trade or profession is carried on wholly or partly outside the United Kingdom and an individual who is one of the partners changes his residence (within the meaning of section 110A), it shall be assumed for income tax purposes—

(a) that that individual ceased to be a partner at the time of the change and became one again immediately afterwards; and

(b) in relation to matters arising after the change, that the time when he became a partner is the time immediately after the change;

but nothing in this subsection shall, in relation to that individual, prevent any portion of a loss sustained before the change from being carried forward under section 385 and set against profits or gains arising or accruing after the change."

(3) In that section—

(a) in subsection (4)(a), for "or is deemed to reside outside the United Kingdom" there shall be substituted "outside the United Kingdom or which carries on any trade, profession or business the control and management of which is situated outside the United Kingdom"; and

(b) in subsection (6), for "this section" there shall be substituted "subsections (4) and (5) above".

(4) In section 114(1) (partnerships including companies), after the word "company", in the second place where it occurs, there shall be inserted "and, subject to section 115(4), as if that company were resident in the United Kingdom".

(5) In section 115 (provisions supplementary to section 114), for subsections (4) and (5) there shall be substituted the following subsections—

"(4) So long as a trade, profession or business is carried on by persons in partnership and any of those persons is a company which is not resident in the United Kingdom, section 114 shall have effect in relation to that company as if—

(a) the reference in subsection (1) to a company resident in the United Kingdom were a reference to a company that is not so resident; and

(b) in subsection (2), after 'carried on' there were inserted 'in the United Kingdom through a branch or agency'.

(5) Where the partners in a partnership include a company, subsections (4) and (5) of section 112 shall apply for the purposes of corporation tax as well as for the purposes of income tax, and section 114 shall have effect accordingly."

UK representatives of non-residents.

126.—(1) Schedule 23 to this Act shall have effect for imposing obligations and liabilities in relation to income tax, corporation tax and

capital gains tax on a branch or agency which, under this section, is the UK representative of a person who is not resident in the United Kingdom ("the non-resident").

(2) Subject to the following provisions of this section and to section 127 below, a branch or agency in the United Kingdom through which the non-resident carries on (whether solely or in partnership) any trade, profession or vocation shall, for the purposes of this section and Schedule 23 to this Act, be the non-resident's UK representative in relation to the following amounts, that is to say—

(a) the amount of any such income from the trade, profession or vocation as arises, directly or indirectly, through or from that branch or agency;

(b) the amount of any income from property or rights which are used by, or held by or for, that branch or agency;

(c) amounts which, by reference to that branch or agency, are chargeable to capital gains tax under section 10 of the Taxation of Chargeable Gains Act 1992 (non-residents) or fall under that section to be included in the chargeable profits of the non-resident; and

1992 c. 12.

(d) in a case where the non-resident is an overseas life insurance company, any other amounts which by virtue of paragraph 3 of Schedule 19AC to the Taxes Act 1988 fall by reference to that branch or agency to be included in the company's chargeable profits for the purposes of corporation tax.

(3) For the purposes of this section and Schedule 23 to this Act, the non-resident's UK representative in relation to any amount shall continue to be the non-resident's UK representative in relation to that amount even after ceasing to be a branch or agency through which the non-resident carries on the trade, profession or vocation in question.

(4) For the purposes of this section and Schedule 23 to this Act, the non-resident's UK representative in relation to any amount shall be treated, where he would not otherwise be so treated, as if he were a separate and distinct person from the non-resident.

(5) Where the branch or agency through which the non-resident carries on the trade, profession or vocation is one carried on by persons in partnership, the partnership, as such, shall be deemed for the purposes of this section and Schedule 23 to this Act to be the non-resident's UK representative in relation to the amounts mentioned in subsection (2) above.

(6) Where a trade or profession carried on by the non-resident through a branch or agency in the United Kingdom is one carried on by him in partnership, the trade or profession carried on through that branch or agency shall be deemed, for the purposes of this section and Schedule 23 to this Act, to include the deemed trade or profession from which the non-resident's share in the partnership's profits, gains or losses is treated for the purposes of section 111 or 114 of the Taxes Act 1988 as deriving.

(7) For the purposes of this section and Schedule 23 to this Act where—

(a) a trade or profession carried on by the non-resident in the United Kingdom is one carried on by him in partnership, and

(b) any member of that partnership is resident in the United Kingdom,

the deemed trade or profession from which the non-resident's share in the partnership's profits, gains or losses is treated for the purposes of section 111 or 114 of the Taxes Act 1988 as deriving shall be treated (in addition, where subsection (6) above also applies, to being treated as included in a trade or profession carried on through any such branch or agency as is mentioned in that subsection) as a trade carried on in the United Kingdom through the partnership as such.

(8) In this section "branch or agency" has the same meaning as in the Management Act.

(9) This section and Schedule 23 to this Act apply—

(a) for the purposes of income tax and capital gains tax, in relation to the year 1996-97 and subsequent years of assessment; and

(b) for the purposes of corporation tax, in relation to accounting periods beginning after 31st March 1996.

Persons not treated as UK representatives.

127.—(1) For the purposes of section 126 above and Schedule 23 to this Act, none of the following persons shall be capable of being the non-resident's UK representative in relation to income or other amounts falling within paragraphs (a) to (d) of section 126(2) above, that is to say—

(a) where the income arises from, or the other amounts are chargeable by reference to, so much of any business as relates to transactions carried out through a person who (though an agent of the non-resident) does not act in relation to the transactions in the course of carrying on a regular agency for the non-resident, that agent;

(b) where the income arises from, or the other amounts are chargeable by reference to, so much of any business as relates to transactions carried out through a broker and falling within subsection (2) below, that broker;

(c) where the income arises from, or the other amounts are chargeable by reference to, so much of any business as relates to investment transactions carried out through an investment manager and falling within subsection (3) below, that manager; and

(d) where the non-resident is a member of Lloyd's and the income arises from, or the other amounts are chargeable by reference to, his underwriting business, any person who, in relation to or to matters connected with that income or those amounts, has been the non-resident's members' agent or the managing agent of the syndicate in question.

(2) For the purposes of subsection (1)(b) above where any income arises from, or other amounts are chargeable by reference to, so much of any business as relates to any transaction carried out through a broker, that transaction shall be taken, in relation to the income or other amounts ("the taxable sums"), to fall within this subsection if—

(a) at the time of the transaction, the broker was carrying on the business of a broker;

(b) the transaction was carried out by the broker on behalf of the non-resident in the ordinary course of that business;

(c) the remuneration which the broker received for the provision of the services of a broker to the non-resident in respect of that transaction was at a rate not less than that which would have been customary for that class of business; and

(d) the non-resident does not fall (apart from this paragraph) to be treated as having the broker as his UK representative in relation to any income or other amounts not included in the taxable sums but chargeable to tax for the same chargeable period.

(3) For the purposes of subsection (1)(c) above where any income arises from, or other amounts are chargeable by reference to, so much of any business as relates to any investment transaction, that transaction shall be taken, in relation to that income or those amounts ("the taxable sums"), to have been carried out through an investment manager and to fall within this subsection if—

(a) the transaction was carried out on behalf of the non-resident by a person ("the manager") who at the time was carrying on a business of providing investment management services;

(b) the transaction was carried out in the ordinary course of that business;

(c) the manager, when he acted on behalf of the non-resident in relation to the transaction, did so in an independent capacity;

(d) the requirements of subsection (4) below are satisfied in relation to the transaction;

(e) the remuneration which the manager received for the provision to the non-resident of the investment management services in question was at a rate which was not less than that which would have been customary for that class of business; and

(f) the non-resident does not fall (apart from this paragraph) to be treated as having the manager as his UK representative in relation to any income or other amounts not included in the taxable sums but chargeable to tax for the same chargeable period.

(4) Subject to subsections (9) to (11) below, the requirements of this subsection are satisfied in relation to any transaction if—

(a) there is a qualifying period in relation to which it has been or is the intention of the manager and the persons connected with him that the non-resident's relevant excluded income should, as to at least 80 per cent., consist of amounts to which neither the manager nor any such person has a beneficial entitlement; and

(b) to the extent that there is a failure to fulfil that intention, that failure—

(i) is attributable (directly or indirectly) to matters outside the control of the manager and persons connected with him; and

(ii) does not result from a failure by the manager or any of those persons to take such steps as may be reasonable for mitigating the effect of those matters in relation to the fulfilment of that intention.

(5) For the purposes of this section any reference to the relevant excluded income of the non-resident for a qualifying period is a reference to the aggregate of such of the profits and gains of the non-resident for the chargeable periods comprised in the qualifying period as—

(a) derive from transactions carried out by the manager while acting on the non-resident's behalf; and

(b) for the purposes of section 128 or 129 below would fall (apart from the requirements of subsection (4) above) to be treated as excluded income for any of those chargeable periods.

(6) For the purposes of this section any reference to an amount of relevant excluded income to which a person has a beneficial entitlement is a reference to so much of any amount to which he has or may acquire a beneficial entitlement by virtue of—

(a) any interest of his (whether or not an interest giving a right to an immediate payment of a share in the profits or gains) in property in which the whole or any part of that income is represented, or

(b) any interest of his in or other rights in relation to the non-resident,

as is or would be attributable to that income.

(7) For the purposes of subsections (4) to (6) above references to a qualifying period, in relation to any transaction, are references to any period consisting in or including the chargeable period for which the taxable sums are chargeable to tax, being, in a case where it is not that chargeable period, a period of not more than five years comprising two or more complete chargeable periods.

(8) Where there is a transaction which would fall within subsection (3) above but for its being a transaction in relation to which the requirements of subsection (4) above are not satisfied, this section shall have effect as if the transaction did fall within subsection (3) above but only in relation to so much of the amount of the taxable sums as does not represent any amount of the non-resident's relevant excluded income to which the manager or a person connected with him has or has had any beneficial entitlement.

(9) Subsections (10) and (11) below shall apply, where amounts arise or accrue to the non-resident as a participant in a collective investment scheme, for the purpose of determining whether a transaction carried out for the purposes of that scheme, in so far as it is a transaction in respect of which any such amounts arise or accrue to him, is one in relation to which the requirements of subsection (4) above are satisfied.

(10) Those requirements shall be deemed to be satisfied in relation to the transaction wherever the collective investment scheme is such that, if the following assumptions applied, namely—

(a) that all transactions carried out for the purposes of the scheme were carried out on behalf of a company constituted for the purposes of the scheme and resident outside the United Kingdom, and

(b) that the participants did not have any rights in respect of the amounts arising or accruing in respect of those transactions other than the rights which, if they held shares in the company on whose behalf the transactions are assumed to be carried out, would be their rights as shareholders,

the assumed company would not, in relation to the chargeable period in which the taxable sums are chargeable to tax, be regarded for tax purposes as a company carrying on a trade in the United Kingdom.

(11) Where, on those assumptions, the assumed company would be so regarded for tax purposes, subsections (4) to (8) above shall have effect in relation to the transaction as if, applying those assumptions—

(a) references to the non-resident were references to the assumed company; and

(b) the following subsection were substituted for subsection (5) above, namely—

"(5) In subsection (4) above the reference to the assumed company's relevant excluded income for a qualifying period is a reference to the aggregate of the amounts which would, for the chargeable periods comprised in the qualifying period, be chargeable to tax on that company as profits deriving from the transactions carried out by the manager and assumed to be carried out on the company's behalf."

(12) In this section "investment transactions" means—

(a) transactions in shares, stock, futures contracts, options contracts or securities of any description not mentioned in this paragraph, but excluding futures contracts or options contracts relating to land,

(b) transactions consisting in the buying or selling of any foreign currency or in the placing of money at interest, and

(c) such other transactions as the Treasury may by regulations designate for the purposes of this section;

and the power to make regulations for the purposes of paragraph (c) above shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of the House of Commons.

(13) For the purposes of subsection (12) above a contract is not prevented from being a futures contract or an options contract by the fact that any party is or may be entitled to receive or liable to make, or entitled to receive and liable to make, only a payment of a sum (as opposed to a transfer of assets other than money) in full settlement of all obligations.

(14) The preceding provisions of this section shall have effect in the case of a person who acts as a broker or provides investment management services as part only of a business as if that part were a separate business.

(15) For the purposes of this section—

(a) a person shall be taken to carry out a transaction on behalf of another where he undertakes the transaction himself, whether on behalf of or to the account of that other, and also where he gives instructions for it to be so carried out by another; and

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(b) the references to the income arising from so much of a business as relates to transactions carried out through a branch or agency on behalf of the non-resident shall include references to income from property or rights which, as a result of the transactions, are used by, or held by or for, that branch or agency.

(16) In paragraph (d) of subsection (1) above—

(a) the reference to a member of Lloyd's is a reference to any person who is a member within the meaning of Chapter III of Part II of the Finance Act 1993 or a corporate member within the meaning of Chapter V of Part IV of the Finance Act 1994, and

1993 c. 34.
1994 c. 9.

(b) the references to a members' agent and to a managing agent shall also be construed in accordance with section 184 of that Act of 1993 or, as the case may be, section 230 of that Act of 1994.

(17) In this section—

"branch or agency" has the same meaning as in the Management Act;

"collective investment scheme" has the same meaning as in the Financial Services Act 1986; and

1986 c. 60.

"participant", in relation to a collective investment scheme, shall be construed in accordance with section 75 of that Act of 1986;

and section 839 of the Taxes Act 1988 (connected persons) shall apply for the purposes of this section.

(18) For the purposes of this section a person shall not be regarded as acting in an independent capacity when acting on behalf of the non-resident unless, having regard to its legal, financial and commercial characteristics, the relationship between them is a relationship between persons carrying on independent businesses that deal with each other at arm's length.

(19) This section applies—

(a) for the purposes of income tax and capital gains tax, in relation to the year 1996-97 and subsequent years of assessment; and

(b) for the purposes of corporation tax, in relation to accounting periods beginning after 31st March 1996.

Limit on income chargeable on non-residents: income tax.

128.—(1) Subject to subsection (5) below, the income tax chargeable for any year of assessment on the total income of any person who is not resident in the United Kingdom shall not exceed the sum of the following amounts, that is to say—

(a) the amount of tax which, apart from this section, would be chargeable on that total income if—

(i) the amount of that income were reduced by the amount of any excluded income; and

(ii) there were disregarded any relief under Chapter I of Part VII of the Taxes Act 1988 to which that person is entitled for that year by virtue of section 278(2) of that Act or of any arrangements having effect by virtue of section 788 of that Act;

and

(b) the amount of tax deducted from so much of any excluded income as is income the tax on which is deducted at source.

(2) For the purposes of this section income arising for any year to a person who is not resident in the United Kingdom is excluded income in so far as it—

(a) falls within subsection (3) below; and

(b) is not income in relation to which that person has a UK representative for the purposes of section 126 above and Schedule 23 to this Act.

(3) Income falls within this subsection if—

(a) it is chargeable to tax under Schedule C, Case III of Schedule D or Schedule F;

(b) it is chargeable to tax under Case VI of Schedule D by virtue of section 56 of the Taxes Act 1988 (transactions in deposits);

(c) it is chargeable to tax under Schedule E by virtue of section 150 or 617(1) of the Taxes Act 1988 or section 139(1) of the Finance Act 1994 (social security benefits etc.);

1994 c. 9.

(d) without being chargeable as mentioned in paragraphs (a) to (c) above or chargeable in accordance with section 171(2) of the Finance Act 1993 (profits of the underwriting business of a member of Lloyd's), it is income arising as mentioned in subsection (1)(b) or (c) of section 127 above; or

1993 c. 34.

(e) it is income of such other description as the Treasury may by regulations designate for the purposes of this subsection;

and the power to make regulations for the purposes of paragraph (e) above shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of the House of Commons.

(4) In subsection (1)(b) above—

(a) the reference to excluded income the tax on which is deducted at source is a reference to excluded income from which an amount in respect of income tax is or is treated as deducted, on which any such amount is treated as paid or in respect of which there is a tax credit, and

(b) the reference, in relation to any such income, to the amount of income tax deducted shall be construed, accordingly, as a reference to the amount which is or is treated as deducted or which is treated as paid or, as the case may be, to the amount of that credit.

(5) This section shall not apply to the income tax chargeable for any year of assessment on the income of trustees not resident in the United Kingdom if there is a relevant beneficiary of the trust who is either—

(a) an individual ordinarily resident in the United Kingdom, or

(b) a company resident in the United Kingdom.

(6) In subsection (5) above, the reference to a relevant beneficiary, in relation to a trust, is a reference to any person who, as a person falling wholly or partly within any description of actual or potential beneficiaries, is either—

(a) a person who is, or will or may become, entitled under the trust to receive the whole or any part of any income under the trust; or

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(b) a person to or for the benefit of whom the whole or any part of any such income may be paid or applied in exercise of any discretion conferred by the trust;

and for the purposes of this subsection references, in relation to a trust, to income under the trust shall include references to so much (if any) of any property falling to be treated as capital under the trust as represents amounts originally received by the trustees as income.

(7) This section shall apply, subject to subsections (8) and (9) below, in relation to the year 1995-96 and subsequent years of assessment.

(8) This section shall have effect in relation to the year 1995-96 as if the following paragraphs were substituted for paragraph (b) of subsection (2) above, that is to say—

"(aa) arises on or after 6th April 1995; and

(b) is not income in relation to which that person would have a UK representative for the purposes of section 126 above and Schedule 23 to this Act if sections 126 and 127 above and that Schedule applied for the year 1995-96."

(9) This section shall have effect in relation to the year 1995-96 as if—

(a) the income falling within paragraphs (a) and (b) of subsection (3) above did not include any income arising otherwise than from a transaction falling within subsection (10) below; and

(b) the reference in paragraph (d) of subsection (3) above to income arising as mentioned in subsection (1)(b) or (c) of section 127 above were a reference to any income which would be such income if that section applied in relation to the year 1995-96.

(10) A transaction falls within this subsection if—

(a) it is either—

(i) a transaction carried out on behalf of the non-resident by a person who, at the time of the transaction, was carrying on the business of a broker; or

(ii) an investment transaction carried out on behalf of the non-resident by a person ("the manager") who at the time was carrying on a business of providing investment management services;

(b) it was carried out by the broker or manager on behalf of the non-resident in the ordinary course of the business referred to in paragraph (a) above; and

(c) the remuneration which the broker or manager received in respect of that transaction for the provision to the non-resident of the services of a broker or, as the case may be, for the provision of the investment management services in question was at a rate not less than that which would have been customary for that class of business.

(11) In this section "investment transaction" has the same meaning as in section 127 above.

Limit on income chargeable on non-residents: corporation tax.

129.—(1) Subject to subsection (4) below, the corporation tax chargeable on the chargeable profits arising in any accounting period to a company which is not resident in the United Kingdom shall not exceed the sum of the following amounts, that is to say—

(a) the amount of tax deducted from so much of any excluded income as is income the tax on which is deducted at source; and

(b) the amount (if any) of corporation tax which would be chargeable on the chargeable profits arising to that company for that period if the excluded income of the company for that period were not included in those profits.

(2) For the purposes of this section income arising for any accounting period to any company is excluded income in so far as it—

(a) is income arising as mentioned in subsection (1)(b) or (c) of section 127 above; and

(b) is not income in relation to which that person has a UK representative for the purposes of section 126 above and Schedule 23 to this Act.

(3) In subsection (1)(a) above—

(a) the reference to excluded income the tax on which is deducted at source is a reference to excluded income from which an amount in respect of tax is or is treated as deducted, on which any such amount is treated as paid or in respect of which there is a tax credit, and

(b) the reference, in relation to any such income, to the amount of tax deducted shall be construed, accordingly, as a reference to the amount which is or is treated as deducted or which is treated as paid or, as the case may be, to the amount of that credit.

(4) This section does not apply in relation to the chargeable profits arising to a company which is a corporate member within the meaning of Chapter V of Part IV of the Finance Act 1994 (corporate Lloyd's underwriters etc.).

1994 c. 9.

(5) This section applies, subject to subsection (6) below, in relation to any accounting period ending after 5th April 1995.

(6) This section shall have effect in relation to any accounting period beginning before 1st April 1996 as if the following paragraphs were substituted for paragraphs (a) and (b) of subsection (2) above, that is to say—

"(a) is income arising after 5th April 1995 which would be income arising as mentioned in subsection (1)(b) or (c) of section 127 above if that section applied in relation to accounting periods beginning before 1st April 1996; and

(b) is not income in relation to which that person would have a UK representative for the purposes of section 126 above and Schedule 23 to this Act if sections 126 and 127 above and that Schedule so applied."

Exchange gains and losses and currency contracts

Exchange gains and losses: general.

1993 c. 34.

130. Schedule 24 to this Act (which amends the provisions of the Finance Act 1993 relating to exchange gains and losses and other provisions connected with exchange gains and losses) shall have effect.

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Exchange gains and losses: transitional provision.
1992 c. 12.

131.—(1) The provisions specified in subsection (2) below, so far as they require a disposal to be treated, for the purposes of the Taxation of Chargeable Gains Act 1992, as a disposal on which neither a gain nor a loss accrues, shall not apply in relation to any disposal of a qualifying asset which is made—

(a) by one qualifying company to another such company; and

(b) at a time before the commencement day of the company making the disposal and on or after the commencement day of the company to which the disposal is made.

(2) The provisions referred to in subsection (1) above are—

(a) sections 139, 140A, 171, 172, 215, 216 and 217A of the Taxation of Chargeable Gains Act 1992; and

(b) section 486(8) of the Taxes Act 1988.

(3) In this section—

"commencement day", in relation to a qualifying company, means that company's commencement day for the purposes of section 165 of the Finance Act 1993;

1993 c. 34.

"qualifying asset", in relation to a disposal, means anything which, after the disposal, is by virtue of section 153 of that Act a qualifying asset in relation to the company to which the disposal was made; and

"qualifying company" means any company which is a qualifying company within the meaning of section 152 of that Act.

(4) This section has effect in relation to any disposal of an asset taking place on or after 1st January 1995.

Currency contracts: transitional provisions.
1994 c. 9.

132.—(1) Section 175 of the Finance Act 1994 (currency contracts: transitional provisions) shall be deemed to have been enacted with the modifications set out below.

(2) In subsection (1) after paragraph (b) there shall be inserted "and

(c) the circumstances are such that if any profit or loss accrues (or were to accrue) to the company as regards the contract for an accounting period beginning before that time it falls (or would fall) to be taken into account as a profit or loss of the trade or part,".

(3) For subsection (2) there shall be substituted—

"(2) In a case where—

(a) at any time, a currency contract held by a qualifying company becomes a qualifying contract by virtue of section 147(2) above, and

(b) the circumstances are such that if any profit or loss accrues (or were to accrue) to the company as regards the contract for the accounting period beginning with that time it does not fall (or would not fall) to be taken into account as a profit or loss of a trade or part of a trade carried on by the company,

in applying section 158(2) and (4) above in relation to the contract and the period section 153(4) and (5) above shall be treated as omitted."

Provisions with a foreign element

133. Schedule 25 to this Act (which contains amendments of Chapter IV of Part XVII of the Taxes Act 1988 and connected amendments) shall have effect.

Controlled foreign companies.

134.—(1) Section 759 of the Taxes Act 1988 (material interests in offshore funds) shall be amended as mentioned in subsections (2) and (3) below.

Offshore funds.

(2) In subsection (1)—

(a) for the words "of the following, namely" there shall be substituted "collective investment scheme which is constituted by";

(b) for the word "and" immediately preceding paragraph (c) there shall be substituted "or"; and

(c) for the words "company, unit trust scheme or arrangements" there shall be substituted "collective investment scheme".

(3) After subsection (1) there shall be inserted—

"(1A) In this section "collective investment scheme" has the same meaning as in the Financial Services Act 1986."

1986 c. 60.

(4) In Schedule 27 to the Taxes Act 1988 (distributing funds) in Part I (the distribution test) in paragraph 1(2) for paragraphs (a) and (b) there shall be substituted—

"(a) there is no income of the fund and there are no United Kingdom equivalent profits of the fund, or

(b) the amount of the gross income of the fund does not exceed 1 per cent. of the average value of the fund's assets held during the account period,".

(5) Section 212 of the Taxation of Chargeable Gains Act 1992 (annual deemed disposal of certain holdings, including holdings consisting of a relevant interest in an offshore fund) shall be amended as mentioned in subsections (6) and (7) below.

1992 c. 12.

(6) In subsection (5) (meaning of "relevant interest in an offshore fund") for paragraph (b) there shall be substituted—

"(b) it would be such an interest if either or both of the assumptions mentioned in subsection (6A) below were made."

(7) Immediately before subsection (7) there shall be inserted—

"(6A) The assumptions referred to in subsection (5)(b) above are—

(a) that the companies, unit trust schemes and arrangements referred to in paragraphs (a) to (c) of subsection (1) of section 759 of the Taxes Act are not limited to those which are also collective investment schemes;

(b) that the shares and interests excluded by subsections (6) and (8) of that section are limited to shares or interests in trading companies."

(8) Subsections (1) to (3) above shall apply where it falls to be decided—

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(a) whether a material interest is, at any time on or after 29th November 1994, a material interest in an offshore fund;

(b) whether a company, unit trust scheme or arrangements in which any person has an interest which is a material interest is, at any time on or after that day, an offshore fund.

(9) Subsection (4) above shall apply in relation to account periods ending on or after 29th November 1994.

(10) Subsections (5) to (7) above shall apply where it falls to be decided whether an interest is, at any time on or after 29th November 1994, a relevant interest in an offshore fund.

Miscellaneous

Change in ownership of investment company: deductions.

135. Schedule 26 to this Act (which makes provision for the purposes of corporation tax about deductions following a change in the ownership of an investment company) shall have effect.

Profit-related pay.

136.—(1) In Schedule 8 to the Taxes Act 1988 (profit-related pay schemes) paragraph 19 (ascertainment of profits) shall be amended in accordance with subsections (2) to (4) below.

(2) In sub-paragraph (6) (cases where scheme may provide for departure from requirements applicable to profit and loss account) paragraphs (g) to (k) (extraordinary items) shall be omitted.

(3) After paragraph (ff) of sub-paragraph (6) there shall be inserted—

"(l) any exceptional items which fall within sub-paragraph (6A) below and should in accordance with any accounting practices regarded as standard be shown separately on the face of the profit and loss account."

(4) After sub-paragraph (6) there shall be inserted—

"(6A) The items are—

(a) profits or losses on the sale or termination of an operation;

(b) costs of a fundamental reorganisation or restructuring having a material effect on the nature and focus of the employment unit's operations;

(c) profits or losses on the disposal of fixed assets; and

(d) the effect on tax of any of the items mentioned in paragraphs (a) to (c) above."

(5) Subject to subsections (6) to (10) below, subsections (2) to (4) above shall have effect in relation to the preparation, for the purposes of a scheme, of a profit and loss account in respect of a period beginning on or after the day on which this Act is passed.

(6) Subsections (2) to (4) above shall not have effect in relation to an existing scheme unless, before the end of the period of 6 months beginning with the day on which this Act is passed, the scheme is altered to take account of the amendments made by those subsections.

(7) Subsections (8) to (10) below apply where, before the end of the period mentioned in subsection (6) above, an existing scheme is altered as mentioned in that subsection.

(8) The provision made by the scheme in compliance with paragraph 20(1) of Schedule 8 to the Taxes Act 1988 shall not prevent a profit and loss account being prepared in accordance with the alteration.

(9) Where the distributable pool would but for this subsection be determined by reference—

(a) to an amount shown in a profit and loss account prepared in accordance with the altered scheme, and

(b) to an amount shown in a profit and loss account ("an earlier account") prepared in accordance with the scheme in a form in which it stood before the alteration,

then, for the purposes of the determination of the pool, the amount shown in the earlier account shall be recalculated using the same method as that used to calculate the amount mentioned in paragraph (a) above.

(10) The alteration of the existing scheme shall be treated as being within subsection (8) of section 177B of the Taxes Act 1988 (alterations which are registrable and which once registered cannot give rise to Board's power of cancellation).

(11) In subsections (6) to (10) above "an existing scheme" means a scheme which, immediately before the day on which this Act is passed, is registered under Chapter III of Part V of the Taxes Act 1988.

(12) After paragraph 19 of Schedule 8 to the Taxes Act 1988 there shall be inserted—

"19A.—(1) The Treasury may by order amend paragraph 19 above so as to add to, delete or vary any of the items mentioned in sub-paragraph (6) of that paragraph.

(2) In this paragraph references to an order are references to an order under sub-paragraph (1) above.

(3) Subject to sub-paragraphs (4) to (8) below, any amendment or amendments made by virtue of an order shall have effect in relation to the preparation, for the purposes of a scheme, of a profit and loss account in respect of a period beginning on or after the day on which the order comes into force.

(4) Any amendment or amendments made by virtue of an order shall not have effect in relation to an existing scheme unless, before the end of the period of 6 months beginning with the day on which the order comes into force, the scheme is altered to take account of the amendment or amendments.

(5) Sub-paragraphs (6) to (8) below apply where, before the end of the period mentioned in sub-paragraph (4) above, an existing scheme is altered as mentioned in that sub-paragraph.

(6) The provision made by the scheme in compliance with paragraph 20(1) below shall not prevent a profit and loss account being prepared in accordance with the alteration.

(7) Where the distributable pool would but for this sub-paragraph be determined by reference—

(a) to an amount shown in a profit and loss account prepared in accordance with the altered scheme, and

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(b) to an amount shown in a profit and loss account ("an earlier account") prepared in accordance with the scheme in a form in which it stood before the alteration,

then, for the purposes of the determination of the pool, the amount shown in the earlier account shall be recalculated using the same method as that used to calculate the amount mentioned in paragraph (a) above.

(8) The alteration of the existing scheme shall be treated as being within subsection (8) of section 177B.

(9) An order may include such supplementary, incidental or consequential provisions as appear to the Treasury to be necessary or expedient.

(10) In this paragraph "an existing scheme", in relation to an order, means a scheme which, immediately before the day on which the order comes into force, is a registered scheme."

Part-time workers: miscellaneous provisions.

137.—(1) In Schedule 8 to the Taxes Act 1988 (profit-related pay schemes) paragraph 8(a) (employees working less than 20 hours a week excluded by scheme from receiving profit-related pay) shall be omitted.

(2) In Part III of Schedule 9 to the Taxes Act 1988 (savings-related share option schemes) in paragraph 26(1)(a) (certain full-time employees and directors must be eligible to participate in scheme) for the words "a full-time employee" there shall be substituted "an employee".

(3) In Part IV of Schedule 9 to the Taxes Act 1988 (share option schemes other than savings-related share option schemes) in paragraph 27(4) (qualifying employee defined as employee required to work at least 20 hours a week) the words from "who is required" to the end shall be omitted.

(4) In Part V of Schedule 9 to the Taxes Act 1988 (profit sharing schemes) in paragraph 36(1)(a) (certain full-time employees and directors must be eligible to participate in scheme on similar terms) for the words "a full-time employee" there shall be substituted "an employee".

1989 c. 26.

(5) In Schedule 5 to the Finance Act 1989 (employee share ownership trusts) in paragraph 4(2)(c) (trust deed must provide that certain persons are beneficiaries if they work at rate of at least 20 hours a week) for the words "at that given time he worked as an employee or" there shall be substituted "in the case of a director, at that given time he worked as a".

(6) Subsection (1) above shall apply in relation to any scheme not registered before the day on which this Act is passed.

(7) Subsections (2) to (4) above shall apply in relation to any scheme not approved before the day on which this Act is passed.

(8) In a case where—

(a) a scheme is approved before the day on which this Act is passed, and

(b) on or after that day the scheme is altered in such a way that paragraph 27 of Schedule 9 to the Taxes Act 1988 would be fulfilled if subsection (3) above applied in relation to the scheme,

subsection (3) above shall apply in relation to the scheme with effect from the time the alteration is made.

(9) Subsection (5) above shall apply in relation to trusts established on or after the day on which this Act is passed; and for this purpose a trust is established when the deed under which it is established is executed.

Charities, etc.: lotteries.

138.—(1) In section 505 of the Taxes Act 1988 (charities: general) in subsection (1) (exemptions) after paragraph (e) there shall be inserted—

"(f) exemption from tax under Schedule D in respect of profits accruing to a charity from a lottery if—

(i) the lottery is promoted and conducted in accordance with section 3 or 5 of the Lotteries and Amusements Act 1976 or Article 133 or 135 of the Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985; and

1976 c. 32.
S.I. 1985/1204 (N.I.11).

(ii) the profits are applied solely to the charity's purposes."

(2) Subsection (1) above shall apply to chargeable periods beginning—

(a) in the case of a company, after 31st March 1995; and

(b) in any other case, after 5th April 1995.

Sub-contractors in the construction industry.

139.—(1) Subsection (4) of section 559 of the Taxes Act 1988 (which requires deductions to be made from payments to certain sub-contractors in the construction industry) shall have effect in relation to payments made on or after the appointed day with the substitution for "25 per cent." of "the relevant percentage"; and after that subsection there shall be inserted the following subsection—

"(4A) In subsection (4) above 'the relevant percentage', in relation to a payment, means such percentage (not exceeding the percentage which is the basic rate for the year of assessment in which the payment is made) as the Treasury may by order determine."

(2) Chapter IV of Part XIII of the Taxes Act 1988 (sub-contractors in the construction industry) shall be further amended in accordance with Schedule 27 to this Act.

(3) In this section and that Schedule "the appointed day" means such day, not being a day before 1st August 1998, as the Treasury may by order made by statutory instrument appoint; and different days may be appointed under this subsection for different purposes.

Valuation of trading stock on discontinuance of trade.

140.—(1) In section 100 of the Taxes Act 1988 (valuation of trading stock on discontinuance of trade), in paragraph (a) of subsection (1), for the words from "realised" to the end of the paragraph there shall be substituted "determined in accordance with subsections (1A) to (1C) below; and"; and after that subsection there shall be inserted the following subsections—

"(1A) Subject to subsections (1B) and (1C) below and to paragraph 2 of Schedule 12 to the Finance Act 1988 (gilt-edged securities and other financial trading stock), the value of any trading stock falling to be valued under paragraph (a) of subsection (1) above shall be taken—

1988 c. 39.

(a) except where the person to whom it is sold or transferred is connected with the person who makes the sale or transfer, to be the amount ('the price actually received for it') which

is in fact realised on the sale or, as the case may be, which is in fact the value of the consideration given for the transfer; and

(b) if those persons are connected with each other, to be what would have been the price actually received for it had the sale or transfer been a transaction between independent persons dealing at arm's length.

(1B) In a case falling within subsection (1)(a) above—

(a) stock consisting of debts to which section 88A(2) applies shall have the value for which paragraph (a) of subsection (1A) above provides even where the persons in question are connected with each other; and

(b) stock sold in circumstances in which the amount realised on the sale would be taken to be an amount determined in accordance with paragraph 5 of Schedule 5 shall be taken to have the value so determined, instead of the value for which subsection (1A)(a) or (b) above provides.

(1C) If—

(a) trading stock is sold or transferred to a person in circumstances where paragraph (b) of subsection (1A) above would apply (apart from this subsection) for determining the value of the stock so sold or transferred,

(b) the amount which would be taken in accordance with that paragraph to be the value of all of the stock sold or transferred to that person is more than the acquisition value of that stock and also more than the price actually received for it, and

(c) both parties to the sale or transfer, by notice signed by them and sent to the inspector no later than two years after the end of the chargeable period in which the trade is discontinued, elect that this subsection shall apply,

then the stock sold or transferred to that person shall be taken to have a value equal to whichever is the greater (taking all the stock so sold or transferred together) of its acquisition value and the price actually received for it or, in a case where they are the same, to either of them.

(1D) In subsection (1C) above 'acquisition value', in relation to any trading stock, means the amount which, in computing for any tax purposes the profits or gains of the discontinued trade, would have been deductible as representing the acquisition value of that stock if—

(a) the stock had, immediately before the discontinuance, been sold in the course of the trade for a price equal to whatever would be its value in accordance with subsection (1A)(b) above; and

(b) the period for which those profits or gains were to be computed began immediately before the sale.

(1E) Where any trading stock falls to be valued under subsection (1)(a) above, the amount determined in accordance with subsections (1A) to (1C) above to be the amount to be brought into account as the value of that stock in computing profits or gains of the

discontinued trade shall also be taken, for the purpose of making any deduction in computing the profits or gains of any trade carried on by the purchaser, to be the cost of that stock to the purchaser.

(1F) For the purposes of this section two persons are connected with each other if—

(a) they are connected with each other within the meaning of section 839;

(b) one of them is a partnership and the other has a right to a share in the partnership;

(c) one of them is a body corporate and the other has control over that body;

(d) both of them are partnerships and some other person has a right to a share in each of them; or

(e) both of them are bodies corporate or one of them is a partnership and the other is a body corporate and, in either case, some other person has control over both of them;

and in this subsection the references to a right to a share in a partnership are references to a right to a share of the assets or income of the partnership and 'control' has the meaning given by section 840.

(1G) In this section 'purchaser', in relation to a transfer otherwise than by sale, means the person to whom the transfer is made."

(2) This section applies in relation to any case in which a trade is discontinued at a time on or after 29th November 1994.

Incapacity benefit. 1994 c. 9.

141.—(1) Section 139 of the Finance Act 1994 (taxation of incapacity benefit) shall have effect, and be deemed always to have had effect, with the following amendments.

(2) In subsection (5), for the definition of "initial period of incapacity" there shall be substituted—

"'initial period of incapacity', in relation to incapacity benefit, means any period for which short-term incapacity benefit is payable otherwise than at the higher rate; and".

(3) After that subsection there shall be inserted the following subsection—

"(6) The reference in subsection (5) above to short-term incapacity benefit payable at the higher rate shall be construed in accordance with sections 30B(5), 40(8) and 41(7) of the Social Security Contributions and Benefits Act 1992 and the corresponding provisions of the Social Security Contributions and Benefits (Northern Ireland) Act 1992."

1992 c. 4. 1992 c. 7.

Annuities purchased where certain claims or actions are settled.

142. The following sections shall be inserted after section 329 of the Taxes Act 1988—

"Annuities purchased for certain persons.

329A.—(1) In a case where—

(a) an agreement is made settling a claim or action for damages for personal injury,

(b) under the agreement the damages are to consist wholly or partly of periodical payments, and

Part III

(c) under the agreement the person entitled to the payments is to receive them as the annuitant under one or more annuities purchased for him by the person against whom the claim or action is brought or, if he is insured against the claim concerned, by his insurer,

the agreement is for the purposes of this section a qualifying agreement.

(2) In a case where—

(a) an agreement is made settling a claim or action for damages for personal injury,

(b) under the agreement the damages are to consist wholly or partly of periodical payments, and

(c) a later agreement is made under which the person entitled to the payments is from a future date to receive them as the annuitant under one or more annuities purchased for him by the person against whom the claim or action is brought or, if he is insured against the claim concerned, by his insurer,

the agreement mentioned in paragraph (c) above is for the purposes of this section a qualifying agreement.

(3) Subsection (4) below applies where—

(a) a person receives a sum as the annuitant under an annuity purchased for him pursuant to a qualifying agreement, or

(b) a person receives a sum on behalf of the annuitant under an annuity purchased for the annuitant pursuant to a qualifying agreement.

(4) Where this subsection applies the sum shall not be regarded as the recipient's or annuitant's income for any purposes of income tax and accordingly shall be paid without any deduction under section 349(1).

(5) Subsections (6) to (10) below apply for the purposes of subsection (1) above.

(6) The periodical payments may be for the life of the claimant, for a specified period or of a specified number or minimum number or include payments of more than one of those descriptions.

(7) The amounts of the periodical payments (which need not be at a uniform rate or payable at uniform intervals) may be—

(a) specified in the agreement, with or without provision for increases of specified amounts or percentages,

(b) subject to adjustment in a specified manner so as to preserve their real value, or

(c) partly specified as mentioned in paragraph (a) and partly subject to adjustment as mentioned in paragraph (b) above.

(8) The annuity or annuities must be such as to provide sums which as to amount and time of payment correspond to the periodical payments described in the agreement.

(9) Personal injury includes any disease and any impairment of a person's physical or mental condition.

(10) A claim or action for personal injury includes—

(a) such a claim or action brought by virtue of the Law Reform (Miscellaneous Provisions) Act 1934;

1934 c. 41.

(b) such a claim or action brought by virtue of the Law Reform (Miscellaneous Provisions) Act (Northern Ireland) 1937;

1937 c. 9 (N.I.).

(c) such a claim or action brought by virtue of the Damages (Scotland) Act 1976;

1976 c. 13.

(d) a claim or action brought by virtue of the Fatal Accidents Act 1976;

1976 c. 30.

(e) a claim or action brought by virtue of the Fatal Accidents (Northern Ireland) Order 1977.

S.I. 1977/1251 (N.I. 18).

(11) For the purposes of subsection (2) above—

(a) subsections (6), (9) and (10) above apply;

(b) subsection (7) above applies as if the reference to the agreement were to that mentioned in subsection (2)(a) above;

(c) subsection (8) above applies as if the reference to periodical payments described in the agreement were to periodical payments described in the agreement mentioned in subsection (2)(a) above and falling to be made after the later agreement takes effect.

(12) This section does not apply unless the sum concerned is received after the day on which the Finance Act 1995 is passed, but it is immaterial when—

(a) the agreement mentioned in subsection (1) above is made or takes effect, or

(b) either of the agreements mentioned in subsection (2) above is made or takes effect.

Annuities assigned in favour of certain persons.

329B.—(1) In a case where—

(a) an agreement is made settling a claim or action for damages for personal injury,

(b) under the agreement the damages are to consist wholly or partly of periodical payments,

(c) the person against whom the claim or action is brought (or, if he is insured against the claim concerned, his insurer) purchases one or more annuities, and

(d) a later agreement is made under which the annuity is, or the annuities are, assigned in favour of the person entitled to the payments so

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as to secure that from a future date he receives the payments as the annuitant under the annuity or annuities,

the agreement mentioned in paragraph (d) above is for the purposes of this section a qualifying agreement.

(2) Subsection (3) below applies where—

(a) a person receives a sum as the annuitant under an annuity assigned in his favour pursuant to a qualifying agreement, or

(b) a person receives a sum on behalf of the annuitant under an annuity assigned in the annuitant's favour pursuant to a qualifying agreement.

(3) Where this subsection applies the sum shall not be regarded as the recipient's or annuitant's income for any purposes of income tax and accordingly shall be paid without any deduction under section 349(1).

(4) For the purposes of subsection (1) above—

(a) subsections (6), (9) and (10) of section 329A apply;

(b) subsections (7) and (8) of section 329A apply as if references to the agreement were to that mentioned in subsection (1)(a) above.

(5) This section does not apply unless the sum concerned is received after the day on which the Finance Act 1995 is passed, but it is immaterial when either of the agreements mentioned in subsection (1) above is made or takes effect."

Lloyd's underwriters: new-style special reserve funds.
1993 c. 34.

143.—(1) In Schedule 20 to the Finance Act 1993 (Lloyd's underwriters: special reserve funds) paragraph 2 (general requirements about special reserve funds) shall be deemed to have been enacted with the modification in subsection (2) below.

(2) For sub-paragraphs (2) and (3) there shall be substituted—

"(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."

Local government residuary body.

144.—(1) In section 842A of the Taxes Act 1988 (meaning of "local authority" in the Tax Acts) in subsection (2) (England and Wales) after paragraph (g) insert—

"(h) a residuary body established by order under section 22(1) of the Local Government Act 1992;".

1992 c. 19.

(2) This section shall be deemed to have come into force on 29th November 1994.

Payment of rent &c., under deduction of tax.

145.—(1) In section 119(1) of the Taxes Act 1988 (rent, &c., payable in connection with mines, quarries and similar concerns), the words from "and, subject to subsection (2) below, shall be subject to deduction of income tax" to the end shall cease to have effect.

(2) In section 121 of that Act (management expenses of owner of mineral rights), for subsections (1) and (2) (right to repayment where tax paid by deduction, &c.) substitute—

"(1) Where for any year of assessment rights to work minerals in the United Kingdom are let, the lessor shall be entitled to deduct, in determining the amount chargeable to income tax in respect of the rents or royalties for that year, any sums wholly, exclusively and necessarily disbursed by him as expenses of management or supervision of those minerals in that year.".

(3) The provisions of this section have effect in relation to payments made after the passing of this Act.

PART IV

PETROLEUM REVENUE TAX

Restriction of unrelievable field losses.

1975 c. 22.

146.—(1) In section 6 of the Oil Taxation Act 1975 (allowance of unrelievable loss from abandoned field), in subsection (1) after the words "Subject to" there shall be inserted "subsections (5) to (9) below and".

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

"(1A) In this section, in relation to an unrelievable field loss,—

(a) "the abandoned field" means the oil field from which the winning of oil has permanently ceased; and

(b) "the person to whom the loss accrued" means the person to whom, as a participator in the abandoned field, the loss accrued (whether or not he is the participator in another oil field who makes the claim for the allowance of the unrelievable field loss)."

(3) After subsection (4) of that section there shall be inserted—

"(5) Subsections (6) to (9) below apply if—

(a) a claim is made for the allowance of an unrelievable field loss; and

(b) the person to whom the loss accrued made a claim or election for the allowance of any expenditure unrelated to that field; and

(c) that claim or election was received by the Board on or after 29th November 1994; and

(d) the whole or a part of the expenditure to which the claim or election relates is allowed and, accordingly, falls to be taken into account under section 2(8)(a) of this Act for a chargeable period (whether beginning before or after 29th November 1994).

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(6) Subject to subsection (7) below, where this subsection applies, from the amount which, apart from this subsection, would be the amount of the unrelievable field loss referred to in paragraph (a) of subsection (5) above there shall be deducted an amount equal to so much of any expenditure unrelated to the field as is allowed on a claim or election as mentioned in paragraph (d) of that subsection.

(7) If—

(a) claims are made for the allowance of more than one unrelievable field loss derived from the same abandoned field, and

(b) the person to whom the loss accrued is the same in respect of each of the unrelievable field losses,

subsection (6) above shall have effect as if the deduction referred to in that subsection fell to be made from the aggregate amount of those losses.

(8) Where subsection (7) above applies, the deduction shall be set against the unrelievable field losses in the order in which the claims for the allowance of each of those losses were received by the Board.

(9) In subsections (5) and (6) above, "expenditure unrelated to the field" means—

(a) expenditure allowable under any of sections 5, 5A and 5B of this Act;

(b) expenditure allowable under this section (derived from a different abandoned field); or

1987 c. 16.

(c) expenditure falling within section 65 of the Finance Act 1987 which is accepted by the Board as allowable in accordance with Schedule 14 to that Act;

and, in relation to expenditure falling within section 65 of the Finance Act 1987, "election" means an election under Part I of Schedule 14 to that Act."

Removal of time limits for claims for unrelievable field losses.

1975 c. 22.

147.—(1) In Schedule 8 to the Oil Taxation Act 1975 (procedural provisions as to allowance of unrelievable field losses), in paragraph 4 (claims)—

(a) in sub-paragraph (1) (which requires a participator to make a claim to the Board within a time limit), for the words from "and must be made" to "that is to say" there shall be substituted "at any time after" and the words from "and the date" to the end of the sub-paragraph shall be omitted; and

(b) in sub-paragraph (2) the words "within the time allowed for making the original claim" shall be omitted.

(2) This section applies to claims made on or after the day on which this Act is passed.

Transfer of interests in fields: restriction of transferred losses.

1980 c. 48.

148.—(1) In Schedule 17 to the Finance Act 1980 (transfer of interests in oil fields) paragraph 7 (transfer of unused losses from the old to the new participator) shall be amended as follows.

(2) At the beginning of sub-paragraph (2) there shall be inserted "Subject to the following provisions of this paragraph".

(3) After sub-paragraph (2) there shall be inserted the following sub-paragraphs—

"(3) If, in the case of a transfer of the whole or part of an interest on or after 29th November 1994,—

(a) the old participator made a claim or election for the allowance of any expenditure unrelated to the field, and

(b) the claim or election was received by the Board on or after that date, and

(c) the expenditure allowed on the claim or election fell to be taken into account in computing the assessable profit or allowable loss of the old participator for the transfer period or any earlier chargeable period,

then, from the sum which, apart from this sub-paragraph, would be the aggregate of all the losses transferred to the new participator under this paragraph there shall be deducted (subject to sub-paragraphs (5) and (6) below) so much of the expenditure referred to in paragraph (a) above as is allowed on the claim or election (and, accordingly, the amount so deducted shall not fall to be transferred to the new participator under this paragraph).

(4) In this paragraph "expenditure unrelated to the field" means expenditure allowable under any of the following provisions—

(a) section 5 (abortive exploration expenditure);

(b) section 5A (exploration and appraisal expenditure);

(c) section 5B (research expenditure);

(d) section 6 (unrelievable loss from abandoned field); and

(e) section 65 of the Finance Act 1987 (cross-field allowance of certain expenditure incurred on new fields);

1987 c. 16.

and, in relation to any such expenditure, "claim" means a claim under Schedule 7 or Schedule 8 and "election" means an election under Part I of Schedule 14 to the Finance Act 1987 and, in relation to such an election, expenditure shall be regarded as allowed if it is accepted by the Board as allowable in accordance with that Schedule.

(5) Where, in accordance with sub-paragraph (1) above, only a part of a loss (corresponding to the part of the interest transferred) falls to be transferred under this paragraph, only a corresponding part of the expenditure referred to in sub-paragraph (3) above shall be deducted under that sub-paragraph.

(6) Where the amount of the deduction under sub-paragraph (3) above equals or exceeds the sum from which it is to be deducted, no part of any loss shall be transferred to the new participator under this paragraph."

PART V

STAMP DUTY

Transfer: associated bodies. 1930 c. 28.

149.—(1) Section 42 of the Finance Act 1930 (relief from transfer stamp duty in case of transfer of property as between associated bodies corporate) shall be amended as mentioned in subsections (2) to (5) below.

1967 c. 54.

(2) In subsection (2) (as substituted by section 27(2) of the Finance Act 1967) for the words from "that the effect" to the end of the subsection there shall be substituted "that—

(a) the effect of the instrument is to convey or transfer a beneficial interest in property from one body corporate to another, and

(b) the bodies in question are associated at the time the instrument is executed."

(3) The following subsections shall be inserted after subsection (2) (as so substituted)—

"(2A) For the purposes of this section bodies corporate are associated at a particular time if at that time one is the parent of the other or another body corporate is the parent of each.

(2B) For the purposes of this section one body corporate is the parent of another at a particular time if at that time the first body is beneficial owner of not less than 75 per cent. of the ordinary share capital of the second body."

(4) In subsection (3) (as so substituted) for "(2)" there shall be substituted "(2B)", and the words from "with the substitution" to the end shall be omitted.

(5) The following subsection shall be inserted after subsection (3) (as so substituted)—

"(4) In this section "ordinary share capital", in relation to a body corporate, means all the issued share capital (by whatever name called) of the body corporate, other than capital the holders of which have a right to a dividend at a fixed rate but have no other right to share in the profits of the body corporate."

(6) In section 27 of the Finance Act 1967 (which relates to section 42 of the Finance Act 1930) in subsection (3)(c) for the words from "a change" to "third body corporate" there shall be substituted "the transferor or a third body corporate ceasing to be the transferee's parent (within the meaning of the said section 42)".

(7) This section shall apply in relation to instruments executed on or after the day on which this Act is passed.

Northern Ireland transfer: associated bodies. 1954 c. 23 (N.I.).

150.—(1) Section 11 of the Finance Act (Northern Ireland) 1954 (relief from stamp duty in case of transfer of property between associated bodies corporate) shall be amended as follows.

(2) In subsection (2)(c)(iii) for the words from "a change" to "third body corporate" there shall be substituted "the transferor or a third body corporate ceasing to be the transferee's parent".

(3) The following subsections shall be substituted for subsection (3)—

"(3) For the purposes of this section a body corporate is associated with another body corporate at a particular time if at that time one is the parent of the other or another body corporate is the parent of each.

(3AA) For the purposes of this section one body corporate is the parent of another at a particular time if at that time the first body is beneficial owner of not less than 75 per cent. of the ordinary share capital of the second body."

(4) In subsection (3A) for the words "paragraphs (i) and (ii) of subsection (3)" there shall be substituted "subsection (3AA)", and the words from "with the substitution" to the end shall be omitted.

(5) The following subsection shall be inserted after subsection (3A)—

"(3AB) In this section "ordinary share capital", in relation to a body corporate, means all the issued share capital (by whatever name called) of the body corporate, other than capital the holders of which have a right to a dividend at a fixed rate but have no other right to share in the profits of the body corporate."

(6) This section shall apply in relation to instruments executed on or after the day on which this Act is passed.

Lease or tack: associated bodies.
1891 c. 39.

151.—(1) Stamp duty under the heading "Lease or Tack" in Schedule 1 to the Stamp Act 1891 shall not be chargeable on an instrument which is—

(a) a lease or tack,

(b) an agreement for a lease or tack, or

(c) an agreement with respect to a letting,

as respects which the condition in subsection (2) below is satisfied.

(2) The condition is that it is shown to the satisfaction of the Commissioners of Inland Revenue that—

(a) the lessor is a body corporate and the lessee is another body corporate,

(b) those bodies are associated at the time the instrument is executed,

(c) in the case of an agreement, the agreement is for the lease or tack or letting to be granted to the lessee or to a body corporate which is associated with the lessee at the time the instrument is executed, and

(d) the instrument is not executed in pursuance of or in connection with an arrangement falling within subsection (3) below.

(3) An arrangement falls within this subsection if it is one under which—

(a) the consideration, or any part of the consideration, for the lease or tack or agreement was to be provided or received (directly or indirectly) by a person other than a body corporate which at the relevant time was associated with either the lessor or the lessee, or

PART V

(b) the lessor and the lessee were to cease to be associated by reason of the lessor or a third body corporate ceasing to be the lessee's parent;

and the relevant time is the time of the execution of the instrument.

(4) Without prejudice to the generality of paragraph (a) of subsection (3) above, an arrangement shall be treated as within that paragraph if it is one under which the lessor or the lessee or a body corporate associated with either at the relevant time was to be enabled to provide any of the consideration, or was to part with any of it, by or in consequence of the carrying out of a transaction which involved (or transactions any of which involved) a payment or other disposition by a person other than a body corporate associated with the lessor or the lessee at the relevant time.

(5) An instrument mentioned in subsection (1) above shall not be treated as duly stamped unless—

(a) it is duly stamped in accordance with the law that would apply but for that subsection, or

1891 c. 39.

(b) it has, in accordance with section 12 of the Stamp Act 1891, been stamped with a particular stamp denoting either that it is not chargeable with any duty or that it is duly stamped.

(6) In this section—

(a) references to the lessor are to the person granting the lease or tack or (in the case of an agreement) agreeing to grant the lease or tack or letting;

(b) references to the lessee are to the person being granted the lease or tack or (in the case of an agreement) agreeing for the lease or tack or letting to be granted to him or another.

(7) For the purposes of this section bodies corporate are associated at a particular time if at that time one is the parent of the other or another body corporate is the parent of each.

(8) For the purposes of this section one body corporate is the parent of another at a particular time if at that time the first body is beneficial owner of not less than 75 per cent. of the ordinary share capital of the second body.

(9) In subsection (8) above "ordinary share capital", in relation to a body corporate, means all the issued share capital (by whatever name called) of the body corporate, other than capital the holders of which have a right to a dividend at a fixed rate but have no other right to share in the profits of the body corporate.

1938 c. 46.

(10) The ownership referred to in subsection (8) above is ownership either directly or through another body corporate or other bodies corporate, or partly directly and partly through another body corporate or other bodies corporate; and Part I of Schedule 4 to the Finance Act 1938 (determination of amount of capital held through other bodies corporate) shall apply for the purposes of this section.

(11) This section shall apply in relation to instruments executed on or after the day on which this Act is passed.

PART VI

MISCELLANEOUS AND GENERAL

Miscellaneous

Open-ended investment companies.

152.—(1) The Treasury may, by regulations, make such provision as they consider appropriate for securing that the enactments specified in subsection (2) below have effect in relation to—

(a) open-ended investment companies of any such description as may be specified in the regulations,

(b) holdings in, and the assets of, such companies, and

(c) transactions involving such companies,

in a manner corresponding, subject to such modifications as the Treasury consider appropriate, to the manner in which they have effect in relation to unit trusts, to rights under, and the assets subject to, such trusts and to transactions for purposes connected with such trusts.

(2) The enactments referred to in subsection (1) above are—

(a) the Tax Acts and the Taxation of Chargeable Gains Act 1992; and (1992 c. 12.)

(b) the enactments relating to stamp duty and Part IV of the Finance Act 1986 (stamp duty reserve tax). (1986 c. 41.)

(3) The power of the Treasury to make regulations under this section in relation to any such enactments shall include power to make provision which does any one or more of the following, that is to say—

(a) identifies the payments which are or are not to be treated, for the purposes of any prescribed enactment, as the distributions of open-ended investment companies;

(b) modifies the operation of Chapters II, III and VA of Part VI of the Taxes Act 1988 in relation to open-ended investment companies or in relation to payments falling to be treated as the distributions of such companies;

(c) applies and adapts any of the provisions of Part IV of the Finance Act 1986 for the purpose of making in relation to transactions involving open-ended investment companies any provision corresponding (with or without modifications) to that which applies under the enactments relating to stamp duty in the case of equivalent transactions involving unit trusts;

(d) provides for any or all of the provisions of sections 75 to 77 of the Finance Act 1986 to have effect or not to have effect in relation to open-ended investment companies or the undertakings of, or any shares in, such companies;

(e) so modifies the operation of any prescribed enactment in relation to any such companies as to secure that arrangements for treating the assets of an open-ended investment company as assets comprised in separate pools are given an effect corresponding, in prescribed respects, to that of equivalent arrangements constituting the separate parts of an umbrella scheme;

(f) requires prescribed enactments to have effect in relation to an open-ended investment company as if it were, or were not, a member of the same group of companies as one or more other companies;

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(g) identifies the holdings in open-ended investment companies which are, or are not, to be treated for the purposes of any prescribed enactment as comprised in the same class of holdings;

(h) preserves a continuity of tax treatment where, in connection with any scheme of re-organisation, assets of one or more unit trusts become assets of one or more open-ended investment companies, or vice versa;

(i) treats the separate parts of the undertaking of an open-ended investment company in relation to which provision is made by virtue of paragraph (e) above as distinct companies for the purposes of any regulations under this section;

(j) amends, adapts or applies the provisions of any subordinate legislation made under or by reference to any enactment modified by the regulations.

(4) The power to make regulations under this section shall be exercisable by statutory instrument and shall include power—

(a) to make different provision for different cases; and

(b) to make such incidental, supplemental, consequential and transitional provision as the Treasury may think fit.

(5) A statutory instrument containing regulations under this section shall be subject to annulment in pursuance of a resolution of the House of Commons.

(6) In this section—

1891 c. 39.

"the enactments relating to stamp duty" means the Stamp Act 1891, and any enactment (including any Northern Ireland legislation) which amends or is required to be construed together with that Act;

1978 c. 30.

"Northern Ireland legislation" shall have the meaning given by section 24(5) of the Interpretation Act 1978;

1986 c. 60.

"open-ended investment company" has the same meaning as in the Financial Services Act 1986;

"prescribed" means prescribed by regulations under this section;

"subordinate legislation" means any subordinate legislation within the meaning of the Interpretation Act 1978 or any order or regulations made by statutory instrument under Northern Ireland legislation; and

"umbrella scheme" shall have the meaning given by section 468 of the Taxes Act 1988;

1986 c. 41.
1990 c. 29.

and references in this section to the enactments relating to stamp duty, or to any of them, or to Part IV of the Finance Act 1986 shall have effect as including references to enactments repealed by sections 107 to 110 of the Finance Act 1990.

(7) Any reference in this section to unit trusts has effect—

(a) for the purposes of so much of this section as confers power in relation to the enactments specified in paragraph (a) of subsection (2) above, as a reference to authorised unit trusts (within the meaning of section 468 of the Taxes Act 1988), and

(b) for the purposes of so much of this section as confers power in relation to the enactments specified in paragraph (b) of that subsection, as a reference to any unit trust scheme (within the meaning given by section 57 of the Finance Act 1946). 1946 c. 64.

(8) For the purposes of this section the enactments which shall be taken to make provision in relation to companies that are members of the same group of companies shall include any enactments which make provision in relation to a case—

(a) where one company has, or in relation to another company is, a subsidiary, or a subsidiary of a particular description, or

(b) where one company controls another or two or more companies are under the same control.

Electronic lodgement of tax returns, etc.

153. Schedule 28 to this Act (which makes provision with respect to the electronic lodgement of certain tax returns and documents required in connection with tax returns) shall have effect.

Short rotation coppice.

154.—(1) The cultivation of short rotation coppice shall be regarded for the purposes of the Tax Acts and the Taxation of Chargeable Gains Act 1992 as farming (and, where relevant, as husbandry or agriculture) and not as forestry; and land in the United Kingdom on which the activity is carried on shall accordingly be regarded for those purposes as farm land or agricultural land, as the case may be, and not as woodlands. 1992 c. 12.

(2) For the purposes of the Inheritance Tax Act 1984 the cultivation of short rotation coppice shall be regarded as agriculture; and accordingly for those purposes— 1984 c. 51.

(a) land on which short rotation coppice is cultivated shall be regarded as agricultural land, and

(b) buildings used in connection with the cultivation of short rotation coppice shall be regarded as farm buildings.

(3) In subsections (1) and (2) "short rotation coppice" means a perennial crop of tree species planted at high density, the stems of which are harvested above ground level at intervals of less than ten years.

(4) Subsection (1) and subsection (3) so far as relating to subsection (1) shall be deemed to have come into force on 29th November 1994.

(5) Subsection (2) and subsection (3) so far as relating to subsection (2) shall have effect in relation to transfers of value or other events occuring on or after 6th April 1995.

Inheritance tax: agricultural property.

155.—(1) In section 116 of the Inheritance Tax Act 1984 (relief for transfers of agricultural property) in subsection (2) (rate of relief) the word "either" shall be omitted and at the end of paragraph (b) there shall be inserted "or

(c) the interest of the transferor in the property immediately before the transfer does not carry either of the rights mentioned in paragraph (a) above because the property is let on a tenancy beginning on or after 1st September 1995;".

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

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"(2A) In the application of this section as respects property in Scotland, the reference in subsection (2)(c) above to a tenancy beginning on or after 1st September 1995 includes a reference to its being acquired on or after that date by right of succession (the date of acquisition being taken to be the date on which the successor gives relevant notice under section 12 of the Agricultural Holdings (Scotland) Act 1991)."

1991 c. 55.

(3) Subsections (1) and (2) above shall apply in relation to transfers of value made, and other events occurring, on or after 1st September 1995.

Proceedings for tax in sheriff court.

1970 c. 9.

156.—(1) Section 67 of the Taxes Management Act 1970 (proceedings for tax in sheriff court) shall be amended as follows.

(2) In subsection (1) (tax not exceeding a specified sum recoverable in sheriff court) for the words from "where" to "the tax" there shall be substituted "tax due and payable under any assessment".

(3) The following subsection shall be inserted after subsection (1)—

"(1A) An officer of the Board who is authorised by the Board to do so may address the court in any proceedings under this section."

(4) This section shall apply in relation to proceedings commenced after the day on which this Act is passed.

Certificates of tax deposit.

157.—(1) If, whether before or after the passing of this Act—

(a) any person ("the depositor") has received any sum on the making, on or after 6th April 1990, of a withdrawal for cash of a tax deposit made before that date,

(b) the whole or any part of any qualifying tax liability has been discharged by any payment made otherwise than by the application of a tax deposit, and

(c) that payment was made in the period beginning one month before the withdrawal and ending one month afterwards,

the depositor shall be entitled to receive compensation under this section from the Board.

(2) In this section "qualifying tax liability", in relation to a tax deposit, means so much of any liability as is—

(a) a liability of any person for any tax for the year 1990-91 or any subsequent year of assessment, or for interest on such tax;

(b) a liability that relates to tax for a year of assessment during the whole or any part of which that person was married to the depositor; and

(c) a liability of such a description that, if it had been a liability of the depositor (and the withdrawal were to be disregarded), the whole or any part of it could have been discharged, immediately before the time of the payment mentioned in subsection (1)(b) above, by the application of that deposit and of accrued interest thereon.

(3) Subject to the following provisions of this section, the amount of the compensation to which the depositor is entitled under this section in the case of any deposit withdrawn for cash shall be equal to the difference between—

(a) the sum received as mentioned in subsection (1)(a) above on the withdrawal; and

(b) the sum that would have been received if interest had accrued on the relevant part of the sum received at the rate applicable under the relevant terms to sums applied in the payment of tax, instead of at the rate applicable to a withdrawal for cash.

(4) In subsection (3) above, the reference to the relevant part of the sum received on the withdrawal of a deposit is a reference to the following amount, that is to say—

(a) in a case where the sum received on the withdrawal is equal to or smaller than the amount of the liability discharged by the payment mentioned in subsection (1)(b) above, the amount equal to such part of the sum actually received as does not represent interest that has accrued under the relevant terms; and

(b) in any other case, to the amount which would have been the amount specified in paragraph (a) above if the sum actually received on the withdrawal had been equal to the amount of qualifying tax liability so discharged.

(5) The amount of compensation to which any person is entitled under this section shall also include an amount equal to interest, for the period from the withdrawal mentioned in subsection (1)(a) above until the payment of the compensation, on the amount determined in accordance with subsection (3) above; and a liability to compensation under this section shall not bear interest apart from in accordance with this subsection.

(6) Section 178 of the Finance Act 1989 (interest rates) shall apply to subsection (5) above for determining the rate of the interest treated, by virtue of that subsection, as included in any compensation under this section; and any regulations under that section which are in force at the passing of this Act shall be deemed, subject to the powers of the Treasury under that section, to have effect in relation to this section as they have effect in relation to the enactments specified in subsection (2)(f) of that section (interest on overdue tax).

1989 c. 26.

(7) The part of any compensation under this section that represents interest under subsection (5) above shall not be treated as included in the income of the depositor for the purposes of income tax; but the remainder shall be chargeable to income tax under Case III of Schedule D.

(8) No compensation shall be paid under this section unless a claim for it has been made to the Board.

(9) Where any claim is made under this section with respect to any withdrawal for cash of a tax deposit—

(a) this section shall have effect if there is, in the period mentioned in subsection (1)(c) above, more than one such payment as is mentioned in subsection (1)(b) above as if (subject to paragraph (b) below) all the payments in that period were, for the purposes of that claim, to be aggregated and treated as one such payment; and

(b) the amount of compensation payable under this section on that claim shall be computed without regard to so much of any payment discharging a qualifying tax liability as, in pursuance

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of any claim under this section, has been or is to be so taken into account as to affect the amount of compensation payable in the case of any other withdrawal.

(10) Sums required by the Board for paying compensation under this section shall be issued to the Board by the Treasury out of the National Loans Fund.

(11) A withdrawal for cash of a tax deposit shall be taken for the purposes of this section to occur at the same time as, under the relevant terms, it is deemed to occur for the purposes of the calculation of interest on the amount withdrawn.

(12) This section shall be construed as one with the Tax Acts, and in this section—

(a) references to a tax deposit are references to the whole or any part of any deposit in respect of which a certificate of tax deposit has been issued by the Treasury under section 12 of the National Loans Act 1968; and

1968 c. 13.

(b) references to the relevant terms, in relation to a tax deposit, are references to the terms applicable to that deposit and to the certificate issued in respect of it.

Amendment of the Exchequer and Audit Departments Act 1866.

1866 c. 39.

158. Section 10 of the Exchequer and Audit Departments Act 1866 (Commissioners of Customs and Excise and of Inland Revenue to deduct repayments from gross revenues) shall have effect, and be deemed always to have had effect, as if the reference in that section to repayments included references to—

(a) payments in respect of any actual or deemed credits relating to any tax or duty; and

(b) payments of any interest on sums which are or are deemed to be repayments for the purposes of that section.

Ports levy.

1991 c. 52.

159.—(1) In Part I of the Ports Act 1991 (transfer of statutory port undertakings), after section 15 (duty to provide information for purposes of levy) insert—

"Notice of assessment: supplementary provisions.

15A.—(1) Where a notice of assessment has been served under section 14(2) above on a former relevant port authority ("the authority"), the authority may, within the period mentioned in section 14(3) above, by notice in writing request the appropriate Minister to reconsider the amount of the assessment.

The request shall set out the grounds on which the authority allege that the amount assessed is incorrect.

(2) If it appears to the Minister that there are reasonable grounds for believing that the amount of the assessment may be excessive, he may direct that section 14(3) and (4) above shall not apply to the whole amount of the assessment but only to such lesser amount as he may specify.

(3) If a request for reconsideration is duly made, the appropriate Minister shall reconsider the amount of the assessment and may confirm or reduce it.

An appeal lies to the High Court or, in Scotland, to the Court of Session as the Court of Exchequer in Scotland from any decision of the Minister under this subsection.

(4) The appropriate Minister may reconsider the amount of an assessment under section 14(2) above in any other case, if he thinks fit, and may confirm or reduce it.

(5) When the amount of the assessment is finally determined—

(a) if the amount of the assessment is less than the amount paid by the authority, the appropriate Minister shall make such payment to the authority as is required to put the authority in the same position as if the reduced amount had been specified in the original assessment;

(b) if a further amount is payable by the authority, section 14(3) and (4) above shall apply in relation to that amount as if the reference to the date of issue of the notice of assessment were a reference to the date of the determination.

(6) Except as provided by this section a notice of assessment under section 14(2) above shall not be questioned in any legal proceedings whatsoever.".

(2) Sections 115 to 120 of the Finance Act 1990 (levy on privatisation of certain ports) shall cease to have effect.

1990 c. 29.

(3) An Order in Council under paragraph 1(1)(b) of Schedule 1 to the Northern Ireland Act 1974 (legislation for Northern Ireland in the interim period) which states that it is made only for purposes corresponding to those of subsection (1) above—

1974 c.28.

(a) shall not be subject to paragraph 1(4) and (5) of that Schedule (affirmative resolution of both Houses of Parliament), but

(b) shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Tax simplification.

160.—(1) The Inland Revenue shall prepare and present to Treasury Ministers a report on tax simplification.

(2) The report shall be laid before Parliament and published before 31st December 1995.

(3) The report shall give—

(a) an account of recent tax legislation history;

(b) full details of recent annual additions to both primary and secondary legislation;

(c) a summary of recent criticism of both the complexity of tax legislation and of parliamentary procedure; and

(d) the advantages and disadvantages of possible solutions including a Royal Commission on taxation and a tax law commission.

PART VI

General

Interpretation.
1988 c. 1.

161.—(1) In this Act "the Taxes Act 1988" means the Income and Corporation Taxes Act 1988.

1970 c. 9.

(2) In Part III of this Act "the Management Act" means the Taxes Management Act 1970.

1891 c. 39.

(3) Part V of this Act shall be construed as one with the Stamp Act 1891.

Repeals.

162. The provisions specified in Schedule 29 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.

Short title.

163. This Act may be cited as the Finance Act 1995.

SCHEDULES

SCHEDULE 1

Section 2.

TABLE OF RATES OF DUTY ON WINE AND MADE-WINE

PART I

WINE OR MADE-WINE OF A STRENGTH NOT EXCEEDING 22 PER CENT.

Description of wine or made-wine	*Rates of duty per hectolitre*
	£
Wine or made-wine of a strength not exceeding 4 per cent.	23.41
Wine or made-wine of a strength exceeding 4 per cent. but not exceeding 5.5 per cent.	42.14
Wine or made-wine of a strength exceeding 5.5 per cent. but not exceeding 15 per cent. and not being sparkling	140.44
Sparkling wine or sparkling made-wine of a strength exceeding 5.5 per cent. but not exceeding 15 per cent.	200.64
Wine or made-wine of a strength exceeding 15 per cent. but not exceeding 22 per cent.	200.64

PART II

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

Description of wine or made-wine	*Rates of duty per litre of alcohol in the wine or made-wine*
	£
Wine or made-wine of a strength exceeding 22 per cent.	20.60

SCHEDULE 2

Section 5.

DENATURED ALCOHOL

The Alcoholic Liquor Duties Act 1979

1979 c. 4.

1. In section 4(1) of the Alcoholic Liquor Duties Act 1979 (interpretation)—

(a) for the definition of "authorised methylator" there shall be substituted the following definition—

"'authorised denaturer' means a person authorised under section 75(1) below to denature dutiable alcoholic liquor;"

(b) in the definition of "British compounded spirits", for "methylated spirits" there shall be substituted "denatured alcohol";

(c) after the definition of "compounder" there shall be inserted the following definition—

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"'denatured alcohol' means denatured alcohol within the meaning of section 5 of the Finance Act 1995, and references to denaturing a liquor are references to subjecting it to any process by which it becomes denatured alcohol;"

(d) for the definition of "licensed methylator" there shall be substituted the following definition—

"'licensed denaturer' means a person holding a licence under section 75(2) below;".

2. Section 9 of that Act (remission of duty on spirits for methylation) shall cease to have effect.

3. In section 10 of that Act (remission of duty on spirits), for "methylated spirits" there shall be substituted "denatured alcohol".

4. In section 24(1)(a) of that Act (restriction on distiller or rectifier carrying on other trades), for "methylated spirits" there shall be substituted "denatured alcohol".

5. In sections 75, 77, 79 and 80 of that Act (which contain provisions regulating methylation)—

(a) for the words "methylate", "methylates", "methylator" and "methylators", wherever they occur, and for the word "methylated", where it occurs outside the expression "methylated spirits", there shall be substituted, respectively, "denature", "denatures", "denaturer", "denaturers" and "denatured";

(b) for the words "methylation" and "methylating", wherever they occur, there shall be substituted, in each case, "denaturing";

(c) for the word "spirits", wherever it occurs outside the expression "methylated spirits", there shall be substituted "dutiable alcoholic liquor";

(d) for the words "methylated spirits", wherever they occur, there shall be substituted "denatured alcohol".

6. In section 77(2) of that Act (provisions supplemental to powers to make regulations), after paragraph (a) there shall be inserted the following paragraph—

"(aa) frame any provision of the regulations with respect to the supply, receipt or use of denatured alcohol by reference to matters to be contained from time to time in a notice published in accordance with the regulations by the Commissioners and having effect until withdrawn in accordance with the regulations; and".

7. For section 78 of that Act (additional provisions relating to methylated spirits) there shall be substituted the following section—

"Defaults in respect of denatured alcohol.

78.—(1) This subsection applies if, at any time when an account is taken and a balance struck of the quantity of any kind of denatured alcohol in the possession of an authorised or licensed denaturer, there is a difference between—

(a) the quantity ('the actual amount') of the dutiable alcoholic liquor of any description in the denatured alcohol in his possession; and

(b) the quantity ('the proper amount') of dutiable alcoholic liquor of that description which, according to any such accounts as are required to be kept by virtue of any regulations under section 77 above, ought to be in the denatured alcohol in his possession.

(2) Subsection (1) above shall not apply if the difference constitutes—

(a) an excess of the actual amount over the proper amount of not more than 1 per cent. of the aggregate of—

(i) the quantity of dutiable alcoholic liquor of the description in question in the balance of dutiable alcoholic liquor struck when an account was last taken; and

(ii) the quantity of dutiable alcoholic liquor of that description which has since been lawfully added to the denaturer's stock;

or

(b) a deficiency such that the actual amount is less than the proper amount by not more than 2 per cent. of that aggregate.

(3) If, where subsection (1) above applies, the actual amount exceeds the proper amount, the relevant amount of any dutiable alcoholic liquor of the description in question which is in the possession of the denaturer shall be liable to forfeiture; and for this purpose the relevant amount is the amount corresponding to the amount of the excess or such part of that amount as the Commissioners consider appropriate.

(4) If, where subsection (1) above applies, the actual amount is less than the proper amount, the denaturer shall, on demand by the Commissioners, pay on the amount of the deficiency, or on such part of it as the Commissioners may specify in the demand, the duty payable on dutiable alcoholic liquor of the description comprised in the deficiency.

(5) If any person—

(a) supplies to another, in contravention of any regulations under section 77 above, any denatured alcohol containing dutiable alcoholic liquor of any description, or

(b) uses any such denatured alcohol in contravention of any such regulations,

that person shall, on demand by the Commissioners, pay on the amount of dutiable alcoholic liquor of that description comprised, at the time of its supply or use, in the denatured alcohol that is so supplied or used, or on such part of it as the Commissioners may specify, the duty payable on dutiable alcoholic liquor of that description.

(6) Any supply of denatured alcohol to a person who—

(a) by virtue of any regulations under section 77 above is prohibited from receiving it unless authorised to do so by or under the regulations, and

(b) is not so authorised in the case of the denatured alcohol supplied to him,

shall be taken for the purposes of subsection (5) above to be a supply in contravention of those regulations.

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(7) A demand made for the purposes of subsection (4) or (5) above shall be combined, as if there had been a default such as is mentioned in that section, with an assessment and notification under section 12 of the Finance Act 1994 (assessments to excise duty) of the amount of duty due in consequence of the making of the demand."

1994 c. 9.

The Finance Act 1994

1979 c. 4.

8. In paragraph 3(1)(d) of Schedule 5 to the Finance Act 1994 (decisions under or for the purposes of section 9 or 10 of the Alcoholic Liquor Duties Act 1979 to be subject to review and appeal), for "section 9 or 10 (remission of duty on spirits for methylation or" there shall be substituted "section 10 (remission of duty on spirits".

Section 14.

SCHEDULE 3

AMUSEMENT MACHINE LICENCE DUTY

Introductory

1981 c. 63.

1. The Betting and Gaming Duties Act 1981 shall be amended in accordance with paragraphs 2 to 11 below.

Amusement machine licences

2.—(1) In section 21 (gaming machine licences)—

(a) in subsection (1), for the words "gaming machine" and "for gaming" there shall be substituted, respectively, "amusement machine" and "for play";

(b) in subsection (2), for "a gaming machine licence" there shall be substituted "an amusement machine licence"; and

(c) in subsection (3), for "A gaming machine licence" there shall be substituted "An amusement machine licence".

(2) In subsection (3A) of that section (excepted machines), for paragraph (b) there shall be substituted the following paragraphs—

"(b) a five-penny machine which is a prize machine without being a gaming machine or which (if it is a gaming machine) is a small-prize machine, or

(c) a thirty-five-penny machine which is not a prize machine."

Amusement machine licence duty

3.—(1) In subsection (1) of section 22 (duty on gaming machine licences), for "gaming machine" there shall be substituted "amusement machine".

(2) In subsection (2) of that section (meaning of "small-prize machine"), for "a gaming machine is a small-prize machine if" there shall be substituted "an amusement machine is a small-prize machine if it is a prize machine and".

Rate of duty

4.—(1) In subsection (1) of section 23 (determination of rate of duty by reference to Table), for "a gaming machine licence" there shall be substituted "an amusement machine licence".

(2) In subsection (2) of that section—

(a) in paragraph (b), for "or column 3" there shall be substituted ", column 3 or column 4"; and

(b) in the words after that paragraph, for the words "gaming" and "or the rate in column 3" there shall be substituted, respectively, "amusement" and ", the rate in column 3 or the rate in column 4".

(3) For the Table in that subsection (as substituted by section 13 of this Act) there shall be substituted the following Table—

TABLE

(1) *Period (in months) for which licence granted*	*(2)* *Machines that are not gaming machines*	*(3)* *Gaming machines that are small-prize machines or are five-penny machines without being small-prize machines*	*(4)* *Other machines*
	£	£	£
1	30	60	150
2	50	105	275
3	75	155	400
4	95	205	520
5	120	250	645
6	140	295	755
7	160	340	880
8	185	390	1,005
9	205	435	1,115
10	225	480	1,235
11	240	510	1,305
12	250	535	1,375

Restrictions on provision of machines

5. In section 24 (restrictions on provision of gaming machines)—

(a) for the words "Gaming machines", "gaming machines" and "gaming machine", wherever they occur, there shall be substituted, respectively, "Amusement machines", "amusement machines" and "amusement machine";

(b) for the word "a", where it occurs before "gaming machine" in subsection (5)(f), there shall be substituted "an"; and

(c) for the words "for gaming", wherever they occur, there shall be substituted "for play".

Meaning of "amusement machine"

6.—(1) For subsections (1) to (3) of section 25 (meaning of "gaming machine") there shall be substituted the following subsections—

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

(a) the machine is constructed or adapted for the playing of any game (whether a game of chance, a game of skill or a game of chance and skill combined);

(b) the game is one played by means of the machine (whether automatically or by the operation of the machine by the player or players);

(c) a player pays to play the game (except where he has an opportunity to play without payment as a result of having previously played successfully) either by inserting a coin or token into the machine or in some other way;

(d) the machine automatically—

(i) applies some or all of the rules of the game or displays or records scores in the game; and

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(ii) determines when a player who has paid to play a game by means of the machine can no longer play without paying again;

and

(e) the machine is a gaming machine, a video machine or a pinball machine.

(1A) A machine constructed or adapted for the playing of a game is a gaming machine for the purposes of this Act if—

(a) it is a prize machine;

(b) the game which is played by means of the machine is a game of chance, a game of chance and skill combined or a pretended game of chance or of chance and skill combined; and

(c) the outcome of the game is determined by the chances inherent in the action of the machine, whether or not provision is made for manipulation of the machine by a player;

and for the purposes of this subsection a game in which the elements of chance can be overcome by skill shall be treated as a game of chance and skill combined if there is an element of chance in the game that cannot be overcome except by superlative skill.

(1B) A machine constructed or adapted for the playing of a game is a video machine for the purposes of this Act if—

(a) a micro-processor is used to control some or all of the machine's functions; and

(b) the playing of the game involves information or images being communicated or displayed to the player or players by means of any description of screen, other than one consisting only in a blank surface onto which light is projected.

(1C) For the purposes of this Act an amusement machine is a prize machine unless it is constructed or adapted so that a person playing it once and successfully either receives nothing or receives only—

(a) an opportunity, afforded by the automatic action of the machine, to play again (once or more often) without paying, or

(b) a prize, determined by the automatic action of the machine and consisting in either—

(i) money of an amount not exceeding the sum payable to play the machine once, or

(ii) a token which is, or two or more tokens which in the aggregate are, exchangeable for money of an amount not exceeding that sum."

(2) In subsection (4) of that section (machines playable by more than one person), for "a gaming machine" there shall be substituted "a machine of any description".

(3) For subsections (5) to (9) of that section there shall be substituted the following subsections—

"(5) For the purposes of sections 21 to 24 above a machine (the actual machine) in relation to which the number determined in accordance with subsection (5A) below is more than one shall be treated (instead of as one machine) as if it were a number of machines (accountable machines) equal to the number so determined.

(5A) That number is—

(a) except where paragraph (b) below applies, the number of individual playing positions provided on the machine for persons to play simultaneously (whether or not while participating in the same game); and

(b) where—

(i) that machine is a video machine but not a gaming machine, and

(ii) the number of such playing positions is more than the number of different screens used for the communication or display of information or images to any person or persons playing a game by means of the machine,

the number of such screens.

(6) Subsection (5) above does not apply in the case of any machine which is an excepted machine for the purposes of section 21 above or in the case of a pinball machine.

(7) Any question whether the accountable machines are, or are not, machines falling within any of the following descriptions, that is to say—

(a) gaming machines,

(b) prize machines,

(c) small-prize machines, or

(d) five-penny machines,

shall be determined according to whether or not the actual machine is a machine of that description, with the accountable machines being taken to be machines of the same description as the actual machine."

7. After section 25 there shall be inserted the following section—

"Power to modify definition of 'amusement machine'.

25A.—(1) The Treasury may by order modify the provisions of section 25 above—

(a) by adding to the machines for the time being specified in subsection (1)(e) of that section any description of machines which it appears to them, having regard to the use to which the machines are put, to be appropriate for the protection of the revenue so to add to those machines; or

(b) by deleting any description of machines for the time being so specified.

(2) An order under this section may make such incidental, consequential or transitional provision as the Treasury think fit, including provision modifying section 21 or section 25(5A) above for the purpose of—

(a) specifying the circumstances (if any) in which a machine added to section 25(1)(e) above is to be an excepted machine for the purposes of section 21 above; or

(b) determining the number which, in the case of a machine so added, is to be taken into account for the purposes of section 25(5) above."

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Supplementary provisions

8.—(1) In section 26 (supplementary provisions)—

(a) for the words "gaming machine licence duty" in subsection (1) there shall be substituted "amusement machine licence duty";

(b) for the words "a gaming machine" and "gaming machines", wherever they occur, there shall be substituted, respectively, "an amusement machine" and "amusement machines"; and

(c) for the words "for gaming", wherever they occur, there shall be substituted "for play".

(2) In subsection (2) of that section—

(a) after the definition of "United Kingdom" there shall be inserted the following definitions—

"'video machine' has the meaning given by section 25(1B) above;

'prize machine' has the meaning given by section 25(1C) above;"

and

(b) after the definition of a "five-penny machine" there shall be inserted the following definition—

"'thirty-five-penny machine' means an amusement machine which can only be played by the insertion into the machine of coins of an aggregate denomination not exceeding 35p;".

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

"(2A) References in sections 21 to 25 above and in this section and Schedule 4 to this Act to a game, in relation to any machine, include references to a game in the nature of a quiz or puzzle and to a game which is played solely by way of a pastime or against the machine, as well as one played wholly or partly against one or more contemporaneous or previous players."

9.—(1) In sections 31 and 33(2) (protection of officers and savings for prohibitions of gaming etc.), for the words "gaming machine licences", in each case, there shall be substituted "amusement machine licences".

(2) In section 32(3) (orders subject to affirmative procedure), for "or 14(3)" there shall be substituted ", 14(3) or 25A".

(3) In section 33(1) (interpretation), in the definition of "gaming", the words "(except where it refers to a machine provided for gaming)" shall be omitted.

10. In Schedule 3 (bingo duty)—

(a) in paragraph 5(1)(b), for "a gaming machine licence" there shall be substituted "an amusement machine licence"; and

(b) in paragraph 6, for "a gaming machine" there shall be substituted "an amusement machine".

11.—(1) In Schedule 4 (supplementary provisions in relation to gaming machine licence duty)—

(a) for the words "gaming machine" and "gaming machines", wherever they occur, there shall be substituted, respectively, "amusement machine" and "amusement machines"; and

(b) for the indefinite article, wherever it occurs before an expression amended by paragraph (a) above, there shall be substituted "An" or "an", as the case may require.

(2) In paragraph 1(2) of that Schedule (conditions of exemption for charitable entertainments etc.)—

(a) in paragraph (a), for "of gaming by means of any machine" there shall be substituted "from any amusement machines"; and

(b) in paragraph (b), for "and any other provided for gaming" there shall be substituted "and any other amusement machines provided".

(3) In paragraph 2(2)(c) of that Schedule (conditions of exemption for pleasure fairs), for "and any other provided for gaming" there shall be substituted "and any other amusement machines provided".

(4) In paragraph 4 of that Schedule—

(a) for the words "small-prize machines", wherever they occur, there shall be substituted "relevant machines"; and

(b) after sub-paragraph (7) there shall be inserted the following sub-paragraph—

"(7A) An amusement machine is a relevant machine for the purposes of this paragraph unless it is a gaming machine which is not a small-prize machine.";

and in relation to the winter period beginning with November 1995, sub-paragraph (4) of that paragraph shall have effect as if the references by virtue of this paragraph to an amusement machine licence included references to a gaming machine licence.

(5) After paragraph 7 of that Schedule there shall be inserted the following paragraph—

"Payment of duty by instalments

7A.—(1) The Commissioners may make and publish arrangements setting out the circumstances in which, and the conditions subject to which, a person to whom an amusement machine licence is granted for a period of twelve months may, at his request and if the Commissioners think fit, be permitted to pay the duty on that licence by regular instalments during the period of the licence, instead of at the time when it is granted.

(2) Arrangements under this paragraph shall provide for the amount of each instalment to be such that the aggregate amount of all the instalments to be paid in respect of any licence is an amount equal to 105 per cent. of what would have been the duty on that licence apart from this paragraph.

(3) Sub-paragraph (4) below applies if a person who has been permitted, in accordance with arrangements under this paragraph, to pay the duty on any amusement machine licence by instalments—

(a) fails to pay any instalment at the time when it becomes due in accordance with the arrangements; and

(b) does not make good that failure within seven days of being required to do so by notice given by the Commissioners.

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(4) Where this sub-paragraph applies—

(a) the licence shall be treated as having ceased to be in force as from the time when the instalment became due;

(b) the person to whom the licence was granted shall become liable to any unpaid duty to which he would have been liable under paragraph 11(1C) below if he had surrendered the licence at that time; and

(c) any amusement machines found on the premises to which the licence related shall be liable to forfeiture.

1994 c. 9.

(5) Sections 14 to 16 of the Finance Act 1994 (review and appeals) shall have effect in relation to any decision of the Commissioners refusing an application for permission to pay duty by instalments in accordance with arrangements under this paragraph as if that decision were a decision of a description specified in Schedule 5 to that Act."

(6) In paragraph 11 of that Schedule (surrender), after sub-paragraph (1B) there shall be inserted the following sub-paragraph—

"(1C) Where, in a case where duty is being paid in accordance with arrangements made under paragraph 7A above, the amount of duty actually paid on a licence that is surrendered is less than the amount which would have been paid on that licence if the period for which it was granted had been reduced by the number of complete months in that period which have not expired when the licence is surrendered, the difference between those amounts shall be treated as unpaid duty."

(7) Paragraph 13 of that Schedule (labelling and marking of machines) shall cease to have effect.

(8) In paragraph 14 of that Schedule (power to enter premises), for the words "for gaming" there shall be substituted "for play".

(9) In paragraph 16 of that Schedule (enforcement), after sub-paragraph (1) there shall be inserted the following sub-paragraph—

"(1A) This paragraph does not apply to any contravention or failure to comply with arrangements under paragraph 7A above or to any failure or refusal to comply with a requirement made under or for the purposes of any such arrangements."

(10) In paragraph 17 of that Schedule (warrants etc.)—

(a) in sub-paragraph (1), for the words "for gaming" there shall be substituted "for play"; and

(b) in sub-paragraph (2)(a), for the words from "(including" to "by means of it)" there shall be substituted "(including any machine appearing to the officer to be an amusement machine or to be capable of being used as such)".

Consequential amendment of the Customs and Excise Management Act 1979

12. In section 102(3)(a) of the Customs and Excise Management Act 1979 (penalty for failure to deliver up a licence), for "a gaming machine licence" there shall be substituted "an amusement machine licence".

1979 c. 2.

SCHEDULE 4

Section 19.

VEHICLE EXCISE AND REGISTRATION

PART I

INTRODUCTION

1. In this Schedule "the 1994 Act" means the Vehicle Excise and Registration Act 1994.

1994 c. 22.

PART II

EXEMPTIONS

Abolition of certain exemptions

2. The following paragraphs of Schedule 2 to the 1994 Act (exempt vehicles) shall be omitted—

(a) paragraph 1 (electrically propelled vehicles);

(b) paragraph 12 (road construction vehicles);

(c) paragraph 13 (road rollers);

(d) paragraph 14 (snow clearing vehicles);

(e) paragraph 15 (gritting vehicles);

(f) paragraph 16 (street cleansing vehicles);

(g) paragraph 17 (tower wagons used solely in connection with street lighting);

(h) paragraph 21 (vehicles used for short journeys between different parts of person's land).

Exemption for police vehicles

3. In Schedule 2 to the 1994 Act the following shall be inserted after paragraph 3—

"Police vehicles

3A. A vehicle is an exempt vehicle when it is being used for police purposes."

Exemption for vehicles used between different parts of land

4. In Schedule 2 to the 1994 Act the following shall be inserted after paragraph 20—

"Vehicles used between different parts of land

20A. A vehicle is an exempt vehicle if—

(a) it is used only for purposes relating to agriculture, horticulture or forestry,

(b) it is used on public roads only in passing between different areas of land occupied by the same person, and

(c) the distance it travels on public roads in passing between any two such areas does not exceed 1.5 kilometres."

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Commencement

5. This Part of this Schedule shall come into force on 1st July 1995.

PART III

RATES

General

6.—(1) In Schedule 1 to the 1994 Act (annual rates of duty) the following paragraph shall be substituted for paragraph 1 (annual rate of duty where no other rate specified)—

"1.—(1) The annual rate of vehicle excise duty applicable to a vehicle in respect of which no other annual rate is specified by this Schedule is—

(a) if it was constructed after 1946, the general rate;

(b) if it was constructed before 1947, the reduced rate.

(2) The general rate is £135.

(3) The reduced rate is 50 per cent. of the general rate.

(4) Where an amount arrived at in accordance with sub-paragraph (3) is an amount—

(a) which is not a multiple of £5, and

(b) which on division by five does not produce a remainder of £2.50,

the rate is the amount arrived at rounded (either up or down) to the nearest amount which is a multiple of £5.

(5) Where an amount arrived at in accordance with sub-paragraph (3) is an amount which on division by five produces a remainder of £2.50, the rate is the amount arrived at increased by £2.50."

(2) The following amendments shall be made in consequence of sub-paragraph (1) above—

(a) in section 13 of the 1994 Act (trade licences) in subsection (3)(b) for "1(b)" there shall be substituted "1(1)(a)";

(b) in section 13 of the 1994 Act as substituted under paragraph 8 of Schedule 4 to that Act, in subsection (4)(b) for "1(b)" there shall be substituted "1(1)(a)";

(c) in section 36 of the 1994 Act (additional liability where cheque dishonoured) in subsection (3)(b) for "1(b)" there shall be substituted "1(1)(a)".

Motorcycles

7.—(1) Paragraph 2 of Schedule 1 to the 1994 Act (motorcycles) shall be amended as follows.

(2) In sub-paragraph (1) (rate for motorcycles not exceeding 450 kilograms) the following shall be substituted for paragraphs (a) to (c)—

"(a) if the cylinder capacity of the engine does not exceed 150 cubic centimetres, 10 per cent. of the general rate specified in paragraph 1(2);

(b) if the vehicle is a motorbicycle and the cylinder capacity of the engine exceeds 150 cubic centimetres but does not exceed 250 cubic centimetres, 25 per cent. of the general rate specified in paragraph 1(2);

(c) in any other case, 40 per cent. of the general rate specified in paragraph 1(2)."

(3) The following sub-paragraphs shall be inserted after sub-paragraph (1)—

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"(1A) Where an amount arrived at in accordance with sub-paragraph (1)(a), (b) or (c) is an amount—

(a) which is not a multiple of £5, and

(b) which on division by five does not produce a remainder of £2.50,

the rate is the amount arrived at rounded (either up or down) to the nearest amount which is a multiple of £5.

(1B) Where an amount arrived at in accordance with sub-paragraph (1)(a), (b) or (c) is an amount which on division by five produces a remainder of £2.50, the rate is the amount arrived at increased by £2.50."

Buses etc.

8. In Schedule 1 to the 1994 Act the following shall be substituted for Part III (hackney carriages)—

"PART III

BUSES

3.—(1) The annual rate of vehicle excise duty applicable to a bus is—

(a) if its seating capacity is nine to sixteen, the same as the basic goods vehicle rate;

(b) if its seating capacity is seventeen to thirty-five, 133 per cent. of the basic goods vehicle rate;

(c) if its seating capacity is thirty-six to sixty, 200 per cent. of the basic goods vehicle rate;

(d) if its seating capacity is over sixty, 300 per cent. of the basic goods vehicle rate.

(2) In this paragraph "bus" means a vehicle which—

(a) is a public service vehicle (within the meaning given by section 1 of the Public Passenger Vehicles Act 1981), and

1981 c. 14.

(b) is not an excepted vehicle.

(3) For the purposes of this paragraph an excepted vehicle is—

(a) a vehicle which has a seating capacity under nine,

(b) a vehicle which is a community bus,

(c) a vehicle used under a permit granted under section 19 of the Transport Act 1985 (educational and other bodies) and used in circumstances where the requirements mentioned in subsection (2) of that section are met, or

1985 c. 67.

(d) a vehicle used under a permit granted under section 10B of the Transport Act (Northern Ireland) 1967 (educational and other bodies) and used in circumstances where the requirements mentioned in subsection (2) of that section are met.

1967 c. 37 (N.I.).

(4) In sub-paragraph (3)(b) "community bus" means a vehicle—

(a) used on public roads solely in accordance with a community bus permit (within the meaning given by section 22 of the Transport Act 1985), and

(b) not used for providing a service under an agreement providing for service subsidies (within the meaning given by section 63(10)(b) of that Act).

(5) For the purposes of this paragraph the seating capacity of a vehicle shall be determined in accordance with regulations made by the Secretary of State.

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(6) In sub-paragraph (1) references to the basic goods vehicle rate are to the rate applicable, by virtue of sub-paragraph (1) of paragraph 9, to a rigid goods vehicle which falls within column (3) of the table in that sub-paragraph and has a revenue weight exceeding 3,500 kilograms and not exceeding 7,500 kilograms.

(7) Where an amount arrived at in accordance with sub-paragraph (1)(b), (c) or (d) is an amount—

(a) which is not a multiple of £10, and

(b) which on division by ten does not produce a remainder of £5,

the rate is the amount arrived at rounded (either up or down) to the nearest amount which is a multiple of £10.

(8) Where an amount arrived at in accordance with sub-paragraph (1)(b), (c) or (d) is an amount which on division by ten produces a remainder of £5, the rate is the amount arrived at increased by £5."

Special vehicles

9.—(1) Part IV of Schedule 1 to the 1994 Act (special machines) shall be amended as follows.

(2) For the heading "SPECIAL MACHINES" there shall be substituted "SPECIAL VEHICLES".

(3) In paragraph 4(1) (annual rate of £35) for the words "special machine is £35" there shall be substituted "special vehicle is the same as the basic goods vehicle rate".

(4) In paragraph 4(2) (definition of "special machine")—

(a) for the words ""special machine" means" there shall be substituted ""special vehicle" means a vehicle which has a revenue weight exceeding 3,500 kilograms and is";

(b) paragraphs (a), (b) and (f) (tractors, agricultural engines and mowing machines) shall be omitted;

(c) after paragraph (e) there shall be inserted—

"(ee) a road roller."

(5) Paragraph 4(3) (definition of "tractor") shall be omitted.

(6) The following sub-paragraph shall be inserted after sub-paragraph (6) of paragraph 4—

"(7) In sub-paragraph (1) the reference to the basic goods vehicle rate is to the rate applicable, by virtue of sub-paragraph (1) of paragraph 9, to a rigid goods vehicle which falls within column (3) of the table in that sub-paragraph and has a revenue weight exceeding 3,500 kilograms and not exceeding 7,500 kilograms."

Special concessionary vehicles

10. In Schedule 1 to the 1994 Act the following shall be inserted after Part IV—

"PART IVA

SPECIAL CONCESSIONARY VEHICLES

4A.—(1) The annual rate of vehicle excise duty applicable to a special concessionary vehicle is 25 per cent. of the general rate specified in paragraph 1(2).

(2) Where an amount arrived at in accordance with sub-paragraph (1) is an amount—

(a) which is not a multiple of £5, and

(b) which on division by five does not produce a remainder of £2.50,

the rate is the amount arrived at rounded (either up or down) to the nearest amount which is a multiple of £5.

(3) Where an amount arrived at in accordance with sub-paragraph (1) is an amount which on division by five produces a remainder of £2.50, the rate is the amount arrived at increased by £2.50.

4B.—(1) A vehicle is a special concessionary vehicle if it is—

(a) an agricultural tractor, or

(b) an off-road tractor.

(2) In sub-paragraph (1) "agricultural tractor" means a tractor used on public roads solely for purposes relating to agriculture, horticulture, forestry or activities falling within sub-paragraph (3).

(3) The activities falling within this sub-paragraph are—

(a) cutting verges bordering public roads;

(b) cutting hedges or trees bordering public roads or bordering verges which border public roads.

(4) In sub-paragraph (1) "off-road tractor" means a tractor which is not an agricultural tractor (within the meaning given by sub-paragraph (2)) and which is—

(a) designed and constructed primarily for use otherwise than on roads, and

(b) incapable by reason of its construction of exceeding a speed of twenty-five miles per hour on the level under its own power.

4C.—(1) A vehicle is a special concessionary vehicle if it is a light agricultural vehicle.

(2) In sub-paragraph (1) "light agricultural vehicle" means a vehicle which—

(a) has a revenue weight not exceeding 1,000 kilograms,

(b) is designed and constructed so as to seat only the driver,

(c) is designed and constructed primarily for use otherwise than on roads, and

(d) is used solely for purposes relating to agriculture, horticulture or forestry.

4D. An agricultural engine is a special concessionary vehicle.

4E. A mowing machine is a special concessionary vehicle.

4F.—(1) An electrically propelled vehicle is a special concessionary vehicle.

(2) A vehicle is not an electrically propelled vehicle for the purposes of sub-paragraph (1) unless the electrical motive power is derived from—

(a) a source external to the vehicle, or

(b) an electrical storage battery which is not connected to any source of power when the vehicle is in motion.

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4G. A vehicle is a special concessionary vehicle when it is—

(a) being used,

(b) going to or from the place where it is to be or has been used, or

(c) being kept for use,

for the purpose of clearing snow from public roads by means of a snow plough or similar device (whether or not forming part of the vehicle).

4H. A vehicle is a special concessionary vehicle if it is constructed or adapted, and used, solely for the conveyance of machinery for spreading material on roads to deal with frost, ice or snow (with or without articles or material used for the purposes of the machinery)."

Recovery vehicles

11.—(1) Paragraph 5 of Schedule 1 to the 1994 Act (recovery vehicles) shall be amended as follows.

(2) In sub-paragraph (1) (annual rate of duty of £85) for the words "is £85" there shall be substituted "is—

(a) if it has a revenue weight exceeding 3,500 kilograms and not exceeding 12,000 kilograms, the same as the basic goods vehicle rate;

(b) if it has a revenue weight exceeding 12,000 kilograms and not exceeding 25,000 kilograms, 300 per cent. of the basic goods vehicle rate;

(c) if it has a revenue weight exceeding 25,000 kilograms, 500 per cent. of the basic goods vehicle rate."

(3) The following sub-paragraphs shall be inserted after sub-paragraph (5)—

"(6) In sub-paragraph (1) references to the basic goods vehicle rate are to the rate applicable, by virtue of sub-paragraph (1) of paragraph 9, to a rigid goods vehicle which falls within column (3) of the table in that sub-paragraph and has a revenue weight exceeding 3,500 kilograms and not exceeding 7,500 kilograms.

(7) Where an amount arrived at in accordance with sub-paragraph (1)(b) or (c) is an amount—

(a) which is not a multiple of £10, and

(b) which on division by ten does not produce a remainder of £5,

the rate is the amount arrived at rounded (either up or down) to the nearest amount which is a multiple of £10.

(8) Where an amount arrived at in accordance with sub-paragraph (1)(b) or (c) is an amount which on division by ten produces a remainder of £5, the rate is the amount arrived at increased by £5."

Vehicles used for exceptional loads

12.—(1) Paragraph 6 of Schedule 1 to the 1994 Act (vehicles used for exceptional loads) shall be amended as follows.

(2) In sub-paragraph (2) (annual rate of duty) for "£5,000" there shall be substituted "the heavy tractive unit rate".

(3) The following sub-paragraph shall be inserted after sub-paragraph (3)—

"(3A) In sub-paragraph (2) the reference to the heavy tractive unit rate is to the rate applicable, by virtue of sub-paragraph (1) of paragraph 11, to a tractive unit which falls within column (3) of the table in that sub-paragraph and has a revenue weight exceeding 38,000 kilograms and not exceeding 44,000 kilograms."

Haulage vehicles

13.—(1) Paragraph 7 of Schedule 1 to the 1994 Act (haulage vehicles) shall be amended as follows.

(2) In sub-paragraph (1) for paragraphs (a) and (b) (rate of £100 for showmen's vehicles and of £330 for other haulage vehicles) there shall be substituted—

"(a) if it is a showman's vehicle, the same as the basic goods vehicle rate;

(b) in any other case, the general haulage vehicle rate."

(3) The following sub-paragraphs shall be inserted after sub-paragraph (2)—

"(3) In sub-paragraph (1) the reference to the basic goods vehicle rate is to the rate applicable, by virtue of sub-paragraph (1) of paragraph 9, to a rigid goods vehicle which falls within column (3) of the table in that sub-paragraph and has a revenue weight exceeding 3,500 kilograms and not exceeding 7,500 kilograms.

(4) In sub-paragraph (1) the reference to the general haulage vehicle rate is to 75 per cent. of the rate applicable, by virtue of sub-paragraph (1) of paragraph 11, to a tractive unit which falls within column (3) of the table in that sub-paragraph and has a revenue weight exceeding 12,000 kilograms and not exceeding 16,000 kilograms.

(5) Where an amount arrived at in accordance with sub-paragraph (4) is an amount—

(a) which is not a multiple of £10, and

(b) which on division by ten does not produce a remainder of £5,

the rate is the amount arrived at rounded (either up or down) to the nearest amount which is a multiple of £10.

(6) Where an amount arrived at in accordance with sub-paragraph (4) is an amount which on division by ten produces a remainder of £5, the rate is the amount arrived at increased by £5."

Goods vehicles

14.—(1) Part VIII of Schedule 1 to the 1994 Act (goods vehicles) shall be amended as follows.

(2) Paragraph 8 (basic rate) shall be omitted.

(3) In paragraph 9(1) (rates of duty for rigid goods vehicles)—

(a) at the beginning there shall be inserted "Subject to sub-paragraphs (2) and (3),";

(b) for the words "a plated gross weight (or, in Northern Ireland, a relevant maximum weight) exceeding 7,500 kilograms" there shall be substituted "a revenue weight exceeding 3,500 kilograms";

(c) in paragraph (a) for the words "plated gross weight (or relevant maximum weight)" there shall be substituted "revenue weight".

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(4) The following table shall be substituted for the table in paragraph 9(1)—

Revenue weight of vehicle		Rate		
(1) Exceeding	(2) Not Exceeding	(3) Two axle vehicle	(4) Three axle vehicle	(5) Four or more axle vehicle
kgs	kgs	£	£	£
3,500	7,500	150	150	150
7,500	12,000	290	290	290
12,000	13,000	450	470	340
13,000	14,000	630	470	340
14,000	15,000	810	470	340
15,000	17,000	1,280	470	340
17,000	19,000	1,280	820	340
19,000	21,000	1,280	990	340
21,000	23,000	1,280	1,420	490
23,000	25,000	1,280	2,160	800
25,000	27,000	1,280	2,260	1,420
27,000	29,000	1,280	2,260	2,240
29,000	31,000	1,280	2,260	3,250
31,000	44,000	1,280	2,260	4,250

(5) For sub-paragraph (2) of paragraph 9 there shall be substituted the following sub-paragraphs—

"(2) The annual rate of vehicle excise duty applicable—

(a) to any rigid goods vehicle which is a showman's goods vehicle with a revenue weight exceeding 3,500 kilograms but not exceeding 44,000 kilograms, and

(b) to any rigid goods vehicle which is an island goods vehicle with a revenue weight exceeding 3,500 kilograms,

shall be the basic goods vehicle rate.

(3) The annual rate of vehicle excise duty applicable to a rigid goods vehicle which has a revenue weight exceeding 44,000 kilograms and is not an island goods vehicle shall be the heavy tractive unit rate.

(4) In sub-paragraph (2) the reference to the basic goods vehicle rate is to the rate applicable, by virtue of sub-paragraph (1), to a rigid goods vehicle which falls within column (3) of the table in that sub-paragraph and has a revenue weight exceeding 3,500 kilograms and not exceeding 7,500 kilograms.

(5) In sub-paragraph (3) the reference to the heavy tractive unit rate is to the rate applicable, by virtue of sub-paragraph (1) of paragraph 11, to a tractive unit which falls within column (3) of the table in that sub-paragraph and has a revenue weight exceeding 38,000 kilograms and not exceeding 44,000 kilograms."

(6) In paragraph 10(1) (trailer supplement) for the words "plated gross weight (or relevant maximum weight)"—

(a) in the first place where they occur, there shall be substituted "revenue weight"; and

(b) in the second and third places where they occur, there shall be substituted "plated gross weight".

(7) In paragraph 10(2) (lower rate of trailer supplement)—

(a) the words "(or relevant maximum weight)" shall be omitted; and

(b) for "£135" there shall be substituted "an amount equal to the amount of the general rate specified in paragraph 1(2)".

(8) In paragraph 10(3) (higher rate of trailer supplement)—

(a) the words "(or relevant maximum weight)" shall be omitted; and

(b) for "£370" there shall be substituted "an amount equal to 275 per cent. of the amount of the general rate specified in paragraph 1(2)".

(9) In paragraph 10 the following sub-paragraphs shall be inserted after sub-paragraph (3)—

"(3A) Where an amount arrived at in accordance with sub-paragraph (3) is an amount—

(a) which is not a multiple of £10, and

(b) which on division by ten does not produce a remainder of £5,

the amount of the trailer supplement is the amount arrived at rounded (either up or down) to the nearest amount which is a multiple of £10.

(3B) Where an amount arrived at in accordance with sub-paragraph (3) is an amount which on division by ten produces a remainder of £5, the amount of the trailer supplement is the amount arrived at increased by £5."

(10) Paragraph 10(4) (reference to paragraph 12) shall be omitted.

(11) In paragraph 11(1) (rates of duty for tractive units)—

(a) at the beginning there shall be inserted "Subject to sub-paragraphs (2) and (3),";

(b) for the words "a plated train weight (or, in Northern Ireland, a relevant maximum train weight) exceeding 7,500 kilograms" there shall be substituted "a revenue weight exceeding 3,500 kilograms";

(c) in paragraph (a) for the words "plated train weight (or relevant maximum train weight)" there shall be substituted "revenue weight".

(12) The following table shall be substituted for the table in paragraph 11(1)—

Revenue weight of tractive unit		Rate for tractive unit with two axles			Rate for tractive unit with three or more axles		
(1) Exceeding	(2) Not exceeding	(3) Any no. of semi-trailer axles	(4) 2 or more semi-trailer axles	(5) 3 or more semi-trailer axles	(6) Any no. of semi-trailer axles	(7) 2 or more semi-trailer axles	(8) 3 or more semi-trailer axles
kgs	kgs	£	£	£	£	£	£
3,500	7,500	150	150	150	150	150	150
7,500	12,000	290	290	290	290	290	290
12,000	16,000	440	440	440	440	440	440
16,000	20,000	500	440	440	440	440	440
20,000	23,000	780	440	440	440	440	440
23,000	26,000	1,150	570	440	570	440	440
26,000	28,000	1,150	1,090	440	1,090	440	440
28,000	31,000	1,680	1,680	1,050	1,680	640	440
31,000	33,000	2,450	2,450	1,680	2,450	970	440
33,000	34,000	5,000	5,000	1,680	2,450	1,420	550
34,000	36,000	5,000	5,000	2,750	2,450	2,030	830
36,000	38,000	5,000	5,000	3,100	2,730	2,730	1,240
38,000	44,000	5,000	5,000	3,100	2,730	2,730	1,240

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(13) For sub-paragraph (2) of paragraph 11 there shall be substituted the following sub-paragraphs—

"(2) The annual rate of vehicle excise duty applicable—

(a) to any tractive unit which is a showman's goods vehicle with a revenue weight exceeding 3,500 kilograms but not exceeding 44,000 kilograms, and

(b) to any tractive unit which is an island goods vehicle with a revenue weight exceeding 3,500 kilograms,

shall be the basic goods vehicle rate.

(3) The annual rate of vehicle excise duty applicable to a tractive unit which has a revenue weight exceeding 44,000 kilograms and is not an island goods vehicle shall be the heavy tractive unit rate.

(4) In sub-paragraph (2) the reference to the basic goods vehicle rate is to the rate applicable, by virtue of sub-paragraph (1) of paragraph 9, to a rigid goods vehicle which falls within column (3) of the table in that sub-paragraph and has a revenue weight exceeding 3,500 kilograms and not exceeding 7,500 kilograms.

(5) In sub-paragraph (3) the reference to the heavy tractive unit rate is to the rate applicable, by virtue of sub-paragraph (1), to a tractive unit which falls within column (3) of the table in that sub-paragraph and has a revenue weight exceeding 38,000 kilograms and not exceeding 44,000 kilograms."

(14) Paragraph 12 (farmers' goods vehicles and showmen's goods vehicles) shall be omitted.

(15) In paragraph 13(1) (regulations for reducing plated weights) for the words from "its plated gross weight" to "weight specified" there shall be substituted "its revenue weight were such lower weight as may be specified".

(16) In paragraph 14 (vehicles for conveying machines) sub-paragraphs (b) and (c) shall be omitted.

(17) In paragraph 17(1) (meaning of "trailer")—

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

(b) paragraphs (c) to (e) (road construction vehicles, certain farming implements drawn by farmer's goods vehicle, and certain trailers used to carry gas for propulsion, excluded from meaning of "trailer") shall be omitted.

(18) Paragraph 17(2) (interpretation of paragraph 17(1)(e)) shall be omitted.

(19) The following shall be inserted after paragraph 17—

"Meaning of 'island goods vehicle'

18.—(1) In this Part 'island goods vehicle' means any goods vehicle which—

(a) is kept for use wholly or partly on the roads of one or more small islands; and

(b) is not kept or used on any mainland road, except in a manner authorised by sub-paragraph (2) or (3).

(2) The keeping or use of a goods vehicle on a mainland road is authorised by this sub-paragraph if—

(a) the road is one used for travel between a landing place and premises where vehicles disembarked at that place are loaded or unloaded, or both;

(b) the length of the journey, using that road, from that landing place to those premises is not more than five kilometres;

(c) the vehicle in question is one which was disembarked at that landing place after a journey by sea which began on a small island; and

(d) the loading or unloading of that vehicle is to take place, or has taken place, at those premises.

(3) The keeping or use of a goods vehicle on a mainland road is authorised by this sub-paragraph if—

(a) that vehicle has a revenue weight not exceeding 17,000 kilograms;

(b) that vehicle is normally kept at a base or centre on a small island; and

(c) the only journeys for which that vehicle is used are ones that begin or end at that base or centre.

(4) References in this paragraph to a small island are references to any such island falling within sub-paragraph (5) as may be designated as a small island by an order made by the Secretary of State.

(5) An island falls within this sub-paragraph if—

(a) it has an area of 230,000 hectares or less; and

(b) the absence of a bridge, causeway, tunnel, ford or other way makes it at all times impracticable for road vehicles to be driven under their own power from that island as far as the mainland.

(6) The reference in sub-paragraph (5) to driving a road vehicle as far as the mainland is a reference to driving it as far as any public road in the United Kingdom which is not on an island with an area of 230,000 hectares or less and is not a road connecting two such islands.

(7) In this paragraph—

'island' includes anything that is an island only when the tide reaches a certain height;

'landing place' means any place at which vehicles are disembarked after sea journeys;

'mainland road' means any public road in the United Kingdom, other than one which is on a small island or which connects two such islands; and

'road vehicles' means vehicles which are designed or adapted primarily for being driven on roads and which do not have any special features for facilitating their being driven elsewhere;

and references in this paragraph to the loading or unloading of a vehicle include references to the loading or unloading of its trailer or semi-trailer."

Charge at higher rate

15. In section 17 of the 1994 Act (exceptions from charge at higher rate) the following provisions shall be omitted—

(a) subsections (3) to (5) (provisions about farmers' goods vehicles);

(b) subsections (6) and (7) (agricultural tractors and farmers' goods vehicles in Northern Ireland).

Commencement

16.—(1) This Part of this Schedule shall apply in relation to licences taken out on or after 1st July 1995.

(2) This Part of this Schedule shall also apply in relation to any use after 30th June 1995 of a vehicle which—

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(a) had a plated gross weight or plated train weight (or, in Northern Ireland, a relevant maximum weight or relevant maximum train weight) on that date, and

(b) at the time when it is used has a confirmed maximum weight which, if that had been its plated gross weight or plated train weight (or relevant maximum weight or relevant maximum train weight) on that date, would have brought it within a description of vehicle to which a higher rate of duty was applicable on that date.

PART IV

RATES: SUPPLEMENTARY

Introduction

17. This Part of this Schedule (which supplements provisions of Part III of this Schedule) makes—

(a) provision for determining the revenue weight of a vehicle, and

(b) consequential amendments.

Issue of vehicle licences

18. In section 7(3) of the 1994 Act (matters that may be contained in declarations and particulars to be made or furnished by applicants for licences) for paragraph (b) there shall be substituted—

"(b) the vehicle's revenue weight,

(ba) the place where the vehicle has been or is normally kept, and".

Exchange of licences

19. In section 15(4) of the 1994 Act (exchange of licences where higher rate becomes chargeable) at the beginning there shall be inserted "Subject to section 7(5),".

Exceptions from charge at higher rate

20. In section 16 of the 1994 Act (exceptions from charge at higher rate) in each of subsections (2)(b)(i), (4)(b)(i) and (6)(b)(i) for the words "a plated train weight (or, in Northern Ireland, a relevant maximum train weight)" there shall be substituted "a revenue weight".

Combined road and rail transport

21. In section 20 of the 1994 Act (combined road and rail transport) for subsection (3) there shall be substituted the following subsection—

"(3) In this section 'relevant goods vehicle' means any vehicle the rate of duty applicable to which is provided for in Part VIII of Schedule 1 or which would be such a vehicle if Part VI of that Schedule did not apply to the vehicle."

Relevant higher rate used in calculating penalty

22. In section 39 of the 1994 Act (relevant higher rate used in calculating penalty)—

(a) in subsection (2)(a) for the words "plated gross weight or plated train weight (or, in Northern Ireland, a relevant maximum weight or relevant maximum train weight)" there shall be substituted "revenue weight";

(b) in each of subsections (4)(a) and (5)(a) for the words "plated gross weight or plated train weight (or, in Northern Ireland, relevant maximum weight or relevant maximum train weight)" there shall be substituted "revenue weight";

(c) in the words after paragraph (b) of each of subsections (4) and (5) for the words "plated gross weight or plated train weight (or relevant maximum weight or relevant maximum train weight)" there shall be substituted "revenue weight".

Relevant period used in calculating penalty

23. In section 40(2) of the 1994 Act (relevant period used in calculating penalty)—

(a) for the words "plated gross weight or a plated train weight (or, in Northern Ireland, a relevant maximum weight or relevant maximum train weight)" there shall be substituted "revenue weight";

(b) for the words "was plated with (or rated at) the higher weight" there shall be substituted "became a vehicle with a higher revenue weight".

False or misleading information etc.

24. In section 45 of the 1994 Act (false or misleading information) after subsection (3) there shall be inserted the following subsections—

"(3A) A person who, in supplying information or producing documents for the purposes of any regulations made under section 61A—

(a) makes a statement which to his knowledge is false or in any material respect misleading or recklessly makes a statement which is false or in any material respect misleading, or

(b) produces or otherwise makes use of a document which to his knowledge is false or in any material respect misleading,

is guilty of an offence.

(3B) A person who—

(a) with intent to deceive, forges, alters or uses a certificate issued by virtue of section 61A;

(b) knowing or believing that it will be used for deception lends such a certificate to another or allows another to alter or use it; or

(c) without reasonable excuse makes or has in his possession any document so closely resembling such a certificate as to be calculated to deceive,

is guilty of an offence."

25. In section 60(2) of the 1994 Act (orders subject to annulment), after "section 3(3)" there shall be inserted ", paragraph 18(4) of Schedule 1".

Meaning of "revenue weight"

26. Immediately before section 61 of the 1994 Act there shall be inserted the following section—

"Meaning of 'revenue weight'. 60A.—(1) Any reference in this Act to the revenue weight of a vehicle is a reference—

(a) where it has a confirmed maximum weight, to that weight; and

(b) in any other case, to the weight determined in accordance with the following provisions of this section.

(2) For the purposes of this Act a vehicle which does not have a confirmed maximum weight shall have a revenue weight which, subject to the following provisions of this section, is equal to its design weight.

(3) Subject to subsection (4), the design weight of a vehicle is, for the purposes of this section—

(a) in the case of a tractive unit, the weight which is required, by the design and any subsequent adaptations of that vehicle, not to be exceeded by an articulated vehicle which—

(i) consists of the vehicle and any semi-trailer capable of being drawn by it, and

(ii) is in normal use and travelling on a road laden;

and

(b) in the case of any other vehicle, the weight which the vehicle itself is designed or adapted not to exceed when in normal use and travelling on a road laden.

(4) Where, at any time, a vehicle—

(a) does not have a confirmed maximum weight,

(b) has previously had such a weight, and

(c) has not acquired a different design weight by reason of any adaptation made since the most recent occasion on which it had a confirmed maximum weight,

the vehicle's design weight at that time shall be equal to its confirmed maximum weight on that occasion.

(5) An adaptation reducing the design weight of a vehicle shall be disregarded for the purposes of this section unless it is a permanent adaptation.

(6) For the purposes of this Act where—

(a) a vehicle which does not have a confirmed maximum weight is used on a public road in the United Kingdom, and

(b) at the time when it is so used—

(i) the weight of the vehicle, or

(ii) in the case of a tractive unit used as part of an articulated vehicle consisting of the vehicle and a semi-trailer, the weight of the articulated vehicle,

exceeds what, apart from this subsection, would be the vehicle's design weight,

it shall be conclusively presumed, as against the person using the vehicle, that the vehicle has been temporarily adapted so as to have a design weight while being so used equal to the actual weight of the vehicle or articulated vehicle at that time.

(7) For the purposes of this Act limitations on the space available on a vehicle for carrying a load shall be disregarded in determining the weight which the vehicle is designed or adapted not to exceed when in normal use and travelling on a road laden.

(8) A vehicle which does not have a confirmed maximum weight shall not at any time be taken to have a revenue weight which is greater than the maximum laden weight at which that

vehicle or, as the case may be, an articulated vehicle consisting of that vehicle and a semi-trailer may lawfully be used in Great Britain.

(9) A vehicle has a confirmed maximum weight at any time if at that time—

(a) it has a plated gross weight or a plated train weight; and

(b) that weight is the maximum laden weight at which that vehicle or, as the case may be, an articulated vehicle consisting of that vehicle and a semi-trailer may lawfully be used in Great Britain;

and the confirmed maximum weight of a vehicle with such a weight shall be taken to be the weight referred to in paragraph (a).

(10) Where any vehicle has a special maximum weight in Northern Ireland which is greater than the maximum laden weight at which that vehicle or, as the case may be, an articulated vehicle consisting of that vehicle and a semi-trailer may lawfully be used in Great Britain, this section shall have effect, in relation to that vehicle, as if the references to Great Britain in subsections (8) and (9) were references to Northern Ireland.

(11) For the purposes of this section a vehicle has a special maximum weight in Northern Ireland if an order under Article 29(3) of the Road Traffic (Northern Ireland) Order 1981 (authorisation of use on roads of vehicles and trailers not complying with regulations) has effect in relation to that vehicle for determining the maximum laden weight at which it may lawfully be used in Northern Ireland or, as the case may be, for determining the maximum laden weight at which an articulated vehicle consisting of that vehicle and a semi-trailer may lawfully be used there."

S.I. 1981/154 (N.I. 1).

Interpretation

27.—(1) In subsection (3) of section 61 of the 1994 Act (meaning of "appropriate plate")—

(a) the word "and" shall be inserted at the end of paragraph (a); and

(b) paragraph (c) (plated weight determined by reference to section 41 of the Road Traffic Act 1988) and the word "and" immediately preceding it shall be omitted.

1988 c. 52.

(2) After subsection (3) of that section there shall be inserted the following subsection—

"(3A) Where it appears to the Secretary of State that there is a description of document which—

(a) falls to be treated for some or all of the purposes of the Road Traffic Act 1988 as if it were a plating certificate, or

(b) is issued under the law of any state in the European Economic Area for purposes which are or include purposes corresponding to those for which such a certificate is issued,

he may by regulations provide for references in this section to a plating certificate to have effect as if they included references to a document of that description."

(3) Subsections (4), (5) and (7) of that section (relevant weights in Northern Ireland and definition of "design weight") shall be omitted.

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Certificates as to vehicle weight

28. After section 61 of the 1994 Act there shall be inserted the following section—

"Certificates etc. as to vehicle weight.

61A.—(1) The Secretary of State may by regulations make provision—

(a) for the making of an application to the Secretary of State for the issue of a certificate stating the design weight of a vehicle;

(b) for the manner in which any determination of the design weight of any vehicle is to be made on such an application and for the issue of a certificate on the making of such a determination;

(c) for the examination, for the purposes of the determination of the design weight of a vehicle, of that vehicle by such persons, and in such manner, as may be prescribed by the regulations;

(d) for a certificate issued on the making of such a determination to be treated as having conclusive effect for the purposes of this Act as to such matters as may be prescribed by the regulations;

(e) for the Secretary of State to be entitled, in cases prescribed by the regulations, to require the production of such a certificate before making a determination for the purposes of section 7(5); and

(f) for appeals against determinations made in accordance with the regulations.

(2) Regulations under this section may provide for an adaptation of a vehicle—

(a) to be taken into account in determining the design weight of a vehicle in a case to which section 60A(6) does not apply, or

(b) to be treated as permanent for the purposes of section 60A(5),

if, and only if, it is an adaptation with respect to which a certificate has been issued under the regulations.

1988 c. 52.

(3) Regulations under this section may provide that such documents purporting to be plating certificates (within the meaning of Part II of the Road Traffic Act 1988) as satisfy requirements prescribed by the regulations are to have effect, for some or all of the purposes of this Act, as if they were certificates issued under such regulations.

(4) Without prejudice to the generality of the preceding provisions of this section, regulations under this section may, in relation to—

(a) the examination of a vehicle on an application under the regulations, or

(b) any appeals against determinations made for the purposes of the issue of a certificate in accordance with the regulations,

make provision corresponding to, or applying (with or without modifications), any of the provisions having effect by virtue of so much of sections 49 to 51 of the Road Traffic Act 1988 as relates to examinations authorised by virtue of, or appeals under, any of those sections.

(5) In this section 'design weight' has the same meaning as in section 60A."

Commencement

29. Paragraph 16 above shall apply for the purposes of this Part of this Schedule as it applies for the purposes of Part III of this Schedule.

PART V

LICENCES

Applications for licences

30.—(1) In section 7 of the 1994 Act (issue of vehicle licences)—

(a) in subsection (1) (regulations about applications) for "prescribed by regulations made" there shall be substituted "specified";

(b) in subsection (2) for "prescribed" there shall be substituted "specified".

(2) In section 11 of the 1994 Act (issue of trade licences) in subsection (1) (regulations about applications)—

(a) for "prescribed by regulations made" there shall be substituted "specified";

(b) for "so prescribed" there shall be substituted "prescribed by regulations made by the Secretary of State".

(3) This paragraph shall apply in relation to applications made after the day on which this Act is passed.

Duration of trade licences

31.—(1) In section 13 of the 1994 Act (duration of trade licences) in subsection (1) at the end of paragraph (c) there shall be inserted "and ending no later than the relevant date."

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

"(1A) In subsection (1)(c) "the relevant date" means—

(a) in relation to a licence taken out for a period beginning with the first day of any of the months February to June in any year, 31st December of that year;

(b) in relation to a licence taken out for a period beginning with the first day of any of the months August to December in any year, 30th June of the following year."

(3) This paragraph shall apply in relation to licences taken out after the day on which this Act is passed.

Payment for licences by cheque

32.—(1) The following section shall be inserted after section 19 of the 1994 Act—

"Payment for licences by cheque.

19A.—(1) The Secretary of State may, if he thinks fit, issue a vehicle licence or a trade licence on receipt of a cheque for the amount of the duty payable on it.

(2) In a case where—

(a) a vehicle licence or a trade licence is issued to a person on receipt of a cheque which is subsequently dishonoured, and

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(b) the Secretary of State sends a notice by post to the person informing him that the licence is void as from the time when it was granted,

the licence shall be void as from the time when it was granted.

(3) In a case where—

(a) a vehicle licence or a trade licence is issued to a person on receipt of a cheque which is subsequently dishonoured,

(b) the Secretary of State sends a notice by post to the person requiring him to secure that the duty payable on the licence is paid within such reasonable period as is specified in the notice,

(c) the requirement in the notice is not complied with, and

(d) the Secretary of State sends a further notice by post to the person informing him that the licence is void as from the time when it was granted,

the licence shall be void as from the time when it was granted.

1979 c. 2.

(4) Section 102 of the Customs and Excise Management Act 1979 (payment for excise licences by cheque) shall not apply in relation to a vehicle licence or a trade licence."

(2) The following section shall be inserted after section 35 of the 1994 Act—

"Dishonoured cheques.

35A.—(1) In a case where—

(a) a notice sent as mentioned in section 19A(2)(b) or a further notice sent as mentioned in section 19A(3)(d) requires the person to deliver up the licence within such reasonable period as is specified in the notice, and

(b) the person fails to comply with the requirement within that period,

he shall be liable on summary conviction to a penalty of an amount found under subsection (2).

(2) The amount is whichever is the greater of—

(a) level 3 on the standard scale;

(b) an amount equal to five times the annual rate of duty that was payable on the grant of the licence or would have been so payable if it had been taken out for a period of twelve months."

(3) In section 36 of the 1994 Act (dishonoured cheques: additional liability) in subsection (1) for the words from "102" to "cheque)" there shall be substituted "35A".

(4) This paragraph shall apply in relation to licences taken out after the day on which this Act is passed.

PART VI

REGISTRATION

33. In section 21 of the 1994 Act (registration of vehicles) at the beginning of subsections (1) and (2) there shall be inserted "Subject to subsection (3)" and after subsection (2) there shall be inserted—

"(3) The Secretary of State may by regulations provide that in such circumstances as may be prescribed by the regulations a vehicle shall not be registered under this section until a fee of such amount as may be so prescribed is paid.

(4) The Secretary of State may by regulations make provision about repayment of any sum paid by way of a fee mentioned in subsection (3), and the regulations may in particular include provision—

(a) that repayment shall be made only if a specified person is satisfied that specified conditions are met or in other specified circumstances;

(b) that repayment shall be made in part only;

(c) that, in the case of partial repayment, the amount repaid shall be a specified sum or determined in a specified manner;

(d) for repayment of different amounts in different circumstances;

and "specified" here means specified in the regulations."

34.—(1) Section 22 of the 1994 Act (registration regulations) shall be amended as follows.

(2) In subsection (1) the following paragraph shall be inserted after paragraph (d)—

"(dd) require a person by whom any vehicle is sold or disposed of to furnish the person to whom it is sold or disposed of with such document relating to the vehicle's registration as may be prescribed by the regulations, and to do so at such time as may be so prescribed."

(3) The following subsections shall be inserted after subsection (1)—

"(1A) The Secretary of State may make regulations providing for the sale of information derived from particulars contained in the register—

(a) to such persons as the Secretary of State thinks fit, and

(b) for such price and on such other terms, and subject to such restrictions, as he thinks fit,

if the information does not identify any person or contain anything enabling any person to be identified.

(1B) Without prejudice to the generality of paragraph (d) of subsection (1) above, regulations under that paragraph may require—

(a) any person there mentioned to furnish particulars to the other person there mentioned or to the Secretary of State or to both;

(b) any person there mentioned who is furnished with particulars in pursuance of the regulations to furnish them to the Secretary of State."

Part VII

Offences

35.—(1) In section 31 of the 1994 Act (relevant period for purposes of additional liability) in subsection (5)(b) (case where duty or amount equal to duty has been paid) the words "(or an amount equal to the duty due)" shall be omitted.

(2) This paragraph shall apply in relation to offences committed after the day on which this Act is passed.

36.—(1) The following section shall be inserted after section 32 of the 1994 Act—

"Immobilisation, removal and disposal of vehicles.

32A. Schedule 2A (which relates to the immobilisation of vehicles as regards which it appears that an offence under section 29(1) is being committed and to their removal and disposal) shall have effect."

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(2) The following Schedule shall be inserted after Schedule 2 to the 1994 Act—

"SCHEDULE 2A

IMMOBILISATION, REMOVAL AND DISPOSAL OF VEHICLES

Immobilisation

1.—(1) The Secretary of State may make regulations under this Schedule with respect to any case where an authorised person has reason to believe that, on or after such date as may be prescribed, an offence under section 29(1) is being committed as regards a vehicle which is stationary on a public road.

(2) The regulations may provide that the authorised person or a person acting under his direction may—

(a) fix an immobilisation device to the vehicle while it remains in the place where it is stationary, or

(b) move it from that place to another place on the same or another public road and fix an immobilisation device to it in that other place.

(3) The regulations may provide that on any occasion when an immobilisation device is fixed to a vehicle in accordance with the regulations the person fixing the device shall also fix to the vehicle a notice—

(a) indicating that the device has been fixed to the vehicle and warning that no attempt should be made to drive it or otherwise put it in motion until it has been released from the device;

(b) specifying the steps to be taken to secure its release;

(c) giving such other information as may be prescribed.

(4) The regulations may provide that—

(a) a vehicle to which an immobilisation device has been fixed in accordance with the regulations may only be released from the device by or under the direction of an authorised person;

(b) subject to that, such a vehicle shall be released from the device if the first and second requirements specified below are met.

(5) The first requirement is that such charge in respect of the release as may be prescribed is paid in any manner specified in the immobilisation notice.

(6) The second requirement is that—

(a) a vehicle licence is produced in accordance with instructions specified in the immobilisation notice, and the licence is one which is in force for the vehicle concerned at the time the licence is produced, or

(b) where such a licence is not produced, such sum as may be prescribed is paid in any manner specified in the immobilisation notice.

(7) The regulations may provide that they shall not apply in relation to a vehicle if—

(a) a current disabled person's badge is displayed on the vehicle, or

(b) such other conditions as may be prescribed are fulfilled;

and "disabled person's badge" here means a badge issued, or having effect as if issued, under any regulations for the time being in force under section 21 of the Chronically Sick and Disabled Persons Act 1970 or any regulations for the time being in force under section 14 of the Chronically Sick and Disabled Persons (Northern Ireland) Act 1978.

1970 c. 44.
1978 c. 53.

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(8) The regulations may provide that an immobilisation notice shall not be removed or interfered with except by or on the authority of a person falling within a prescribed description.

Offences connected with immobilisation

2.—(1) The regulations may provide that a person contravening provision made under paragraph 1(8) is guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.

(2) The regulations may provide that a person who, without being authorised to do so in accordance with provision made under paragraph 1, removes or attempts to remove an immobilisation device fixed to a vehicle in accordance with the regulations is guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(3) The regulations may provide that where they would apply in relation to a vehicle but for provision made under paragraph 1(7)(a) and the vehicle was not, at the time it was stationary, being used—

(a) in accordance with regulations under section 21 of the Chronically Sick and Disabled Persons Act 1970 or regulations under section 14 of the Chronically Sick and Disabled Persons (Northern Ireland) Act 1978, and

1970 c. 44.
1978 c. 53.

(b) in circumstances falling within section 117(1)(b) of the Road Traffic Regulation Act 1984 or Article 174A(2)(b) of the Road Traffic (Northern Ireland) Order 1981 (use where a disabled person's concession would be available),

1984 c. 27.
S.I.1981/154 (N.I.1).

the person in charge of the vehicle at that time is guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(4) The regulations may provide that where—

(a) a person makes a declaration with a view to securing the release of a vehicle from an immobilisation device purported to have been fixed in accordance with the regulations,

(b) the declaration is that the vehicle is or was an exempt vehicle, and

(c) the declaration is to the person's knowledge either false or in any material respect misleading,

he is guilty of an offence.

(5) The regulations may provide that a person guilty of an offence by virtue of provision made under sub-paragraph (4) is liable—

(a) on summary conviction, to a fine not exceeding the statutory maximum, and

(b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or (except in Scotland) to both.

Removal and disposal of vehicles

3.—(1) The regulations may make provision as regards a case where—

(a) an immobilisation device is fixed to a vehicle in accordance with the regulations, and

(b) such conditions as may be prescribed are fulfilled.

(2) The regulations may provide that an authorised person, or a person acting under the direction of an authorised person, may remove the vehicle and deliver it into the custody of a person—

(a) who is identified in accordance with prescribed rules, and

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(b) who agrees to accept delivery in accordance with arrangements agreed between that person and the Secretary of State;

and the arrangements may include provision as to the payment of a sum to the person into whose custody the vehicle is delivered.

(3) The regulations may provide that the person into whose custody the vehicle is delivered may dispose of it, and in particular provision may be made as to—

(a) the time at which the vehicle may be disposed of;

(b) the manner in which it may be disposed of.

(4) The regulations may make provision allowing a person to take possession of the vehicle if—

(a) he claims it before it is disposed of, and

(b) any prescribed conditions are fulfilled.

(5) The regulations may provide for a sum of an amount arrived at under prescribed rules to be paid to a person if—

(a) he claims after the vehicle's disposal to be or to have been its owner,

(b) the claim is made within a prescribed time of the disposal, and

(c) any other prescribed conditions are fulfilled.

(6) The regulations may provide that—

(a) the Secretary of State, or

(b) a person into whose custody the vehicle is delivered under the regulations,

may recover from the vehicle's owner (whether or not a claim is made under provision made under sub-paragraph (4) or (5)) such charges as may be prescribed in respect of all or any of the following, namely, its release, removal, custody and disposal; and "owner" here means the person who was the owner when the immobilisation device was fixed.

(7) The conditions prescribed under sub-paragraph (4) may include conditions as to—

(a) satisfying the person with custody that the claimant is the vehicle's owner;

(b) the payment of prescribed charges in respect of the vehicle's release, removal and custody;

(c) the production of a vehicle licence;

(d) payment of a prescribed sum where a vehicle licence is not produced.

1984 c. 27.

(8) Without prejudice to anything in the preceding provisions of this paragraph, the regulations may include provision for purposes corresponding to those of sections 101 and 102 of the Road Traffic Regulation Act 1984 (disposal and charges) subject to such additions, omissions or other modifications as the Secretary of State thinks fit.

Offences as to securing possession of vehicles

4.—(1) The regulations may provide that where—

(a) a person makes a declaration with a view to securing possession of a vehicle purported to have been delivered into the custody of a person in accordance with provision made under paragraph 3,

(b) the declaration is that the vehicle is or was an exempt vehicle, and

(c) the declaration is to the person's knowledge either false or in any material respect misleading,

he is guilty of an offence.

(2) The regulations may provide that a person guilty of such an offence is liable—

(a) on summary conviction, to a fine not exceeding the statutory maximum, and

(b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or (except in Scotland) to both.

Payment of sum where licence not produced

5.—(1) The regulations may make provision as regards a case where a person pays a prescribed sum in pursuance of provision made under—

(a) paragraph 1(6)(b), or

(b) paragraph 3(7)(d).

(2) The regulations may—

(a) provide for a voucher to be issued in respect of the sum;

(b) provide for setting the sum against the amount of any vehicle excise duty payable in respect of the vehicle concerned;

(c) provide for the refund of any sum;

(d) provide that where a voucher has been issued section 29(1) and any other prescribed provision of this Act shall not apply, as regards the vehicle concerned, in relation to events occurring in a prescribed period.

(3) The regulations may make provision—

(a) as to the information to be provided before a voucher is issued;

(b) as to the contents of vouchers;

(c) specifying conditions subject to which any provision under sub-paragraph (2)(b) to (d) is to have effect.

(4) The regulations may make provision as to any case where a voucher is issued on receipt of a cheque which is subsequently dishonoured, and in particular the regulations may—

(a) provide for a voucher to be void;

(b) provide that, where the sum concerned is set against the amount of any vehicle excise duty, the licence concerned shall be void;

(c) make provision under which a person is required to deliver up a void voucher or void licence.

Offences relating to vouchers

6.—(1) The regulations may provide that—

(a) a person is guilty of an offence if within such reasonable period as is found in accordance with prescribed rules he fails to deliver up a voucher that is void by virtue of provision made under paragraph 5(4);

(b) a person guilty of such an offence shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(2) The regulations may provide that a person is guilty of an offence if within such reasonable period as is found in accordance with prescribed

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rules he fails to deliver up a licence that is void by virtue of provision made under paragraph 5(4), and that a person guilty of such an offence shall be liable on summary conviction to a penalty of whichever is the greater of—

(a) level 3 on the standard scale;

(b) an amount equal to five times the annual rate of duty that was payable on the grant of the licence or would have been so payable if it had been taken out for a period of twelve months.

(3) The regulations may provide that where a person is convicted of an offence under provision made by virtue of sub-paragraph (2) he must pay, in addition to any penalty, an amount found in accordance with prescribed rules.

(4) The regulations may provide that if—

(a) a voucher is void by virtue of provision made under paragraph 5(4),

(b) a person seeks to set the sum concerned against the amount of any vehicle excise duty, and

(c) he knows the voucher is void,

he is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(5) The regulations may provide that a person who in connection with—

(a) obtaining a voucher for which provision is made under paragraph 5, or

(b) obtaining a refund of any sum in respect of which such a voucher is issued,

makes a declaration which to his knowledge is either false or in any material respect misleading is guilty of an offence.

(6) The regulations may provide that a person is guilty of an offence if he forges, fraudulently alters, fraudulently uses, fraudulently lends or fraudulently allows to be used by another person a voucher for which provision is made under paragraph 5.

(7) The regulations may provide that a person guilty of an offence under provision made under sub-paragraph (5) or (6) is liable—

(a) on summary conviction, to a fine not exceeding the statutory maximum, and

(b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or (except in Scotland) to both.

Vouchers: general

7. Without prejudice to anything in paragraphs 5(4) and 6 the regulations may include provision for purposes corresponding to those of sections 19A and 36 subject to such additions, omissions or other modifications as the Secretary of State thinks fit.

Disputes

8. The regulations may make provision about the proceedings to be followed where a dispute occurs as a result of the regulations, and in particular provision may be made—

(a) for an application to be made to a magistrates' court or (in Northern Ireland) a court of summary jurisdiction;

(b) for a court to order a sum to be paid by the Secretary of State.

Authorised persons

9. As regards anything falling to be done under the regulations (such as receiving payment of a charge or other sum or issuing a voucher) the regulations may provide that it may be done—

(a) by an authorised person, or

(b) by an authorised person or a person acting under his direction.

Application of provisions

10.—(1) The regulations may provide that they shall only apply where the authorised person has reason to believe that the offence mentioned in paragraph 1(1) is being committed before such date as may be prescribed.

(2) The regulations may provide that they shall only apply where the vehicle mentioned in paragraph 1(1) is in a prescribed area.

(3) Different dates may be prescribed under paragraph 1(1) or sub-paragraph (1) above in relation to different areas prescribed under sub-paragraph (2) above.

Interpretation

11.—(1) The regulations may make provision as to the meaning for the purposes of the regulations of "owner" as regards a vehicle.

(2) In particular, the regulations may provide that for the purposes of the regulations—

(a) the owner of a vehicle at a particular time shall be taken to be the person by whom it is then kept;

(b) the person by whom a vehicle is kept at a particular time shall be taken to be the person in whose name it is then registered by virtue of this Act.

12.—(1) The regulations may make provision as to the meaning in the regulations of "authorised person".

(2) In particular, the regulations may provide that—

(a) references to an authorised person are to a person authorised by the Secretary of State for the purposes of the regulations;

(b) an authorised person may be a local authority or an employee of a local authority or a member of a police force or some other person;

(c) different persons may be authorised for the purposes of different provisions of the regulations.

13. In this Schedule—

(a) references to an immobilisation device are to a device or appliance which is an immobilisation device for the purposes of section 104 of the Road Traffic Regulation Act 1984 (immobilisation of vehicles illegally parked);

1984 c. 27.

(b) references to an immobilisation notice are to a notice fixed to a vehicle in accordance with the regulations;

(c) "prescribed" means prescribed by regulations made under this Schedule."

37.—(1) In section 37(2) of the 1994 Act (penalty where duty at higher rate is not paid) the following shall be omitted—

(a) the words "(or, in Scotland, on indictment or on summary conviction)", and

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(b) the words "(or, in Scotland, the statutory maximum)".

(2) In section 41(1)(b) of the 1994 Act (order in Scotland in case of offence under section 37) the words "182 or" and "183 or" shall be omitted.

(3) This paragraph shall apply in relation to proceedings begun after the day on which this Act is passed.

PART VIII

PROCEEDINGS

38.—(1) In section 52 of the 1994 Act (records)—

1968 c. 70.

(a) for the words "section 17(3) of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1968" in subsection (3)(b) (meaning of "statement" and "document" in Scotland), and

(b) for the words "section 17(4) of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1968" in subsection (4)(b) (construction of references to a copy of a document in Scotland),

1993 c. 9.

there shall be substituted "Schedule 3 to the Prisoners and Criminal Proceedings (Scotland) Act 1993."

(2) This paragraph shall apply in relation to proceedings begun after the day on which this Act is passed.

PART IX

TRANSITIONALS

Higher rate not to apply

39.—(1) This paragraph applies where a vehicle licence is taken out—

(a) before 1st July 1995, and

(b) at the rate applicable (at the time it is taken out) under Schedule 1 to the 1994 Act or any provision re-enacted in that Schedule.

(2) While the licence is in force duty shall not, by virtue of any provision contained in Part III or IV of this Schedule other than paragraph 16(2) above, become chargeable under section 15 of the 1994 Act (vehicle used in manner attracting higher rate).

Regulations

40.—(1) This paragraph applies where regulations to determine the seating capacity of a hackney carriage are made, or have effect as if made, under sub-paragraph (2) of paragraph 3 of Schedule 1 to the 1994 Act (as that paragraph has effect apart from the substitution made by paragraph 8 above).

(2) The regulations shall have effect as if made under sub-paragraph (5) of paragraph 3 of that Schedule (as substituted by paragraph 8 above) to determine the seating capacity of a vehicle.

(3) This paragraph shall apply in relation to licences taken out on or after 1st July 1995.

PART X

SPECIAL RELIEFS

Relief where exemption abolished

41.—(1) This paragraph applies where—

(a) a vehicle licence is taken out for a vehicle on or after 1st July 1995 and before 1st July 1996,

(b) the licence is the first vehicle licence to be taken out for the vehicle on or after 1st July 1995,

(c) the vehicle would be an exempt vehicle apart from paragraph 2 above, and

(d) the amount of vehicle excise duty to be paid on the licence would (apart from this paragraph) exceed £1,000.

(2) In such a case the amount of vehicle excise duty to be paid on the licence shall be £1,000.

(3) This paragraph shall be construed in accordance with the 1994 Act.

Relief where vehicle changes category

42.—(1) This paragraph applies where paragraph 41 above does not apply and—

(a) a vehicle licence is taken out for a vehicle on or after 1st July 1995 and before 1st July 1996,

(b) the licence is the first vehicle licence to be taken out for the vehicle on or after 1st July 1995,

(c) apart from Part III of this Schedule, the annual rate of vehicle excise duty applicable to the vehicle would be found under any of the provisions falling within sub-paragraph (3) below, and

(d) the new amount of duty exceeds the old amount of duty by more than £1,000.

(2) In such a case the amount of vehicle excise duty to be paid on the licence shall be an amount equal to £1,000 plus the old amount of duty.

(3) The provisions falling within this sub-paragraph are—

(a) paragraph 8(1) and (2)(b) of Schedule 1 to the 1994 Act;

(b) paragraph 8(1) and (2)(c) of that Schedule;

(c) paragraph 8(1) and (2)(d) of that Schedule;

(d) paragraph 12(2) of that Schedule;

(e) paragraph 12(3) to (5) of that Schedule.

(4) For the purposes of this paragraph—

(a) the new amount of duty is the amount of vehicle excise duty payable on the licence apart from this paragraph;

(b) the old amount of duty is the amount of vehicle excise duty that would be payable on the licence if Part III of this Schedule had not been enacted.

(5) This paragraph shall be construed in accordance with the 1994 Act.

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Section 34.

SCHEDULE 5

Insurance Premium Tax

1994 c. 9.

1. Part III of the Finance Act 1994 (insurance premium tax) shall be amended as provided by this Schedule.

2.—(1) Section 53 (registration of insurers) shall be amended as follows.

(2) In subsection (5) (Commissioners to cancel registration of person who ceases to receive premiums)—

(a) the word "and" shall be inserted after paragraph (a);

(b) paragraph (c) (person to satisfy Commissioners that no tax is unpaid) and the word "and" immediately preceding it shall be omitted.

(3) The following subsection shall be inserted after subsection (5)—

"(5A) In a case where—

(a) the Commissioners are satisfied that a person has ceased to receive, as insurer, premiums in the course of any taxable business, but

(b) he has not notified them under subsection (3) above,

they may cancel his registration with effect from the earliest practicable time after he so ceased."

(4) Sub-paragraph (2) above shall apply in relation to notifications made under section 53(3) on or after the day on which this Act is passed.

3. Section 53 shall be further amended by inserting the following subsection after subsection (1)—

"(1A) The register kept under this section may contain such information as the Commissioners think is required for the purposes of the care and management of the tax."

4. The following section shall be inserted after section 53—

"Information required to keep register up to date.

53A.—(1) Regulations may make provision requiring a registrable person to notify the Commissioners of particulars which—

(a) are of changes in circumstances relating to the registrable person or any business carried on by him,

(b) appear to the Commissioners to be required for the purpose of keeping the register kept under section 53 above up to date, and

(c) are of a prescribed description.

(2) Regulations may make provision—

(a) as to the time within which a notification is to be made;

(b) as to the form and manner in which a notification is to be made;

(c) requiring a person who has made a notification to notify the Commissioners if any information contained in it is inaccurate."

5.—(1) Section 59 (review of Commissioners' decisions) shall be amended as follows.

(2) In subsection (1)(d) (review of decision with respect to assessment) for the words "under section 56 above" there shall be substituted "falling within subsection (1A) below".

(3) The following subsection shall be inserted after subsection (1)—

"(1A) An assessment falls within this subsection if it is an assessment under section 56 above in respect of an accounting period in relation to which a return required to be made by virtue of regulations under section 54 above has been made."

(4) This paragraph shall apply in relation to assessments made on or after the day on which this Act is passed.

6. In section 73(1) (interpretation) after the entry relating to "conduct" there shall be inserted—

""insurance business" means a business which consists of or includes the provision of insurance;".

7.—(1) In Schedule 7 (information, powers, etc.) paragraphs 2(1) to (3) and 3(1) to (3) (duty to furnish information and produce documents) shall be amended as follows—

(a) for the words "a taxable business" (in each place where they occur) there shall be substituted "an insurance business";

(b) for the words "taxable insurance contracts" (in each place where they occur) there shall be substituted "contracts of insurance";

(c) for the words "taxable insurance contract" (in each place where they occur) there shall be substituted "contract of insurance.".

(2) This paragraph shall apply in relation to contracts whether entered into before or after the passing of this Act.

8.—(1) In Schedule 7 the following shall be inserted after paragraph 4—

"Order for access to recorded information etc.

4A.—(1) Where, on an application by an authorised person, a justice of the peace or, in Scotland, a justice (within the meaning of section 462 of the Criminal Procedure (Scotland) Act 1975) is satisfied that there are reasonable grounds for believing—

1975 c. 21.

(a) that an offence in connection with tax is being, has been or is about to be committed, and

(b) that any recorded information (including any document of any nature whatsoever) which may be required as evidence for the purpose of any proceedings in respect of such an offence is in the possession of any person,

he may make an order under this paragraph.

(2) An order under this paragraph is an order that the person who appears to the justice to be in possession of the recorded information to which the application relates shall—

(a) give an authorised person access to it, and

(b) permit an authorised person to remove and take away any of it which he reasonably considers necessary,

not later than the end of the period of 7 days beginning on the date of the order or the end of such longer period as the order may specify.

(3) The reference in sub-paragraph (2)(a) above to giving an authorised person access to the recorded information to which the application relates includes a reference to permitting the authorised person to take copies of it or to make extracts from it.

(4) Where the recorded information consists of information contained in a computer, an order under this paragraph shall have effect as an order

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to produce the information in a form in which it is visible and legible and, if the authorised person wishes to remove it, in a form in which it can be removed.

(5) This paragraph is without prejudice to paragraphs 3 and 4 above."

(2) In paragraph 5(1) of Schedule 7 (duty to provide record of anything removed in exercise of power) after the words "paragraph 4" there shall be inserted "or 4A".

9. In paragraph 7 of Schedule 7 (recovery of tax etc.) the following sub-paragraphs shall be substituted for sub-paragraph (8)—

"(8) In respect of Scotland, where any tax or any amount recoverable as if it were tax is due and has not been paid, the sheriff, on an application by the Commissioners accompanied by a certificate by the Commissioners—

(a) stating that none of the persons specified in the application has paid the tax or other sum due from him,

(b) stating that payment of the amount due from each such person has been demanded from him, and

(c) specifying the amount due from and unpaid by each such person,

shall grant a summary warrant in a form prescribed by act of sederunt authorising the recovery, by any of the diligences mentioned in sub-paragraph (9) below, of the amount remaining due and unpaid.

(9) The diligences referred to in sub-paragraph (8) above are—

1987 c. 18.

(a) a poinding and sale in accordance with Schedule 5 to the Debtors (Scotland) Act 1987;

(b) an earnings arrestment;

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

(10) Subject to sub-paragraph (11) below and without prejudice to paragraphs 25 to 34 of Schedule 5 to the Debtors (Scotland) Act 1987 (expenses of poinding and sale) the sheriff officer's fees, together with the outlays necessarily incurred by him, in connection with the execution of a summary warrant shall be chargeable against the debtor.

(11) No fee shall be chargeable by the sheriff officer against the debtor for collecting, and accounting to the Commissioners for, sums paid to him by the debtor in respect of the amount owing.

(12) Regulations may make provision for anything which the Commissioners may do under sub-paragraphs (8) to (11) above to be done by an officer of the Commissioners holding such rank as the regulations may specify."

Section 39.

SCHEDULE 6

AMENDMENTS IN CONNECTION WITH CHARGE UNDER SCHEDULE A

The Taxes Act 1988

1. Subsection (2) of section 15 of the Taxes Act 1988 (election under paragraph 4 of Schedule A) shall cease to have effect except for the purpose of being applied by virtue of section 9 of that Act for the purposes of corporation tax.

2. In section 18(3) of that Act (Cases under Schedule D), in Case I, at the end there shall be inserted "but not contained in Schedule A".

3. Sections 22 and 23 of that Act (assessments to income tax under Schedule A and collection from lessees and agents) shall cease to have effect.

4. The following provisions of Part II of that Act shall cease to have effect except for the purpose of being applied by virtue of section 9 of that Act for the purposes of corporation tax, that is to say—

(a) sections 25 and 28 (deductions from rent);

(b) section 29 (sporting rights);

(c) section 31 (supplementary provisions);

(d) section 33 (allowance for excess expenditure in relation to agricultural land);

(e) sections 33A and 33B (rents and receipts received by connected persons and payments made by connected persons);

(f) subsection (5) of section 40 (application of Schedule A rules as to receipts and outgoings on sale of land); and

(g) section 41 (relief for rent not paid).

5.—(1) Section 26 of that Act (land managed as one estate), except where it is applied for the purposes of corporation tax, shall have effect with the following modifications.

(2) Subsection (1) shall have effect as if—

(a) in paragraph (a), the words "at a full rent (not being a tenant's repairing lease)" were omitted; and

(b) for the words from "not being" in paragraph (b) to the end of the subsection there were substituted "as if the rent, so far as it relates to that part and would otherwise be treated as being at a lower rate, were at a rate per annum equal to the relevant annual value."

(3) Subsection (2) shall have effect as if paragraph (a) were omitted.

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

"(2A) Where subsection (1) above applies, the following rules shall apply in computing the profits or gains on which the owner is charged under Schedule A—

(a) disbursements and expenses relating to any of that part of the estate which comprises land the rent in respect of which is determined under that subsection ('the relevant part of the estate') shall not be deductible from any receipts which are not so determined except to the extent that—

(i) the amount of the disbursements and expenses exceeds the amount of the rent so determined; and

(ii) the receipts against which the remainder is set are receipts in respect of land comprised in the estate;

(b) any excess for any chargeable period of the disbursements and expenses relating to the relevant part of the estate (including any excess carried forward under this paragraph) over the receipts for that period from which they are deductible in accordance with paragraph (a) above—

(i) shall be disregarded in computing any loss in respect of which relief may be given under section 379A, but

(ii) may be carried forward to the following chargeable period and treated in relation to the later period as if it were a disbursement or expense relating to the relevant part of the estate;

(c) disbursements and expenses relating to any land not comprised in the relevant part of the estate shall be deductible from the deemed receipts in respect of the land which is so comprised to the extent only that the deemed receipts exceed the aggregate of—

(i) the actual disbursements and expenses for that period relating to the relevant part of the estate, and

(ii) any amounts carried forward to that period under paragraph (b) above;

and

(d) any excess of the disbursements and expenses for that period relating to land not comprised in the relevant part of the estate over the amounts from which they are deductible shall be treated for the purposes of section 379A as a loss for that period in the Schedule A business in question."

6.—(1) Subsection (3)(a) of section 27 of that Act (maintenance funds for historic buildings), except where it is applied for the purposes of corporation tax, shall be construed subject to subsection (2A) of section 26 (as deemed to be inserted by paragraph 5 above) and shall have effect as if—

(a) in the words before sub-paragraph (i), for "rents" there were substituted "receipts";

(b) in sub-paragraph (i), for the words from "payments" to "section 25" there were substituted "disbursements or expenses of the trustees of the settlement which relate to the other part of the estate and which would be so deductible"; and

(c) for sub-paragraph (ii) there were substituted the following sub-paragraph—

"(ii) any disbursements or expenses of the owner of the other part of the estate to the extent to which they cannot be deducted by him in the chargeable period in which they are incurred because of an insufficiency of any receipts for that period from which they are deductible apart from this sub-paragraph."

(2) Subsection (3)(b) of that section shall have effect, except where it is so applied, as if for "under section 33" there were substituted "by virtue of section 379A(2)(b)".

7. Section 30(1) of that Act (expenditure on sea walls), except where it is applied for the purposes of corporation tax, shall have effect as if—

(a) for "for the purposes of sections 25, 28 and 31" there were substituted "for the purpose of computing the profits or gains, or losses, of any Schedule A business carried on in relation to those premises"; and

(b) for "in respect of dilapidation attributable to the year" there were substituted "as an expense of the business for that year".

8.—(1) Section 32 of that Act (capital allowances for machinery and plant used in estate management), except where it is applied for the purposes of corporation tax, shall have effect with the following modifications.

(2) Subsection (1) shall have effect as if—

(a) for the words from "entitled" to "arise" there were substituted "for the purposes of a Schedule A business"; and

(b) at the end there were inserted "set up and commenced on or after 6th April 1995 and as if that business were that person's trade".

(3) The following subsections shall be deemed to be inserted after that subsection—

"(1A) Subsection (1) above and the 1990 Act shall have effect, subject to subsections (1B) and (1C) below—

(a) as if the purposes for which a Schedule A business is to be treated as a trade did not include the purposes of so much of sections 61 and 67(2) of that Act (leased plant or machinery and expenditure on thermal insulation) as makes provision in relation to cases where machinery or plant or, as the case may be, an industrial building or structure has been let otherwise than in the course of a trade; and

(b) as if expenditure which for the purposes of section 61 of that Act is or falls to be treated as expenditure on the provision of machinery or plant first let otherwise than in the course of a trade were to be treated in all cases as expenditure on the provision of machinery or plant which, at the time when it is let or treated as let, is used for purposes which are other than those of a Schedule A business.

(1B) Section 73(2) and (3) of the 1990 Act shall not apply in the case of any allowance or charge by virtue of section 61(1) of that Act where the letting of the machinery or plant is in connection with anything done in the course of the carrying on of a Schedule A business; and in such a case, the allowance or charge shall be made in taxing the business as if the business were the trade of the person carrying on the business and were a trade set up and commenced on or after 6th April 1995.

(1C) Any allowance made by virtue of section 61(1) of the 1990 Act in a case where it applies by virtue of section 67(2) of that Act shall be made as mentioned in subsection (1B) above as if (in so far as it is not otherwise the case)—

(a) the person to whom the allowance is made were carrying on a Schedule A business; and

(b) the letting of the machinery or plant which is deemed under section 67(2) of that Act to have taken place had been a letting in connection with the carrying on of the Schedule A business which is carried on, or treated as carried on, by that person."

(4) Subsections (2) to (6), and in subsection (7), the words from "and, on any assessment" onwards shall be deemed to be omitted.

9.—(1) Section 34 of that Act (premiums), except where it is applied for the purposes of corporation tax, shall have effect with the following modifications.

(2) Subsection (3) shall have effect as if for the words from "from the rent" onwards there were substituted "as an expense of any Schedule A business carried on by the landlord".

(3) Subsection (4) shall have effect as if in paragraph (a), for the words from "in computing" to "in lieu of rent" there were substituted "in computing the profits or gains, or losses, of the Schedule A business of which the sum payable in lieu of rent is by virtue of this subsection to be treated as a receipt".

(4) Subsection (5) shall have effect as if in paragraph (a), for "tax chargeable by virtue of this subsection" there were substituted "the profits or gains, or losses, of the Schedule A business of which that sum is by virtue of this subsection to be treated as a receipt".

(5) Subsection (6) shall have effect as if for the words from "no charge" onwards there were substituted "no amount shall fall under that subsection to be treated as a receipt of any Schedule A business carried on by the landlord; but that other person shall be taken to have received as income an amount equal to the amount which would otherwise fall to be treated as rent and to be chargeable

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to tax as if he had received it in consequence of having, on his own account, entered into a transaction falling to be treated as mentioned in paragraph 1(2) of Schedule A."

10. Section 35(2) of that Act (charge on assignment of lease granted at an undervalue), except where it is applied for the purposes of corporation tax, shall have effect as if for the words from "treated as profits or gains" onwards there were substituted "deemed to have been received as income by the assignor and to have been received by him in consequence of his having entered into a transaction falling to be treated as mentioned in paragraph 1(2) of Schedule A."

11. Section 36(1) of that Act (charge on sale of land with a right to a reconveyance), except where it is applied for the purposes of corporation tax, shall have effect as if—

(a) for "the vendor shall be chargeable to tax under Case VI of Schedule D on" there were substituted "the following amount shall be deemed to have been received as income by the vendor and to have been received by him in consequence of his having entered into a transaction falling to be treated as mentioned in paragraph 1(2) of Schedule A, that is to say"; and

(b) for "on that excess" there were substituted "the amount of the excess".

12.—(1) Section 37 of that Act (deductions from premiums and rents received), except where it is applied for the purposes of corporation tax, shall have effect with the following modifications.

(2) Subsection (1) shall have effect as if for paragraphs (a) and (b) there were substituted the following paragraphs—

"(a) any amount falls to be treated as a receipt of a Schedule A business by virtue of section 34 or 35; or

(b) any amount would fall to be so treated but for the operation of subsection (2) or (3) below;".

(3) Subsection (2) shall have effect as if—

(a) in paragraph (b), for the words from "be" to "any amount" there were substituted "be treated by virtue of section 34 or 35 as receiving any amount as income in the course of carrying on a Schedule A business"; and

(b) for "on which he is so chargeable" there were substituted "which he shall be treated as having so received".

(4) Subsection (3) shall have effect as if—

(a) for "chargeable under section 34 or 35" there were substituted "treated by virtue of section 34 or 35 as having received any amount as income in the course of carrying on a Schedule A business and falls to be so treated"; and

(b) for "on which he is so chargeable" there were substituted "which he shall be treated as having so received".

(5) Subsection (4) shall have effect as if for the words from "purposes" to "other premises" there were substituted "purpose, in computing the profits or gains, or losses, of a Schedule A business, of making deductions in respect of the disbursements and expenses of that business".

13. In subsection (6) of section 82 of that Act (rules as to interest paid to non-residents not to apply for the purposes of corporation tax), at the end there shall be inserted "and shall be treated as excluded from the provisions that have effect by virtue of section 21(3) for the computation of the profits or gains, or losses, of a Schedule A business."

14.—(1) Subsection (1) of section 87 of that Act (taxable premiums), except where it is applied for the purposes of corporation tax, shall have effect as if for paragraphs (a) and (b) there were substituted the following paragraphs—

"(a) any amount falls to be treated as a receipt of a Schedule A business by virtue of section 34 or 35; or

(b) any amount would fall to be so treated but for the operation of section 37(2) or (3);".

(2) After subsection (9) of that section there shall be inserted the following subsection—

"(10) This section shall not apply for the computation in accordance with section 21(3) of the amount of any profits or gains to be charged to tax under Schedule A."

15. In section 96(11) of that Act (relief for fluctuating profits of farming or market gardening not to apply for corporation tax purposes), after "corporation tax" there shall be inserted "or to any profits or gains chargeable to income tax under Schedule A."

16.—(1) In subsection (5) of section 98 of that Act (tied premises)—

(a) in paragraph (a), for "in respect of the rent" there shall be substituted "to tax chargeable under that Schedule"; and

(b) in paragraph (b), for "his total liability (so computed) in respect of the rent" there shall be substituted "the liability so computed".

(2) After subsection (8) of that section there shall be inserted the following subsection—

"(9) The references in this section to a trade shall not by virtue of section 21(3) have effect, for the purposes of the computation of profits or gains chargeable to tax under Schedule A, as including a Schedule A business."

17. In section 368(3) and (4) of that Act (exclusion of double relief for interest), after "for the purposes of", in each case, there shall be inserted "Schedule A or".

18. After section 375 of that Act there shall be inserted the following section—

"Option to deduct interest for the purposes of Schedule A.

375A.—(1) If an individual who is a qualifying borrower with respect to any interest on a loan which is relevant loan interest—

(a) is carrying on or proposing to carry on a Schedule A business, and

(b) gives notice to the Board that deductions are to be made in respect of payments of interest on that loan in computing the profits or gains of that business,

then (subject to the following provisions of this section) section 369 shall not apply to any payment of interest on that loan which becomes due or is made on or after such date as may be specified for the purposes of this subsection in the notice.

(2) A notice specifying a date for the purposes of subsection (1) above—

(a) may be given at any time before the end of the period of twenty-two months beginning with the end of the year of assessment in which that date falls, but

(b) once given, shall not be withdrawn.

(3) Where notice is given to the Board under subsection (1) above, the Board shall give notice to the lender and the borrower specifying a date, not being a date before either—

(a) the date specified for the purposes of that subsection, or

(b) the date on which the notice under this subsection is given to the lender,

as the date on or after which payments of interest on the loan are to be treated in relation to the lender as payments of interest to which section 369 does not apply.

(4) Subsections (2) and (3) of section 375 shall have effect in relation to any period between—

(a) the beginning of any date specified for the purposes of subsection (1) above, and

(b) the date specified in that case in the notice given under subsection (3) above,

as they apply, in the case of any relevant loan interest, in relation to the period between the time when the borrower ceases to be a qualifying borrower and the date on which he gives notice of that fact to the lender.

(5) Where a notice under subsection (1) above has taken effect in relation to payments of interest on any loan, section 369 shall not again apply to payments of interest on that loan except where they become due after such time as may be specified in a further notice given by the Board for the purposes of this subsection to the lender and the borrower.

(6) A notice under subsection (5) above shall not specify a time for the purposes of that subsection which falls before the time when the Schedule A business in question is permanently discontinued or, as the case may be, when the proposal to carry it on is finally abandoned."

19.—(1) In Chapter I of Part X of that Act (loss relief for the purposes of income tax), before section 380, there shall be inserted the following section—

"Schedule A losses

Schedule A losses.

379A.—(1) Subject to the following provisions of this section, where for any year of assessment any person sustains any loss in a Schedule A business carried on by him either solely or in partnership—

(a) the loss shall be carried forward to the following year of assessment and, to the extent that it does not exceed them, set against any profits or gains of that business for the year to which it is carried forward; and

(b) where there are no profits or gains for the following year or the profits or gains for that year are exceeded by the amount of the loss, the loss or, as the case may be, the remainder of it shall be so carried forward to the next following year, and so on.

(2) Subsection (3) below shall apply where a loss is sustained in a Schedule A business for any year of assessment ('the year of the loss') and one or both of the following conditions is satisfied, that is to say—

(a) the amount of the relevant capital allowances treated as expenses of that business in computing that loss exceeds, by any amount ('the net capital allowances'), the amount of any charges under the 1990 Act which are treated as receipts of that business in computing that loss;

(b) the Schedule A business has been carried on in relation to land that consists of or includes an agricultural estate to which allowable agricultural expenses deducted in computing that loss are attributable;

and the relevant capital allowances for the purposes of this subsection are allowances under the 1990 Act other than the whole or, as the case may be, a proportionate part of any allowances made in accordance with section 32(1B) of this Act in respect of expenditure on the provision of machinery or plant which is let, for the whole or a part of the year in question, to a person who does not use it or uses it for purposes other than those of a trade.

(3) Where the person carrying on the Schedule A business in a case to which this subsection applies makes a claim, in relation to the year of the loss or the year following that year, for relief under this subsection in respect of the loss—

(a) relief from income tax may be given, for the year to which the claim relates, on an amount of that person's income for that year which is equal to the amount of relief available for that year in respect of the loss; and

(b) the loss which is to be or has been carried forward under subsection (1) above shall be treated as reduced (if necessary to nil) by an amount equal to the amount on which relief is given;

but a claim for relief under this subsection shall not be made after the end of twelve months from the 31st January next following the end of the year to which it relates and shall be accompanied by all such amendments as may be required by virtue of paragraph (b) above of any self-assessment previously made by the claimant under section 9 of the Management Act.

(4) Subject to subsection (5) below, the reference in subsection (3) above to the amount of the relief available for any year in respect of a loss is a reference to whichever is the smallest of the following amounts, that is to say—

(a) the amount of the relievable income for the year to which the claim relates;

(b) the loss sustained in the Schedule A business in the year of the loss; and

(c) the amount which, according to whether one or both of the conditions mentioned in subsection (2) above is satisfied in relation to the year of the loss, is equal—

(i) to the net capital allowances,

(ii) to the amount of the allowable agricultural expenses for the year of the loss, or

(iii) to the sum of the net capital allowances and the amount of those expenses.

(5) Where relief under subsection (3) above is given in respect of a loss in relation to either of the years in relation to which relief may be claimed in respect of that loss, relief shall not be available in respect of the same loss for the other year

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except, in a case where the relief already given is of an amount determined in accordance with subsection (4)(a) above, to the extent that the smaller of the amounts applicable by virtue of subsection (4)(b) and (c) above exceeds the amount of relief already given.

(6) For the purposes of subsection (4)(a) above the amount of relievable income for any year, in relation to any person, shall be equal to the amount of his income for that year—

(a) after effect has been given to subsection (1) above in relation to any amount carried forward to that year in respect of a loss sustained in any year before the year of the loss, and

(b) in the case of a claim under subsection (3) above in relation to the year of the loss, after effect has been given to any claim under that subsection in respect of a loss sustained in the preceding year.

(7) For the purposes of this section the loss sustained in any Schedule A business shall be computed in like manner as the profits or gains arising or accruing from such a business are computed under the provisions of the Income Tax Acts applicable to Schedule A.

(8) In this section 'allowable agricultural expenses', in relation to an agricultural estate, means any disbursements or expenses attributable to the estate which are deductible in respect of maintenance, repairs, insurance or management of the estate and otherwise than in respect of the interest payable on any loan.

(9) For the purposes of this section the amount of any disbursements or expenses attributable to an agricultural estate shall be determined as if—

(a) disbursements and expenses were to be disregarded to the extent that they would not have been attributable to the estate if it did not include the parts of it used wholly for purposes other than purposes of husbandry, and

(b) disbursements and expenses in respect of parts of the estate used partly for purposes of husbandry and partly for other purposes were to be reduced to an extent corresponding to the extent to which those parts were used for other purposes.

(10) In this section—

'agricultural estate' means any land (including any houses or other buildings) which is managed as one estate and which consists of or includes any agricultural land; and

'agricultural land' means land, houses or other buildings in the United Kingdom occupied wholly or mainly for the purposes of husbandry."

(2) Where apart from this Act any person who carries on a Schedule A business in the year 1995-96 would have been entitled—

(a) by virtue of Part II of the Taxes Act 1988, to deduct any amount that became due before the beginning of that year from rent received in that year, being rent which is in fact brought into account in computing the profits or gains of that business, or

(b) by virtue of section 392 of that Act, to carry forward to that year the amount of any portion of a loss sustained in any transaction, being a transaction of such a nature that if it occurred in that year it would be treated as a transaction in the course of that Schedule A business,

that amount shall be treated for the purposes of income tax as if it were a loss falling, in accordance with section 379A(1) of that Act, to be carried forward from the previous year to the year 1995-96 and (in so far as not used in giving relief for that year) to subsequent years.

(3) Where—

(a) any person carrying on a Schedule A business in the year 1995-96 would, by virtue of section 355(4) of the Taxes Act 1988 (power to carry forward excess interest), have been entitled, in respect of an amount of interest representing an excess of interest over the income against which relief was available for any previous year, to be given relief against an equivalent amount of income for the year 1995-96 from the letting of any land, caravan or house-boat, and

(b) that business relates to any land, caravan or house-boat in relation to which the condition specified in section 355(1)(b) of that Act would have been fulfilled for the year 1995-96,

that amount shall be treated for the purposes of income tax as if it were a loss falling, in accordance with section 379A(1) of that Act, to be carried forward from the previous year to the year 1995-96 and (in so far as not used in giving relief for that year) to subsequent years.

(4) Section 379A(3) of that Act shall have effect for the purposes of the making of a claim in a case where the year to which the claim relates is the year 1995-96 as if the period for making such a claim ended two years after the end of that year.

20. In section 401 of that Act (relief for pre-trading expenditure), after subsection (1A) there shall be inserted the following subsection—

"(1B) Except for the purposes of corporation tax, subsection (1) above shall apply in relation to expenditure for the purposes of a Schedule A business as it applies in relation to expenditure for the purposes of a trade; and, accordingly, that subsection shall have effect in relation to expenditure for the purposes of a Schedule A business as if the reference to the computation of the profits or gains for the purposes of Case I or II of Schedule D were a reference to the computation of profits or gains for the purposes of Schedule A."

21.—(1) Section 503 of that Act (letting of furnished holiday accommodation), except so far as it applies for the purposes of corporation tax, shall have effect with the following modifications.

(2) Subsection (1) shall have effect as if for "380 to 390, 393, 393A(1), 401" there were substituted "379A to 390" and as if the following paragraph were substituted for paragraph (a)—

"(a) any Schedule A business, so far as it consists in the commercial letting of furnished holiday accommodation in the United Kingdom, shall be treated as a trade the profits or gains of which are chargeable to tax under Case I of Schedule D; and".

(3) The following subsection shall be deemed to be substituted for subsection (2)—

"(2) In its application by virtue of subsection (1) above section 390 shall have effect as if the reference to the trade the profits of which are chargeable to tax under Case I or II of Schedule D were a reference to the Schedule A business so far as it is treated as a trade."

(4) Subsection (5) shall be deemed to be omitted.

22. In section 577(9) of that Act (exception in relation to business entertaining expenses for gifts to bodies established for charitable purposes), after "under" there shall be inserted "Schedule A or".

23. Section 579 of that Act (statutory redundancy payments), except so far as it applies for the purposes of corporation tax, shall have effect as if the following subsection were substituted for subsection (4)—

"(4) Where a redundancy payment or other employer's payment is made in respect of employment wholly in a Schedule A business carried on by the employer—

(a) the amount of the redundancy payment or the corresponding amount of the other employer's payment shall (if not otherwise so allowable) be allowable as a deduction in computing for the purposes of Schedule A the profits or gains or losses of the business; but

(b) if the employer's payment was made after the discontinuance of the business, the net amount so deductible shall be treated as if it were a payment made on the last day on which the business was carried on."

24. Section 588 of that Act (training courses for employees), except so far as it applies for the purposes of corporation tax, shall have effect as if the following subsection were inserted after subsection (4)—

"(4A) Subsection (3) above shall have effect where the employee is or was employed for the purposes of a Schedule A business carried on by the employer as if the references to computing for the purposes of Schedule D the profits or gains of a trade, profession or vocation mentioned in that subsection were references to computing for the purposes of Schedule A the profits or gains of that business."

25. Section 589A of that Act (counselling services for employees), except so far as it applies for the purposes of corporation tax, shall have effect as if the following subsection were inserted after subsection (9)—

"(9A) Subsection (8) above shall have effect where the employee is or was employed for the purposes of a Schedule A business carried on by the employer as if the references to computing for the purposes of Schedule D the profits or gains of the trade, profession or vocation mentioned in that subsection were references to computing for the purposes of Schedule A the profits or gains of that business."

26. In section 692(1) of that Act (reimbursement of settlor), for the words from "the profits" onwards there shall be substituted "either the profits of a trade carried on by the settlor or the profits of a Schedule A business so carried on".

27. In section 779(13)(a) of that Act (definition of relevant tax relief for the purposes of anti-avoidance provisions), the words "allowable by virtue of sections 25, 26 and 28 to 31 and Schedule 1" shall be omitted.

28. In section 832(1) of that Act (interpretation of the Tax Acts), after the definition of "recognised clearing system" there shall be inserted the following definition—

"'Schedule A business' means any business the profits or gains of which are chargeable to income tax under Schedule A, including the business in the course of which any transaction is by virtue of paragraph 1(2) of that Schedule to be treated as entered into;".

The Capital Allowances Act 1990 (c. 1)

29.—(1) In section 9 of the Capital Allowances Act 1990 (manner of making industrial buildings allowance), in subsection (1), for "mentioned in subsections (2) to (7) below" there shall be substituted "where subsections (2) to (7) below apply".

(2) After that subsection there shall be inserted the following subsections—

"(1A) In the case of an allowance or charge made to or on a person whose interest in the building or structure is subject to a lease at the relevant time, subsection (1) above shall have effect for the purposes of income tax—

(a) as if any Schedule A business carried on by that person at any time in the chargeable period for which the allowance or charge is made were the trade in the taxing of which the allowance or charge were to be made; or

(b) where that person is not carrying on such a business at any time in that period, as if he were carrying on such a business and the business were the trade in the taxing of which the allowance or charge is to be made;

and this Act shall have effect in each case as if the Schedule A business which is deemed to be a trade for the purposes of this subsection were a trade set up and commenced on or after 6th April 1995.

(1B) In subsection (1A) above 'the relevant time'—

(a) in relation to an initial allowance, means the time when the expenditure is incurred or any subsequent time before the building or structure is used for any purpose;

(b) in relation to a writing-down allowance, means the end of the chargeable period for which the allowance is made; and

(c) in relation to a balancing allowance or charge, means the time immediately before the event giving rise to the allowance or charge."

(3) At the beginning of subsections (2), (3), (4) and (6) of that section there shall be inserted, in each case, the words "For the purposes of corporation tax"; and in subsection (6), paragraph (a) and, in paragraph (b), the words "if it is a charge to corporation tax" shall be omitted.

30. In subsection (2) of section 15 of that Act of 1990 (method of making allowances and charges in the case of buildings falling temporarily out of use), at the beginning there shall be inserted "For the purposes of corporation tax" and after that subsection there shall be inserted the following subsection—

"(2A) For the purposes of income tax any allowance or charge falling to be made to any person in respect of a building or structure during a period while the building or structure—

(a) is temporarily out of use, but

(b) is deemed by virtue of subsection (1) above still to be an industrial building or structure,

shall be made, in a case falling within subsection (2)(a) or (b) above, in accordance with section 9(1A) as if (where section 9(1A) does not otherwise apply) the building or structure were subject to a lease at the relevant time."

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31. Section 29(1) of that Act of 1990 (commercial letting of furnished holiday accommodation to be treated as trade for the purposes of Part II), except so far as it applies for the purposes of corporation tax, shall have effect as if the following paragraph were substituted for paragraph (a)—

"(a) any Schedule A business consisting in the commercial letting of furnished holiday accommodation in the United Kingdom shall be treated as a trade; and".

32. In section 67(3) of that Act of 1990 (manner of making allowance in certain cases in respect of expenditure on thermal insulation), for "shall (notwithstanding section 73(2)), be available" there shall be substituted "shall be made to any person for the purposes of income tax in accordance with section 32(1B) and (1C) of the principal Act and, for the purposes of corporation tax, shall be available (notwithstanding section 73(2))".

33. In section 73 of that Act of 1990 (manner of making allowances and charges in respect of machinery and plant), after subsection (3) there shall be inserted the following subsection—

"(4) Subsections (2) and (3) above apply subject to the provisions of section 32(1B) of the principal Act."

34.—(1) In section 92 of that Act of 1990 (manner of making assured tenancy allowances and related charges), at the beginning there shall be inserted the following subsection—

"(A1) For the purposes of income tax any allowance or charge made to or on any person under this Part shall be made to or on him in taxing his trade—

(a) as if any Schedule A business carried on by that person were the trade in the taxing of which the allowance or charge were to be made; or

(b) where that person is not carrying on such a business, as if he were carrying on such a business and that business were the trade in the taxing of which the allowance or charge is to be made;

and this Act shall have effect in each case as if the Schedule A business which is deemed to be a trade for the purposes of this subsection were a trade set up and commenced on or after 6th April 1995."

(2) In subsections (1) and (2) of that section, at the beginning there shall be inserted, in each case, the words "For the purposes of corporation tax"; and in subsection (2), paragraph (a) and, in paragraph (b), the words "if it is a charge to corporation tax" shall be omitted.

35.—(1) After subsection (2) of section 132 of that Act of 1990 (manner of making agricultural buildings allowances and related charges), there shall be inserted the following subsection—

"(2A) In the case of an allowance or charge which falls to be made to a person for a chargeable period in which he is not carrying on a trade, subsection (2) above shall have effect for the purposes of income tax—

(a) as if any Schedule A business carried on by that person at that time were the trade in the taxing of which the allowance or charge were to be made; or

(b) where that person is not carrying on such a business at that time, as if he were carrying on such a business and the business were the trade in the taxing of which the allowance or charge is to be made;

and this Act shall have effect in each case as if the Schedule A business which is deemed to be a trade for the purposes of this subsection were a trade set up and commenced on or after 6th April 1995."

(2) In subsections (3) and (4) of that section, at the beginning there shall be inserted, in each case, the words "For the purposes of corporation tax"; and in subsection (4), paragraph (a) and, in paragraph (b), the words "if it is a charge to corporation tax" shall be omitted.

The Taxation of Chargeable Gains Act 1992 (c. 12)

36. Section 241(3) of the Taxation of Chargeable Gains Act 1992 (commercial letting of furnished holiday accommodation to be treated as trade for certain purposes), except so far as it applies for the purposes of corporation tax, shall have effect as if the following paragraph were substituted for paragraph (a)—

"(a) any Schedule A business (within the meaning of the Taxes Act) which consists in the commercial letting of furnished holiday accommodation in the United Kingdom shall be treated as a trade; and".

37.—(1) Schedule 8 to that Act of 1992 (which includes provision excluding from the charge to capital gains tax premiums taxed under Schedule A), except so far as it applies in accordance with section 8 of that Act for the purposes of corporation tax, shall have effect as follows.

(2) In paragraph 5—

(a) in sub-paragraphs (1) and (2), for the words "income tax has become chargeable under section 34 of the Taxes Act on any amount" there shall, in each case, be deemed to be substituted "any amount is brought into account by virtue of section 34 of the Taxes Act as a receipt of a Schedule A business (within the meaning of that Act)"; and

(b) in sub-paragraph (3), for "income tax has become chargeable under section 36 of the Taxes Act (sale of land with right of re-conveyance) on any amount" there shall be deemed to be substituted "any amount is brought into account by virtue of section 36 of the Taxes Act (sale of land with right of re-conveyance) as a receipt of a Schedule A business (within the meaning of that Act)".

(3) In paragraph 6(2), for the words from "on which tax is paid" onwards there shall be deemed to be substituted "brought into account by virtue of section 35 of the Taxes Act (charge on assignment of a lease granted at an undervalue) as a receipt of a Schedule A business (within the meaning of that Act)".

(4) In paragraph 7, for the words from "income tax" to "so chargeable" there shall be deemed to be substituted "any amount is brought into account by virtue of section 34(2) and (3) of the Taxes Act as a receipt of a Schedule A business (within the meaning of that Act) which is or is treated as carried on by any person, that person".

The Finance (No. 2) Act 1992 (c. 48)

38. In paragraph 2(1) of Schedule 10 to the Finance (No. 2) Act 1992 (furnished accommodation), for "under Case I or Case VI of Schedule D (or both those Cases)" there shall be substituted "under Schedule A or Case I of Schedule D (or under both together)".

Section 42.

SCHEDULE 7

Commercially let property: Corporation Tax

1. In subsection (6) of section 338 of the Taxes Act 1988 (charges on income), for paragraph (d) and the words after that paragraph (allowance of interest as a charge on income in a case where it would be eligible for relief in the case of an individual) there shall be substituted the following paragraph—

"(d) the interest qualifies under section 338A for treatment in accordance with this paragraph as a charge on income."

2. After section 338 of that Act there shall be inserted the following section—

"Charges on income: loans to buy land.

338A.—(1) Subject to the following provisions of this section, interest shall qualify for treatment in accordance with section 338(6)(d) as a charge on income if—

(a) at the time when the interest is paid the company in question owns an estate or interest in land, or the property in a caravan or house-boat, in the United Kingdom or the Republic of Ireland;

(b) the interest is paid on a loan to defray money applied—

(i) in purchasing that estate, interest or property, or another estate, interest or property absorbed into, or given up to obtain, that estate, interest or property;

(ii) in improving or developing the land, or buildings on the land; or

(iii) in paying off another loan in a case in which interest on that other loan would have qualified under this section for treatment as a charge on income had the loan not been paid off (and on the assumption, if the loan was free of interest, that it carried interest);

(c) the land, caravan or house-boat—

(i) is occupied by the company and used as the only or main residence of an individual;

(ii) is occupied by the company and used otherwise than as a residence; or

(iii) is, in any period of 52 weeks comprising the time at which the interest is payable, let at a commercial rent for more than 26 weeks and, when not so let, either available for letting at such a rent or occupied and used as mentioned in sub-paragraph (i) or (ii) above;

and

(d) the interest is not interest incurred by overdrawing an account or by debiting the account of any person as the holder of a credit card or under similar arrangements.

(2) Subsections (2) and (7) of section 354 shall have effect in relation to subsection (1) above as they have effect in relation to subsection (1) of that section.

(3) Interest shall qualify under this section for treatment as a charge on income by reference to any land, caravan or house-boat which is being used as the only or main residence of an individual to the extent only that the amount on which it is payable does not exceed the following limit, that is to say, the qualifying maximum for the year of assessment in which the payment is made reduced by the amount on which interest is payable by the company under any earlier loans so far as they—

(a) are loans the interest on which qualifies under this section for treatment as a charge on income; and

(b) fall within subsection (1)(b) above in respect of the same land, caravan or house-boat.

(4) Accordingly—

(a) if the amount on which interest is payable under any loan exceeds the limit specified in subsection (3) above, so much only of the interest that would otherwise qualify under this section shall so qualify as bears to the whole of that interest the same proportion as that part of that amount that does not exceed the limit bears to the whole of that amount; and

(b) if the amount on which interest is payable under the earlier loans mentioned in that subsection is equal to or exceeds the qualifying maximum for the year of assessment in which the interest is paid, none of the interest on the later loan shall qualify under this section for treatment as a charge on income.

(5) Subsections (1A) and (2) of section 355 shall have effect for the purposes of this section in relation to the condition in paragraph (c) of subsection (1) above as they have effect in relation to the condition referred to in section 355(1A)(a).

(6) Interest shall not qualify under this section for treatment as a charge on income by reference to any case in which—

(a) the land, caravan or house-boat is used as the only or main residence of an individual, and

(b) the interest is paid on a home improvement loan,

unless the loan was made before 6th April 1988; and subsections (2B) and (2C) of section 355 shall apply for the purposes of this subsection as they apply for the purposes of subsection (2A) of that section.

(7) Interest shall not qualify by virtue of subsection (1)(b)(i) above for treatment as a charge on income—

(a) where the purchaser has, since 15th April 1969, disposed of an estate or interest in the land, or the property in the caravan or house-boat, in question and it appears that the main purpose of the disposal and purchase was to obtain relief in respect of interest on the loan or to allow interest on the loan to be treated as a charge on income; or

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(b) where the purchaser is directly or indirectly purchasing from a person who is connected with him and the price substantially exceeds the value of what is acquired;

and interest shall not qualify by virtue of subsection (1)(b)(ii) above for such treatment where the money spent is received directly or indirectly by a person connected with the person spending it and substantially exceeds the value of the work done.

(8) For the purposes of subsection (7) above one person is connected with another if he is so connected within the terms of section 839.

(9) In this section—

'caravan' and 'house-boat' have the same meanings as are given to them for the purposes of sections 354 to 366 by subsection (1) of section 367; and

'the qualifying maximum' has the same meaning as is given to it for the purposes of sections 356A to 357 by subsection (5) of that section;

and subsections (2) to (4) of section 367 shall apply with the necessary modifications for the determination of any question whether interest qualifies under this section for treatment as a charge on income as they apply for the determination of any question whether interest is eligible for relief under section 353 by virtue of section 354.

(10) References in this section to an estate or interest do not include references—

(a) to a rentcharge or, in Scotland, a superiority or the interest of a creditor in a contract of ground annual; or

(b) to the interest of a chargee or mortgagee or, in Scotland, the interest of a creditor in a charge or security of any kind over land."

Section 51.

SCHEDULE 8

LIFE ASSURANCE BUSINESS

PART I

GENERAL AMENDMENTS

Classes of life assurance business

1. In section 431(2) of the Taxes Act 1988 (interpretative provisions relating to insurance companies), insert the following at the appropriate places in alphabetical order—

"pension business" has the meaning given by section 431B;

"life reinsurance business" has the meaning given by section 431C;

"overseas life assurance business" has the meaning given by section 431D;

"basic life assurance and general annuity business" has the meaning given by section 431F;

"reinsurance business" includes retrocession business.

2. After section 431A of the Taxes Act 1988 insert—

"Classes of life assurance business

Meaning of "pension business".

431B.—(1) In this Chapter "pension business" means so much of a company's life assurance business as is referable to contracts of the following descriptions or to the reinsurance of liabilities under such contracts.

(2) The descriptions of contracts are—

(a) any contract with an individual who is, or would but for an insufficiency of profits or gains be, chargeable to income tax in respect of relevant earnings (as defined in section 623(1) and (2)) from a trade, profession, vocation, office or employment carried on or held by him, being a contract approved by the Board under section 620 or a substituted contract within the meaning of section 622(3);

(b) any contract (including a contract of insurance) entered into for the purposes of, and made with the persons having the management of, an exempt approved scheme as defined in Chapter I of Part XIV, being a contract so framed that the liabilities undertaken by the insurance company under the contract correspond with liabilities against which the contract is intended to secure the scheme;

(c) any contract made under approved personal pension arrangements within the meaning of Chapter IV of Part XIV;

(d) any annuity contract entered into for the purposes of—

(i) a scheme which is approved or is being considered for approval under Chapter I of Part XIV;

(ii) a scheme which is a relevant statutory scheme for the purposes of Chapter I of Part XIV; or

(iii) a fund to which section 608 applies,

being a contract which is made with the persons having the management of the scheme or fund, or those persons and a member of or contributor to the scheme or fund, and by means of which relevant benefits (see subsections (3) and (4) below), and no other benefits, are secured;

(e) any annuity contract which is entered into in substitution for a contract within paragraph (d) above and by means of which relevant benefits (see subsections (3) and (4) below), and no other benefits, are secured;

(f) any contract with the trustees or other persons having the management of a scheme approved under section 620 or, subject to subsection (5) below, of a superannuation fund which was approved under section 208 of the 1970 Act, being a contract which—

(i) was entered into for the purposes only of that scheme or fund or, in the case of a fund part only of which was approved under section 208, for the purposes only of that part of that fund, and

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(ii) (in the case of a contract entered into or varied after 1st August 1956) is so framed that the liabilities undertaken by the insurance company under the contract correspond with liabilities against which the contract is intended to secure the scheme or fund (or the relevant part of the fund).

(3) For the purposes of subsection (2)(d) and (e) above "relevant benefits" means relevant benefits as defined by section 612(1) which correspond—

(a) where subsection (2)(d)(i) above applies, or subsection (2)(e) above applies and the contract within subsection (2)(d) was entered into for the purposes of a scheme falling within subsection (2)(d)(i), with benefits that could be provided by a scheme approved under Chapter I of Part XIV;

(b) where subsection (2)(d)(ii) above applies, or subsection (2)(e) above applies and the contract within subsection (2)(d) was entered into for the purposes of a scheme falling within subsection (2)(d)(ii), with benefits that could be provided by a scheme which is a relevant statutory scheme for the purposes of Chapter I of Part XIV;

(c) where subsection (2)(d)(iii) above applies, or subsection (2)(e) above applies and the contract within subsection (2)(d) was entered into for the purposes of a fund falling within subsection (2)(d)(iii), with benefits that could be provided by a fund to which section 608 applies.

(4) For the purposes of subsection (3)(a), (b) or (c) above a hypothetical scheme or fund (rather than any particular scheme or fund), and benefits provided by a scheme or fund directly (rather than by means of an annuity contract), shall be taken.

(5) Subsection (2)(f) above shall not apply to a contract where the fund in question was approved under section 208 of the 1970 Act unless—

(a) immediately before 6th April 1980 premiums paid under the contract with the trustees or other persons having the management of the fund fell within section 323(4) of that Act (premiums referable to pension business); and

(b) the terms on which benefits are payable from the fund have not been altered since that time; and

(c) section 608 applies to the fund.

(6) In subsection (5) above "premium" includes any consideration for an annuity.

Meaning of "life reinsurance business".

431C.—(1) In this Chapter "life reinsurance business" means reinsurance of life assurance business other than pension business or business of any description excluded from this section by regulations made by the Board.

(2) Regulations under subsection (1) above may describe the excluded business by reference to any circumstances appearing to the Board to be relevant.

Meaning of "overseas life assurance business".

431D.—(1) In this Chapter "overseas life assurance business" means life assurance business, other than pension business or life reinsurance business, which—

(a) in the case of life assurance business other than reinsurance business, is business with a policy holder or annuitant not residing in the United Kingdom, and

(b) in the case of reinsurance business, is—

(i) reinsurance of life assurance business with a policy holder or annuitant not residing in the United Kingdom, or

(ii) reinsurance of business within sub-paragraph (i) above or this sub-paragraph.

(2) Subject to subsections (5) and (7) below, in subsection (1) above the references to life assurance business with a policy holder or annuitant do not include life assurance business with a person who is an individual if—

(a) the policy holder or annuitant is not beneficially entitled to the rights conferred by the policy or contract for the business, or

(b) any benefits under the policy or contract for the business are or will be payable to a person other than the policy holder or annuitant (or his personal representatives) or to a number of persons not including him (or them).

(3) For the purposes of subsection (2) above any nomination by a policy holder or annuitant of an individual or individuals as the recipient or recipients of benefits payable on death shall be disregarded.

(4) Subject to subsections (5) and (7) below, in subsection (1) above the references to life assurance business with a policy holder or annuitant do not include life assurance business with a person who is not an individual.

(5) Subsections (2) and (4) above do not apply if—

(a) the rights conferred by the policy or contract for the business are held subject to a trust,

(b) the settlor does not reside in the United Kingdom, and

(c) each beneficiary is either an individual not residing in the United Kingdom or a charity.

(6) In subsection (5) above—

(a) "settlor" means the person, or (where more than one) each of the persons, by whom the trust was directly or indirectly created (and for this purpose a person shall, in particular, be regarded as having created the trust if he provided or undertook to provide funds directly or indirectly for the purposes of the trust or made with any other person a reciprocal arrangement for that other person to create the trust),

(b) "beneficiary" means any person who is, or will or may become, entitled to any benefit under the trust (including any person who may become so entitled on the exercise of a discretion by the trustees of the trust), and

(c) "charity" means a person or body of persons established for charitable purposes only;

and for the purpose of that subsection an individual who is a trustee (of any trust) shall not be regarded as an individual.

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(7) Subsections (2) and (4) above do not apply if the policy or contract for the business was effected solely to provide benefits for or in respect of—

(a) persons all, or all but an insignificant number, of whom are relevant overseas employees, or

(b) spouses, widows, widowers, children or dependants of such persons.

(8) In subsection (7) above "relevant overseas employees" means persons who are not residing in the United Kingdom and are—

(a) employees of the policy holder or annuitant,

(b) employees of a person connected with the policy holder or annuitant, or

(c) employees in respect of whose employment there is established a superannuation fund to which section 615(3) applies;

and section 839 applies for the purposes of this subsection.

Overseas life assurance business: regulations.

431E.—(1) The Board may by regulations make provision for giving effect to section 431D.

(2) Such regulations may, in particular—

(a) provide that, in such circumstances as may be prescribed, any prescribed issue as to whether business is or is not overseas life assurance business (or overseas life assurance business of a particular kind) shall be determined by reference to such matters (including the giving of certificates or undertakings, the giving or possession of information or the making of declarations) as may be prescribed,

(b) require companies to obtain certificates, undertakings, information or declarations from policy holders or annuitants, or from trustees or other companies, for the purposes of the regulations,

(c) make provision for dealing with cases where any issue such as is mentioned in paragraph (a) above is (for any reason) wrongly determined, including provision allowing for the imposition of charges to tax (with or without limits on time) on the insurance company concerned or on the policy holders or annuitants concerned,

(d) require companies to supply information and make available books, documents and other records for inspection on behalf of the Board, and

(e) make provision (including provision imposing penalties) for contravention of, or non-compliance with, the regulations.

(3) The regulations may—

(a) make different provision for different cases, and

(b) contain such supplementary, incidental, consequential or transitional provision as appears to the Board to be appropriate.

Meaning of "basic life assurance and general annuity business".

431F. In this Chapter "basic life assurance and general annuity business" means life assurance business (including reinsurance business) other than pension business, life reinsurance business or overseas life assurance business.".

3. In section 432C(2) of the Taxes Act 1988 after "assets of the overseas life assurance fund" insert "or land in the United Kingdom linked to overseas life assurance business".

4.—(1) Section 438 of the Taxes Act 1988 is amended as follows.

(2) In subsection (1) for "life assurance fund and separate annuity fund, if any" substitute "long term business fund".

(3) In subsection (8) for "431(4)(c)" substitute "431B(2)(c)".

5.—(1) Section 440 of the Taxes Act 1988 is amended as follows.

(2) In subsection (3) for "paragraphs (a) to (d)" substitute "paragraphs (a) to (e)".

(3) For subsection (4) substitute—

"(4) The categories referred to in subsections (1) to (3) above are—

(a) assets linked solely to pension business;

(b) assets linked solely to life reinsurance business;

(c) assets of the overseas life assurance fund;

(d) assets linked solely to basic life assurance and general annuity business;

(e) assets of the long term business fund not within any of the preceding paragraphs;

(f) other assets.".

6. In section 440A of the Taxes Act 1988, in subsection (2) for paragraphs (a) and (b) substitute—

"(a) so many of the securities as are identified in the company's records as securities by reference to the value of which there are to be determined benefits provided for under policies or contracts the effecting of all (or all but an insignificant proportion) of which constitutes the carrying on of—

(i) pension business, or

(ii) life reinsurance business, or

(iii) basic life assurance and general annuity business,

shall be treated for the purposes of corporation tax as a separate holding linked solely to that business,".

7. In section 76(1)(d) of the Taxes Act 1988 after "pension business" insert ", life reinsurance business".

8. In Schedule 19AA to the Taxes Act 1988, in the closing words of paragraph 5(5) for "pension business or basic life assurance business" substitute "pension business, life reinsurance business or basic life assurance and general annuity business".

9.—(1) The Taxation of Chargeable Gains Act 1992 is amended as follows.

1992 c. 12.

(2) In section 212(2) after "pension business" insert "or life reinsurance business".

(3) In section 214A(11)(a) for "any pension business or" substitute "any pension business or life reinsurance business of that company or to".

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1994 c. 9.

10.—(1) Schedule 18 to the Finance Act 1994 is amended as follows.

(2) In paragraph 1(5) for "life assurance fund and separate annuity fund, if any," substitute "long term business fund".

(3) In paragraph 1(6) after "pension business" insert ", life reinsurance business".

(4) In paragraph 4 omit the definition of "life assurance business" and after the definition of "non-life mutual business" insert—

"and other expressions have the same meaning as in Chapter I of Part XII of the Taxes Act 1988.".

Linked assets

11.—(1) In section 431(2) of the Taxes Act 1988, for the definition of "linked assets" substitute—

"linked assets", and related expressions, shall be construed in accordance with section 432ZA;".

(2) After section 432 of the Taxes Act 1988 insert—

"Linked assets.

432ZA.—(1) In this Chapter "linked assets" means assets of an insurance company which are identified in its records as assets by reference to the value of which benefits provided for under a policy or contract are to be determined.

(2) Linked assets shall be taken—

(a) to be linked to long term business of a particular category if the policies or contracts providing for the benefits concerned are policies or contracts the effecting of which constitutes the carrying on of business of that category; and

(b) to be linked solely to long term business of a particular category if all (or all but an insignificant proportion) of the policies or contracts providing for the benefits concerned are policies or contracts the effecting of which constitutes the carrying on of business of that category.

(3) Where an asset is linked to more than one category of long term business, a part of the asset shall be taken to be linked to each category; and references in this Chapter to assets linked (but not solely linked) to any category of business shall be construed accordingly.

(4) Where subsection (3) above applies, the part of the asset linked to any category of business shall be a proportion determined as follows—

(a) where in the records of the company values are shown for the asset in funds referable to particular categories of business, the proportion shall be determined by reference to those values;

(b) in any other case the proportion shall be equal to the proportion which the total of the linked liabilities of the company referable to that category of business bears to the total of the linked liabilities of the company referable to all the categories of business to which the asset is linked.

(5) For the purposes of sections 432A to 432F—

(a) income arising in any period from assets linked but not solely linked to a category of business,

(b) gains arising in any period from the disposal of such assets, and

(c) increases and decreases in the value of such assets,

shall be treated as arising to that category of business in the proportion which is the mean of the proportions determined under subsection (4) above at the beginning and end of the period.

(6) In this section "linked liabilities" means liabilities in respect of benefits to be determined by reference to the value of linked assets.

(7) In the case of a policy or contract the effecting of which constitutes a class of life assurance business the fact that it also constitutes long term business other than life assurance business shall be disregarded for the purposes of this section unless the benefits to be provided which constitute long term business other than life assurance business are to be determined by reference to the value of assets.".

12.—(1) In the following provisions for "linked solely" substitute "linked"—

(a) section 432C(1), section 432D(1) (twice) and section 432E(3)(a) and (b) and (6)(a) of the Taxes Act 1988;

(b) paragraph 1(5)(b)(i) of Schedule 19AB to the Taxes Act 1988;

(c) paragraph 1(4)(b) of Schedule 18 to the Finance Act 1994. 1994 c. 9.

(2) The amendments made by paragraph 11 above do not affect the meaning of "linked assets", and related expressions, in sections 214 and 214A of the Taxation of Chargeable Gains Act 1992 (transitional provisions relating to changes made in 1990 and 1991). 1992 c. 12.

(3) In section 432 of the Taxes Act 1988 for "class" in each place where it occurs substitute "category".

13.—(1) Section 432A of the Taxes Act 1988 is amended as follows.

(2) For subsections (1) to (3) substitute—

"(1) This section has effect where in any period an insurance company carries on more than one category of business and it is necessary for the purposes of the Corporation Tax Acts to determine in relation to the period what parts of—

(a) income arising from the assets of the company's long term business fund, or

(b) gains or losses accruing on the disposal of such assets,

are referable to any category of business.

(2) The categories of business referred to in subsection (1) above are—

(a) pension business;

(b) life reinsurance business;

(c) overseas life assurance business;

(d) basic life assurance and general annuity business which is ordinary life assurance business;

(e) basic life assurance and general annuity business which is industrial assurance business; and

(f) long term business other than life assurance business.

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(3) Income arising from, and gains or losses accruing on the disposal of, assets linked to any category of business (apart from overseas life assurance business) shall be referable to that category of business.".

(3) In subsections (5) and (6)(b)(i) for "any of the appropriate categories" substitute "any category".

(4) For subsection (7) substitute—

"(7) For the purposes of subsections (5) and (6) above—

(a) income, gains or losses are directly referable to a category of business if referable to that category by virtue of subsection (3) or (4) above, and

(b) assets are directly referable to a category of business if income arising from the assets is, and gains or losses accruing on the disposal of the assets are, so referable by virtue of subsection (3) above.".

(5) For subsection (9) substitute—

"(9) Where a company carries on overseas life assurance business—

(a) references in this section to liabilities do not include liabilities of that business, and

(b) the appropriate part of the investment reserve as defined by paragraph 4(2)(a) of Schedule 19AA shall be left out of account in determining that reserve for the purposes of this section.".

14.—(1) Section 432C of the Taxes Act 1988 is amended as follows.

(2) In subsection (1) for the words from "life assurance business" to "general annuity business" substitute "pension business, life reinsurance business, basic life assurance and general annuity business or long term business other than life assurance business".

(3) In subsection (3) for "any of the appropriate categories of business" substitute "any category of business".

(4) In subsection (4)(b) for "any of the appropriate categories of business" substitute "any category of business".

(5) In subsection (5), omit paragraph (a).

(6) For subsection (6) substitute—

"(6) For the purposes of this section, where a company carries on overseas life assurance business "liabilities" does not include liabilities of that business.".

15.—(1) Section 432D of the Taxes Act 1988 is amended as follows.

(2) In subsection (1) for the words from "life assurance business" to "general annuity business" substitute "pension business, life reinsurance business, basic life assurance and general annuity business or long term business other than life assurance business".

(3) In subsection (2) for "any of the appropriate categories of business" substitute "any category of business".

(4) For subsection (3) substitute—

"(3) For the purposes of subsection (2) above "the relevant fraction", in relation to a category of business, is the fraction of which—

(a) the numerator is the mean of the opening and closing liabilities of the relevant business so far as referable to the category, reduced by the mean of the opening and closing values of any assets of the relevant business directly referable to the category; and

(b) the denominator is the mean of the opening and closing liabilities of the relevant business, reduced by the mean of the opening and closing values of any assets of the relevant business directly referable to any category of business.

(4) For the purposes of subsections (2) and (3) above, the part of the amount brought into account as the increase or decrease in the value of assets which is directly referable to a category of business is the part referable to the category by virtue of subsection (1) above and assets are directly referable to a category of business if such part of the amount brought into account as the increase or decrease in the value of assets as is attributable to them is so referable.".

Receipts to be brought into account

16.—(1) For section 83 of the Finance Act 1989 substitute— 1989 c. 26.

"Receipts to be brought into account.

83.—(1) The following provisions of this section have effect where the profits of an insurance company in respect of its life assurance business are, for the purposes of the Taxes Act 1988, computed in accordance with the provisions of that Act applicable to Case I of Schedule D.

(2) So far as referable to that business, the following items, as brought into account for a period of account (and not otherwise), shall be taken into account as receipts of the period—

(a) the company's investment income from the assets of its long term business fund, and

(b) any increase in value (whether realised or not) of those assets.

If for any period of account there is a reduction in the value referred to in paragraph (b) above (as brought into account for the period), that reduction shall be taken into account as an expense of that period.

(3) In ascertaining whether or to what extent a company has incurred a loss in respect of that business any amount transferred into the company's long term business fund from other assets of the company, or otherwise added to that fund, shall be taken into account, in the period in which it is brought into account, as an increase in value of the assets of that fund within subsection (2)(b) above.

This subsection does not apply where, or to the extent that, the amount concerned—

(a) would fall to be taken into account as a receipt apart from this section,

(b) is otherwise taken into account under subsection (2) above, or

(c) is specifically exempted from tax.

Meaning of "brought into account".

83A.—(1) In section 83 "brought into account" means brought into account in an account which is recognised for the purposes of that section.

(2) Subject to the following provisions of this section and to any regulations made by the Treasury, the accounts recognised

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for the purposes of that section are—

(a) a revenue account prepared for the purposes of the Insurance Companies Act 1982 in respect of the whole of the company's long term business;

(b) any separate revenue account required to be prepared under that Act in respect of a part of that business.

Paragraph (b) above does not include accounts required in respect of internal linked funds.

(3) Where there are prepared any such separate accounts as are mentioned in subsection (2)(b) above, reference shall be made to those accounts rather than to the account for the whole of the business.

(4) If in any such case the total of the items brought into account in the separate accounts is not equal to the total amount brought into account in the account prepared for the whole business, there shall be treated as having been required and prepared a further separate revenue account covering the balance.

(5) Where a company carries on both ordinary long term business and industrial assurance business, the references above to the company's long term business shall be construed as references to either or both of those businesses, as the case may require.".

(2) In section 432B of the Taxes Act 1988—

(a) in subsection (1) for the words from "brought into account" to "1982" substitute "brought into account, within the meaning of that section,"; and

(b) for subsection (2) substitute—

"(2) Where for that purpose reference falls to be made to more than one account recognised for the purposes of that section, the provisions of sections 432C to 432F apply separately in relation to each account.".

(3) In section 432E(1) of the Taxes Act 1988 for the words from "of the items referred to in subsection (1)" to "paragraph (b))" substitute "to be taken into account in accordance with section 83(2) of the Finance Act 1989 (that is to say, the aggregate amount to be taken into account as receipts reduced by the aggregate amount to be taken into account as expenses)".

(4) In section 436(3) of the Taxes Act 1988, after paragraph (a) insert—

"(aa) section 83(3) of that Act shall not apply;".

(5) In section 441(4) of the Taxes Act 1988, after paragraph (a) (and before the word "and" following that paragraph) insert—

"(aa) section 83(3) of that Act shall not apply,".

1992 c. 48.

(6) In section 65(2) of the Finance (No.2) Act 1992 for paragraph (d) substitute—

"(d) section 83(2) of the Finance Act 1989 (amounts to be taken into account as receipts or expenses);".

Supplementary provisions as to apportionment

17.—(1) In section 432B of the Taxes Act 1988 (apportionment of receipts brought into account)—

(a) in subsections (1) and (2) for "sections 432C to 432E" substitute "sections 432C to 432F", and

(b) in subsection (3) for "section 432E applies" substitute "sections 432E and 432F apply".

(2) In section 432E of the Taxes Act 1988 (section 432B apportionment: participating funds)—

(a) in subsection (1), for the words from "shall be" to the end substitute "shall be the amount determined in accordance with subsection (2) below or, if greater, the amount determined in accordance with subsection (3) below."; and

(b) in subsection (5) at the end insert—

"References in this subsection to the amount determined in accordance with subsection (3) above are to that amount after making any deduction required by section 432F.".

(3) After section 432E of the Taxes Act 1988 insert—

"Section 432B apportionment: supplementary provisions.

432F.—(1) The provisions of this section provide for the reduction of the amount determined in accordance with section 432E(3) ("the subsection (3) figure") for an accounting period in which that amount exceeds, or would otherwise exceed, the amount determined in accordance with section 432E(2) ("the subsection (2) figure").

(2) For each category of business in relation to which section 432E falls to be applied there shall be determined for each accounting period the amount (if any) by which the subsection (2) figure, after making any reduction required by section 432E(5), exceeds the subsection (3) figure ("the subsection (2) excess").

(3) Where there is a subsection (2) excess, the amount shall be carried forward and if in any subsequent accounting period the subsection (3) figure exceeds, or would otherwise exceed, the subsection (2) figure, it shall be reduced by the amount or cumulative amount of subsection (2) excesses so far as not previously used under this subsection.

(4) Where in an accounting period that amount is greater than is required to bring the subsection (3) figure down to the subsection (2) figure, the balance shall be carried forward and aggregated with any subsequent subsection (2) excess for use in subsequent accounting periods.".

(4) In section 444A of the Taxes Act 1988 (transfers of business) after subsection (3) insert—

"(3A) Any subsection (2) excess (within the meaning of section 432F(2)) which (assuming the transferor had continued to carry on the business transferred after the transfer) would have been available under section 432F(3) or (4) to reduce a subsection (3) figure (within the meaning of section 432F(1)) of the transferor in an accounting period following that which ends with the day on which transfer takes place—

(a) shall, instead, be treated as a subsection (2) excess of the transferee, and

(b) shall be taken into account in the first accounting period of the transferee ending after the date of the transfer (to reduce the subsection (3) figure or, as the case may be, to produce or increase a subsection (2) excess for that period),

in relation to the revenue account of the transferee dealing with or including the business transferred.".

(5) In section 444A(5) of the Taxes Act 1988 for "subsection (2) or (3)" substitute "subsection (2), (3) or (3A)".

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Franked investment income: supplementary provisions

18.—(1) Chapter V of Part VI of the Taxes Act 1988 is amended as follows.

(2) In section 238(1) for the definition of "surplus of franked investment income" substitute—

"'surplus of franked investment income' shall be construed in accordance with subsection (1A) below;".

(3) After that subsection insert—

"(1A) For the purposes of this Chapter, a company has a surplus of franked investment income in an accounting period if the amount of the franked investment income of the company in that period exceeds the amount of the franked payments made by it in that period.

For the purposes of determining whether a company has such a surplus, or the amount of the surplus, franked investment income that cannot be used to frank distributions of the company shall be disregarded.".

(4) For section 238(3) substitute—

"(3) References in this Chapter to using franked investment income to frank distributions of a company are to using the income in accordance with section 241(1) and Schedule 13 so as to relieve the company from, or obtain repayment of, advance corporation tax for which the company would otherwise be liable.".

(5) In section 241(3) for the words from the beginning to "the excess" substitute "Where a company has a surplus of franked investment income for any accounting period, the surplus".

(6) In section 241(5) omit the words from "(that is to say," to "otherwise be liable)".

(7) In section 242(1)(b) omit "for purposes of section 241(3)".

(8) In section 242(9)—

(a) omit "by virtue of section 241(5)", and

(b) for "a company" substitute "the company".

19.—(1) Section 434 of the Taxes Act 1988 is amended as follows.

(2) For subsection (1) substitute—

"(1) Nothing in section 208 shall prevent franked investment income or foreign income dividends from being taken into account—

(a) in any computation of profits for the purposes of section 89(7) of the Finance Act 1989, or

(b) in any computation for the purposes of section 76(2) of the tax that would have been paid if the company had been charged to tax under Case I of Schedule D in respect of its life assurance business.".

(3) For subsection (3) substitute—

"(3) The policy holders' share of the franked investment income from investments held in connection with a company's life assurance business shall not be used under Chapter V of Part VI to frank distributions made by the company; but it may be the subject of a claim under section 242 and shall be treated for that purpose as a surplus of franked investment income additional to any surplus under section 238(1A).

For the purpose of ascertaining whether any surplus or what amount of surplus franked investment income falls to be carried forward under section 241(3), relief under section 242 shall be treated as given against the policy holders' share before other franked investment income.".

Computation of losses

20.—(1) For section 434A of the Taxes Act 1988 substitute—

"Computation of losses and limitation on relief.

434A.—(1) In ascertaining whether or to what extent a company has incurred a loss on its life assurance business profits derived from investments held for the purposes of that business (including franked investment income of, and foreign income dividends arising to, a company resident in the United Kingdom) shall be treated as part of the profits of that business.

(2) Where for any accounting period the loss arising to an insurance company from its life assurance business falls to be computed in accordance with the provisions of this Act applicable to Case I of Schedule D, any loss resulting from the computation shall be reduced (but not below nil) by the aggregate of—

(a) any losses for that period under section 436, 441 or 439B, and

(b) the amount of interest and annuities treated as charges on income in computing for the period otherwise than in accordance with the provisions of this Act applicable to Case I of Schedule D the profits or losses of the company's life assurance business.

(3) In the case of a company carrying on life assurance business, no relief shall be allowable under—

(a) Chapter II (loss relief) or Chapter IV (group relief) of Part X, or

(b) Chapter II of Part II of the Finance Act 1993 so far as it has effect in relation to losses treated as non-trading losses for the purposes of section 160 of the Finance Act 1994,

against the policy holders' share of the relevant profits for any accounting period.

For the purposes of this subsection "the policy holders' share of the relevant profits" has the same meaning as in section 88 of the Finance Act 1989.".

(2) In section 65(2) of the Finance (No. 2) Act 1992, for paragraph (a) substitute—

1992 c. 48.

"(a) section 434A(1) of the Taxes Act 1988 (profits derived from investments held for purposes of life assurance business treated as profits of that business in ascertaining loss);".

Treatment of interest and annuities

21.—(1) After section 434A of the Taxes Act 1988 insert—

"Treatment of interest and annuities.

434B.—(1) Where the profits or losses arising to an insurance company from its life assurance business, or any class of life assurance business, fall to be computed for any purpose in accordance with the provisions of this Act applicable to Case I of Schedule D, section 337(2)(b) shall not prevent the deduction of any interest or annuity payable by the company under a liability of its long term business so far as referable to its life

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assurance business or any class of that business.

(2) Nothing in subsection (1) above or in section 338(2) shall be construed as preventing any such interest or annuity as is mentioned in subsection (1) above, so far as referable to the company's basic life assurance and general annuity business, from being treated as a charge on income for the purposes of the computation of the profits or losses of that business otherwise than in accordance with Case I of Schedule D.".

1989 c. 26.

(2) In section 88 of the Finance Act 1989, for subsection (3) substitute—

"(3) For the purposes of subsection (1) above, the relevant profits of a company for an accounting period are the income and gains of the company's life assurance business reduced by the aggregate amount of—

(a) expenses of management falling to be deducted under section 76 of the Taxes Act 1988, and

(b) charges on income,

so far as referable to the company's life assurance business.".

Interest on repayment of advance corporation tax

22. After section 434B of the Taxes Act 1988 (inserted by paragraph 21 above) insert—

"Interest on repayment of advance corporation tax.

434C. Section 826(1) applies in a case where a repayment falls to be made of advance corporation tax paid by a company carrying on life assurance business in respect of distributions made by it.

In relation to such a case the material date for the purposes of that section is that specified in subsection (2A) of that section.".

Capital allowances

23.—(1) After section 434C of the Taxes Act 1988 (inserted by paragraph 22 above) insert—

"Capital allowances: management assets.

434D.—(1) This section has effect with respect to the allowances and charges to be made under the 1990 Act in respect of "management assets", that is, assets provided for use or used for the management of life assurance business carried on by a company.

(2) No allowances or charges shall be made under that Act in respect of expenditure on management assets except under Part II (machinery and plant).

(3) Where the company is charged to tax under section 441 in respect of the profits of its overseas life assurance business for an accounting period—

(a) any allowance falling to be made under Part II of the 1990 Act in respect of expenditure on the provision outside the United Kingdom of machinery or plant for use for the management of that business shall be given effect by treating it as an expense of the business for that period; and

(b) any charge in respect of such expenditure falling to be so made shall be given effect by treating it as a receipt of the business for that period;

and sections 73, 144 and 145 of the 1990 Act do not apply.

(4) Allowances and charges falling to be made under Part II of the 1990 Act in respect of expenditure in respect of

management assets not falling within subsection (3) above shall be apportioned between the different classes of life assurance business carried on by the company.

The amount referable to any class of life assurance business shall be the relevant fraction of the amount of the allowance or charge, that is, the fraction of which—

(a) the numerator is the mean of the opening and closing liabilities of the class of life assurance concerned, and

(b) the denominator is the mean of the opening and closing liabilities of all the classes of life assurance business carried on by the company.

(5) Where the company is charged to tax under section 436, 439B or 441 in respect of the profits of its pension business, life reinsurance business or overseas life assurance business for an accounting period—

(a) any allowance falling to be made under Part II of the 1990 Act in respect of expenditure on the provision of machinery or plant for use for the management of that business shall be given effect by treating the relevant proportion of the allowance as an expense of that business for the purpose of calculating the Case VI profit for that period; and

(b) any charge in respect of such expenditure falling to be so made shall be given effect by treating the relevant proportion of the charge as a receipt of that business for that purpose.

(6) Where a company carries on basic life assurance and general annuity business and the profits arising from that business do not fall to be charged to tax in accordance with the provisions applicable to Case I of Schedule D—

(a) allowances falling to be given under Part II of the 1990 Act in respect of expenditure on management assets shall be treated as additional expenses of management within section 76; and

(b) any charge falling to be made under that Part in respect of such assets shall be chargeable to tax under Case VI of Schedule D.

(7) For the purposes of this section the purposes of the management of a business shall be taken to be those purposes expenditure on which would be treated as expenses of management within section 76.

(8) Expenditure to which this section applies shall not be taken into account otherwise than in accordance with this section.

This shall not be construed as preventing any allowance under Part II of the 1990 Act which falls to be given by virtue of this section from being taken into account—

(a) in any computation of profits for the purposes of section 89(7) of the Finance Act 1989, or

(b) in any computation for the purposes of section 76(2) of the tax that would have been paid if the company had been charged to tax under Case I of Schedule D in respect of its life assurance business.

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Capital allowances: investment assets.

434E.—(1) In this section "investment asset" means an asset held by a company for the purposes of its life assurance business otherwise than for the management of that business.

(2) The letting by a company of an investment asset shall be treated for the purposes of section 61 of the 1990 Act (machinery and plant on lease) as a letting otherwise than in the course of a trade.

(3) Any allowance under Part V of the 1990 Act (agricultural buildings, &c.) in respect of an investment asset shall be made by way of discharge or repayment of tax and shall be available primarily against agricultural income and income which is the subject of a balancing charge.

Effect shall be given to any balancing charge under that Part in respect of an investment asset by treating the amount on which the charge is to be made as agricultural income.

(4) Any allowance under the 1990 Act in respect of an investment asset shall be treated as referable to the category or categories of business to which income arising from the asset is or would be referable and shall be apportioned in accordance with section 432A in the same way as such income.

(5) No allowance under the 1990 Act in respect of an investment asset shall be taken into account—

(a) in computing the profits of any class of life assurance business under section 436, 439B or 441, or

(b) where the company is charged to tax in respect of its life assurance business under Case I of Schedule D, in computing the profits of that business.

(6) Where any allowance under the 1990 Act in respect of an investment asset falls to be taken into account (having regard to subsection (5) above), only such allowances as are referable to the company's basic life assurance and general annuity business shall be given effect under section 145(1) of that Act, and then only against income referable to that business; and section 145(3) shall not apply.".

(2) In section 75(4) of the Taxes Act 1988 omit the words "and insurance".

1989 c. 26.

(3) In section 86 of the Finance Act 1989 (spreading of relief for acquisition expenses), after subsection (5) insert—

"(5A) References in this section to expenses of management do not include any amounts treated as additional expenses of management by virtue of section 434D(6)(a) of the Taxes Act 1988 (capital allowances in respect of expenditure on management assets).".

1990 c. 1.

24. In Chapter I of Part II of the Capital Allowances Act 1990 (machinery and plant), for section 28 (investment companies and life assurance companies) substitute—

"Investment companies.

28.—(1) This Part and the other provisions of the Corporation Tax Acts relating to allowances or charges under this Part apply with the necessary adaptations in relation to machinery and plant provided for use or used for the purposes of the management of the business of an investment company (as defined in section 130 of the principal Act) as they apply in relation to machinery and plant provided for use or used for the purposes of a trade.

(2) Effect shall be given to allowances and charges falling to be made by virtue of this section as follows—

(a) any allowance falling to be made for any accounting period shall, as far as may be, be given effect by deducting the amount of the allowance from any income for the period of the business, and in so far as effect cannot be so given section 75(4) of the principal Act shall apply; and

(b) effect shall be given to any charge falling to be made under this section by treating the amount on which the charge is to be made as income of the business;

and sections 73, 144 and 145 do not apply.

(3) Except as provided by subsection (2) above, the Corporation Tax Acts apply in relation to allowances or charges falling to be made by virtue of this section as if they were to be made in taxing a trade.

(4) For the purposes of this section the purposes of the management of a business shall be taken to be those purposes expenditure on which would be treated as expenses of management within section 75 of the principal Act.

(5) Corresponding allowances or charges in the case of the same machinery or plant shall not be made under this Part both under this section and in some other way.

(6) Expenditure to which this section applies shall not be taken into account otherwise than under this Part or as provided by section 75(4) of the principal Act.".

Treatment of tax-free income

25.—(1) In the Taxes Act 1988 omit—

(a) section 474(1)(b); and

(b) in section 475(2)(a), the words from "or," to "life assurance business".

(2) In section 474 of the Taxes Act 1988, at the end insert—

"(3) In this section any reference to insurance business includes a reference to insurance business of any category.".

Taxation of pure reinsurance business

26. After section 439 of the Taxes Act 1988 insert—

"Taxation of pure reinsurance business.

439A. If a company does not carry on life assurance business other than reinsurance business, and none of that business is of a type excluded from this section by regulations made by the Board, the profits of that business shall be charged to tax in accordance with Case I of Schedule D and not otherwise.".

Life reinsurance business: separate charge on profits

27.—(1) After section 439A of the Taxes Act 1988 (inserted by paragraph 26 above) insert—

"Life reinsurance business: separate charge on profits.

439B.—(1) Where a company carries on life reinsurance business and the profits arising from that business are not charged to tax in accordance with the provisions applicable to Case I of Schedule D, then, subject as follows, those profits shall be treated as income within Schedule D and be chargeable to tax under Case VI of that Schedule, and for that purpose—

(a) that business shall be treated separately, and

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(b) subject to paragraph (a) above, the profits from it shall be computed in accordance with the provisions of this Act applicable to Case I of Schedule D.

(2) Subsection (1) above does not apply to so much of reinsurance business of any description excluded from that subsection by regulations made by the Board.

Regulations under this subsection may describe the excluded business by reference to any circumstances appearing to the Board to be relevant.

(3) In making the computation referred to in subsection (1) above—

(a) sections 82(1), (2) and (4) and 83 of the Finance Act 1989 shall apply with the necessary modifications and in particular with the omission of the words "tax or" in section 82(1)(a),

(b) section 83(3) of that Act shall not apply, and

(c) there may be set off against the profits any loss, to be computed on the same basis as the profits, which has arisen from life reinsurance business in any previous accounting period beginning on or after 1st January 1995.

(4) Section 396 shall not be taken to apply to a loss incurred by a company on life reinsurance business.

(5) Nothing in section 128 or 399(1) shall affect the operation of this section.

(6) Gains accruing to a company which are referable to its life reinsurance business shall not be chargeable gains.

(7) In ascertaining whether or to what extent a company has incurred a loss on its life reinsurance business, franked investment income and foreign income dividends shall be taken into account (notwithstanding anything in section 208) as part of the profits of that business.".

(2) In section 444A(3)(a) of the Taxes Act 1988 after "section 436(3)(c)" insert "or 439B(3)(c)".

(3) In section 724(3) and (4) of the Taxes Act 1988 after "section 436" insert ", 439B".

Provisions applicable to charge under Case I of Schedule D

28.—(1) After section 440A of the Taxes Act 1988 insert—

"Modifications where tax charged under Case I of Schedule D.

440B.—(1) The following provisions apply where the profits of a company's life assurance business are charged to tax in accordance with Case I of Schedule D.

(2) Section 438 applies as if in subsections (6), (6B) and (6E) for the reference to any profit arising to the company and computed under section 436 there were substituted a reference to the profit that would arise on a computation under section 436 if the profits of the company's life assurance business were not charged to tax under Case I of Schedule D.

(3) Section 440(1) and (2) apply as if the only categories set out in subsection (4) of that section were—

(a) assets of the long term business fund, and

(b) other assets.

(4) Section 440A applies as if for paragraphs (a) to (e) of subsection (2) there were substituted—

"(a) so many of the securities as are identified in the company's records as securities by reference to the value of which there are to be determined benefits provided for under policies or contracts the effecting of all (or all but an insignificant proportion) of which constitutes the carrying on of long term business, shall be treated for the purposes of corporation tax as a separate holding linked solely to that business, and

(b) any remaining securities shall be treated for those purposes as a separate holding which is not of the description mentioned in the preceding paragraph.".

(5) Section 212(1) of the 1992 Act does not apply, but without prejudice to the bringing into account of any amounts deferred under section 213(1) or 214A(2) of that Act from any accounting period beginning before 1st January 1995.".

(2) In section 438 of the Taxes Act 1988, after subsection (8) insert—

"(9) In a case where the profits of a company's life assurance business are charged to tax in accordance with Case I of Schedule D this section has effect with the modification specified in section 440B(2).".

(3) In section 440 of the Taxes Act 1988, after subsection (5) insert—

"(6) In a case where the profits of a company's life assurance business are charged to tax in accordance with Case I of Schedule D this section has effect with the modification specified in section 440B(3).".

(4) In section 440A of the Taxes Act 1988, after subsection (6) insert—

"(7) In a case where the profits of a company's life assurance business are charged to tax in accordance with Case I of Schedule D this section has effect with the modification specified in section 440B(4).".

(5) In section 212 of the Taxation of Chargeable Gains Act 1992, after subsection (7) insert—

1992 c. 12.

"(7A) In a case where the profits of a company's life assurance business are charged to tax in accordance with Case I of Schedule D subsection (1) above has effect subject to section 440B(5) of the Taxes Act.".

29. In section 438(3) and (3AA) of the Taxes Act 1988 after "taken into account" insert "—(a)" and after "pension business" insert—

", or

(b) where the company is charged to tax in respect of its life assurance business under Case I of Schedule D, in computing the profits of that business.".

Overseas life assurance business

30. In section 441(1) of the Taxes Act 1988 omit the words "resident in the United Kingdom".

31. In section 441A of the Taxes Act 1988 for subsections (3) to (6) substitute—

"(3) A company shall be entitled to such a tax credit if and to the extent that regulations made by the Board so provide.

(4) Regulations under subsection (3) above may, in particular, provide for the entitlement of a company to a tax credit, and the amount to which the company is entitled, to be determined by reference to—

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(a) the residence of any description of policy holders or annuitants prescribed by the regulations, or

(b) the location of any branch or agency at or through which the policy or contract for any business is effected.

(5) Subsections (2) and (3) of section 431E apply in relation to regulations under subsection (3) above as they apply in relation to regulations under subsection (1) of that section but as if any issue which falls to be decided for the purposes of the regulations under subsection (3) above were an issue such as is mentioned in subsection (2)(a) of that section.".

32. After section 441A of the Taxes Act 1988 insert—

"Treatment of UK land.

441B.—(1) This section applies to land in the United Kingdom which—

(a) is held by a company as an asset linked to the company's overseas life assurance business, or

(b) is held by a company which is charged to tax under Case I of Schedule D in respect of its life assurance business as an asset by reference to the value of which benefits under any policy or contract are to be determined, where the policy or contract (or, in the case of a reinsurance contract, the underlying policy or contract) is held by a person not residing in the United Kingdom.

(2) Income arising from land to which this section applies shall be treated for the purposes of this Chapter as referable to basic life assurance and general annuity business.

(3) Where (apart from this subsection) an insurance company would not be carrying on basic life assurance and general annuity business it shall be treated as carrying on such business if any income of the company is treated as referable to such business by subsection (2) above.

(4) A company may be charged to tax by virtue of this section—

(a) notwithstanding section 439A, and

(b) whether or not the income to which subsection (2) above relates is taken into account in computing the profits of the company for the purposes of any charge to tax in accordance with Case I of Schedule D.

(5) In this section "land" has the same meaning as in Schedule 19AA.".

33. In paragraph 1(2) of Schedule 19AA to the Taxes Act 1988, at the end insert "(including any modification of any of those provisions made by paragraph 14A of Schedule 19AC)".

Taxation of investment return where risk reinsured

34. After section 442 of the Taxes Act 1988 insert—

"Taxation of investment return where risk reinsured.

442A.—(1) Where an insurance company reinsures any risk in respect of a policy or contract attributable to its basic life assurance and general annuity business, the investment return on the policy or contract shall be treated as accruing to the company over the period of the reinsurance arrangement and shall be charged to tax under Case VI of Schedule D.

(2) The Board may make provision by regulations as to the amount of investment return to be treated as accruing in each accounting period during which the reinsurance arrangement is in force.

(3) The regulations may, in particular, provide that the investment return to be treated as accruing to the company in respect of a policy or contract in any accounting period shall be calculated by reference to—

(a) the aggregate of the sums paid by the company to the reinsurer during that accounting period and any earlier accounting periods by way of premium or otherwise;

(b) the aggregate of the sums paid by the reinsurer to the company during that accounting period and any earlier accounting periods by way of commission or otherwise;

(c) the aggregate amount of the net investment return treated as accruing to the company in any earlier accounting periods, that is to say, net of tax at such rate as may be prescribed; and

(d) such percentage rate of return as may be prescribed.

(4) The regulations shall provide that the amount of investment return to be treated as accruing to the company in respect of a policy or contract in the final accounting period during which the policy or contract is in force is the amount, ascertained in accordance with regulations, by which the profit over the whole period during which the policy or contract, and the reinsurance arrangement, were in force exceeds the aggregate of the amounts treated as accruing in earlier accounting periods.

If that profit is less than the aggregate of the amounts treated as accruing in earlier accounting periods, the difference shall go to reduce the amounts treated by virtue of this section as arising in that accounting period from other policies or contracts, and if not fully so relieved may be carried forward and set against any such amounts in subsequent accounting periods.

(5) Regulations under this section—

(a) may exclude from the operation of this section such descriptions of insurance company, such descriptions of policies or contracts and such descriptions of reinsurance arrangements as may be prescribed;

(b) may make such supplementary provision as to the ascertainment of the investment return to be treated as accruing to the company as appears to the Board to be appropriate, including provision requiring payments made during an accounting period to be treated as made on such date or dates as may be prescribed; and

(c) may make different provision for different cases or descriptions of case.

(6) In this section "prescribed" means prescribed by regulations under this section.".

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PART II

APPLICATION OF PROVISIONS TO OVERSEAS LIFE INSURANCE COMPANIES

35.—(1) After paragraph 5 of Schedule 19AC to the Taxes Act 1988 insert—

"5A.—(1) Where an overseas life insurance company receives a qualifying distribution made by a company resident in the United Kingdom and the distribution (or part of the distribution)—

(a) would fall within paragraph (a), (aa) or (ab) of section 11(2) but for the exclusion contained in that paragraph, and

(b) is referable to life assurance business, but not to overseas life assurance business,

then the recipient shall be treated for the purposes of the Corporation Tax Acts as entitled to such a tax credit in respect of the distribution (or part of the distribution) as it would be entitled to under section 231 if it were resident in the United Kingdom.

(2) Where part only of a qualifying distribution would fall within paragraph (ab) of section 11(2) but for the exclusion contained in that paragraph, the tax credit to which the recipient shall be treated as entitled by virtue of sub-paragraph (1) above is the proportionate part of the tax credit to which the recipient would be so treated as entitled in respect of the whole of the distribution.

5B.—(1) An overseas life insurance company may, on making a claim for the purpose, require that any UK distribution income for an accounting period shall for all or any of the purposes mentioned in sub-paragraph (2) below be treated as if it were a like amount of profits chargeable to corporation tax; and where it does so—

(a) the provisions mentioned in that sub-paragraph shall apply to reduce the amount of the UK distribution income, and

(b) the company shall be entitled to have paid to it the amount of the tax credits comprised in the amount of UK distribution income which is so reduced.

(2) The purposes for which a claim may be made under this paragraph are those of—

(a) the setting of trading losses against total profits under section 393A(1);

(b) the deduction of charges on income under section 338 or paragraph 5 of Schedule 4;

(c) the deduction of expenses of management under section 76;

(d) the setting of certain capital allowances against total profits under section 145(3) of the 1990 Act.

(3) Subsections (3), (4) and (8) of section 242 shall apply for the purposes of a claim under this paragraph as they apply for the purposes of a claim under that section.

(4) In this paragraph "UK distribution income" means income of an overseas life insurance company which consists of a distribution (or part of a distribution) in respect of which the company is entitled to a tax credit (and which accordingly represents income equal to the aggregate of the amount or value of the distribution (or part) and the amount of that credit).

5C.—(1) This paragraph applies to income from the investments of an overseas life insurance company attributable to the basic life assurance and general annuity business of the branch or agency in the United Kingdom through which the company carries on life assurance business.

(2) Where, in computing the income to which this paragraph applies, any interest on any securities issued by the Treasury is excluded by virtue of a condition of the issue of those securities regulating the treatment of the

interest on them for tax purposes, the relief under section 76 shall be reduced so that it bears to the amount of relief which would be granted apart from this sub-paragraph the same proportion as the amount of that income excluding that interest bears to the amount of that income including that interest.".

(2) In paragraph 2(1) of Schedule 19AC to the Taxes Act 1988, for "section 444D" substitute "paragraph 5B of Schedule 19AC".

(3) After paragraph 6(4) of that Schedule insert—

"(4A) In that subsection the following definition shall be inserted at the appropriate place—

"UK distribution income" has the meaning given by paragraph 5B(4) of Schedule 19AC;".

(4) In section 475(6) of the Taxes Act 1988 for "section 444E(2)" (twice) substitute "paragraph 5C(2) of Schedule 19AC".

(5) In paragraph 2(2) of Schedule 8A to the Finance Act 1989 for "section 444D(4) of the Taxes Act 1988" substitute "paragraph 5B(4) of that Schedule". 1989 c. 26.

36. In paragraph 5(1) of Schedule 19AC to the Taxes Act 1988, in the notionally inserted subsection (6B)—

(a) for "242" substitute "section 242", and

(b) for "444D" substitute "paragraph 5B of Schedule 19AC".

37. In paragraph 6 of Schedule 19AC to the Taxes Act 1988, omit sub-paragraphs (3) and (4).

38. After paragraph 6 of Schedule 19AC to the Taxes Act 1988 insert—

"6A. In section 431D(1), the words "carried on through a branch or agency in the United Kingdom by an overseas life insurance company" shall be treated as inserted after the words "means life assurance business".".

39. For paragraph 7 of Schedule 19AC to the Taxes Act 1988 substitute—

"7.—(1) Section 432A has effect as if the references in subsections (3), (6) and (8) to assets were to such of the assets concerned as are—

(a) section 11(2)(b) assets,

(b) section 11(2)(c) assets, or

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

and as if the references in subsections (6) and (8) to liabilities were to such of the liabilities concerned as are attributable to the branch or agency.

Expressions used in this sub-paragraph to which a meaning is given by section 11A have that meaning.

(2) For the purposes of section 432A as it applies in relation to an overseas life insurance company, income which falls within section 11(2)(aa) or (ab), and chargeable gains or allowable losses which fall within section 11(2)(d) or (e)—

(a) shall not be referable to long term business other than life assurance business; and

(b) shall be apportioned under subsections (5) and (6) of that section separately from other income, gains and losses.

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(3) For the purposes of the application of section 432A(6) in relation to such income, gains or losses as are mentioned in sub-paragraph (2) above—

(a) "liabilities" does not includes liabilities of the long term business other than life assurance business;

(b) the value of assets directly referable to any category of business does not include assets directly referable to long term business other than life assurance business; and

(c) the reference in section 432A(6)(b)(ii) to the investment reserve shall be construed as a reference to so much of the investment reserve as is not referable to long term business other than life assurance business.".

40.—(1) Paragraph 8 of Schedule 19AC to the Taxes Act 1988 is amended as follows.

(2) In sub-paragraph (1)—

(a) for "paragraph 1" substitute "paragraph 1C"; and

(b) for "the word '1982'" substitute "the words 'brought into account, within the meaning of that section,'".

(3) In sub-paragraph (2) for "paragraph 1(6), (7) or (8)" substitute "any provision of paragraph 1C".

(4) For sub-paragraph (3) substitute—

"(3) Subsection (3) of section 432B shall have effect as if after the words 'with which an account is concerned' there were inserted the words 'or in respect of which items are treated as brought into account by virtue of paragraph 1C of Schedule 8A to the Finance Act 1989'; and that subsection and sections 432C to 432E shall have effect as if the reference to relevant business were to relevant business of the branch or agency in the United Kingdom through which the company carries on life assurance business.".

41. In paragraph 9(1) of Schedule 19AC to the Taxes Act 1988 in the notionally inserted section 434(1A)—

(a) after "UK distribution income of" insert ", or foreign income dividends arising to,"; and

(b) for the words from "as part of the profit" to the end substitute—

"—

(a) in any computation of profits for the purposes of section 89(7) of the Finance Act 1989, or

(b) in any computation for the purposes of section 76(2) of the tax that would have been paid if the company had been charged to tax under Case I of Schedule D in respect of its life assurance business.".

42. After paragraph 9 of Schedule 19AC to the Taxes Act 1988 insert—

"9A. In section 434A(1)—

(a) the words "UK distribution income" shall be treated as substituted for "franked investment income", and

(b) the words "an overseas life insurance company" shall be treated as substituted for "a company resident in the United Kingdom".

9B. In section 434B the following subsection shall be treated as inserted after subsection (2)—

"(3) An overseas life insurance company shall not be entitled to treat as paid out of profits or gains brought into charge to income tax any part of the annuities paid by the company which is referable to its life assurance business.".

9C. In its application to an overseas life insurance company section 434D(4) shall have effect as if the references to liabilities were only to such liabilities as are attributable to the branch or agency in the United Kingdom through which the company carries on the business concerned.".

43.—(1) In paragraph 10(1) of Schedule 19AC to the Taxes Act 1988, in the notionally inserted section 438(3A)—

(a) for "subsection (6)" substitute "subsections (6) and (6B)";

(b) after "UK distribution income of" insert ", or foreign income dividends arising to,";

(c) after "taken into account" insert "—(a)"; and

(d) after "pension business" insert—

", or

(b) where the company is charged to tax in respect of its life assurance business under Case I of Schedule D, in computing the profits of that business.".

(2) In paragraph 10(2) for "subsections (6) and (6A)" substitute "subsections (6), (6A), (6D) and (6E)".

44. After paragraph 10 of Schedule 19AC to the Taxes Act 1988 insert—

"10A. In section 439B the following subsection shall be treated as inserted after subsection (7) of that section—

"(7A) In ascertaining whether or to what extent the company has incurred a loss on its life reinsurance business, UK distribution income of an overseas life insurance company shall be taken into account (notwithstanding anything in paragraph (a), (aa) or (ab) of section 11(2)) as part of the profits of that business.".

10B.—(1) Where the company mentioned in section 440(1) is an overseas life insurance company, section 440 has effect with the following modifications.

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

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

(b) at the end there were inserted—

"(g) section 11C assets;

(h) non-UK assets.".

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

"(7) For the purposes of this section—

(a) UK assets are—

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

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

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

(b) section 11C assets are assets—

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

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

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

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

(4) Where one of the companies mentioned in section 440(2) is an overseas life insurance company, section 440(2)(b) shall have effect as if for the words "is within another of those categories" there were substituted "is not within the corresponding category".

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

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

10C.—(1) In section 440B the following subsection shall be treated as substituted for subsection (3)—

"(3) Section 440(1) and (2) have effect as if the only categories specified in subsection (4) of that section were—

(a) UK assets of the long term business fund,

(b) other UK assets,

(c) section 11C assets, and

(d) non-UK assets,

(those expressions having the meanings given by section 440(7)).".

(2) The following subsection shall be treated as substituted for subsection (4) of that section—

"(4) Section 440A applies as if for paragraphs (a) to (e) of subsection (2) there were substituted—

"(a) so many of the UK securities as are identified in the company's records as securities by reference to the value of which there are to be determined benefits provided for under policies or contracts the effecting of all (or all but an insignificant proportion) of which constitutes the carrying on of long term business, shall be treated for the purposes of corporation tax as a separate holding linked solely to that business,

(b) any remaining UK securities shall be treated for those purposes as a separate holding which is not of the description mentioned in the preceding paragraph,

(c) the section 11C securities shall be treated for those purposes as a separate holding which is not of any of the descriptions mentioned in the preceding paragraphs, and

(d) the non-UK securities shall be treated for those purposes as a separate holding which is not of any of the descriptions mentioned in the preceding paragraphs."."

45.—(1) Paragraph 11 of Schedule 19AC to the Taxes Act 1988 is amended as follows.

(2) For sub-paragraph (1) substitute—

"(1) In section 440A(2), in paragraph (a) the words "UK securities" shall be treated as substituted for the word "securities" in the first place where it occurs.".

(3) Omit sub-paragraph (2).

(4) In sub-paragraph (5) renumber the notionally inserted subsection as (6A).

46. After paragraph 11 of Schedule 19AC to the Taxes Act 1988 insert—

"11A.—(1) In section 441A, the following subsection shall be treated as inserted after subsection (1)—

"(1A) The exclusion from section 11(2)(a), (aa) and (ab) of distributions received from companies resident in the United Kingdom shall not apply in relation to a distribution in respect of any asset of the overseas life assurance fund of an overseas life insurance company.".

(2) The following subsection shall be treated as substituted for subsections (2) and (3) of that section—

"(3) An overseas life insurance company shall be entitled to a tax credit in respect of a distribution which—

(a) is a distribution in respect of an asset of the company's overseas life assurance fund, and

(b) is received from a company resident in the United Kingdom,

if and to the extent that regulations made by the Board so provide.".

11B. In section 442A the following subsection shall be treated as inserted after subsection (6)—

"(7) In the case of an overseas life insurance company, the investment return treated as accruing under this section in any accounting period in relation to a policy or contract shall be treated as chargeable profits within section 11(2) of the Taxes Act 1988 where the policy or contract is one which in that accounting period gives rise, or but for the reinsurance arrangement would give rise, to such profits."."

47. In paragraph 12(1) of Schedule 19AC to the Taxes Act 1988, for "section 444D" substitute "paragraph 5B of Schedule 19AC".

48. After paragraph 14 of Schedule 19AC to the Taxes Act 1988 insert—

"14A.—(1) In Schedule 19AA, paragraph 5(5)(c) (and the reference to it in paragraph 2(3) of that Schedule) shall be treated as omitted.

(2) The following paragraph shall be treated as inserted at the end of that Schedule—

"6. In its application to an overseas life insurance company this Schedule shall have effect as if—

(a) the references in paragraphs 2 and 3 to assets of the long term business fund were to such of the assets as are—

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

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

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

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(b) the references in paragraphs 2 and 4 to the liabilities of the company's long term business were to such of those liabilities as are attributable to the branch or agency;

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

1989 c. 26.

49.—(1) Schedule 8A to the Finance Act 1989 is amended as follows.

(2) For paragraph 1 substitute—

"1.—(1) In their application to an overseas life insurance company sections 83 and 83A of this Act shall have effect with the modifications specified in paragraphs 1A to 1C below.

(2) In those paragraphs—

(a) any reference to the Taxes Act 1988 is a reference to that Act as it has effect in relation to such a company by virtue of Schedule 19AC to that Act; and

(b) any expression to which a meaning is given by section 11A of that Act has that meaning.

1A.—(1) The reference in section 83(2)(a) to investment income shall be construed as a reference to such of the income concerned as is attributable to the branch or agency in the United Kingdom through which the company carries on life assurance business.

(2) The reference to assets in section 83(2)(b) (as it applies apart from subsection (3) of that section) shall be construed as a reference to such of the assets concerned—

(a) as are—

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

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

(iii) assets which by virtue of section 11B of the Taxes Act 1988 are attributed to the branch or agency; or

(b) as are assets—

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

(ii) (in a case where that section including that subsection applies) of the relevant funds,

other than assets which fall within paragraph (a) above.

(3) In determining for the purposes of section 83(2) (as it applies apart from subsection (3) of that section) whether there has been any increase or reduction in the value (whether realised or not) of assets—

(a) no regard shall be had to any period of time during which an asset held by the company does not fall within paragraph (a) or (b) of sub-paragraph (2) above; and

(b) in the case of an asset which falls within paragraph (b) of that sub-paragraph, only the specified portion of any increase or reduction in the value of the asset shall be taken into account.

For the purposes of paragraph (b) above the specified portion of any increase or reduction in the value of an asset is found by applying to that increase or reduction the same fraction as would, by virtue of section 11C of the Taxes Act 1988, be applied to any relevant gain accruing to the company on the disposal of the asset.

(4) For the reference in section 83(3) to any amount being transferred into the company's long term business fund from other assets of the company, or otherwise added to that fund, there shall be substituted a reference to assets becoming assets of the long term business fund used or

held for the purposes of the company's United Kingdom branch or agency, having immediately previously been held by the company otherwise than as assets of that fund or used or held otherwise than for those purposes.

The amount of the increase in value under section 83(2)(b), as it applies in relation to such a transfer, shall be taken to be an amount equal to the value of the assets transferred.

1B. The references in section 83A to the company's long term business shall be construed as references to the whole of that business or to the whole of that business other than business in respect of which preparation of a revenue account for the purposes of the Insurance Companies Act 1982 is not required.

1C.—(1) Where for a period of account any investment income referred to in section 83(2)(a) is not otherwise brought into account within the meaning of that section, it shall be treated as brought into account for the period if it arises in the period.

(2) Where for a period of account any increase in value referred to in section 83(2)(b) (as it applies apart from subsection (3) of that section) is not otherwise brought into account within the meaning of that section, it shall be treated as brought into account for the period if it is shown in the company's records as available to fund one or both of the following for the period, namely, bonuses to policy holders and dividends to shareholders.

(3) Where for a period of account any reduction in value referred to in section 83(2) (as it applies apart from subsection (3) of that section) is not otherwise brought into account within the meaning of that section, it shall be treated as brought into account for the period if it is shown in the company's records as reducing sums available to fund one or both of the following for the period, namely, bonuses to policy holders and dividends to shareholders.

(4) Where in any period of account any such transfer is made as is mentioned in section 83(3) which is not otherwise brought into account within the meaning of that section, it shall be treated as brought into account for the period in which it is made.".

(3) In paragraph 2(7) for the words following paragraph (b) substitute—

"and in paragraph (b) above "the specified portion" has the same meaning as in paragraph 1A(3)(b) above.".

(4) After paragraph 2(7) insert—

"(7A) For the purposes of this paragraph any expression to which a meaning is given by section 11A of the Taxes Act 1988 has that meaning.".

PART III

SUPPLEMENTARY PROVISIONS

Penalties

50. In the Table in section 98 of the Taxes Management Act 1970 (penalties for failure to comply with notice or to furnish information etc.), the entry "regulations under section 431E(1) or 441A(3);" shall be inserted— 1970 c. 9.

(a) in the first column after the entry relating to regulations under section 333 of the Taxes Act 1988, and

(b) in the second column after the entry relating to section 375(5) of that Act.

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Miscellaneous

51.—(1) The Taxes Act 1988 is amended as follows.

(2) Before section 432 insert the heading "*Separation of different categories of business*".

(3) In the sidenote to section 432 for "classes" substitute "categories".

(4) Before section 434 insert the heading "*Miscellaneous provisions relating to life assurance business*".

(5) In the sidenote to section 436 for "Annuity business and pension business" substitute "Pension business".

Commencement

52. The amendment made by paragraph 43(2) above shall be deemed always to have had effect.

53.—(1) The amendments made by paragraph 17 above have effect in relation to accounting periods ending on or after 1st January 1994.

(2) In the first accounting period of a company ending on or after 1st January 1994 in which the subsection (3) figure for any category of business exceeds the subsection (2) figure, the subsection (2) figure shall be treated as increased by an amount not exceeding the amount or aggregate amount of any subsection (2) excesses in relation to that category of business for accounting periods beginning on or after 1st January 1990 and ending before 1st January 1994, but not so as to produce a subsection (2) excess for that period.

For this purpose the subsection (2) excess for an accounting period beginning on or after 1st January 1990 and ending before 1st January 1994 shall be determined without regard to the fact that in any other such accounting period the subsection (3) figure exceeded the subsection (2) figure.

Expressions used in this sub-paragraph have the same meaning as in section 432F of the Taxes Act 1988.

(3) Where a transfer mentioned in section 444A of the Taxes Act 1988 took place at the end of an accounting period of the transferor beginning on or after 1st January 1990 and ending before 1st January 1994, section 444A(3A) shall have effect in relation to the transfer as if it read—

> "(3A) Any subsection (2) excess (within the meaning of section 432F(2)) of the transferor for an accounting period beginning on or after 1st January 1990 and ending before 1st January 1994 which (assuming the transferor had continued to carry on the business transferred after the transfer) would have been available to increase the subsection (2) figure (within the meaning of section 432F(1)) of the transferor in the first accounting period ending on or after 1st January 1994 in which the subsection (3) figure exceeded the subsection (2) figure—
>
> (a) shall, instead, be treated as a subsection (2) excess of the transferee, and
>
> (b) shall be taken into account to increase the subsection (2) figure of the transferee in its first accounting period ending on or after 1st January 1994 in which the subsection (3) figure exceeds the subsection (2) figure, but not so as to produce a subsection (2) excess for that period,
>
> in relation to the revenue account of the transferee dealing with or including the business transferred.
>
> For this purpose the subsection (2) excess for an accounting period beginning on or after 1st January 1990 and ending before 1st January 1994

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shall be determined without regard to the fact that in any other such accounting period the subsection (3) figure exceeded the subsection (2) figure.".

54. The amendment made by paragraph 22 above applies in relation to distributions made by an insurance company in any accounting period ending after 30th September 1993.

55.—(1) Subject to sub-paragraphs (2) and (3) below, the amendments made by the following provisions of this Schedule have effect in relation to accounting periods beginning on or after 1st November 1994—

paragraph 1 so far as relating to the definition of "overseas life assurance business",

paragraph 2 so far as relating to sections 431D and 431E of the Taxes Act 1988,

paragraphs 3, 25, 30 to 33, 37, 38 and 45(1) and (3),

paragraph 46 so far as relating to paragraph 11A of Schedule 19AC to the Taxes Act 1988, and

paragraphs 48 and 50.

(2) Where the policy or contract for any life assurance business was made before 1st November 1994, the amendments made by this Schedule (and the repeals consequential on those amendments) shall not have effect for determining whether the business is overseas life assurance business.

(3) Where the policy or contract for any life assurance business effected by a company resident in the United Kingdom at or through a branch or agency outside the United Kingdom was made before 29th November 1994, subsections (2) to (8) of section 431D of the Taxes Act 1988 shall not have effect for determining whether the business is overseas life assurance business.

56. The amendments made by paragraphs 41(a) and 43(1) above have effect in relation to foreign income dividends paid after 29th November 1994.

57.—(1) Except as provided by paragraphs 52 to 56 above, and subject to sub-paragraph (2) below, the amendments made by provisions of this Schedule have effect in relation to accounting periods beginning on or after 1st January 1995.

(2) Section 442A of the Taxes Act 1988 does not apply in relation to the reinsurance of a policy or contract where the policy or contract was made, and the reinsurance arrangement effected, before 29th November 1994.

58. Any power to make regulations exercisable by virtue of an amendment made by any provision of this Schedule may be exercised so as to make provision having effect in relation to any accounting period in relation to which that provision has effect in accordance with paragraph 55 or 57 above.

SCHEDULE 9

Section 53.

Transfer of Life Insurance Business

Consequential amendment of references to sanctioned transfers

1.—(1) In the enactments specified in sub-paragraph (2) below, for the words "section 49 of the Insurance Companies Act 1982", in each place where they occur, there shall be substituted "Part I of Schedule 2C to the Insurance Companies Act 1982".

1982 c. 50.

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(2) The enactments mentioned in sub-paragraph (1) above are—

(a) section 12(7A) of the Taxes Act 1988 (accounting periods);

(b) sections 440(2)(a) and 444A(1) of that Act (transfer of assets or business of insurance company);

(c) section 460(10A) of that Act (transfer of business to friendly society); and

1992 c. 12.

(d) sections 211(1), 213(5), 214(11) and 214A(7) of the Taxation of Chargeable Gains Act 1992 (transfers of business).

(3) In section 444A(3)(b) of the Taxes Act 1988 (losses treated as losses of transferee)—

(a) after "where" there shall be inserted "the transfer relates to any overseas life assurance business or"; and

(b) for "overseas life assurance" there shall be substituted "such".

Modification of the Taxes Act 1988 in relation to overseas life insurance companies

2.—(1) Schedule 19AC to the Taxes Act 1988 (modification of Act in relation to overseas life insurance company) shall be amended as follows.

(2) After paragraph 4 there shall be inserted the following paragraph—

1982 c. 50.

"4A.—(1) In section 12(7A), the reference to a transfer of the whole or part of a company's long term business in accordance with a scheme sanctioned by a court under Part I of Schedule 2C to the Insurance Companies Act 1982 shall be treated as including a reference to a qualifying overseas transfer.

(2) In this paragraph 'a qualifying overseas transfer' means so much of any transfer of the whole or any part of the business of an overseas life insurance company carried on through a branch or agency in the United Kingdom as takes place in accordance with any authorisation granted outside the United Kingdom for the purposes of Article 11 of the third long term insurance Directive.

(3) In sub-paragraph (2) above 'the third long term insurance Directive' has the same meaning as in that Act of 1982."

(3) After the paragraph 10A inserted by Schedule 8 to this Act there shall be inserted the following paragraph—

"10AA. In section 440(2)(a), the reference to a transfer of the whole or part of a company's long term business in accordance with a scheme sanctioned by a court under Part I of Schedule 2C to the Insurance Companies Act 1982 shall be treated as including a reference to a qualifying overseas transfer (within the meaning of paragraph 4A above)."

(4) Before paragraph 12 there shall be inserted the following paragraph—

"11C. In sections 444A(1) and 460(10A), the references to a transfer of the whole or part of a company's long term business in accordance with a scheme sanctioned by a court under Part I of Schedule 2C to the Insurance Companies Act 1982 shall be treated as including references to a qualifying overseas transfer (within the meaning of paragraph 4A above)."

Modification of the Capital Allowances Act 1990

3. For subsection (1) of section 152A of the Capital Allowances Act 1990 (transfer of insurance company business), there shall be substituted the following subsections—

1990 c. 1.

"(1) Subject to subsection (1A) below, this section applies where assets are transferred as part of, or in connection with, the transfer ('a relevant transfer') of the whole or part of the business of an insurance company ('the transferor') to another company ('the transferee') if the relevant transfer is—

(a) a transfer, in accordance with a scheme sanctioned by a court under Part I of Schedule 2C to the Insurance Companies Act 1982, of the whole or part of any long term business of the transferor; or

1982 c. 50.

(b) a qualifying overseas transfer (within the meaning of paragraph 4A of Schedule 19AC to the principal Act).

(1A) This section does not apply in relation to any asset transferred to a company resident outside the United Kingdom unless the asset would fall to be treated, immediately after the relevant transfer, as either—

(a) an asset held for use for the purposes of the management of the whole or any part of so much of any business carried on by that company as is carried on through a branch or agency in the United Kingdom; or

(b) an asset which is otherwise held for the purposes of the whole or any part of so much of any business carried on by that company as is carried on through such a branch or agency.

(1B) In subsection (1) above 'insurance company' has the same meaning as in Chapter I of Part XII of the principal Act; and in subsection (1A) above, the reference to the purposes of the management of any business is to be taken as a reference to those purposes expenditure on which falls, in relation to that business, to be treated for the purposes of sections 75 and 76 of the principal Act as expenses of management."

Modification of the Taxation of Chargeable Gains Act 1992

4. In subsection (5) of section 213 of the Taxation of Chargeable Gains Act 1992 (spreading of gains and losses under section 212 where there is a transfer of long term business), at the beginning there shall be inserted "Subject to subsections (5A) to (7) below"; and after that subsection there shall be inserted the following subsection—

1992 c. 12.

"(5A) Subsection (5) above shall not apply where the transferee is resident outside the United Kingdom unless the business to which the transfer relates is carried on by the transferee, for a period beginning with the time when the transfer takes effect, through a branch or agency in the United Kingdom."

5. In subsection (7) of section 214A of that Act of 1992 (application of transitional provisions where there is a transfer of long term business), at the beginning there shall be inserted "Subject to subsections (7A) and (8) below"; and after that subsection there shall be inserted the following subsection—

"(7A) Paragraph (b) of subsection (7) above shall not apply where the transferee is resident outside the United Kingdom unless the business to which the transfer relates is carried on by the transferee, for a period beginning with the time when the transfer takes effect, through a branch or agency in the United Kingdom."

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6.—(1) Schedule 7B to that Act of 1992 (modification of Act in application to overseas life insurance companies) shall be amended as follows.

(2) After paragraph 9 there shall be inserted the following paragraph—

"9A. In section 211(1), the reference to a transfer of the whole or part of a company's long term business in accordance with a scheme sanctioned by a court under Part I of Schedule 2C to the Insurance Companies Act 1982 shall be treated as including a reference to any qualifying overseas transfer (within the meaning of paragraph 4A of Schedule 19AC to the Taxes Act)."

1982 c. 50.

(3) In paragraph 11, after sub-paragraph (1) there shall be inserted the following sub-paragraph—

"(1A) In section 213(5), the reference to a transfer of the whole or part of a company's long term business in accordance with a scheme sanctioned by a court under Part I of Schedule 2C to the Insurance Companies Act 1982 shall be treated as including a reference to any qualifying overseas transfer (within the meaning of paragraph 4A of Schedule 19AC to the Taxes Act)."

(4) In sub-paragraph (1) of paragraph 12, after paragraph (b) of the subsection (12) which, for the purpose of modifying section 214, is set out in that sub-paragraph, there shall be inserted the following paragraph—

"(c) the reference in subsection (11) to a transfer of the whole or part of a company's long term business in accordance with a scheme sanctioned by a court under Part I of Schedule 2C to the Insurance Companies Act 1982 were to be treated as including a reference to any qualifying overseas transfer (within the meaning of paragraph 4A of Schedule 19AC to the Taxes Act), and the references in that subsection to the business to which the transfer relates were to be construed accordingly;".

(5) In paragraph 13, after sub-paragraph (2) there shall be inserted the following sub-paragraph—

"(2A) In subsection (7) of that section, the reference to a transfer of the whole or part of a company's long term business in accordance with a scheme sanctioned by a court under Part I of Schedule 2C to the Insurance Companies Act 1982 shall be treated as including a reference to any qualifying overseas transfer (within the meaning of paragraph 4A of Schedule 19AC to the Taxes Act); and the references in that subsection and in subsection (8) of that section to the business to which the transfer relates shall be construed accordingly."

Section 54.

SCHEDULE 10

FRIENDLY SOCIETIES

Tax exempt life or endowment business

1.—(1) Section 460 of the Taxes Act 1988 (exemption from tax in respect of life or endowment business) shall be amended as follows.

(2) In paragraph (c) of subsection (2), before sub-paragraph (ai) there shall be inserted the following sub-paragraph—

"(zai) where the profits relate to contracts made on or after the day on which the Finance Act 1995 was passed, of the assurance of gross sums under contracts under which the total premiums payable in any period of 12 months exceed £270 or of the granting of annuities of annual amounts exceeding £156;".

(3) In sub-paragraph (ai) of that paragraph, after "passed" there shall be inserted "but before the day on which the Finance Act 1995 was passed".

(4) In subsection (3), for the words "subsection (2)(c)(ai)," in each place where they occur, there shall be substituted "subsection (2)(c)(zai), (ai),".

(5) In subsection (4A), for "the Finance Act 1991" there shall be substituted "the Finance Act 1995".

(6) In subsection (4B), for the words from "variation made" onwards there shall be substituted "variation made—

(a) in the period beginning with 25th July 1991 and ending with 31st July 1992, or

(b) in the period beginning with the day on which the Finance Act 1995 was passed and ending with 31st March 1996,

the contract shall, for the purposes of subsection (2)(c) above, be treated, in relation to any profits relating to it as varied, as made at the time of the variation."

Maximum benefits payable to members

2.—(1) Section 464 of that Act (maximum benefits payable to members) shall be amended as follows.

(2) In subsection (3), before paragraph (za) there shall be inserted the following paragraph—

"(zza) contracts under which the total premiums payable in any period of 12 months exceed £270; or".

(3) In paragraph (za) of that subsection, after "contracts" there shall be inserted "made before the day on which the Finance Act 1995 was passed and".

(4) In subsection (4A), for "the Finance Act 1991" there shall be substituted "the Finance Act 1995".

(5) In subsection (4B), for the words from "variation made" onwards there shall be substituted "variation made—

(a) in the period beginning with 25th July 1991 and ending with 31st July 1992, or

(b) in the period beginning with the day on which the Finance Act 1995 was passed and ending with 31st March 1996,

the contract shall, for the purposes of subsection (3) above, be treated, in relation to times when the contract has effect as varied, as made at the time of the variation."

Qualifying policies

3. In paragraph 3 of Schedule 15 to that Act (friendly society policies that are qualifying policies), sub-paragraph (2)(c) (condition limiting consideration for early surrender) shall cease to have effect.

4.—(1) This paragraph applies to any policy which—

(a) was issued by a friendly society, or a branch of a friendly society, in the course of tax exempt life or endowment business (as defined in section 466 of the Taxes Act 1988); and

(b) was effected by a contract made after 31st August 1987 and before the day on which this Act is passed.

(2) Where—

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(a) the amount payable by way of premium under a policy to which this paragraph applies is increased by virtue of a variation made in the period beginning with the day on which this Act is passed and ending with 31st March 1996, and

(b) the variation is not such as to cause a person to become in breach of the limits in section 464 of the Taxes Act 1988,

Schedule 15 to that Act, in its application to the policy, shall have effect, in relation to that variation, with the omission of paragraph 4(3)(a) and the insertion at the end of paragraph 18(2) of the words set out in sub-paragraph (3) below.

(3) Those words are as follows, that is to say, "and as if for paragraph 3(2)(b) above there were substituted—

'(b) subject to sub-paragraph (4) below, the premiums payable under the policy shall be premiums of equal or rateable amounts payable at yearly or shorter intervals—

(i) over the whole of the term of the policy as from the variation, or

(ii) where premiums are not payable for any period after the person liable to pay them or whose life is insured has attained a specified age, being an age attained at a time not less than ten years after the beginning of the term of the policy, over the whole of the remainder of the period for which premiums are payable.'"

Section 58.

SCHEDULE 11

PERSONAL PENSIONS: INCOME WITHDRAWALS

Introductory

1.—(1) Chapter IV of Part XIV of the Taxes Act 1988 (personal pension schemes) is amended as follows.

(2) The amendments have effect in relation to approvals, of schemes or amendments, given under that Chapter after the passing of this Act.

(3) They do not affect any approval previously given.

Interpretation

2.—(1) Section 630 (interpretation) is amended as follows.

(2) Make the present provision subsection (1) and insert the following definitions at the appropriate places—

"income withdrawal" means a payment of income, under arrangements made in accordance with a personal pension scheme, otherwise than by way of an annuity;

"pension date", in relation to any personal pension arrangements, means the date determined in accordance with the arrangements on which—

(a) an annuity such as is mentioned in section 634 is first payable, or

(b) the member elects to defer the purchase of such an annuity and to make income withdrawals in accordance with section 634A;

and in the definition of "personal pension scheme" after "annuities" insert ", income withdrawals".

(3) After that subsection insert—

"(2) For the purposes of this Chapter the annual amount of the annuity which would have been purchasable by a person on any date shall be calculated by reference to—

(a) the value on that date, determined by or on behalf of the scheme administrator, of the fund from which income withdrawals are to be or have been made by him under the arrangements in question, and

(b) the current published tables of rates of annuities prepared for the purposes of this Chapter by the Government Actuary.

(3) The reference in subsection (2)(a) above to the value of the fund from which income withdrawals are to be or have been made under any personal pension arrangements is to the value of the accrued rights to which the person concerned is entitled conferring prospective entitlement to benefits under those arrangements.

Where a lump sum falls to be paid on the date in question, the reference is to the value of the fund after allowing for that payment.

(4) The Board may make provision by regulations as to the basis on which the tables mentioned in subsection (2)(b) above are to be prepared and the manner in which they are to be applied.".

Conditions of approval: benefits that may be provided

3.—(1) Section 633(1) (conditions of approval: benefits that may be provided) is amended as follows.

(2) In paragraph (a) (annuity to member) after "section 634" insert "or income withdrawals with respect to which the conditions in section 634A are satisfied".

(3) In paragraph (c) (annuity after death of member) after "section 636" insert "or income withdrawals with respect to which the conditions in section 636A are satisfied".

(4) In paragraph (d) (lump sum on death of member) for the words from "either" to the end substitute "the conditions in section 637 (death benefit);".

(5) After that paragraph insert—

"(e) the payment on or after the death of a member of a lump sum satisfying the conditions in section 637A (return of contributions).".

Income withdrawals

4. After section 634 (annuity to member) insert—

"Income withdrawals by member.

634A.—(1) Where a member elects to defer the purchase of an annuity such as is mentioned in section 634, income withdrawals may be made by him during the period of deferral, subject as follows.

(2) Income withdrawals must not be made before the member attains the age of 50, unless—

(a) they are available on his becoming incapable through infirmity of body or mind of carrying on his own occupation or any occupation of a similar nature for which he is trained or fitted, or

(b) the Board are satisfied that his occupation is one in which persons customarily retire before that age.

(3) Income withdrawals must not be made after the member attains the age of 75.

(4) The aggregate amount of income withdrawals by a member in each successive period of twelve months beginning with his pension date must be not less than 35 per cent. or more

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than 100 per cent. of the annual amount of the annuity which would have been purchasable by him on the relevant reference date.

(5) For the purposes of this section the relevant reference date for the first three years is the member's pension date, and for each succeeding period of three years is the first day of that period.

(6) The right to income withdrawals must not be capable of assignment or surrender.".

Lump sum to member

5.—(1) Section 635 (lump sum to member) is amended as follows.

(2) In subsection (1) (date of election for lump sum), for the words from "the date on which" to the end substitute "his pension date under the arrangements in question".

(3) In subsection (2) (date of payment of lump sum), for the words "when that annuity is first payable" substitute "on the date which is his pension date under the arrangements in question".

(4) In subsection (3) (limit on amount of lump sum)—

(a) in paragraph (a) for "the arrangements made by the member in accordance with the scheme" substitute "the arrangements in question"; and

(b) in paragraph (b) for "under the scheme" substitute "under those arrangements".

Annuity after death of member

6. In section 636 (annuity after death of member), in subsection (3) (limit on aggregate annual amount), for "vested" substitute "been purchased".

Income withdrawals after death of member

7. After section 636 (annuity after death of member) insert—

"Income withdrawals after death of member.

636A.—(1) Where a person entitled to such an annuity as is mentioned in section 636 elects to defer the purchase of the annuity, income withdrawals may be made by him during the period of deferral, subject as follows.

(2) No such deferral may be made, and accordingly income withdrawals may not be made, if the person concerned elects in accordance with section 636(5)(a) to defer the purchase of an annuity.

(3) Income withdrawals must not be made after the person concerned if he had purchased such an annuity as is mentioned in section 636 would have ceased to be entitled to payments under it.

(4) Income withdrawals must not in any event be made after the member would have attained the age of 75 or, if earlier, after the person concerned attains the age of 75.

(5) The aggregate amount of income withdrawals by a person in each successive period of twelve months beginning with the date of the member's death must be not less than 35 per cent. or more than 100 per cent. of the annual amount of the annuity which would have been purchasable by him on the relevant reference date.

(6) For the purposes of this section the relevant reference date for the first three years is the date of the member's death, and for each succeeding period of three years is the first day of that period.

(7) The right to income withdrawals must not be capable of assignment or surrender.".

Lump sum on death of member

8. For section 637 (lump sum on death of member) substitute—

"Death benefit. 637. The lump sum—

(a) must be payable on the death of the member before he attains the age of 75, and

(b) must be payable by an authorised insurance company.

Return of contributions on or after death of member. 637A.—(1) The lump sum must be payable on or after the death of the member and represent no more than the return of contributions together with reasonable interest on contributions or bonuses out of profits, after allowing for any income withdrawals.

To the extent that contributions are invested in units under a unit trust scheme, the lump sum may represent the sale or redemption price of the units.

(2) The lump sum must be payable only if—

(a) no annuity has been purchased by the member under the arrangements in question,

(b) no such annuity as is mentioned in section 636 has been purchased by the person to whom the payment is made, and

(c) the person to whom the payment is made has not elected in accordance with subsection (5)(a) of section 636 to defer the purchase of such an annuity as is mentioned in that section.

(3) Where the member's death occurs after the date which is his pension date in relation to the arrangements in question, the lump sum must be payable not later than two years after the death.".

Other restrictions on approval

9. In section 638 (other restrictions on approval), after subsection (7) insert—

"(7A) The Board shall not approve a personal pension scheme unless it prohibits, except in such cases as may be prescribed by regulations made by the Board—

(a) the acceptance of further contributions, and

(b) the making of transfer payments,

after the date which is the member's pension date in relation to the arrangements in question.".

Maximum amount of deductions

10. In section 640 (maximum amount of deductions), in subsection (3) (maximum amount to secure death benefit) for "section 637(1)" substitute "section 637".

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Treatment of personal pension income

11. In section 643 (employer's contributions and personal pension income, &c.), after subsection (4) insert—

"(5) Income withdrawals under approved personal pension arrangements shall be assessable to tax under Schedule E (and section 203 shall apply accordingly) and shall be treated as earned income of the recipient.".

Tax charge on return of contributions after pension date

12. Omit the heading before section 648A and after that section insert—

"Return of contributions after pension date.

648B.—(1) Tax shall be charged under this section on any payment to a person under approved personal pension arrangements of such a lump sum as is mentioned in section 637A in a case where the member's death occurred after his pension date in relation to the arrangement in question.

(2) Where a payment is chargeable to tax under this section, the scheme administrator shall be charged to income tax under Case VI of Schedule D and, subject to subsection (3) below, the rate of tax shall be 35 per cent.

(3) The Treasury may by order from time to time increase or decrease the rate of tax under subsection (2) above.

(4) The tax shall be charged on the amount paid or, if the rules of the scheme permit the scheme administrator to deduct the tax before payment, on the amount before deduction of tax; and the amount so charged to tax shall not be treated as income for any other purpose of the Tax Acts.".

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SCHEDULE 12

CONTRACTUAL SAVINGS SCHEMES

Introduction

1. In this Schedule references to section 326 are to section 326 of the Taxes Act 1988 (contractual savings schemes).

Curtailment of schemes

2.—(1) The following provisions of section 326, namely—

(a) subsection (2) (schemes governed by regulations made under section 11 of National Debt Act 1972),

1972 c. 65.

(b) subsection (3) (schemes with building societies), and

1987 c. 22.

(c) subsection (4) (schemes with institutions authorised under Banking Act 1987),

shall be amended as mentioned in sub-paragraph (2) below.

(2) In each subsection for the words "a scheme" (where they first occur) there shall be substituted "a share option linked scheme".

(3) This paragraph shall apply in relation to schemes not certified as mentioned in section 326(2)(c), (3)(b) or (4)(b) before 1st December 1994.

European institutions

3.—(1) Section 326 shall be further amended as follows.

(2) In subsection (1) (relief for sums payable in respect of bank deposits etc.) after paragraph (c) there shall be inserted "or

(d) in respect of money paid to a relevant European institution,".

(3) In subsection (2) (meaning of certified scheme except in relation to institutions authorised under Banking Act 1987 etc.) after "1987" there shall be inserted "or a relevant European institution".

1987 c. 22.

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

"(5) In this section "certified contractual savings scheme" means, in relation to a relevant European institution, a share option linked scheme—

(a) providing for periodical contributions by individuals for a specified period, and

(b) certified by the Treasury as corresponding to a scheme certified under subsection (2) above, and as qualifying for exemption under this section."

(5) Sub-paragraph (2) above shall apply in relation to schemes established after the day on which this Act is passed.

Certification: Treasury specifications

4.—(1) Section 326 shall be further amended as follows.

(2) In each of the following provisions, namely—

(a) subsection (3)(b) (Treasury certification of schemes with building societies),

(b) subsection (4)(b) (Treasury certification of schemes with institutions authorised under Banking Act 1987), and

(c) subsection (5)(b) (inserted by paragraph 3 above),

for the words "corresponding to a scheme certified under subsection (2) above" there shall be substituted "fulfilling such requirements as the Treasury may specify for the purposes of this section".

(3) This paragraph shall apply in relation to schemes not certified as mentioned in section 326(3)(b), (4)(b) or (5)(b) before such day as the Treasury may by order made by statutory instrument appoint.

Treasury authorisation

5.—(1) Section 326 shall be further amended by inserting the following subsections after subsection (5) (inserted by paragraph 3 above)—

"(6) Any terminal bonus, interest or other sum payable under a scheme shall not be treated as payable under a certified contractual savings scheme for the purposes of this section if—

(a) the contract under which the sum is payable provides for contributions to be made by way of investment in a building society or to be made to an institution authorised under the Banking Act 1987 or to a relevant European institution, and

(b) neither the requirement under subsection (7) below nor that under subsection (8) below is fulfilled.

(7) The requirement under this subsection is that—

(a) when the contract is entered into there is Treasury authorisation for the society or institution concerned to enter into contracts under the scheme, and

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(b) the authorisation was given without any conditions being imposed.

(8) The requirement under this subsection is that—

(a) when the contract is entered into there is Treasury authorisation for the society or institution concerned to enter into contracts under the scheme,

(b) the authorisation was given subject to conditions being met, and

(c) the conditions are met when the contract is entered into."

(2) This paragraph shall apply in relation to schemes not certified as mentioned in section 326(3)(b), (4)(b) or (5)(b) before the day appointed under paragraph 4(3) above.

Section 326: supplementary

6.—(1) Section 326 shall be further amended by inserting the following subsection after subsection (8) (inserted by paragraph 5 above)—

"(9) Schedule 15A to this Act (which contains provisions supplementing this section) shall have effect."

(2) The following Schedule shall be inserted after Schedule 15 to the Taxes Act 1988—

"SCHEDULE 15A

CONTRACTUAL SAVINGS SCHEMES

Introduction

1. This Schedule shall have effect for the purposes of section 326.

Share option linked schemes

2.—(1) A share option linked scheme is a scheme under which periodical contributions are to be made by an individual—

(a) who is eligible to participate in (that is, to obtain and exercise rights under) an approved savings-related share option scheme, and

(b) who is to make the contributions for the purpose of enabling him to participate in that approved scheme.

(2) In sub-paragraph (1) above—

(a) "savings-related share option scheme" has the meaning given by paragraph 1 of Schedule 9, and

(b) "approved" means approved under that Schedule.

Relevant European institutions

3. A relevant European institution is an institution which—

S.I. 1992/3218.

(a) is a European authorised institution within the meaning of the Banking Co-ordination (Second Council Directive) Regulations 1992, and

(b) may accept deposits in the United Kingdom in accordance with those regulations.

Treasury specifications

4.—(1) The requirements which may be specified under section 326(3)(b), (4)(b) or (5)(b) are such requirements as the Treasury think fit.

(2) In particular, the requirements may relate to—

(a) the descriptions of individuals who may enter into contracts under a scheme;

(b) the contributions to be paid by individuals;

(c) the sums to be paid or repaid to individuals.

(3) The requirements which may be specified under any of the relevant provisions may be different from those specified under any of the other relevant provisions; and the relevant provisions are section 326(3)(b), (4)(b) and (5)(b).

5.—(1) Where a specification has been made under section 326(3)(b), (4)(b) or (5)(b) the Treasury may—

(a) withdraw the specification and any certification made by reference to the specification, and

(b) stipulate the date on which the withdrawal is to become effective.

(2) No withdrawal under this paragraph shall affect—

(a) the operation of the scheme before the stipulated date, or

(b) any contract entered into before that date.

(3) No withdrawal under this paragraph shall be effective unless the Treasury—

(a) send a notice by post to each relevant body informing it of the withdrawal, and

(b) do so not less than 28 days before the stipulated date;

and a relevant body is a society or institution authorised (whether unconditionally or subject to conditions being met) to enter into contracts under the scheme concerned.

6.—(1) Where a specification has been made under section 326(3)(b), (4)(b) or (5)(b) the Treasury may—

(a) vary the specification,

(b) withdraw any certification made by reference to the specification obtaining before the variation, and

(c) stipulate the date on which the variation and withdrawal are to become effective;

and the Treasury may at any time certify a scheme as fulfilling the requirements obtaining after the variation.

(2) No variation and withdrawal under this paragraph shall affect—

(a) the operation of the scheme before the stipulated date, or

(b) any contract entered into before that date.

(3) No variation and withdrawal under this paragraph shall be effective unless the Treasury—

(a) send a notice by post to each relevant body informing it of the variation and withdrawal, and

(b) do so not less than 28 days before the stipulated date;

and a relevant body is a society or institution authorised (whether unconditionally or subject to conditions being met) to enter into contracts under the scheme concerned.

Treasury authorisation

7.—(1) The Treasury may authorise a society or institution under section 326(7) or (8) as regards schemes generally or as regards a particular scheme or particular schemes.

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(2) More than one authorisation may be given to the same society or institution.

8.—(1) Where an authorisation has been given under section 326(7) or (8) the Treasury may withdraw the authorisation and stipulate the date on which the withdrawal is to become effective; and the withdrawal shall have effect as regards any contract not entered into before the stipulated date.

(2) No withdrawal under this paragraph shall be effective unless the Treasury—

(a) send a notice by post to the society or institution concerned informing it of the withdrawal, and

(b) do so not less than 28 days before the stipulated date.

(3) A withdrawal of an authorisation shall not affect the Treasury's power to give another authorisation or other authorisations.

9.—(1) Where an authorisation has been given under section 326(7) the Treasury may—

(a) stipulate that the authorisation is to be varied by being treated as given subject to specified conditions being met, and

(b) stipulate the date on which the variation is to become effective.

(2) As regards any contract entered into on or after the stipulated date the authorisation shall be treated as having been given under section 326(8) subject to the conditions being met.

(3) No variation under this paragraph shall be effective unless the Treasury—

(a) send a notice by post to the society or institution concerned informing it of the variation, and

(b) do so not less than 28 days before the stipulated date.

10.—(1) Where an authorisation has been given under section 326(8) the Treasury may withdraw the conditions and stipulate the date on which the withdrawal is to become effective.

(2) As regards any contract entered into on or after the stipulated date the authorisation shall be treated as having been given under section 326(7) without any conditions being imposed.

11.—(1) Where an authorisation has been given under section 326(8) the Treasury may vary the conditions and stipulate the date on which the variation is to become effective; and the variation shall have effect as regards any contract entered into on or after the stipulated date.

(2) No variation under this paragraph shall be effective unless the Treasury—

(a) send a notice by post to the society or institution concerned informing it of the variation, and

(b) do so not less than 28 days before the stipulated date.

12.—(1) If the Treasury act as regards an authorisation under a relevant paragraph, the paragraph concerned shall have effect subject to their power to act later, as regards the same authorisation, under the same or (as the case may be) another relevant paragraph.

(2) If the Treasury act later as mentioned in sub-paragraph (1) above that sub-paragraph shall apply again, and so on however many times they act as regards an authorisation.

(3) If the Treasury act as regards an authorisation under a relevant paragraph the paragraph concerned shall have effect subject to their power to act later, as regards the same authorisation, under paragraph 8 above.

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(4) For the purposes of this paragraph the relevant paragraphs are paragraphs 9 to 11 above."

Payments under certain contracts

7.—(1) Any terminal bonus, interest or other sum payable under a scheme shall not be treated as payable under a certified contractual savings scheme for the purposes of section 326 if—

(a) the scheme is not a share option linked scheme, and

(b) the contract under which the sum is payable is not entered into before 1st December 1994.

(2) Any terminal bonus, interest or other sum payable under a scheme shall not be treated as payable under a certified contractual savings scheme for the purposes of section 326 if—

(a) the contract under which the sum is payable provides for contributions to be made by way of investment in a building society or to be made to an institution authorised under the Banking Act 1987 or to a relevant European institution,

1987 c. 22.

(b) the scheme is certified as mentioned in section 326(3)(b), (4)(b) or (5)(b) before the day appointed under paragraph 4(3) above, and

(c) the contract is not entered into before that day.

(3) In this paragraph "share option linked scheme" and "relevant European institution" have the same meanings as in section 326.

Transitional

8.—(1) The Treasury may by regulations provide that at the beginning of the day appointed under paragraph 4(3) above Treasury authorisation shall be treated as given under section 326(7) to any specified relevant body without any conditions being imposed.

(2) The Treasury may by regulations provide that—

(a) at the beginning of the day appointed under paragraph 4(3) above Treasury authorisation shall be treated as given under section 326(8) to any specified relevant body subject to conditions being met;

(b) the conditions as regards a body shall be such as are specified in, or identified by provision contained in, the regulations as regards that body.

(3) Any authorisation treated as given as mentioned in sub-paragraph (1) or (2) above shall be treated as given as regards schemes generally; but this is subject to any provision to the contrary in the regulations.

(4) For the purposes of this paragraph the following are relevant bodies—

(a) any building society;

(b) any institution authorised under the Banking Act 1987;

(c) any relevant European institution.

(5) In this paragraph—

(a) "relevant European institution" has the same meaning as in section 326;

(b) "specified" means specified in the regulations.

(6) Regulations under this paragraph shall be made by statutory instrument subject to annulment in pursuance of a resolution of the House of Commons.

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SCHEDULE 13

ENTERPRISE INVESTMENT SCHEME

Introduction

1992 c. 12.

1. The Taxation of Chargeable Gains Act 1992 shall be amended as mentioned in this Schedule.

Amendments of section 150A

2.—(1) Section 150A (enterprise investment scheme) shall be amended as mentioned in sub-paragraphs (2) to (4) below; and the amendments made by sub-paragraphs (2) and (3) below shall apply in relation to shares issued on or after 1st January 1994.

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

"(2A) Notwithstanding anything in section 16(2), subsection (2) above shall not apply to a disposal on which a loss accrues."

(3) In subsection (3) (reduction of relief) the following paragraph shall be inserted after paragraph (a)—

"(aa) the amount of the reduction is not found under section 289A(2)(b) of that Act, and".

(4) The following subsections shall be inserted after subsection (8) (which disapplies provisions about exchanges, reconstructions or amalgamations in certain circumstances)—

"(8A) Subsection (8) above shall not have effect to disapply section 135 or 136 where—

(a) the new holding consists of new ordinary shares carrying no present or future preferential right to dividends or to a company's assets on its winding up and no present or future preferential right to be redeemed,

(b) the new shares are issued on or after 29th November 1994 and after the end of the relevant period, and

(c) the condition in subsection (8B) below is satisfied.

(8B) The condition is that at some time before the issue of the new shares—

(a) the company issuing them issued eligible shares, and

(b) a certificate in relation to those eligible shares was issued by the company for the purposes of subsection (2) of section 306 of the Taxes Act and in accordance with that section.

(8C) In subsection (8A) above—

(a) "new holding" shall be construed in accordance with sections 126, 127, 135 and 136;

(b) "relevant period" means the period found by applying section 312(1A)(a) of the Taxes Act by reference to the company issuing the shares referred to in subsection (8) above and by reference to those shares."

Reduction of relief

3. The following section shall be inserted after section 150A—

"Enterprise investment scheme: reduction of relief.

150B.—(1) This section has effect where section 150A(2) applies on a disposal of eligible shares, and before the disposal but on or after 29th November 1994—

(a) value is received in circumstances where relief attributable to the shares is reduced by an amount

under section 300(1A)(a) of the Taxes Act,

(b) there is a repayment, redemption, repurchase or payment in circumstances where relief attributable to the shares is reduced by an amount under section 303(1A)(a) of that Act, or

(c) paragraphs (a) and (b) above apply.

(2) If section 150A(2) applies on the disposal but section 150A(3) does not, section 150A(2) shall apply only to so much of the gain as remains after deducting so much of it as is found by multiplying it by the fraction—

(a) whose numerator is equal to the amount by which the relief attributable to the shares is reduced as mentioned in subsection (1) above, and

(b) whose denominator is equal to the amount of the relief attributable to the shares.

(3) If section 150A(2) and (3) apply on the disposal, section 150A(2) shall apply only to so much of the gain as is found by—

(a) taking the part of the gain found under section 150A(3), and

(b) deducting from that part so much of it as is found by multiplying it by the fraction mentioned in subsection (2) above.

(4) Where the relief attributable to the shares is reduced as mentioned in subsection (1) above by more than one amount, the numerator mentioned in subsection (2) above shall be taken to be equal to the aggregate of the amounts.

(5) The denominator mentioned in subsection (2) above shall be found without regard to any reduction mentioned in subsection (1) above.

(6) Subsections (11) and (12) of section 150A apply for the purposes of this section as they apply for the purposes of that section."

Re-investment

4.—(1) The following section shall be inserted after section 150B—

"Enterprise investment scheme: re-investment.

150C. Schedule 5B to this Act (which provides relief in respect of re-investment under the enterprise investment scheme) shall have effect."

(2) In section 260, after subsection (6) (no reduction in the case of certain disposals in respect of held-over gains), there shall be inserted the following subsection—

"(6A) Subsection (3) above does not apply, so far as any gain accruing in accordance with paragraphs 4 and 5 of Schedule 5B is concerned, in relation to the disposal which constitutes the chargeable event by virtue of which that gain accrues."

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(3) The following Schedule shall be inserted after Schedule 5A—

"SCHEDULE 5B

ENTERPRISE INVESTMENT SCHEME: RE-INVESTMENT

Application of Schedule

1.—(1) This Schedule applies where—

(a) there would (apart from paragraph 2(2)(a) below) be a chargeable gain ("the original gain") accruing to an individual ("the investor") at any time ("the accrual time") on or after 29th November 1994;

(b) the gain is one accruing either on the disposal by the investor of any asset or in accordance with paragraphs 4 and 5 below or paragraphs 4 and 5 of Schedule 5C;

(c) the investor makes a qualifying investment; and

(d) the investor is resident or ordinarily resident in the United Kingdom at the accrual time and the time when he makes the qualifying investment and is not, in relation to the qualifying investment, a person to whom sub-paragraph (4) below applies.

(2) The investor makes a qualifying investment for the purposes of this Schedule if—

(a) he subscribes for any shares to which any relief given to him under Chapter III of Part VII of the Taxes Act is attributable;

(b) those shares are issued at a qualifying time; and

(c) where that time is before the accrual time, those shares are still held by the investor at the accrual time;

and in this Schedule "relevant shares", in relation to a case to which this Schedule applies, means any of the shares which are acquired by the investor in making the qualifying investment.

(3) In this Schedule "a qualifying time", in relation to any shares subscribed for by the investor, means—

(a) any time in the period beginning one year before and ending three years after the accrual time, or

(b) any such time before the beginning of that period or after it ends as the Board may by notice allow.

(4) This sub-paragraph applies to the investor in relation to a qualifying investment if—

(a) though resident or ordinarily resident in the United Kingdom at the time when he makes the investment, he is regarded for the purposes of any double taxation relief arrangements as resident in a territory outside the United Kingdom, and

(b) were section 150A to be disregarded, the arrangements would have the effect that he would not be liable in the United Kingdom to tax on a gain arising on a disposal, immediately after their acquisition, of the shares acquired in making that investment.

Postponement of original gain

2.—(1) On the making of a claim by the investor for the purposes of this Schedule, so much of the investor's unused qualifying expenditure on relevant shares as—

(a) is specified in the claim, and

(b) does not exceed so much of the original gain as is unmatched,

shall be set against a corresponding amount of the original gain.

(2) Where an amount of qualifying expenditure on any relevant shares is set under this Schedule against the whole or part of the original gain—

(a) so much of that gain as is equal to that amount shall be treated as not having accrued at the accrual time; but

(b) paragraphs 4 and 5 below shall apply for determining the gain that is to be treated as accruing on the occurrence of any chargeable event in relation to any of those relevant shares.

(3) For the purposes of this Schedule—

(a) the investor's qualifying expenditure on any relevant shares is so much of the amount subscribed by him for the shares as represents the amount in respect of which there is given the relief under section 289A of the Taxes Act which is attributable to those shares; and

(b) that expenditure is unused to the extent that it has not already been set under this Schedule against the whole or any part of a chargeable gain.

(4) For the purposes of this paragraph the original gain is unmatched, in relation to any qualifying expenditure on relevant shares, to the extent that it has not had any other expenditure set against it under this Schedule or Schedule 5C.

Chargeable events

3.—(1) Subject to the following provisions of this paragraph, there is for the purposes of this Schedule a chargeable event in relation to any relevant shares if, after the making of the qualifying investment—

(a) the investor disposes of those shares otherwise than by way of a disposal within marriage;

(b) those shares are disposed of, otherwise than by way of a disposal to the investor, by a person who acquired them on a disposal made by the investor within marriage;

(c) the investor becomes a non-resident while holding those shares and within the first relevant period;

(d) a person who acquired those shares on a disposal within marriage becomes a non-resident while holding those shares and within the first relevant period;

(e) the company that issued those shares ceases to be a qualifying company within the second relevant period; or

(f) the relief given under section 289A of the Taxes Act in respect of the amount subscribed for those shares is withdrawn or reduced in circumstances not falling within any of paragraphs (a) to (e) above.

(2) For the purposes of sub-paragraph (1) above—

(a) the first relevant period in the case of any relevant shares is the period found by applying section 312(1A)(a) of the Taxes Act by reference to the company that issued the shares and by reference to the shares;

(b) the second relevant period in the case of any shares is the period found by applying section 312(1A)(b) of that Act by reference to the company that issued the shares and by reference to the shares; and

(c) whether a company is a qualifying company at any given time shall be determined in accordance with section 293 of that Act.

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(3) For the purposes of this Schedule there shall not be a chargeable event by virtue of sub-paragraph (1)(c) or (d) above in relation to any shares if—

(a) the reason why the person in question becomes a non-resident 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 three years from the time when he became a non-resident, without having meanwhile disposed of any of those shares;

and accordingly no assessment shall be made by virtue of sub-paragraph (1)(c) or (d) above before the end of that period in a case where the condition in paragraph (a) above is satisfied and the condition in paragraph (b) above may be satisfied.

(4) For the purposes of sub-paragraph (3) above a person shall be taken to have disposed of any shares if and only if there has been such a disposal as would have been a chargeable event in relation to those shares if the person making the disposal had been resident in the United Kingdom.

(5) Where in any case—

(a) the investor or a person who has acquired any relevant shares on a disposal within marriage dies, and

(b) an event occurs at or after the time of the death which (apart from this sub-paragraph) would be a chargeable event in relation to any relevant shares held by the deceased immediately before his death,

that event shall not be chargeable event in relation to the shares so held.

Gain accruing on chargeable event

4.—(1) On the occurrence of a chargeable event in relation to any relevant shares in relation to which there has not been a previous chargeable event—

(a) a chargeable gain shall be treated as accruing at the time of the event; and

(b) the amount of the gain shall be equal to so much of the original gain as is an amount against which there has under this Schedule been set any expenditure on those shares.

(2) Any question for the purposes of this Schedule as to whether any relevant shares to which a chargeable event relates are shares the expenditure on which has under this Schedule been set against the whole or any part of any gain shall be determined in accordance with the assumptions for which sub-paragraph (3) below provides.

(3) For the purposes of sub-paragraph (2) above it shall be assumed, in relation to any disposal of shares (including a disposal within marriage) that—

(a) as between qualifying shares acquired by the same person on different days, those acquired on an earlier day are disposed of by that person before those acquired on a later day; and

(b) as between qualifying shares acquired by the same person on the same day, those the expenditure on which has been set under this Schedule against the whole or any part of any gain are disposed of by that person only after he has disposed of any other qualifying shares acquired by him on that day.

(4) In sub-paragraph (3) above "qualifying shares" means any shares which—

(a) were subscribed for by a person eligible for relief in respect of those shares under Chapter III of Part VII of the Taxes Act (the enterprise investment scheme), and

(b) are shares in respect of which relief is given under section 289A of that Act in respect of the whole or any part of the amount subscribed.

(5) Where at the time of a chargeable event any relevant shares are treated for the purposes of this Act as represented by assets which consist of or include assets other than those shares—

(a) the expenditure on those shares which was set against the gain in question shall be treated, in determining for the purposes of this paragraph the amount of expenditure on each of those assets which is to be treated as having been set against that gain, as apportioned in such manner as may be just and reasonable between those assets; and

(b) as between different assets treated as representing the same relevant shares, the assumptions for which sub-paragraph (3) above provides shall apply with the necessary modifications in relation to those assets as they would apply in relation to the shares.

Person to whom gain accrues

5.—(1) The chargeable gain which accrues, in accordance with paragraph 4 above, on the occurrence in relation to any relevant shares of a chargeable event shall be treated as accruing, as the case may be—

(a) to the person who makes the disposal,

(b) to the person who becomes a non-resident,

(c) to the person who holds the shares in question when the company ceases to be a qualifying company, or

(d) to the person who holds the shares in question when the circumstances arise in respect of which the relief is withdrawn or reduced.

(2) Where—

(a) sub-paragraph (1) above provides for the holding of shares at a particular time to be what identifies the person to whom any chargeable gain accrues, and

(b) at that time, some of those shares are held by the investor and others are held by a person to whom the investor has transferred them by a disposal within marriage,

the amount of the chargeable gain accruing by virtue of paragraph 4 above shall be computed separately in relation to the investor and that person without reference to the shares held by the other.

Interpretation

6.—(1) In this Schedule "non-resident" means a person who is neither resident nor ordinarily resident in the United Kingdom.

(2) In this Schedule references to a disposal within marriage are references to any disposal to which section 58 applies.

(3) Notwithstanding anything in section 288(5), shares shall not for the purposes of this Schedule be treated as issued by reason only of being comprised in a letter of allotment or similar instrument.

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(4) Chapter III of Part VII of the Taxes Act shall apply for the purposes of this Schedule to determine whether and to what extent any relief under that Chapter is attributable to any shares.

(5) References in this Schedule to Chapter III of Part VII of the Taxes Act or any provision of that Chapter are to that Chapter or provision as it applies in relation to shares issued on or after 1st January 1994."

(4) This paragraph has effect in relation to gains accruing and events occurring on or after 29th November 1994.

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SCHEDULE 14

VENTURE CAPITAL TRUSTS: MEANING OF "QUALIFYING HOLDINGS"

Introductory

1.—(1) This Schedule applies, where any shares in or securities of any company ("the relevant company") are at any time held by another company ("the trust company"), for determining whether and to what extent those shares or securities ("the relevant holding") are, for the purposes of section 842AA, to be regarded as at that time comprised in the trust company's qualifying holdings.

(2) The relevant holding shall be regarded as comprised in the trust company's qualifying holdings at any time if—

(a) all the requirements of the following provisions of this Schedule are satisfied at that time in relation to the relevant company and the relevant holding; and

(b) the relevant holding consists of shares or securities which were first issued by the relevant company to the trust company and have been held by the trust company ever since.

(3) Subject to paragraph 6(3) below, where the requirements of paragraph 6 or 7 below would be satisfied as to only part of the money raised by the issue of the relevant holding and that holding is not otherwise capable of being treated as comprising separate holdings, this Schedule shall have effect in relation to that holding as if it were two holdings consisting of—

(a) a holding from which that part of the money was raised; and

(b) a holding from which the remainder was raised;

and section 842AA shall have effect as if the value of the holding were to be apportioned accordingly between the two holdings which are deemed to exist in pursuance of this sub-paragraph.

Requirement that company must be unquoted company

2.—(1) The requirement of this paragraph is that the relevant company (whether or not it is resident in the United Kingdom) must be an unquoted company.

(2) In this paragraph "unquoted company" means a company none of whose shares, stocks, debentures or other securities is marketed to the general public.

(3) For the purposes of this paragraph shares, stocks, debentures or other securities are marketed to the general public if they are—

(a) listed on a recognised stock exchange,

(b) listed on a designated exchange in a country outside the United Kingdom, or

(c) dealt in on the Unlisted Securities Market or dealt in outside the United Kingdom by such means as may be designated.

(4) In sub-paragraph (3) above "designated" means designated by an order made by the Board for the purposes of that sub-paragraph; and an order made for the purposes of paragraph (b) of that sub-paragraph may designate an exchange by name, or by reference to any class or description of exchanges, including a class or description framed by reference to any authority or approval given in a country outside the United Kingdom.

(5) Section 828(1) does not apply to an order made for the purposes of sub-paragraph (3) above.

(6) Where a company any shares in or securities of which are included in the qualifying holdings of the trust company ceases at any time while the trust company is approved as a venture capital trust to be an unquoted company, the requirements of this paragraph shall be deemed, in relation to shares or securities acquired by the trust company before that time, to continue to be satisfied for a period of five years after that time.

Requirements as to company's business

3.—(1) The requirements of this paragraph are as follows.

(2) The relevant company must be one of the following, that is to say—

(a) a 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) a company whose business consists entirely in the holding of shares in or securities of, or the making of loans to, one or more qualifying subsidiaries of that company; or

(c) a 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) Subject to sub-paragraph (4) below, the relevant company or a qualifying subsidiary of that company must, when the relevant holding was issued and at all times since, have been either—

(a) carrying on a qualifying trade wholly or mainly in the United Kingdom; or

(b) preparing to carry on a qualifying trade which at the time when the relevant holding was issued it intended to carry on wholly or mainly in the United Kingdom.

(4) The requirements of sub-paragraph (3) above shall not be capable of being satisfied by virtue of paragraph (b) of that sub-paragraph at any time after the end of the period of two years beginning with the issue of the relevant holding unless—

(a) the relevant company or the subsidiary in question began to carry on the intended trade before the end of that period, and

(b) that company or subsidiary has, at all times since the end of that period, been carrying on a qualifying trade wholly or mainly in the United Kingdom.

(5) The requirements of that sub-paragraph shall also be incapable of being so satisfied at any time after the abandonment, within the period mentioned in sub-paragraph (4) above, of the intention in question.

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Meaning of "qualifying trade"

4.—(1) For the purposes of this Schedule—

(a) a trade is a qualifying trade if it is a trade complying with this paragraph; and

(b) the carrying on of any activities of research and development from which it is intended that there will be derived a trade that—

(i) will comply with this paragraph, and

(ii) will be carried on wholly or mainly in the United Kingdom,

shall be treated as the carrying on of a qualifying trade.

(2) Subject to sub-paragraphs (3) to (9) below, a trade complies with this paragraph 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 (not being a company of which the company providing the services or facilities is a subsidiary) 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.

(3) For the purposes of sub-paragraph (2)(b) above—

(a) a trade of wholesale distribution is one in which the goods are offered for sale and sold to persons for resale by them, or for processing and resale by them, to members of the general public for their use or consumption;

(b) a trade of retail distribution is one in which the goods are offered for sale and sold to members of the general public for their use or consumption; and

(c) a trade is not an ordinary trade of wholesale or retail distribution if—

(i) it consists, to a substantial extent, in dealing in goods of a kind which are collected or held as an investment, or in that activity and any other activity of a kind falling within sub-paragraph (2)(a) to (f) 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 paragraph 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 sub-paragraph 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 paragraph by reason only of its consisting, to a substantial extent, in the receiving of 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 since the issue of the relevant holding;

and

(b) all royalties and licence fees received by it are in respect of films produced by it since the issue of the relevant holding, in respect of sound recordings in relation to such films or in respect of other products arising from such films.

(6) A trade shall not be treated as failing to comply with this paragraph by reason only of its consisting, to a substantial extent, in the receiving of 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 paragraph 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 sub-paragraph (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 paragraph if those lettings and any other activity of a kind falling within sub-paragraph (2) above do not, when taken together, amount to a substantial part of the trade.

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(8) The conditions are that—

(a) the letting is for a period not exceeding 12 months and no provision is made at any time (whether in the charterparty or otherwise) for extending it beyond that period otherwise than at the option of the charterer;

(b) during the period of the letting there is no provision in force (whether by virtue of being contained in the charterparty or otherwise) for the grant of a new letting to end, otherwise than at the option of the charterer, more than 12 months after that provision is made;

(c) the letting is by way of a bargain made at arm's length between the company and a person who is not connected with it;

(d) under the terms of the charter the company is responsible as principal—

(i) for taking, throughout the period of the charter, management decisions in relation to the ship, other than those of a kind generally regarded by persons engaged in trade of the kind in question as matters of husbandry; and

(ii) for defraying all expenses in connection with the ship throughout that period, or substantially all such expenses, other than those directly incidental to a particular voyage or to the employment of the ship during that period;

and

(e) no arrangements exist by virtue of which a person other than the company may be appointed to be responsible for the matters mentioned in paragraph (d) above on behalf of the company;

but this sub-paragraph shall have effect, in relation to any letting between one company and another where one of those companies is the relevant company and the other is a qualifying subsidiary of that company, or where both companies are qualifying subsidiaries of the relevant company, as if paragraph (c) were omitted.

(9) A trade shall not comply with this paragraph unless it is conducted on a commercial basis and with a view to the realisation of profits.

Provisions supplemental to paragraph 4

5.—(1) In paragraph 4 above—

"film" means an original master negative of a film, an original master film disc or an original master film tape;

"oil rig" means any ship which is an offshore installation for the purposes of the Mineral Workings (Offshore Installations) Act 1971;

1971 c. 61.

"pleasure craft" means any ship of a kind primarily used for sport or recreation;

"research and development" means any activity which is intended to result in a patentable invention (within the meaning of the Patents Act 1977) or in a computer program; and

1977 c. 37.

"sound recording", in relation to a film, means its sound track, original master audio disc or original master audio tape.

(2) For the purposes of paragraph 4 above, 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, being a director of the company, either—

(i) is the beneficial owner of more than 30 per cent. of the ordinary share capital of the company, or

(ii) is able, directly or through the medium of other companies or by any other indirect means, to control more than 30 per cent. of that share capital;

or

(c) not less than half of the trade could, in accordance with section 344(2), be regarded as belonging to him for the purposes of section 343;

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.

(3) For the purposes of sub-paragraph (2) above there shall be attributed to any person any rights or powers of any other person who is an associate of his.

(4) References in paragraph 4 above or this paragraph to a trade, except the references in paragraph 4(2)(f) to the trade for which services or facilities are provided, shall be construed without reference to so much of the definition of trade in section 832(1) as relates to adventures or concerns in the nature of trade; and those references in paragraph 4(2)(f) above to a trade shall have effect, in relation to cases in which what is carried on is carried on by a person other than a company, as including references to any business, profession or vocation.

(5) In this paragraph—

"associate" has the meaning given in subsections (3) and (4) of section 417, except that in those subsections, as applied for the purposes of this paragraph, "relative" shall not include a brother or sister; and

"director" shall be construed in accordance with subsection (5) of that section.

Requirements as to the money raised by the investment in question

6.—(1) The requirements of this paragraph are that the money raised by the issue of the relevant holding must—

(a) have been employed wholly for the purposes of the trade by reference to which the requirements of paragraph 3(3) above are satisfied; or

(b) be money which the relevant company or a qualifying subsidiary of that company is intending to employ wholly for the purposes of that trade.

(2) The requirements of sub-paragraph (1) above shall not be capable of being satisfied by virtue of paragraph (b) of that sub-paragraph at any time after twelve months have expired from whichever is applicable of the following, that is to say—

(a) in a case where the requirements of sub-paragraph (3) of paragraph 3 above were satisfied in relation to the time when the relevant holding was issued by virtue of paragraph (a) of that sub-paragraph, that time; and

(b) in a case where they were satisfied in relation to that time by virtue of paragraph (b) of that sub-paragraph, the time when the relevant company or, as the case may be, the subsidiary in question began to carry on the intended trade.

(3) For the purposes of this paragraph money shall not be treated as employed otherwise than wholly for the purposes of a trade if the only amount employed for other purposes is an amount which is not a significant amount; and nothing in paragraph 1(3) above shall require any money whose use is disregarded by virtue of this sub-paragraph to be treated as raised by a different holding.

(4) References in this paragraph to employing money for the purposes of a trade shall include references to employing it for the purpose of preparing for the carrying on of the trade.

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Requirement imposing a maximum on qualifying investments in the relevant company

7.—(1) The requirement of this paragraph is that the relevant holding did not, when it was issued, represent an investment in excess of the maximum qualifying investment for the relevant period.

(2) Subject to sub-paragraph (4) below, the maximum qualifying investment for any period is exceeded to the extent that the aggregate amount of money raised in that period by the issue to the trust company during that period of shares in or securities of the relevant company exceeds £1 million.

(3) Any question for the purposes of this paragraph as to whether any shares in or securities of the relevant company which are for the time being held by the trust company represent an investment in excess of the maximum qualifying investment for any period shall be determined on the assumption, in relation to disposals by the trust company, that, as between shares or securities of the same description, those representing the whole or any part of the excess are disposed of before those which do not.

(4) Where—

(a) at the time of the issue of the relevant holding the relevant company or any of its qualifying subsidiaries was a member of a partnership or a party to a joint venture,

(b) the trade by virtue of which the requirements of paragraph 3(3) above are satisfied was at that time being carried on, or to be carried on, by those partners in partnership or by the parties to the joint venture as such, and

(c) the other partners or parties to the joint venture include at least one other company,

this paragraph shall have effect in relation to the relevant company as if the sum of money for the time being specified in sub-paragraph (2) above were to be divided by the number of companies (including the relevant company) which, at the time when the relevant holding was issued, were members of the partnership or, as the case may be, parties to the joint venture.

(5) For the purposes of this paragraph the relevant period is the period beginning with whichever is the earlier of—

(a) the time six months before the issue of the relevant holding; and

(b) the beginning of the year of assessment in which the issue of that holding took place.

Requirement as to the assets of the relevant company

8.—(1) The requirement of this paragraph is that the value of the relevant assets—

(a) did not exceed £10 million immediately before the issue of the relevant holding; and

(b) did not exceed £11 million immediately afterwards.

(2) Subject to sub-paragraph (3) below, the reference in sub-paragraph (1) above to the value of the relevant assets is a reference—

(a) in relation to a time when the relevant company did not have any qualifying subsidiaries, to the value of the gross assets of that company at that time; and

(b) in relation to any other time, to the aggregate value at that time of the gross assets of all the companies in the relevant company's group.

(3) For the purposes of this paragraph assets of any member of the relevant company's group that consist in rights against, or in shares in or securities of, another member of the group shall be disregarded.

(4) In this paragraph references, in relation to any time, to the relevant company's group are references to the relevant company and its qualifying subsidiaries at that time.

Requirements as to the subsidiaries etc. of the relevant company

9.—(1) The requirements of this paragraph are that, subject to sub-paragraph (2) below, the relevant company must not be—

(a) a company which controls (whether on its own or together with any person connected with it) any company that is not a qualifying subsidiary of the relevant company; or

(b) a company which is under the control of another company (or of another company and a person connected with the other company);

and arrangements must not be in existence by virtue of which the relevant company could fall within paragraph (a) or (b) above.

(2) A company shall not fall within sub-paragraph (1)(b) above where—

(a) the other company is the trust company or a venture capital trust which is not the trust company; and

(b) the fact that the relevant company is under the control of the other is attributable primarily to a change in the value of any shares in or securities of the relevant company.

Meaning of "qualifying subsidiary"

10.—(1) Subject to the following provisions of this paragraph, a company is a qualifying subsidiary of the relevant company for the purposes of this Schedule if—

(a) the company in question ("the subsidiary"), and

(b) where the relevant company has more than one subsidiary, every other subsidiary of the relevant company,

is a company falling within each of sub-paragraphs (2) and (3) below.

(2) The subsidiary falls within this sub-paragraph if—

(a) it is a company in relation to which the requirements of paragraph 3(2)(a) above are satisfied;

(b) it exists wholly for the purpose of holding and managing property used by the relevant company or any of the relevant 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 relevant company or any of its qualifying 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.

(3) The subsidiary falls within this sub-paragraph if—

(a) the relevant company, or another of its subsidiaries, possesses not less than 90 per cent. of the issued share capital of, and not less than 90 per cent. of the voting power in, the subsidiary;

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(b) the relevant company, or another of its subsidiaries, would in the event of a winding up of the subsidiary or in any other circumstances be beneficially entitled to receive not less than 90 per cent. of the assets of the subsidiary which would then be available for distribution to the equity holders of the subsidiary;

(c) the relevant company, or another of its subsidiaries, is beneficially entitled to not less than 90 per cent. of any profits of the subsidiary which are available for distribution to the equity holders of the subsidiary;

(d) no person other than the relevant company or another of its subsidiaries has control of the subsidiary within the meaning of section 840; and

(e) no arrangements are in existence by virtue of which the relevant company could cease to fall within this sub-paragraph.

(4) The subsidiary shall not be regarded, at a time when it is being wound up, as having ceased on that account to be a company falling within sub-paragraphs (2) and (3) above if it is shown—

(a) that it would fall within those sub-paragraphs apart from the winding up; and

(b) that the winding up 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.

(5) The subsidiary shall not be regarded, at any time when arrangements are in existence for the disposal by the relevant company, or (as the case may be) by another subsidiary of that company, of all its interest in the subsidiary in question, as having ceased on that account to be a company falling within sub-paragraphs (2) and (3) above if it is shown that the disposal is to be 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.

(6) For the purposes of this paragraph the persons who are equity holders of the subsidiary and the percentage of the assets of the subsidiary to which an equity holder would be entitled shall be determined in accordance with paragraphs 1 and 3 of Schedule 18, taking references in paragraph 3 to the first company as references to an equity holder, and references to a winding up as including references to any other circumstances in which assets of the subsidiary are available for distribution to its equity holders.

Winding up of the relevant company

11. None of the requirements of this Schedule shall be regarded, at a time when the relevant company is being wound up, as being, on that account, a requirement that is not satisfied in relation to that company if it is shown—

(a) that the requirements of this Schedule would be satisfied in relation to that company apart from the winding up; and

(b) that the winding up 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.

Power to amend Schedule

12. The Treasury may by order amend this Schedule for any or all of the following purposes, that is to say—

(a) to make such modifications of paragraphs 4 and 5 above as they may consider expedient;

(b) to substitute different sums for the sums of money for the time being specified in paragraphs 7(2) and 8(1) above.

General interpretation

13.—(1) In this Schedule—

"debenture" has the meaning given by section 744 of the Companies Act 1985; and

1985 c. 6.

"securities" has the same meaning as in section 842AA;

and references in this Schedule to the issue of any securities, in relation to any security consisting in a liability in respect of an unsecured loan, shall have effect as references to the making of the loan.

(2) Section 839 applies for the purposes of this Schedule.

(3) For the purposes of paragraphs 5(2) and 9 above a person shall be taken to have control of a company if he would be so taken for the purposes of Part XI by virtue of section 416(2) to (6).

SCHEDULE 15

Section 71.

Venture Capital Trusts: Relief from Income Tax

Part I

Relief on investment

Entitlement to claim relief

1.—(1) Subject to the following provisions of this Schedule, an individual shall, for any year of assessment, be entitled under this Part of this Schedule to claim relief in respect of an amount equal to the aggregate of the amounts (if any) which, by reference to eligible shares issued to him by venture capital trusts in the course of that year, are amounts on which he is eligible for relief in accordance with sub-paragraph (2) below.

(2) The amounts on which an individual shall be taken for the purposes of sub-paragraph (1) above to be eligible for relief shall be any amounts subscribed by him on his own behalf for eligible shares issued by a venture capital trust for raising money.

(3) An individual shall not be entitled under this Part of this Schedule to claim relief for any given year of assessment in respect of an amount of more than £100,000.

(4) An individual shall not be entitled under this Schedule to claim any relief to which he is eligible by reference to any shares unless he had attained the age of eighteen years before those shares were issued.

(5) Where an individual makes a claim for any relief to which he is entitled under this Part of this Schedule for any year of assessment, the amount of his liability for that year to income tax on his total income shall be equal to the amount to which he would be so liable apart from this Part of this Schedule less whichever is the smaller of—

(a) an amount equal to tax at the lower rate for that year on the amount in respect of which he is entitled to claim relief for that year, and

(b) the amount which reduces his liability to nil.

(6) In determining for the purposes of sub-paragraph (5) above the amount of income tax to which a person would be liable apart from this Part of this Schedule, no account shall be taken of—

(a) any income tax reduction under section 289A,

(b) any income tax reduction under Chapter I of Part VII or under section 347B,

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(c) any income tax reduction under section 353(1A),

1989 c. 26.

(d) any income tax reduction under section 54(3A) of the Finance Act 1989,

(e) any relief by way of a reduction of liability to tax which is given in accordance with any arrangements having effect by virtue of section 788 or by way of a credit under section 790(1), or

(f) any tax at the basic rate on so much of that person's income as is income the income tax on which he is entitled to charge against any other person or to deduct, retain or satisfy out of any payment.

(7) Where, in the case of any claim for relief under this Part of this Schedule in respect of any shares issued in any year of assessment, effect is given to the claim by repayment of tax, section 824 shall have effect in relation to the repayment as if the time from which the twelve months mentioned in subsections (1)(a) and (3)(a) of that section are to be calculated were the end of the year of assessment in which the shares were issued.

(8) A person shall not be entitled to be given any relief under this Part of this Schedule by reference to any shares if circumstances have arisen which would have resulted, had that relief already been given, in the withdrawal or reduction of the relief.

(9) A person shall not under this Part of this Schedule be eligible for any relief on any amount by reference to any shares unless the shares are both subscribed for and issued for bona fide commercial purposes and not as part of a scheme or arrangement the main purpose of which, or one of the main purposes of which, is the avoidance of tax.

Loan-linked investments

2.—(1) An individual shall not be entitled to relief under this Part of this Schedule in respect of any shares if—

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

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

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

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

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

(3) In this paragraph—

"associate" has the meaning given in subsections (3) and (4) of section 417, except that in those subsections (as applied for the purposes of this paragraph) "relative" shall not include a brother or sister; and

"the relevant period", in relation to relief under this Part of this Schedule in respect of any shares in a company which is a venture capital trust, means the period beginning with the incorporation of the company (or, if the company was incorporated more than two years before the date on which the shares were issued, beginning two years before that date) and ending five years after the issue of the shares.

Loss of investment relief

3.—(1) This paragraph applies, subject to sub-paragraph (5) below, where—

(a) an individual who has made any claim for relief under this Part of this Schedule makes any disposal of eligible shares in a venture capital trust, and

(b) that disposal takes place before the end of the period of five years beginning with the issue of those shares to that individual.

(2) If the disposal is made otherwise than by way of a bargain made at arm's length, any relief given under this Part of this Schedule by reference to the shares which are disposed of shall be withdrawn.

(3) Where the disposal was made by way of a bargain made at arm's length—

(a) if, apart from this sub-paragraph, the relief given by reference to the shares that are disposed of is greater than the amount mentioned in sub-paragraph (4) below, it shall be reduced by that amount, and

(b) if paragraph (a) above does not apply, any relief given by reference to those shares shall be withdrawn.

(4) The amount referred to in sub-paragraph (3) above is an amount equal to tax at the lower rate for the year of assessment for which the relief was given on the amount or value of the consideration which the individual receives for the shares.

(5) This paragraph shall not apply in the case of any disposal of shares which is made by a married man to his wife or by a married woman to her husband if it is made, in either case, at a time when they are living together.

(6) Where any eligible shares issued to any individual ("the transferor"), being shares by reference to which any amount of relief under this Part of this Schedule has been given, are transferred to the transferor's spouse ("the transferee") by a disposal such as is mentioned in sub-paragraph (5) above, this paragraph shall have effect, in relation to any subsequent disposal or other event, as if—

(a) the transferee were the person who had subscribed for the shares,

(b) the shares had been issued to the transferee at the time when they were issued to the transferor,

(c) there had been, in respect of the transferred shares, such a reduction under this Part of this Schedule in the transferee's liability to income tax as is equal to the actual reduction in respect of those shares of the transferor's liability, and

(d) that deemed reduction were (notwithstanding the transfer) to be treated for the purposes of this paragraph as an amount of relief given by reference to the shares transferred.

(7) Any assessment for withdrawing or reducing relief by reason of a disposal or other event falling within sub-paragraph (6) above shall be made on the transferee.

(8) In determining for the purposes of this paragraph any question whether any disposal relates to shares by reference to which any relief under this Part of this Schedule has been given, it shall be assumed, in relation to any disposal by any person of any eligible shares in a venture capital trust, that—

(a) as between eligible shares acquired by the same person on different days, those acquired on an earlier day are disposed of by that person before those acquired on a later day; and

(b) as between eligible shares acquired by the same person on the same day, those by reference to which relief under this Part of this Schedule has been given are disposed of by that person only after he has disposed of any other eligible shares acquired by him on that day.

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(9) Where—

(a) the approval of any company as a venture capital trust is withdrawn, and

(b) the withdrawal of the approval is not one to which section 842AA(8) applies,

any person who, at the time when the withdrawal takes effect, is holding any shares by reference to which relief under this Part of this Schedule has been given shall be deemed for the purposes of this paragraph to have disposed of those shares immediately before that time and otherwise than by way of a bargain made at arm's length.

Assessment on withdrawal or reduction of relief

4.—(1) Any relief given under this Part of this Schedule which is subsequently found not to have been due shall be withdrawn by the making of an assessment to tax under Case VI of Schedule D for the year of assessment for which the relief was given.

(2) An assessment for withdrawing or reducing relief in pursuance of paragraph 3 above shall also be made as an assessment to tax under Case VI of Schedule D for the year of assessment for which the relief was given.

(3) No assessment for withdrawing or reducing relief given by reference to shares issued to any person shall be made by reason of any event occurring after his death.

Provision of information

5.—(1) Where an event occurs by reason of which any relief under this Part of this Schedule falls to be withdrawn or reduced, the individual to whom the relief was given shall, within 60 days of his coming to know of the event, give a notice to the inspector containing particulars of the event.

(2) If the inspector has reason to believe that a person has not given a notice which he is required to give under sub-paragraph (1) above in respect of any event, the inspector may by notice require that person to furnish him within such time (not being less than 60 days) as may be specified in the notice with such information relating to the event as the inspector may reasonably require for the purposes of this Part of this Schedule.

(3) No obligation as to secrecy imposed by statute or otherwise shall preclude the inspector from disclosing to a venture capital trust that relief given by reference to a particular number or proportion of its shares has been given or claimed under this Part of this Schedule.

Interpretation of Part I

6.—(1) In this Part of this Schedule "eligible shares", in relation to a company which is a venture capital trust, means new ordinary shares in that trust which, throughout the period of five years beginning with the date on which they are issued, carry no present or future preferential right to dividends or to a company's assets on its winding up and no present or future preferential right to be redeemed.

(2) In this Part of this Schedule "ordinary shares", in relation to a company, means shares forming part of a company's ordinary share capital.

(3) In this Part of this Schedule references to a disposal of shares shall include references to a disposal of an interest or right in or over the shares.

PART II

RELIEF ON DISTRIBUTIONS

7.—(1) A relevant distribution of a venture capital trust shall not be regarded as income for any income tax purposes if the person beneficially entitled to it is a qualifying investor.

(2) For the purposes of this paragraph a person is a qualifying investor, in relation to any distribution, if he is an individual who has attained the age of eighteen years and is beneficially entitled to the distribution—

(a) as the person who himself holds the shares in respect of which the distribution is made, or

(b) as a person with such a beneficial entitlement to the shares as derives from their being held for him, or for his benefit, by a nominee of his.

(3) In this paragraph "relevant distribution", in relation to a company which is a venture capital trust, means any distribution which—

(a) consists in a dividend (including a capital dividend) which is paid in respect of any ordinary shares in that company which—

(i) were acquired by the person to whom the distribution is made at a time when the company was such a trust, and

(ii) are not shares acquired in excess of the permitted maximum for any year of assessment;

and

(b) is not a dividend paid in respect of profits or gains arising or accruing in any accounting period ending at a time when the company was not such a trust.

Meaning of "permitted maximum"

8.—(1) For the purposes of this Part of this Schedule shares in a venture capital trust shall be treated, in relation to any individual, as acquired in excess of the permitted maximum for any year of assessment to the extent that the value of the shares comprised in the relevant acquisitions of that individual for that year exceeds £100,000.

(2) The reference in sub-paragraph (1) above to the relevant acquisitions of an individual for a year of assessment is a reference to all shares which—

(a) are acquired in that year of assessment by that individual or any nominee of his;

(b) are ordinary shares in a company which is a venture capital trust at the time of their acquisition; and

(c) are shares so acquired for bona fide commercial purposes and not as part of a scheme or arrangement the main purpose of which, or one of the main purposes of which, is the avoidance of tax.

(3) Sub-paragraph (4) below applies where—

(a) any ordinary shares in a venture capital trust ("the new shares") are acquired by any individual in circumstances in which they are required for the purposes of the 1992 Act to be treated as the same assets as any other shares; and

(b) the other shares consist of or include any ordinary shares in a venture capital trust that were, or are treated as, acquired otherwise than in excess of the permitted maximum for any year of assessment.

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(4) Where this sub-paragraph applies—

(a) the value of the new shares shall be disregarded in determining whether any other shares acquired in the same year of assessment as the new shares are acquired in excess of the permitted maximum for that year; and

(b) the new shares or, as the case may be, an appropriate proportion of them shall be treated as themselves acquired otherwise than in excess of the permitted maximum.

(5) For the purposes of this paragraph the value of any shares acquired by or on behalf of any individual shall be taken to be their market value (within the meaning of the 1992 Act) at the time of their acquisition.

(6) Where any shares in a venture capital trust are acquired in excess of the permitted maximum for any year of assessment, the shares representing the excess shall be identified for the purposes of this Part of this Schedule—

(a) by treating shares acquired later in the year as comprised in the excess before those acquired earlier in the year;

(b) by treating shares of different descriptions acquired on the same day as acquired within the permitted maximum in the same proportions as are borne by the respective values of the shares comprised in the acquisitions of each description to the total value of all the shares in the trust acquired on that day; and

(c) by applying the rules in section 151A(4) and (5) of the 1992 Act for determining the shares to which any disposal of shares in the trust relates (even one which is not a disposal for the purposes of that Act).

Interpretation of Part II

9.—(1) In this Part of this Schedule "ordinary shares", in relation to a company, means shares forming part of the company's ordinary share capital.

(2) In this Part of this Schedule "nominee", in relation to any individual, includes the trustees of a bare trust of which that individual is the only beneficiary.

Section 72.

SCHEDULE 16

VENTURE CAPITAL TRUSTS: DEFERRED CHARGE ON RE-INVESTMENT

Application of Schedule

1.—(1) This Schedule applies where—

(a) there would (apart from paragraph 2(2)(a) below) be a chargeable gain ("the original gain") accruing to an individual ("the investor") at any time ("the accrual time") on or after 6th April 1995;

(b) that gain is one accruing on the disposal by the investor of any asset or in accordance with paragraphs 4 and 5 of Schedule 5B or paragraphs 4 and 5 below;

(c) the investor makes a qualifying investment; and

(d) the investor is resident or ordinarily resident in the United Kingdom at the accrual time and the time when he makes the qualifying investment and is not, in relation to the qualifying investment, a person to whom sub-paragraph (4) below applies.

(2) The investor makes a qualifying investment for the purposes of this Schedule if—

(a) he subscribes for any shares by reference to which he is given relief under Part I of Schedule 15B to the Taxes Act on any amount;

(b) those shares are issued at a qualifying time; and

(c) where that time is before the accrual time, those shares are still held by the investor at the accrual time;

and in this Schedule "relevant shares", in relation to a case to which this Schedule applies, means any of the shares in a venture capital trust which are acquired by the investor in making the qualifying investment.

(3) In this Schedule "a qualifying time", in relation to any shares subscribed for by the investor, means—

(a) any time in the period beginning twelve months before the accrual time and ending twelve months after the accrual time, or

(b) any such time before the beginning of that period or after it ends as the Board may by notice allow.

(4) This sub-paragraph applies to an individual in relation to a qualifying investment if—

(a) though resident or ordinarily resident in the United Kingdom at the time when he makes the investment, he is regarded for the purposes of any double taxation relief arrangements as resident in a territory outside the United Kingdom; and

(b) were section 151A(1) to be disregarded, the arrangements would have the effect that he would not be liable in the United Kingdom to tax on a gain arising on a disposal, immediately after their acquisition, of the shares acquired in making that investment.

The postponement of the original gain

2.—(1) On the making of a claim by the investor for the purposes of this Schedule, so much of the investor's unused qualifying expenditure on relevant shares as—

(a) is specified in the claim, and

(b) does not exceed so much of the original gain as is unmatched,

shall be set against a corresponding amount of the original gain.

(2) Where the amount of any qualifying expenditure on any relevant shares is set under this Schedule against the whole or any part of the original gain—

(a) so much of that gain as is equal to that amount shall be treated as not having accrued at the accrual time; but

(b) paragraphs 4 and 5 below shall apply for determining the gain that is to be treated as accruing on the occurrence of any chargeable event in relation to any of those relevant shares.

(3) For the purposes of this Schedule, but subject to the following provisions of this paragraph—

(a) the investor's qualifying expenditure on any relevant shares is the sum equal to the amount on which he is given relief under Part I of Schedule 15B to the Taxes Act by reference to those shares; and

(b) that expenditure is unused to the extent that it has not already been set under this Schedule against the whole or any part of a chargeable gain.

(4) For the purposes of this paragraph the original gain is unmatched, in relation to any qualifying expenditure on relevant shares, to the extent that it has not had any other amount set against it under this Schedule or Schedule 5B.

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Chargeable events

3.—(1) Subject to the following provisions of this paragraph, there is for the purposes of this Schedule a chargeable event in relation to any relevant shares if, after the making of the qualifying investment—

(a) the investor disposes of those shares otherwise than by way of a disposal within marriage;

(b) those shares are disposed of, otherwise than by way of a disposal to the investor, by a person who acquired them on a disposal made by the investor within marriage;

(c) there is, in a case where those shares fall within section 151B(3)(c), such an actual or deemed exchange of those shares for any non-qualifying holdings as, under section 135 or 136, requires, or but for section 116 would require, those holdings to be treated for the purposes of this Act as the same assets as those shares;

(d) the investor becomes a non-resident while holding those shares and within the relevant period;

(e) a person who acquired those shares on a disposal within marriage becomes a non-resident while holding those shares and within the relevant period;

(f) the company in which those shares are shares has its approval as a venture capital trust withdrawn in a case to which section 842AA(8) of the Taxes Act does not apply; or

(g) the relief given under Part I of Schedule 15B to the Taxes Act by reference to those shares is withdrawn or reduced in circumstances not falling within any of paragraphs (a) to (f) above.

(2) In sub-paragraph (1) above—

"non-qualifying holdings" means any shares or securities other than any ordinary shares (within the meaning of section 151A) in a venture capital trust; and

"the relevant period", in relation to any relevant shares, means the period of five years beginning with the time when the investor made the qualifying investment by virtue of which he acquired those shares.

(3) For the purposes of sub-paragraph (1) above there shall not be a chargeable event by virtue of sub-paragraph (1)(d) or (e) above in relation to any shares if—

(a) the reason why the person in question becomes a non-resident 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 three years from the time when he became a non-resident, without having meanwhile disposed of any of those shares;

and, accordingly, no assessment shall be made by virtue of sub-paragraph (1)(d) or (e) 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.

(4) For the purposes of sub-paragraph (3) above a person shall be taken to have disposed of any shares if and only 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 chargeable event in relation to those shares.

(5) Where in any case—

(a) the investor or a person who has acquired any relevant shares on a disposal within marriage dies, and

(b) an event occurs at or after the time of the death which (apart from this sub-paragraph) would be a chargeable event in relation to any relevant shares held by the deceased immediately before his death,

that event shall not be chargeable event in relation to the shares so held.

(6) Without prejudice to the operation of paragraphs 4 and 5 below in a case falling within sub-paragraph (1)(f) above, the references in this paragraph to a disposal shall not include references to the disposal which by virtue of section 151B(6) is deemed to take place in such a case.

Gain accruing on chargeable event

4.—(1) On the occurrence of a chargeable event in relation to any relevant shares in relation to which there has not been a previous chargeable event—

(a) a chargeable gain shall be treated as accruing at the time of the event; and

(b) the amount of the gain shall be equal to so much of the original gain as is an amount against which there has under this Schedule been set any expenditure on those shares.

(2) In determining for the purposes of this Schedule any question whether any shares to which a chargeable event relates are shares the expenditure on which has under this Schedule been set against the whole or any part of any gain, the assumptions in sub-paragraph (3) below shall apply and, in a case where the shares are not (within the meaning of section 151B) eligible for relief under section 151A(1), shall apply notwithstanding anything in any of sections 104, 105 and 107.

(3) Those assumptions are that—

(a) as between shares acquired by the same person on different days, those acquired on an earlier day are disposed of by that person before those acquired on a later day; and

(b) as between shares in a company that were acquired on the same day, those the expenditure on which has been set under this Schedule against the whole or any part of any gain are disposed of by that person only after he has disposed of any other shares in that company that were acquired by him on that day.

(4) Where at the time of a chargeable event any relevant shares are treated for the purposes of this Act as represented by assets which consist of or include assets other than the relevant shares—

(a) the expenditure on those shares which was set against the gain in question shall be treated, in determining for the purposes of this paragraph the amount of expenditure on each of those assets which is to be treated as having been set against that gain, as apportioned in such manner as may be just and reasonable between those assets; and

(b) as between different assets treated as representing the same relevant shares, the assumptions mentioned in sub-paragraph (3) above shall apply with the necessary modifications in relation to those assets as they would apply in relation to the shares.

Persons to whom gain accrues

5.—(1) The chargeable gain which accrues in accordance with paragraph 4 above on the occurrence in relation to any relevant shares of a chargeable event shall be treated as accruing, as the case may be—

(a) to the person who makes the disposal,

(b) to the person who holds the shares in question at the time of the exchange or deemed exchange,

(c) to the person who becomes a non-resident,

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(d) to the person who holds the shares in question when the withdrawal of the approval takes effect, or

(e) to the person who holds the shares in question when the circumstances arise in respect of which the relief is withdrawn or reduced.

(2) Where—

(a) sub-paragraph (1) above provides for the holding of shares at a particular time to be what identifies the person to whom any chargeable gain accrues, and

(b) at that time, some of those shares are held by the investor and others are held by a person to whom the investor has transferred them by a disposal within marriage,

the amount of the chargeable gain accruing by virtue of paragraph 4 above shall be computed separately in relation to the investor and that person without reference to the shares held by the other.

Interpretation

6.—(1) In this Schedule "non-resident" means a person who is neither resident nor ordinarily resident in the United Kingdom.

(2) In this Schedule references to a disposal within marriage are references to any disposal to which section 58 applies.

(3) Notwithstanding anything in section 288(5), shares shall not for the purposes of this Schedule be treated as issued by reason only of being comprised in a letter of allotment or similar instrument.

Section 74.

SCHEDULE 17

SETTLEMENTS: LIABILITY OF SETTLOR

PART I

THE NEW PROVISIONS

1. In Part XV of the Taxes Act 1988 (settlements) the following provisions are inserted (in place of sections 660 to 676 and 683 to 685) as Chapter IA—

"CHAPTER IA

LIABILITY OF SETTLOR

Main provisions

Income arising under settlement where settlor retains an interest.

660A.—(1) Income arising under a settlement during the life of the settlor shall be treated for all purposes of the Income Tax Acts as the income of the settlor and not as the income of any other person unless the income arises from property in which the settlor has no interest.

(2) Subject to the following provisions of this section, a settlor shall be regarded as having an interest in property if that property or any derived property is, or will or may become, payable to or applicable for the benefit of the settlor or his spouse in any circumstances whatsoever.

(3) The reference in subsection (2) above to the spouse of the settlor does not include—

(a) a person to whom the settlor is not for the time being married but may later marry, or

(b) a spouse from whom the settlor is separated under an order of a court, or under a separation agreement or in such circumstances that the separation is likely to be permanent, or

(c) the widow or widower of the settlor.

(4) A settlor shall not be regarded as having an interest in property by virtue of subsection (2) above if and so long as none of that property, and no derived property, can become payable or applicable as mentioned in that subsection except in the event of—

(a) the bankruptcy of some person who is or may become beneficially entitled to the property or any derived property, or

(b) an assignment of or charge on the property or any derived property being made or given by some such person, or

(c) in the case of a marriage settlement, the death of both parties to the marriage and of all or any of the children of the marriage, or

(d) the death of a child of the settlor who had become beneficially entitled to the property or any derived property at an age not exceeding 25.

(5) A settlor shall not be regarded as having an interest in property by virtue of subsection (2) above if and so long as some person is alive and under the age of 25 during whose life that property, or any derived property, cannot become payable or applicable as mentioned in that subsection except in the event of that person becoming bankrupt or assigning or charging his interest in the property or any derived property.

(6) The reference in subsection (1) above to a settlement does not include an outright gift by one spouse to the other of property from which income arises, unless—

(a) the gift does not carry a right to the whole of that income, or

(b) the property given is wholly or substantially a right to income.

For this purpose a gift is not an outright gift if it is subject to conditions, or if the property given or any derived property is or will or may become, in any circumstances whatsoever, payable to or applicable for the benefit of the donor.

(7) The reference in subsection (1) above to a settlement does not include an irrevocable allocation of pension rights by one spouse to the other in accordance with the terms of a relevant statutory scheme (within the meaning of Chapter I of Part XIV).

(8) Subsection (1) above does not apply to income arising under a settlement made by one party to a marriage by way of provision for the other—

(a) after the dissolution or annulment of the marriage, or

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(b) while they are separated under an order of a court, or under a separation agreement or in such circumstances that the separation is likely to be permanent,

being income payable to or applicable for the benefit of that other party.

(9) Subsection (1) above does not apply to income consisting of—

(a) annual payments made by an individual for bona fide commercial reasons in connection with his trade, profession or vocation; or

(b) covenanted payments to charity (as defined by section 347A(7)).

(10) In this section "derived property", in relation to any property, means income from that property or any other property directly or indirectly representing proceeds of, or of income from, that property or income therefrom.

Payments to unmarried minor children of settlor.

660B.—(1) Income arising under a settlement which does not fall to be treated as income of the settlor under section 660A but which during the life of the settlor is paid to or for the benefit of an unmarried minor child of the settlor in any year of assessment shall be treated for all the purposes of the Income Tax Acts as the income of the settlor for that year and not as the income of any other person.

(2) Where income arising under a settlement is retained or accumulated by the trustees, any payment whatsoever made thereafter by virtue or in consequence of the settlement, or any enactment relating thereto, to or for the benefit of an unmarried minor child of the settlor shall be deemed for the purposes of subsection (1) above to be a payment of income if or to the extent that there is available retained or accumulated income.

(3) There shall be taken to be available retained or accumulated income at any time when the aggregate amount of the income which has arisen under the settlement since it was made or entered into exceeds the aggregate amount of income so arising which has been—

(a) treated as income of the settlor or a beneficiary, or

(b) paid (whether as income or capital) to or for the benefit of a beneficiary other than an unmarried minor child of the settlor, or

(c) applied in defraying expenses of the trustees which were properly chargeable to income (or would have been so chargeable but for any express provisions of the trust).

(4) Where an offshore income gain (within the meaning of Chapter V of Part XVII) accrues in respect of a disposal of assets made by a trustee holding them for a person who would be absolutely entitled as against the trustee but for being a minor, the income which by virtue of section 761(1) is treated as arising by reference to that gain shall for the purposes of this section be deemed to be paid to that person.

(5) Income paid to or for the benefit of a child of a settlor shall not be treated as provided in subsection (1) above for a

year of assessment in which the aggregate amount paid to or for the benefit of that child which but for this subsection would be so treated does not exceed £100.

(6) In this section—

(a) "child" includes a stepchild and an illegitimate child;

(b) "minor" means a person under the age of 18 years, and "minor child" shall be construed accordingly; and

(c) references to payments include payments in money or money's worth.

Nature of charge on settlor.

660C.—(1) Tax chargeable by virtue of this Chapter shall be charged under Case VI of Schedule D.

(2) In computing the liability to income tax of a settlor chargeable by virtue of this Chapter the same deductions and reliefs shall be allowed as would have been allowed if the income treated as his by virtue of this Chapter had been received by him.

(3) Subject to section 833(3), income which is treated by virtue of this Chapter as income of a settlor shall be deemed for the purposes of this section to be the highest part of his income.

Adjustments between settlor and trustees, &c.

660D.—(1) Where by virtue of this Chapter income tax becomes chargeable on and is paid by a settlor, he is entitled—

(a) to recover from any trustee, or any other person to whom the income is payable by virtue or in consequence of the settlement, the amount of the tax so paid; and

(b) for that purpose to require an officer of the Board to furnish to him a certificate specifying the amount of income in respect of which he has so paid tax and the amount of tax so paid.

A certificate so furnished is conclusive evidence of the facts stated therein.

(2) Where a person obtains, in respect of an allowance or relief, a repayment of income tax in excess of the amount of the repayment to which he would, but for this Chapter, have been entitled, an amount equal to the excess shall be paid by him to the trustee, or other person to whom the income is payable by virtue or in consequence of the settlement, or, where there are two or more such persons, shall be apportioned among those persons as the case may require.

If any question arises as to the amount of a payment or as to an apportionment to be made under this subsection, that question shall be decided by the General Commissioners whose decision shall be final.

(3) Nothing in this Chapter shall be construed as excluding a charge to tax on the trustees as persons by whom any income is received.

Supplementary provisions

Application to settlements by two or more settlors.

660E.—(1) In the case of a settlement where there is more than one settlor, this Chapter shall have effect in relation to each settlor as if he were the only settlor, as follows.

(2) In this Chapter, in relation to a settlor—

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(a) references to the property comprised in a settlement include only property originating from that settlor, and

(b) references to income arising under the settlement include only income originating from that settlor.

(3) For the purposes of section 660B there shall be taken into account, in relation to a settlor, as income paid to or for the benefit of a child of the settlor only—

(a) income originating from that settlor, and

(b) in a case in which section 660B(2) applies, payments which are under that provision (as adapted by subsection (4) below) to be deemed to be payments of income.

(4) In applying section 660B(2) to a settlor—

(a) the reference to income arising under the settlement includes only income originating from that settlor; and

(b) the reference to any payment made by virtue or in consequence of the settlement or any enactment relating thereto includes only a payment made out of property originating from that settlor or income originating from that settlor.

(5) References in this section to property originating from a settlor are references to—

(a) property which that settlor has provided directly or indirectly for the purposes of the settlement; and

(b) property representing that property; and

(c) so much of any property which represents both property so provided and other property as, on a just apportionment, represents the property so provided.

(6) References in this section to income originating from a settlor are references to—

(a) income from property originating from that settlor; and

(b) income provided directly or indirectly by that settlor.

(7) In subsections (5) and (6) above—

(a) references to property or income which a settlor has provided directly or indirectly include references to property or income which has been provided directly or indirectly by another person in pursuance of reciprocal arrangements with that settlor, but do not include references to property or income which that settlor has provided directly or indirectly in pursuance of reciprocal arrangements with another person; and

(b) references to property which represents other property include references to property which represents accumulated income from that other property.

Power to obtain information.

660F. An officer of the Board may by notice require any party to a settlement to furnish him within such time as he may direct (not being less than 28 days) with such particulars as he thinks necessary for the purposes of this Chapter.

Meaning of "settlement" and related expressions.

660G.—(1) In this Chapter—

"settlement" includes any disposition, trust, covenant, agreement, arrangement or transfer of assets, and

"settlor", in relation to a settlement, means any person by whom the settlement was made.

(2) A person shall be deemed for the purposes of this Chapter to have made a settlement if he has made or entered into the settlement directly or indirectly, and, in particular, but without prejudice to the generality of the preceding words, if he has provided or undertaken to provide funds directly or indirectly for the purpose of the settlement, or has made with any other person a reciprocal arrangement for that other person to make or enter into the settlement.

(3) References in this Chapter to income arising under a settlement include, subject to subsection (4) below, any income chargeable to income tax by deduction or otherwise, and any income which would have been so chargeable if it had been received in the United Kingdom by a person domiciled, resident and ordinarily resident in the United Kingdom.

(4) Where the settlor is not domiciled, or not resident, or not ordinarily resident, in the United Kingdom in a year of assessment, references in this Chapter to income arising under a settlement do not include income arising under the settlement in that year in respect of which the settlor, if he were actually entitled thereto, would not be chargeable to income tax by deduction or otherwise by reason of his not being so domiciled, resident or ordinarily resident.

But where such income is remitted to the United Kingdom in circumstances such that, if the settlor were actually entitled to that income when remitted, he would be chargeable to income tax by reason of his residence in the United Kingdom, it shall be treated for the purposes of this Chapter as arising under the settlement in the year in which it is remitted.".

PART II

MINOR AND CONSEQUENTIAL AMENDMENTS OF THE TAXES ACT 1988

2. In section 125(3)(a) of the Taxes Act 1988, for the words from "subsection (1)(a)" to the end substitute "section 660A(8) or (9)(a)".

3. In section 339(1)(a) of the Taxes Act 1988, for "section 660(3)" substitute "section 347A(7)".

4.—(1) Section 347A of the Taxes Act 1988 (annual payments not a charge on the income of the payer) applies to a payment which is treated by virtue of Chapter IA of Part XV of the Taxes Act 1988 as income of the payer notwithstanding that it is made in pursuance of an obligation which is an existing obligation within the meaning of section 36(3) of the Finance Act 1988.

1988 c. 39.

(2) In section 347A of the Taxes Act 1988, after subsection (6) add—

"(7) In subsection (2)(b) above "a covenanted payment to charity" means a payment made under a covenant made otherwise than for consideration in money or money's worth in favour of a body of persons or trust established for charitable purposes only whereby the like annual payments (of which the payment in question is one) become payable for a

period which may exceed three years and is not capable of earlier termination under any power exercisable without the consent of the persons for the time being entitled to the payments.

(8) For the purposes of subsection (7) above the bodies mentioned in section 507 shall each be treated as a body of persons established for charitable purposes only."

5. In section 360A(2)(b) of the Taxes Act 1988, for "section 681(4)" substitute "Chapter IA of Part XV (see section 660G(1) and (2))".

6. In section 417(3)(b) of the Taxes Act 1988, for "section 681(4)" substitute "Chapter IA of Part XV (see section 660G(1) and (2))".

7. In section 505(6) of the Taxes Act 1988, for "section 660(3)" substitute "section 347A(7)".

8. Before section 677 of the Taxes Act 1988 insert the heading—

"Chapter IB

Provisions as to capital sums paid to settlor".

9.—(1) Section 677 of the Taxes Act 1988 is amended as follows.

(2) In subsection (2)(b) after "the amount of" insert "that income taken into account under that subsection in relation to".

(3) After subsection (2)(f) insert—

"(fa) any income arising under the settlement in that year or any previous year which has been treated as income of the settlor by virtue of section 660A or 660B; and".

(4) In subsection (9) after "one of the events specified in section 673(3)" insert "or, in the case of a sum paid on or after 6th April 1995, in one of the events specified in section 660A(4) or on the death under the age of 25 of any such person as is mentioned in section 660A(5)".

10. In section 678 of the Taxes Act 1988, omit subsection (7).

11. After section 682 of the Taxes Act 1988 insert—

"Supplementary provisions.

682A.—(1) The provisions of sections 660E to 660G apply for the purposes of this Chapter as they apply for the purposes of Chapter IA.

(2) For the purposes of this Chapter, a body corporate shall be deemed to be connected with a settlement in any year of assessment if at any time in that year—

(a) it is a close company (or only not a close company because it is not resident in the United Kingdom) and the participators then include the trustees of the settlement; or

(b) it is controlled (within the meaning of section 840) by a company falling within paragraph (a) above."

12. For the heading before section 686 of the Taxes Act 1988 substitute—

"CHAPTER IC

LIABILITY OF TRUSTEES".

13. In section 686 of the Taxes Act 1988 (liability to income tax at rate applicable to trusts), in subsection (2) (income to which the section applies) for paragraph (b) substitute—

"(b) is not, before being distributed, either—

(i) the income of any person other than the trustees, or

(ii) treated for any of the purposes of the Income Tax Acts as the income of a settlor; and".

14.—(1) Section 687 of the Taxes Act 1988 (payments under discretionary trusts) is amended as follows.

(2) For subsection (1) (cases in which the section applies) substitute—

"(1) Where in any year of assessment trustees make a payment to any person in the exercise of a discretion, whether a discretion exercisable by them or by any other person, then if the payment—

(a) is for all the purposes of the Income Tax Acts income of the person to whom it is made (but would not be his income if it were not made to him), or

(b) is treated for those purposes as the income of the settlor by virtue of section 660B,

the following provisions of this section apply with respect to the payment in lieu of section 348 or 349(1).".

(3) In subsection (2)(a) (person credited with having paid tax) after "to whom the payment is made" insert "or, as the case may be, the settlor".

(4) After subsection (4) add—

"(5) References in this section to payments include payments in money or money's worth.".

15. Omit section 689 of the Taxes Act 1988 (recovery from trustees of discretionary trusts of higher rate tax due from beneficiaries).

16. In section 694(3) of the Taxes Act 1988, for "Chapters I to IV" substitute "Chapter IA".

17.—(1) Section 720 of the Taxes Act 1988 is amended as follows.

(2) In subsection (6)—

(a) for "Chapters II to IV" substitute "Chapters IA, IB and IC"; and

(b) for the words from "(within Chapter II)" to the end substitute "arising under the settlement".

(3) In subsection (7) for "Chapters II to IV" substitute "Chapters IA, IB and IC".

(4) In subsection (8)(a) for "Chapter II, III or IV of Part XV (as the case may be)" substitute "Chapter IA of Part XV (see section 660G(1) and (2))".

18. In section 745(6) of the Taxes Act 1988, for "section 681(4)" substitute "section 660G(1) and (2)".

19. In section 783(10)(b) of the Taxes Act 1988, for "section 670(2)" substitute "section 660G(1) and (2)".

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20. In section 839(3) of the Taxes Act 1988, for subsection (3) substitute—

"(3) A person, in his capacity as trustee of a settlement, is connected with—

(a) any individual who in relation to the settlement is a settlor,

(b) any person who is connected with such an individual, and

(c) any body corporate which is connected with that settlement.

In this subsection "settlement" and "settlor" have the same meaning as in Chapter IA of Part XV (see section 660G(1) and (2)).

(3A) For the purpose of subsection (3) above a body corporate is connected with a settlement if—

(a) it is a close company (or only not a close company because it is not resident in the United Kingdom) and the participators include the trustees of the settlement; or

(b) it is controlled (within the meaning of section 840) by a company falling within paragraph (a) above.".

PART III

CONSEQUENTIAL AMENDMENTS OF OTHER ENACTMENTS

Taxes Management Act 1970 (c.9)

21. In section 27(2) of the Taxes Management Act 1970, for "section 681(4)" substitute "section 660G(1) and (2)".

22. In section 31(3) of the Taxes Management Act 1970 (including that provision as proposed to be substituted by paragraph 7 of Schedule 19 to the Finance Act 1994), for "sections 660 to 685" substitute "sections 660A to 660G or 677 to 682A".

1994 c. 9.

23. In column 1 of the Table in section 98 of the Taxes Management Act 1970, for the references to section 669 and 680 of the Taxes Act 1988 substitute "section 660F".

Finance Act 1989 (c.26)

24. In section 59(1)(c) of the Finance Act 1989, for "section 660(3)" substitute "section 347A(7)".

25. In section 60 of the Finance Act 1989, omit subsection (3) and in subsection (4) for "subsections (2) and (3)" substitute "subsection (2)".

Finance Act 1990 (c.29)

26. In section 25(12)(b) of the Finance Act 1990, for "section 660(3)" substitute "section 347A(7)".

Taxation of Chargeable Gains Act 1992 (c.12)

27. For section 77 of the Taxation of Chargeable Gains Act 1992 (charge on settlor with interest in settlement), substitute—

"Charge on settlor with interest in settlement.

77.—(1) Where in a year of assessment—

(a) chargeable gains accrue to the trustees of a settlement from the disposal of any or all of the settled property,

(b) after making any deduction provided for by section 2(2) in respect of disposals of the settled property there remains an amount on which the trustees would,

disregarding section 3, be chargeable to tax for the year in respect of those gains, and

(c) at any time during the year the settlor has an interest in the settlement,

the trustees shall not be chargeable to tax in respect of those but instead chargeable gains of an amount equal to that referred to in paragraph (b) shall be treated as accruing to the settlor in that year.

(2) Subject to the following provisions of this section, a settlor shall be regarded as having an interest in a settlement if—

(a) any property which may at any time be comprised in the settlement, or any derived property is, or will or may become, payable to or applicable for the benefit of the settlor or his spouse in any circumstances whatsoever, or

(b) the settlor or his spouse enjoys a benefit deriving directly or indirectly from any property which is comprised in the settlement or any derived property.

(3) The references in subsection (2)(a) and (b) above to the spouse of the settlor do not include—

(a) a person to whom the settlor is not for the time being married but may later marry, or

(b) a spouse from whom the settlor is separated under an order of a court, or under a separation agreement or in such circumstances that the separation is likely to be permanent, or

(c) the widow or widower of the settlor.

(4) A settlor shall not be regarded as having an interest in a settlement by virtue of subsection (2)(a) above if and so long as none of the property which may at any time be comprised in the settlement, and no derived property, can become payable or applicable as mentioned in that provision except in the event of—

(a) the bankruptcy of some person who is or may become beneficially entitled to the property or any derived property, or

(b) an assignment of or charge on the property or any derived property being made or given by some such person, or

(c) in the case of a marriage settlement, the death of both parties to the marriage and of all or any of the children of the marriage, or

(d) the death of a child of the settlor who had become beneficially entitled to the property or any derived property at an age not exceeding 25.

(5) A settlor shall not be regarded as having an interest in a settlement by virtue of subsection (2)(a) above if and so long as some person is alive and under the age of 25 during whose life the property or any derived property cannot become payable or applicable as mentioned in that provision except in the event of that person becoming bankrupt or assigning or charging his interest in that property.

(6) This section does not apply—

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(a) where the settlor dies during the year; or

(b) in a case where the settlor is regarded as having an interest in the settlement by reason only of—

(i) the fact that property is, or will or may become, payable to or applicable for the benefit of his spouse, or

(ii) the fact that a benefit is enjoyed by his spouse,

where the spouse dies, or the settlor and the spouse cease to be married, during the year.

(7) This section does not apply unless the settlor is, and the trustees are, either resident in the United Kingdom during any part of the year or ordinarily resident in the United Kingdom during the year.

(8) In this section "derived property", in relation to any property, means income from that property or any other property directly or indirectly representing proceeds of, or of income from, that property or income therefrom.".

28. In section 78 of the Taxation of Chargeable Gains Act 1992, in subsections (1), (2) and (3), for "section 77(2)" substitute "section 77".

29.—(1) Section 79 of the Taxation of Chargeable Gains Act 1992 is amended as follows.

(2) In subsection (2) omit paragraph (b) and the word "and" preceding it.

(3) Omit subsection (4).

(4) In subsection (5)—

(a) for "subsections (3) and (4)" substitute "subsection (3)"; and

(b) in paragraph (a), omit the words "or income" wherever occurring.

30. In section 97 of the Taxation of Chargeable Gains Act 1992, in subsection (7) for "section 681(4)" substitute "section 660G(1) and (2)".

31. In section 286 of the Taxation of Chargeable Gains Act 1992, for subsection (3) substitute—

"(3) A person, in his capacity as trustee of a settlement, is connected with—

(a) any individual who in relation to the settlement is a settlor,

(b) any person who is connected with such an individual, and

(c) any body corporate which is connected with that settlement.

In this subsection "settlement" and "settlor" have the same meaning as in Chapter IA of Part XV of the Taxes Act (see section 660G(1) and (2) of that Act).

(3A) For the purpose of subsection (3) above a body corporate is connected with a settlement if—

(a) it is a close company (or only not a close company because it is not resident in the United Kingdom) and the participators include the trustees of the settlement; or

(b) it is controlled (within the meaning of section 840 of the Taxes Act) by a company falling within paragraph (a) above.".

32. In Schedule 1 to the Taxation of Chargeable Gains Act 1992, in paragraph 2(7), for "section 681(4)" substitute "section 660G(1) and (2)".

SCHEDULE 18

Section 75.

Deceased persons' estates

Introductory

1. Part XVI of the Taxes Act 1988 shall be amended as follows.

Limited interests in residue

2.—(1) In section 695 (limited interests in residue), the words "subject to subsection (3) below" in subsection (2) shall be omitted, and the following subsection shall be substituted for subsection (3)—

"(3) Where, on the completion of the administration of the estate, there is an amount which remains payable in respect of that limited interest, that amount shall be deemed for all tax purposes to have been paid to that person as income for the year of assessment in which the administration period ends or, in the case of a sum which is deemed to be paid in respect of an interest that ceased before the end of that period, for the last year of assessment in which that interest was subsisting."

(2) This paragraph has effect in relation to any estate the administration of which is completed on or after 6th April 1995.

Absolute interests in residue

3.—(1) In section 696 (absolute interests in residue), for subsection (3) there shall be substituted the following subsections—

"(3) When any sum has been paid during the administration period in respect of that absolute interest, that sum, except so far as it is excluded from the operation of this subsection, shall be deemed for all tax purposes to have been paid to that person as income for the year of assessment in which it was actually paid.

(3A) A payment shall be excluded from the operation of subsection (3) above to the extent (if any) that the aggregate of that sum and all the sums which—

(a) have been paid previously during the administration period in respect of that absolute interest, and

(b) fall under this section to be treated as paid to that person as income,

exceeds the aggregated income entitlement of that person for the year of assessment in which the sum is paid.

(3B) For the purposes of this section the aggregated income entitlement of that person for any year of assessment is the amount which would be the aggregate of the amounts received for that year of assessment and all previous years of assessment in respect of the interest if that person had a right in each year to receive, and had received—

(a) in the case of a United Kingdom estate, his residuary income for that year less income tax at the applicable rate for that year; and

(b) in the case of a foreign estate, his residuary income for that year."

(2) For subsection (5) of that section there shall be substituted the following subsection—

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"(5) Where, on the completion of the administration of the estate, the aggregate of all the sums which, apart from this subsection—

(a) have been paid during the administration period in respect of that absolute interest, and

(b) fall under this section to be treated as paid to that person as income,

is exceeded by the aggregated income entitlement of that person for the year of assessment in which the administration of the estate is completed, then an amount equal to the amount of the excess shall be treated for the purposes of subsections (3) to (4) above as having been actually paid, immediately before the end of the administration period, in respect of that interest."

(3) Sub-paragraph (1) above has effect, subject to sub-paragraph (4) below, in relation to any payment made on or after 6th April 1995; and sub-paragraph (2) above shall have effect in relation to any estate the administration of which is completed on or after 6th April 1995.

(4) Where any sum is deemed by virtue of subsection (3) of section 696 of the Taxes Act 1988 (as it has effect apart from this Schedule) to have been paid to any person as income for the year 1994-95 or any previous year of assessment, that sum shall be treated for the purposes of subsections (3A) and (5) of that section (as they have effect by virtue of this Schedule) as a sum actually paid in respect of that person's absolute interest in that year of assessment.

Supplemental provisions relating to section 696

4.—(1) After subsection (1) of section 697 (calculation of residuary income) there shall be inserted the following subsection—

"(1A) For the purpose of ascertaining under subsection (1) above the residuary income of an estate for any year, where the amount of the deductions falling to be made from the aggregate income of the estate for that year (including any falling to be made by virtue of this subsection) exceeds the amount of that income, the excess shall be carried forward and treated for that purpose as an amount falling to be deducted from the aggregate income of the estate for the following year."

(2) In subsection (2) of that section (reduction of residuary income where benefits received are less than aggregate of residuary income), for the words from "his residuary income for" onwards there shall be substituted "section 696 shall have effect as if the amount of the deficiency were to be applied in reducing the amount taken to be his residuary income for the year in which the administration of the estate is completed and, in so far as the deficiency exceeds that income, in reducing the amount taken to be his residuary income for the previous year, and so on."

(3) Sub-paragraph (1) above has effect for ascertaining the residuary income of an estate for the year 1995-96 or any subsequent year of assessment; and sub-paragraph (2) above has effect in relation to any estate the administration of which is completed on or after 6th April 1995.

Special provisions as to successive interests in residue

5.—(1) For subsection (2) of section 698 (special provisions as to successive interests in residue) there shall be substituted the following subsections—

"(1A) Subsection (1B) below applies where—

(a) successively during the administration period there are different persons with interests in the residue of the estate of a deceased person or in parts of such a residue;

(b) the later interest or, as the case may be, each of the later interests arises or is created on the cessation otherwise than by death of the interest that precedes it; and

(c) the earlier or, as the case may be, earliest interest is a limited interest.

(1B) Where this subsection applies, this Part shall have effect in relation to any payment made in respect of any of the interests referred to in subsection (1A) above—

(a) as if all those interests were the same interest so that none of them is to be treated as having ceased on being succeeded by any of the others;

(b) as if (subject to paragraph (c) below) the interest which is deemed to exist by virtue of paragraph (a) above ('the deemed single interest') were an interest of—

(i) except in a case to which sub-paragraph (ii) below applies, the person in respect of whose interest or previous interest the payment is made;

(ii) in a case where the person entitled to receive the payment is any other person who has or has had an interest which is deemed to be comprised in the deemed single interest, that other person;

and

(c) in so far as any of the later interests is an absolute interest as if, for the purposes of section 696(3A) to (5)—

(i) the earlier interest or interests had never existed and the absolute interest had always existed;

(ii) the sums (if any) which were deemed in relation to the earlier interest or interests to have been paid as income for any year of assessment to any of the persons entitled thereto were sums previously paid during the administration period in respect of the absolute interest; and

(iii) those sums were sums falling to be treated as sums paid as income to the person entitled to the absolute interest.

(2) Where successively during the administration period there are different persons with absolute interests in the residue of the estate of a deceased person or in parts of such a residue, the aggregate payments and aggregated income entitlement referred to in subsections (3A) and (3B) of section 696 shall be computed for the purposes of that section in relation to an absolute interest subsisting at any time ('the subsequent interest')—

(a) as if the subsequent interest and any previous absolute interest corresponding to the subsequent interest, or relating to any part of the residue to which the subsequent interest relates, were the same interest; and

(b) as if the residuary income for any year of the person entitled to the previous interest were residuary income of the person entitled to the subsequent interest and any amount deemed to be paid as income to the person entitled to the previous interest were an amount deemed to have been paid to the person entitled to the subsequent interest."

(2) This paragraph has effect in relation to any payment made on or after 6th April 1995 and, so far as it relates to the operation of section 695(3) or 696(5) of the Taxes Act 1988, in relation to any estate the administration of which is completed on or after that date.

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Adjustments and information

6. After subsection (4) of section 700 (adjustments and information) there shall be inserted the following subsections—

"(5) It shall be the duty of a personal representative of a deceased person, if a request to do so is made in writing by a person who has, or has had, an absolute or limited interest in the residue of the estate of the deceased or by a person to whom any of the income of the residue of that estate has been paid in the exercise of any discretion, to furnish the person making the request with a statement in writing setting out—

(a) in respect of every amount which has been, or is treated as having been, actually paid to that person in respect of that interest or in the exercise of that discretion, the amount (if any) deemed under this Part to have been paid to him as income for a year of assessment; and

(b) the amount of any tax at the applicable rate which any amount falling within paragraph (a) above is deemed to have borne;

and, where an amount deemed to have been paid as income to any person for any year of assessment is deemed for any of the purposes of this Part to have borne tax on different parts of it at different applicable rates, the matters to be set out in pursuance of paragraphs (a) and (b) above shall be set out separately as respects each part of that amount.

(6) The duty imposed by subsection (5) above shall be enforceable at the suit or instance of the person making the request."

Interpretation

7. Subsection (14) of section 701 (cases where residuary income has borne income tax at the additional rate) shall cease to have effect.

Section 85.

SCHEDULE 19

STOCK LENDING: INTEREST ON CASH COLLATERAL

Introductory

1.—(1) In this Schedule—

(a) "approved stock lending arrangement" means an arrangement such as is mentioned in subsection (1), (2) or (2A) of section 129 and in relation to which that section and section 271(9) of the 1992 Act apply;

(b) "the borrower", in relation to such an arrangement, means the person to whom the securities are transferred under the arrangement; and

(c) "the lender" means the person making that transfer and to whom, in return, securities of the same kind and amount are to be transferred.

(2) References in this Schedule to the borrower or lender under an approved stock lending arrangement include any person acting as the nominee of the borrower or lender.

Treatment of interest earned on cash collateral

2.—(1) This paragraph applies where in connection with an approved stock lending arrangement—

(a) the borrower pays to the lender an amount ("cash collateral") by way of security for the performance of the obligation to transfer to the lender securities of the same kind and amount as those transferred by him;

(b) interest is earned by the lender on the whole of the cash collateral in respect of the period for which he holds it, and is paid to him without deduction of tax; and

(c) the lender pays to the borrower an amount ("rebate interest") equal to the amount of interest earned by him on the cash collateral.

(2) Where this paragraph applies—

(a) the interest earned by the lender on the cash collateral shall be treated for all purposes of the Tax Acts as the income of the borrower and not as the income of the lender;

(b) the lender shall not be required to deduct from the payment of rebate interest any sum representing income tax thereon;

(c) no relief shall be given to the lender in respect of the payment under any provision of the Tax Acts; and

(d) the rebate interest shall not be regarded as the income of the borrower.

(3) This paragraph does not apply unless the amount of the rebate interest is identified as such by the parties separately from any fee or other amount payable in connection with the arrangement.

Application of paragraph 2 in case of chain of arrangements

3.—(1) Where the lender under one or more approved stock lending arrangements ("the lending arrangements") is also the borrower under one or more other such arrangements ("the borrowing arrangements") entered into to enable him to fulfil his obligations under the former arrangements, the interest which by virtue of paragraph 2(2)(a) above as it applies in relation to the borrowing arrangements is treated as his (the "attributed interest") shall be treated for the purposes of that paragraph as it applies in relation to the lending arrangements as interest earned by him on the cash collateral provided under those arrangements, as follows.

(2) Where the aggregate amount of the cash collateral provided under the borrowing arrangements equals that provided under the lending arrangements, the whole of the attributed interest shall be so treated.

(3) Where the aggregate amount of the cash collateral provided under the borrowing arrangements exceeds that provided under the lending arrangements, a part of the attributed interest shall be so treated.

That part shall be the proportion of the attributed interest which the aggregate amount of the cash collateral provided under the lending arrangements bears to that provided under the borrowing arrangements.

(4) Where the aggregate amount of the cash collateral provided under the borrowing arrangements is less than that provided under the lending arrangements, the attributed interest shall be treated as earned by him on a part of the cash collateral provided under the lending arrangements.

That part shall be an amount equal to the aggregate amount of the cash collateral provided under the borrowing arrangements.

Interpretation

4. In this Schedule—

"relief" means relief by way of—

(i) deduction in computing profits or gains, or

(ii) deduction or set off against income or total profits; and

"securities" includes stocks and shares.

Section 107(11).

SCHEDULE 20

Claims etc. not included in returns

Making of claims

1. In Schedule 1A to the Management Act (claims etc. not included in returns), in sub-paragraph (5) of paragraph 2 (making of claims), for paragraph (b) there shall be substituted the following paragraphs—

"(b) such information as is reasonably required for the purpose of determining whether and, if so, the extent to which the claim is correct;

(bb) the delivery with the claim of such accounts, statements and documents, relating to information contained in the claim, as are reasonably required for the purpose mentioned in paragraph (b) above;".

Keeping and preserving of records

2. After paragraph 2 of that Schedule there shall be inserted the following paragraph—

"Keeping and preserving of records

2A.—(1) Any person who may wish to make a claim in relation to a year of assessment or other period shall—

(a) keep all such records as may be requisite for the purpose of enabling him to make a correct and complete claim; and

(b) shall preserve those records until the end of the relevant day.

(2) In relation to a claim, the relevant day for the purposes of sub-paragraph (1) above is whichever of the following is the latest, namely—

(a) where enquiries into the claim or any amendment of the claim are made by an officer of the Board, the day on which, by virtue of paragraph 7(4) below, those enquiries are treated as completed; and

(b) where no enquiries into the claim or any amendment of the claim are so made, the day on which such an officer no longer has power to make such enquiries.

(3) The duty under sub-paragraph (1) above to preserve records may be discharged by the preservation of the information contained in them; and where the information is so preserved a copy of any document forming part of the records shall be admissible in evidence in any proceedings before the Commissioners to the same extent as the records themselves.

(4) Any person who fails to comply with sub-paragraph (1) above in relation to any claim which is made for a year of assessment or accounting period shall be liable to a penalty not exceeding £3,000."

Amendments of claims

3. In paragraph 3 of that Schedule (amendments of claims), in sub-paragraph (1)(a), for the word "return" there shall be substituted the word "claim".

Giving effect to claims and amendments

4.—(1) At the beginning of sub-paragraph (1) of paragraph 4 of that Schedule (giving effect to claims and amendments) there shall be inserted the words "Subject to sub-paragraphs (1A) and (3) below and to any other provision in the Taxes Acts which otherwise provides,".

(2) After that sub-paragraph there shall be inserted the following sub-paragraph—

"(1A) In relation to a claim which would otherwise fall to be taken into account in the making of deductions or repayments of tax under section 203 of the principal Act, sub-paragraph (1) above shall apply as if for the word 'shall' there were substituted the word 'may'."

(3) At the beginning of sub-paragraph (2) of that paragraph there shall be inserted the words "Subject to sub-paragraph (3) below,".

(4) After the said sub-paragraph (2) there shall be inserted the following sub-paragraph—

"(3) Where any such claim or amendment as is mentioned in sub-paragraph (1) or (2) above is enquired into by an officer of the Board—

(a) that sub-paragraph shall not apply until the day on which, by virtue of paragraph 7(4) below, the officer's enquiries are treated as completed; but

(b) the officer may at any time before that day give effect to the claim or amendment, on a provisional basis, to such extent as he thinks fit."

Power to enquire into claims

5. In paragraph 5 of that Schedule (power to enquire into claims), for sub-paragraphs (2) and (3) there shall be substituted the following sub-paragraphs—

"(2) The period referred to in sub-paragraph (1) above is whichever of the following ends the latest, namely—

(a) the period ending with the quarter day next following the first anniversary of the day on which the claim or amendment was made;

(b) where the claim or amendment relates to a year of assessment, the period ending with the first anniversary of the 31st January next following that year; and

(c) where the claim or amendment relates to a period other than a year of assessment, the period ending with the first anniversary of the end of that period;

and the quarter days for the purposes of this sub-paragraph are 31st January, 30th April, 31st July and 31st October.

(3) A claim or amendment which has been enquired into under sub-paragraph (1) above shall not be the subject of—

(a) a further notice under that sub-paragraph; or

(b) if it is subsequently included in a return, a notice under section 9A(1), 11AB(1) or 12AC(1) of this Act."

SCHEDULE 21

Section 116(1).

SELF-ASSESSMENT ETC: TRANSITIONAL PROVISIONS

Notice of liability

1. Section 7 of the Management Act (notice of liability) shall have effect as respects the year 1995-96 as if the reference in subsection (7) to a self-assessment made under section 9 of that Act in respect of that year were a reference to assessments made more than six months after the end of that year.

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Payments on account of income tax

2.—(1) Section 59A of that Act (payments on account of income tax) shall have effect as respects the year 1996-97 with the modifications made by sub-paragraphs (2) to (7) below.

(2) The references in subsections (1)(a) and (4A) to a person being assessed to income tax under section 9 of that Act shall be construed as references to his being assessed to income tax under section 29 of that Act.

(3) The reference in subsection (1)(b) to the assessed amount shall be construed as a reference to the difference between that amount and the aggregate of the following, namely—

(a) so much of any income tax charged at a higher rate on any income—

(i) from which tax has been deducted otherwise than under section 203 of the Taxes Act 1988, or

(ii) from or on which income tax is treated as having been deducted or paid,

as is attributable to the difference between that rate and the basic rate; and

(b) so much of any income tax charged at a higher rate on any income chargeable under Schedule F as is attributable to the difference between that rate and the lower rate.

(4) The reference in subsection (1)(c) to the relevant amount shall be construed as a reference to the difference between that amount and the amount of any income tax charged under Schedule E which—

(a) has not been deducted under section 203 of the Taxes Act 1988; and

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(b) is not charged by an assessment made under regulation 103 of the Income Tax (Employments) Regulations 1993.

(5) Subsection (2) shall have effect as if it required—

(a) the first payment on account to be of an amount equal to the aggregate of—

(i) such part of the relevant amount as represents tax charged under Schedule A or any of Cases III to VI of Schedule D; and

(ii) 50 per cent. of the remaining part of the relevant amount, and

(b) the second payment on account to be of an amount equal to 50 per cent. of that remaining part.

(6) Subsection (4) shall have effect as if it provided that, in the circumstances there mentioned—

(a) the amount of the first payment on account should be, and should be deemed always to have been, equal to the aggregate of—

(i) such part of the stated amount as represents tax charged under Schedule A or any of Cases III to VI of Schedule D; and

(ii) 50 per cent. of the remaining part of the stated amount, and

(b) the amount of the second payment on account should be, and should be deemed always to have been, equal to 50 per cent. of that remaining part.

(7) Subsection (4A) shall have effect as if it provided that, in the circumstances and subject as there mentioned—

(a) the amount of the first payment on account should be, and should be deemed always to have been, equal to the aggregate of—

(i) such part of the relevant amount (as determined on the basis of the assessment or, as the case may be, the assessment as amended) as represents tax charged under Schedule A or any of Cases III to VI of Schedule D; and

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(ii) 50 per cent. of the remaining part of the relevant amount, as so determined, and

(b) the amount of the second payment on account should be, and should be deemed always to have been, equal to 50 per cent. of that remaining part.

(8) In this paragraph "higher rate" means a rate other than the basic rate or the lower rate.

Partnerships

3.—(1) This paragraph applies in the case of a partnership whose trade, profession or business is set up and commenced before 6th April 1994.

(2) Section 32 of the Management Act (relief for double assessments to tax) shall have effect, as respects each partner and the year 1996-97, as if the partnership had not been assessed to income tax for that year.

(3) Section 59B of that Act (payment of income tax and capital gains tax) shall have effect, as respects each partner and that year, as if his share of any income tax to which the partnership is assessed for that year were income tax which in respect of that year had been deducted at source.

SCHEDULE 22

Section 123.

PREVENTION OF EXPLOITATION OF SCHEDULE 20 TO FINANCE ACT 1994

PART I

CASES I AND II OF SCHEDULE D

Increase of profits or gains of transitional period

1.—(1) This paragraph applies where, in the case of a trade, profession or vocation carried on by any person—

(a) paragraph 2(2) of Schedule 20 to the Finance Act 1994 applies without the modification made by paragraph 2(3) of that Schedule; and

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(b) any amount which is included in the profits or gains of the transitional period would not have been so included if—

(i) any relevant change made by that person had not been made; or

(ii) any relevant transaction entered into by that person had not been entered into.

(2) Subject to sub-paragraph (3) below, the said paragraph 2(2) shall have effect as if the reference to the appropriate percentage of the aggregate of the amounts there mentioned were a reference to the aggregate of—

(a) that percentage of each of those amounts; and

(b) 1.25 times the complementary percentage of each of the amounts falling within sub-paragraph (1)(b) above.

(3) Sub-paragraph (2) above does not apply where—

(a) the aggregate of the amounts falling within sub-paragraph (1)(b) above is less than such amount as may be prescribed by regulations made by the Board;

(b) the proportion which the aggregate of those amounts bears to the aggregate of the amounts mentioned in the said paragraph 2(2) is less than such proportion as may be so prescribed; or

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(c) the appropriate percentage of the turnover for the transitional period is less than such amount as may be so prescribed;

and regulations under this sub-paragraph may make as respects trades or professions carried on by persons in partnership provision different from that made as respects trades, professions or vocations carried on by individuals.

(4) In this paragraph—

"the appropriate percentage" means the following expressed as a percentage, that is, 365 divided by the number of days in the transitional period;

"the complementary percentage" means the difference between 100 per cent. and the appropriate percentage;

"the transitional period" means the basis period for the year 1996-97 and the relevant period (within the meaning of paragraph 2 of Schedule 20 to the Finance Act 1994) taken together.

1994 c. 9.

2.—(1) This paragraph applies where, in the case of a trade or profession carried on by persons in partnership—

(a) paragraph 2(2) of Schedule 20 to the Finance Act 1994 applies without the modification made by paragraph 2(3) of that Schedule;

(b) a claim is made under section 353 of the Taxes Act 1988 (relief for interest: general provision) in respect of interest on a loan to defray money contributed or advanced by a partner to the partnership; and

(c) sub-paragraph (2) below applies to any of the money so contributed or advanced.

(2) This sub-paragraph applies to money so contributed or advanced unless it was contributed or advanced wholly or mainly—

(a) for bona fide commercial reasons; or

(b) for a purpose other than the reduction of the partnership's borrowings for a relevant period.

(3) Subject to sub-paragraph (4) below, the amount eligible for relief under the said section 353 in respect of interest paid by the partner in respect of the transitional period on money to which sub-paragraph (2) above applies shall not exceed the appropriate percentage of that interest.

(4) Sub-paragraph (3) above does not apply where—

(a) the loan was made before 1st April 1994; or

(b) the aggregate amount of interest paid as mentioned in that sub-paragraph is less than such amount as may be prescribed by regulations made by the Board.

(5) Where relief under the said section 353 in respect of interest on any loan ("the original loan") is restricted by sub-paragraph (3) above, relief under that section in respect of interest on any other loan used to defray money applied in paying off the original loan shall be restricted to the same extent as if that other loan were the original loan.

(6) In this paragraph—

"the appropriate percentage" and "the transitional period" have the same meanings as in paragraph 1 above;

"relevant period" means a period the whole or part of which falls within the transitional period.

Increase of profits or gains of transitional overlap period

3.—(1) This paragraph applies where, in the case of a trade, profession or vocation carried on by any person—

(a) paragraph 2(4) of Schedule 20 to the Finance Act 1994 applies; and

1994 c. 9.

(b) any amount which is included in the transitional overlap profit would not have been so included if—

(i) any relevant change made by that person had not been made; or

(ii) any relevant transaction entered into by that person had not been entered into.

(2) Subject to sub-paragraph (3) below, the said paragraph 2(4) shall have effect as if the reference to the transitional overlap profit were a reference to the amount (if any) by which that profit exceeds 1.25 times the aggregate of the amounts falling within sub-paragraph (1)(b) above.

(3) Sub-paragraph (3) of paragraph 1 above shall apply for the purposes of this paragraph as it applies for the purposes of that paragraph but subject to the following modifications, namely—

(a) the reference to the aggregate of the amounts mentioned in the said paragraph 2(2) shall have effect as a reference to the transitional overlap profit; and

(b) the reference to the appropriate percentage of the turnover for the transitional period shall have effect as a reference to the appropriate percentage of the turnover for the transitional overlap period.

(4) In this paragraph—

"the appropriate percentage" means the following expressed as a percentage, that is, 365 divided by the number of days in the transitional overlap period;

"the transitional overlap period" means the period beginning immediately after the end of—

(a) the basis period for the year 1996-97; or

(b) in the case of a trade or profession carried on by any person in partnership with other persons, the basis period of the partnership for that year,

and (in either case) ending with 5th April 1997;

"the transitional overlap profit" means the amount mentioned in the said paragraph 2(4).

4.—(1) This paragraph applies where, in the case of a trade or profession carried on by any person in partnership with other persons—

(a) that person ("the retiring partner") ceases to carry on the trade or profession at any time in the transitional overlap period; and

(b) if he had not so ceased, paragraph 3(2) above would have applied in relation to him.

(2) The retiring partner shall for the year 1996-97 be chargeable to income tax under Case I or II of Schedule D on 1.25 times the aggregate of the amounts which would have fallen within paragraph 3(1)(b) above.

(3) In this paragraph "the transitional overlap period" has the same meaning as in paragraph 3 above.

5.—(1) This paragraph applies where, in the case of a trade or profession carried on by any person in partnership with other persons—

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1994 c. 9.

(a) paragraph 2(4) of Schedule 20 to the Finance Act 1994 applies with or without the modification made by paragraph 3(2) above;

(b) a claim is made under section 353 of the Taxes Act 1988 (relief for interest: general provision) in respect of interest on a loan to defray money contributed or advanced by him ("the partner") to the partnership; and

(c) sub-paragraph (2) below applies to any of the money so contributed or advanced.

(2) This sub-paragraph applies to money so contributed or advanced unless it was contributed or advanced wholly or mainly—

(a) for bona fide commercial reasons; or

(b) for a purpose other than the reduction of the partnership's borrowings for a relevant period.

(3) Subject to sub-paragraph (4) below, the said paragraph 2(4) shall have effect as if the reference to the transitional overlap profit were a reference to the difference between that profit and the amount of interest paid by the partner in respect of the transitional overlap period on money to which sub-paragraph (2) above applies.

(4) Sub-paragraph (3) above does not apply where—

(a) the loan was made before 1st April 1994; or

(b) the aggregate amount of interest paid as mentioned in that sub-paragraph is less than such amount as may be prescribed by regulations made by the Board.

(5) In this paragraph—

"relevant period" means a period the whole or part of which falls within the transitional overlap period;

"the transitional overlap period" has the same meaning as in paragraph 3 above;

"the transitional overlap profit" means the amount mentioned in the said paragraph 2(4) (whether having effect with or without the modification made by paragraph 3(2) above).

PART II

CASES III, IV AND V OF SCHEDULE D

Increase of trade etc. profits or gains arising in 1995-96 and 1996-97

6.—(1) This paragraph applies where, in the case of any income derived by any person from the carrying on by him of a trade, profession or vocation—

(a) paragraph 6(2)(a) of Schedule 20 to the Finance Act 1994 applies; and

(b) any amount which is included in the income arising within the years 1995-96 and 1996-97 would not have been so included if—

(i) any relevant change made by that person had not been made; or

(ii) any relevant transaction entered into by that person had not been entered into.

(2) Subject to sub-paragraph (3) below, the said paragraph 6(2)(a) shall have effect as if the reference to 50 per cent. of the aggregate of the amounts there mentioned were a reference to the aggregate of—

(a) 50 per cent. of each of those amounts; and

(b) 62.5 per cent. of each of the amounts falling within sub-paragraph (1)(b) above.

(3) Sub-paragraph (3) of paragraph 1 above shall apply for the purposes of this paragraph as it applies for the purposes of that paragraph but subject to the following modifications, namely—

(a) the reference to the said paragraph 2(2) shall have effect as a reference to the said paragraph 6(2)(a); and

(b) the reference to the appropriate percentage of the turnover of the transitional period shall have effect as a reference to 50 per cent. of the turnover of the years 1995-96 and 1996-97.

Increase of trade etc. profits or gains arising in transitional overlap period

7.—(1) This paragraph applies where, in the case of any income derived by any person from the carrying on by him of a trade, profession or vocation—

(a) paragraph 6(4) of Schedule 20 to the Finance Act 1994 applies; and

1994 c. 9.

(b) any amount which is included in the transitional overlap profit would not have been so included if—

(i) any relevant change made by that person had not been made; or

(ii) any relevant transaction entered into by that person had not been entered into.

(2) Subject to sub-paragraph (3) below, the said paragraph 6(4) shall have effect as if the reference to the transitional overlap profit were a reference to the amount (if any) by which that profit exceeds 1.25 times the aggregate of the amounts falling within sub-paragraph (1)(b) above.

(3) Sub-paragraph (3) of paragraph 1 above shall apply for the purposes of this paragraph as it applies for the purposes of that paragraph but subject to the following modifications, namely—

(a) the reference to the aggregate of the amounts mentioned in the said paragraph 2(2) shall have effect as a reference to the transitional overlap profit; and

(b) the reference to the appropriate percentage of the turnover for the transitional period shall have effect as a reference to the appropriate percentage of the turnover for the transitional overlap period.

(4) In this paragraph—

"the appropriate percentage" means the following expressed as a percentage, that is, 365 divided by the number of days in the transitional overlap period;

"the transitional overlap period" means the period beginning immediately after the end of—

(a) the basis period for the year 1996-97; or

(b) in the case of any income derived by any person from the carrying on by him of a trade or profession in partnership with other persons, the basis period of the partnership for that year,

and (in either case) ending with 5th April 1997;

"the transitional overlap profit" means the amount mentioned in the said paragraph 6(4).

8.—(1) This paragraph applies where, in the case of any income derived by any person from the carrying on by him of a trade or profession in partnership with other persons—

(a) that person ("the retiring partner") ceases to carry on the trade or profession at any time in the transitional overlap period; and

(b) if he had not so ceased, paragraph 7(2) above would have applied in relation to him.

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(2) The retiring partner shall for the year 1996-97 be chargeable to income tax under Case IV or V of Schedule D on 1.25 times the aggregate of the amounts which would have fallen within paragraph 7(1)(b) above.

(3) In this paragraph "the transitional overlap period" has the same meaning as in paragraph 7 above.

Increase of interest arising in 1995-96 and 1996-97

9.—(1) This paragraph applies where, in the case of any interest arising to any person from any source—

1994 c. 9.

(a) paragraph 4(2) or 6(2)(a) of Schedule 20 to the Finance Act 1994 applies; and

(b) any amount which is included in the interest arising within the years 1995-96 and 1996-97 would not have been so included if any relevant arrangements made between that person and another had not been made.

(2) Subject to sub-paragraph (3) below, the said paragraph 4(2) or 6(2)(a) shall have effect as if the reference to 50 per cent. of the aggregate of the amounts there mentioned were a reference to the aggregate of—

(a) 50 per cent. of each of those amounts; and

(b) 62.5 per cent. of each of the amounts falling within sub-paragraph (1)(b) above.

(3) Sub-paragraph (2) above does not apply where—

(a) the aggregate of the amounts falling within sub-paragraph (1)(b) above is less than such amount as may be prescribed by regulations made by the Board; or

(b) the proportion which the aggregate of those amounts bears to the aggregate of the amounts mentioned in the said paragraph 4(2) or 6(2)(a) is less than such proportion as may be so prescribed.

Increase of other income arising in 1995-96 and 1996-97

10.—(1) This paragraph applies where, in the case of any income (other than income falling within paragraph 6 or 9 above) arising to any person from any source—

(a) paragraph 4(2) or 6(2)(a) of Schedule 20 to the Finance Act 1994 applies; and

(b) any amount which is included in the income arising within the years 1995-96 and 1996-97 would not have been so included if—

(i) any relevant arrangements made between that person and another had not been made; or

(ii) any relevant transaction entered into by that person had not been entered into.

(2) Subject to sub-paragraph (3) below, the said paragraph 4(2) or 6(2)(a) shall have effect as if the reference to 50 per cent. of the aggregate of the amounts there mentioned were a reference to the aggregate of—

(a) 50 per cent. of each of those amounts; and

(b) 62.5 per cent. of each of the amounts falling within sub-paragraph (1)(b) above.

(3) Sub-paragraph (3) of paragraph 9 above shall apply for the purposes of this paragraph as it applies for the purposes of that paragraph.

PART III

PROCEDURAL AND OTHER PROVISIONS

Time limits for purposes of paragraphs 1, 2, 4, 6 and 8 to 10

11.—(1) Nothing in subsection (2) or (3) of section 29 of the Management Act (as substituted by section 191 of the Finance Act 1994) shall prevent an assessment being made under subsection (1) of that section in any case where—

1994 c. 9.

(a) the loss of tax there mentioned is attributable to any failure to give effect to any of paragraphs 1, 2, 4, 6 and 8 to 10 above; and

(b) at the time when the assessment is made, the condition mentioned in sub-paragraph (3) below is fulfilled.

(2) Nothing in subsection (3) or (4) of section 30B of the Management Act (amendment of partnership statement where loss of tax discovered) shall prevent an amendment being made under subsection (1) of that section in any case where—

(a) the omission, deficiency or excess there mentioned is attributable to any failure to give effect to any of paragraphs 1, 2, 4, 6 and 8 to 10 above; and

(b) at the time when the amendment is made, the condition mentioned in sub-paragraph (3) below is fulfilled.

(3) The condition referred to in sub-paragraphs (1) and (2) above is that either—

(a) an assessment under section 9 of the Management Act or, as the case may require, a partnership statement under section 12AB of that Act has been made for the year 1997-98 and that assessment or statement is still capable of being amended; or

(b) no such assessment or, as the case may require, statement has been so made.

Advance notice for purposes of paragraphs 3, 5 and 7

12.—(1) An officer of the Board shall not so amend an assessment made under section 9 of the Management Act (returns to include self-assessment) as to give effect to paragraph 3, 5 or 7 above unless a notice stating—

(a) in the case of paragraph 3 or 7 above, the aggregate of the amounts falling within sub-paragraph (1)(b) of that paragraph; and

(b) in the case of paragraph 5 above, the aggregate amount of interest paid as mentioned in sub-paragraph (3) of that paragraph,

is given by such an officer at a time when the condition mentioned in sub-paragraph (2) below is fulfilled.

(2) The condition referred to in sub-paragraph (1) above is that either—

(a) an assessment under section 9 of the Management Act has been made for the year 1998-99 and that assessment is still capable of being amended; or

(b) no such assessment has been so made.

(3) Subject to sub-paragraph (4) below, a notice under sub-paragraph (1) above shall be conclusive of the matters stated in it.

(4) An appeal may be brought against a notice under sub-paragraph (1) above at any time within the period of 30 days beginning with the date on which the notice is given.

(5) Subject to sub-paragraph (6) below, the provisions of the Management Act relating to appeals shall have effect in relation to an appeal under sub-paragraph (4) above as they have effect in relation to an appeal against an assessment to tax.

(6) On an appeal under sub-paragraph (4) above, section 50(6) to (8) of the Management Act (procedure on appeals) shall not apply but the Commissioners may—

(a) if it appears to them that the matters stated in the notice under sub-paragraph (1) above are correct, confirm the notice; or

(b) if it does not so appear to them, set aside or modify the notice accordingly.

Penalties not to apply in certain cases

13.—(1) Where a relevant return (as originally made) states—

(a) that paragraph 1, 3 or 4 above applies in the case of a trade, profession or vocation carried on by any person; or

(b) that paragraph 7 or 8 above applies in the case of any income derived by any person from the carrying on by him of a trade, profession or vocation,

sub-paragraph (2) of that paragraph shall have effect, in its application to any amounts stated in the return (as so made) to fall within sub-paragraph (1)(b) of that paragraph or, in the case of paragraph 4 or 8 above, to be amounts which would have fallen within sub-paragraph (1)(b) of the preceding paragraph, as if the words "1.25 times" were omitted.

(2) Where a relevant return (as originally made) states—

(a) that paragraph 6 above applies in the case of any income derived by any person from the carrying on by him of a trade, profession or vocation; or

(b) that paragraph 9 or 10 above applies in the case of any income arising to any person from any source,

sub-paragraph (2) of that paragraph shall have effect, in its application to any amounts stated in the return (as so made) to fall within sub-paragraph (1)(b) of that paragraph, as if for the words "62.5 per cent." there were substituted the words "50 per cent".

(3) In this paragraph—

"relevant return" means a return which, for the relevant year, is made under section 8, 8A or 12AA of the Management Act in respect of the trade, profession or vocation or, as the case may be, the source of the income;

"the relevant year" means—

(a) in relation to paragraph 1, 6, 9 or 10 above, the year 1996–97;

(b) in relation to paragraph 3, 4, 7 or 8 above, the year 1997–98.

Part IV

Interpretation

Relevant changes for purposes of paragraphs 1, 3, 6 and 7

14.—(1) Any accounting change or change of business practice is a relevant change for the purposes of paragraphs 1, 3, 6 and 7 above unless—

(a) the change is made exclusively for bona fide commercial reasons; or

(b) the obtaining of a tax advantage is not the main benefit that could reasonably be expected to arise from the making of the change.

(2) In this paragraph "accounting change"—

(a) does not include any change of accounting date which brings the end of the basis period for the year 1996-97 closer to 5th April 1997; but

(b) subject to that, means any change of accounting date or other modification of an accounting policy or any substitution of one such policy for another.

(3) In this paragraph "change of business practice" means any change in an established practice of trade, profession or vocation carried on by any person—

(a) as to the timing of any of the following, namely—

(i) the supply of goods or services, the invoicing of customers or clients and the collection of outstanding debts; and

(ii) the obtaining of goods or services, the incurring of business expenses and the settlement of outstanding debts; or

(b) as to the obtaining or making of payments in advance or payments on account.

Relevant transactions for purposes of paragraphs 1, 3, 6 and 7

15. Any self-cancelling transaction or transaction with a connected person is a relevant transaction for the purposes of paragraphs 1, 3, 6 and 7 above unless—

(a) the transaction is entered into exclusively for bona fide commercial reasons; or

(b) the obtaining of a tax advantage is not the main benefit that could reasonably be expected to arise from the entering into of the transaction.

16.—(1) An agreement by which the person by whom a trade, profession or vocation is carried on agrees to sell or transfer trading stock or work in progress is a self-cancelling transaction for the purposes of paragraph 15 above if by the same or any collateral agreement that person—

(a) agrees to buy back or re-acquire the trading stock or work in progress; or

(b) acquires or grants an option, which is subsequently exercised, for him to buy back or re-acquire the trading stock or work in progress.

(2) In sub-paragraph (1) above—

"trading stock" has the same meaning as in section 100 of the Taxes Act 1988;

"work in progress", in relation to a profession or vocation, means—

(a) any services performed in the ordinary course of the profession or vocation, the performance of which is wholly or partly completed at the time of the sale or transfer and for which it would be reasonable to expect that a charge would have been made on their completion if the sale or transfer had not been effected; and

(b) any article produced, and any such material as is used, in the performance of any such services,

and references in that sub-paragraph to the sale or transfer of work in progress shall include references to the sale or transfer of any benefits and rights which accrue, or might reasonably be expected to accrue, from the carrying out of the work.

17.—(1) For the purposes of paragraph 15 above, any question whether the person by whom a trade, profession or vocation is carried on is connected with another person shall be determined in accordance with sub-paragraphs (2) to (5) below.

(2) An individual carrying on a trade, profession or vocation is connected with another person if they are connected with each other within the meaning of section 839 of the Taxes Act 1988 (disregarding for this purpose the exception in subsection (4) of that section).

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(3) Persons carrying on a trade or profession in partnership are connected with an individual if he controls the partnership.

(4) Persons carrying on a trade or profession in partnership are connected with a company if the company controls the partnership or the same person controls both the company and the partnership.

(5) Persons carrying on a trade or profession in partnership are connected with persons carrying on another trade or profession in partnership if the same person controls both partnerships.

(6) In this paragraph—

(a) "control" shall be construed—

(i) in relation to a company, in accordance with section 416 of the Taxes Act 1988;

(ii) in relation to a partnership, in accordance with section 840 of that Act; and

(b) any reference to a person controlling a company or partnership is a reference to his doing so either alone or with one or more persons connected with him.

Relevant arrangements for purposes of paragraph 9

18.—(1) Any arrangements under which—

(a) interest arises at irregular intervals during the years 1994-95 to 1997-98, or

(b) there are artificial variations in the rate of interest applicable during those years,

are relevant arrangements for the purposes of paragraph 9 above unless the obtaining of a tax advantage is not the main benefit that could reasonably be expected to arise from the making of the arrangements.

(2) Any variations in the rate of interest applicable during the years 1994-95 to 1997-98 are artificial variations for the purposes of this paragraph unless they are based on variations in a variable rate of interest the values of which from time to time are regularly published.

Relevant arrangements for purposes of paragraph 10

19. Any arrangements under which income arises at irregular intervals during the years 1994-95 to 1997-98 are relevant arrangements for the purposes of paragraph 10 above unless—

(a) the arrangements are made exclusively for bona fide commercial reasons; or

(b) the obtaining of a tax advantage is not the main benefit that could reasonably be expected to arise from the making of the arrangements.

Relevant transactions for purposes of paragraph 10

20.—(1) Any transaction with a connected person is a relevant transaction for the purposes of paragraph 10 above unless—

(a) the transaction is entered into exclusively for bona fide commercial reasons; or

(b) the obtaining of a tax advantage is not the main benefit that could reasonably be expected to arise from the entering into of the transaction.

(2) A person is connected with another person for the purposes of this paragraph if they are connected with each other within the meaning of section 839 of the Taxes Act 1988.

General

21.—(1) In this Schedule "turnover", in relation to a trade, profession or vocation, means the amounts derived from the provision of goods or services falling within its ordinary activities, after deduction of trade discounts and value added tax.

(2) Obtaining a tax advantage shall not be regarded as a bona fide commercial reason for the purposes of this Schedule.

SCHEDULE 23

Section 126.

Obligations etc. imposed on UK representatives

General imposition of obligations etc.

1.—(1) Subject to the following provisions of this Schedule, the provisions of the Tax Acts, of the Taxation of Chargeable Gains Act 1992 and of any subordinate legislation made under the Tax Acts or that Act of 1992, so far as they—

1992 c. 12.

(a) make provision for or in connection with the assessment, collection and recovery of tax, or of interest on any tax, and

(b) apply in any case for purposes connected with the taxation of any amounts in relation to which the non-resident has a UK representative,

shall have effect in that case with respect to tax chargeable on, and interest payable by, the non-resident as if the obligations and liabilities of the non-resident by virtue of those provisions were also obligations and liabilities of the UK representative.

(2) In this paragraph "subordinate legislation" has the same meaning as in the Interpretation Act 1978.

1978 c. 30.

Discharge of obligations and liabilities

2. Subject to the following provisions of this Schedule—

(a) the discharge by the non-resident's UK representative or by the non-resident himself of an obligation or liability which is or corresponds to one to which that representative is subject under this Schedule shall be treated as discharging the corresponding obligation or liability to which the other is subject; and

(b) the non-resident shall be bound, as if they were his own, by any acts or omissions of his UK representative in the discharge of the obligations and liabilities imposed on that representative by this Schedule.

Obligations and liabilities requiring notice

3. Where any obligation or liability such as is mentioned in paragraph 2 above arises only if the person on whom it is imposed has been given or served with a notice or other document or has received a request or demand, that obligation or liability shall not by virtue of this Schedule be treated as having been imposed on the non-resident's UK representative unless the notice or document, or a copy of it, was given to or served on that representative, or he was notified of the request or demand.

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Information requirements

4.—(1) The obligations relating to the furnishing of information which are imposed by this Schedule on the non-resident's UK representative in a case where that representative is his independent agent shall not require that representative to do anything except so far as it is practicable for the representative to do so by acting to the best of his knowledge and belief after having taken all reasonable steps to obtain the necessary information.

(2) Paragraph 2 above shall not have the effect—

(a) of discharging the non-resident from any obligation to furnish information in a case where that obligation has been discharged by his UK representative by virtue only of sub-paragraph (1) above; or

(b) of requiring the non-resident to be bound by any error or mistake contained, otherwise than as a result of—

(i) any act or omission of the non-resident himself, or

(ii) any act or omission to which he consented or in which he connived,

in information furnished by his UK representative in compliance, so far as required by sub-paragraph (1) above, with any obligation imposed by virtue of this Schedule on that representative.

(3) In this paragraph "information" includes anything contained in any return, self-assessment, account, statement or report that is required to be provided to the Board or any officer of the Board, and references to furnishing information shall be construed accordingly.

Criminal offences and penalties etc

5.—(1) A person shall not by virtue of this Schedule be guilty of a criminal offence except where he committed the offence himself or consented to, or connived in, its commission.

(2) An independent agent of the non-resident shall not by virtue of this Schedule be liable, in respect of any act or omission, to any civil penalty or surcharge if—

(a) the act or omission is neither an act or omission of the agent himself nor an act or omission to which he consented or in which he connived, and

(b) he is able to show that he will not, after being indemnified for his other liabilities by virtue of this Schedule, be able to recover the amount of the penalty or surcharge out of any such sums as are mentioned in paragraph 6 below.

Indemnities

6. An independent agent of the non-resident shall be entitled—

(a) to be indemnified in respect of the amount of any liability of the non-resident which is discharged by that agent by virtue of paragraph 2 above; and

(b) to retain, out of any sums otherwise due from that agent to the non-resident, or received by that agent on behalf of the non-resident, amounts sufficient for meeting any liabilities by virtue of that paragraph which have been discharged by the agent, or to which he is subject.

Meaning of "independent agent"

7.—(1) In this Schedule "independent agent", in relation to the non-resident, means any person who is the non-resident's UK representative in respect of any agency from the non-resident in which he was acting on the non-resident's behalf in an independent capacity.

(2) For the purposes of this paragraph a person shall not be regarded as acting in an independent capacity on behalf of the non-resident unless, having regard to its legal, financial and commercial characteristics, the relationship between them is a relationship between persons carrying on independent businesses that deal with each other at arm's length.

SCHEDULE 24

Section 130.

EXCHANGE GAINS AND LOSSES

PART I

AMENDMENTS OF FINANCE ACT 1993

Introduction

1. Chapter II of Part II of the Finance Act 1993 (exchange gains and losses) shall be deemed to have been enacted with the modifications set out in paragraphs 2 to 6 below.

1993 c. 34.

Trading gains and losses

2. In section 128 (trading gains and losses) the following subsections shall be inserted after subsection (10)—

"(10A) In a case where—

(a) an exchange gain of a trade or part of a trade or an exchange loss of a trade or part of a trade would (apart from this subsection) accrue to a company as regards a liability consisting of a duty to settle under a qualifying debt, and

(b) a charge is allowed to the company in respect of the debt under section 338 of the Taxes Act 1988 (allowance of charges on income and capital),

the exchange gain or loss shall be treated as not accruing.

(10B) A charge shall be treated as allowed as mentioned in subsection (10A) above if—

(a) it would be so allowed if the company's total profits were sufficient,

(b) it would be so allowed if the duty mentioned in that subsection were settled, and if in settling it payment were made out of the company's profits brought into charge to corporation tax, or

(c) it would be so allowed if the facts were as mentioned in both paragraph (a) and paragraph (b) above."

Non-trading gains and losses

3.—(1) Section 129 (non-trading gains and losses) shall be amended as follows.

(2) In subsection (8) (no non-trading exchange gain or loss where a charge is allowed) in paragraph (b) the words "or the circumstances are such that a charge would be so allowed if the duty were settled" shall be omitted.

(3) The following subsection shall be inserted after subsection (8)—

"(8A) A charge shall be treated as allowed as mentioned in subsection (8) above if—

(a) it would be so allowed if the company's total profits were sufficient,

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(b) it would be so allowed if the duty mentioned in that subsection were settled, and if in settling it payment were made out of the company's profits brought into charge to corporation tax, or

(c) it would be so allowed if the facts were as mentioned in both paragraph (a) and paragraph (b) above."

Assets and liabilities

4.—(1) Section 153 (qualifying assets and liabilities) shall be amended as follows.

(2) In subsection (4) (certain convertible securities excluded from qualifying assets) for the words from "which" to "shares" there shall be substituted "and did not represent a normal commercial loan when it was created".

(3) In subsection (6) (certain convertible securities excluded from qualifying liabilities) for the words from "which" to "shares" there shall be substituted "and did not represent a normal commercial loan when it was created".

(4) The following subsection shall be inserted after subsection (11)—

"(11A) In subsections (4) and (6) above "normal commercial loan" has the meaning which would be given by sub-paragraph (5) of paragraph 1 of Schedule 18 to the Taxes Act 1988 if—

(a) for paragraph (a)(i) to (iii) of that sub-paragraph there were substituted the words "corporate bonds (within the meaning of section 117 of the Taxation of Chargeable Gains Act 1992)", and

1992 c. 12.

(b) paragraphs (b) and (c) of that sub-paragraph were omitted."

Chargeable gains

5. In Schedule 17 (chargeable gains) in paragraph 4 (no chargeable gain or allowable loss on disposal of certain debts other than debts on securities) the following sub-paragraph shall be inserted after sub-paragraph (2)—

"(2A) In sub-paragraph (1)(e) above "security" includes a debenture that is deemed to be a security for the purposes of section 251 of the 1992 Act by virtue of subsection (6) of that section (debentures issued on reorganisation etc.)".

6. In Schedule 17, the following paragraph shall be substituted for paragraph 5—

"5.—(1) This paragraph applies where—

(a) a right to settlement under a debt on a security is a qualifying asset,

(b) there occurs in relation to the security an event which is a disposal of it for the purposes of the 1992 Act by a qualifying company or which would be such a disposal but for section 127 of that Act (reorganisations),

(c) the event occurs on or after the company's commencement day, and

(d) immediately before the occurrence of the event the company did not hold the right in exempt circumstances.

(2) In applying section 117 of that Act (qualifying corporate bonds) in relation to the event mentioned in sub-paragraph (1) above or to a transaction (if any) falling within sub-paragraph (4) below, that section shall be construed as if subsection (1)(b) (corporate bond must be in sterling) were omitted.

(3) Where the settlement currency of the debt is a currency other than sterling, then, in applying section 117 of the 1992 Act in relation to the event mentioned in sub-paragraph (1) above or to a transaction (if any) falling within sub-paragraph (4) below—

(a) the definition of normal commercial loan for the purposes of section 117(1)(a) shall have effect, and be treated as always having had effect, as if paragraphs (b) and (c) of paragraph 1(5) of Schedule 18 to the Taxes Act 1988 had always been omitted;

(b) section 117 shall be construed as if subsection (10) (securities issued within group) were omitted.

(4) A transaction falls within this sub-paragraph if—

(a) it is a transaction in relation to which sections 127 to 130 of the 1992 Act apply by virtue of any provision of Chapter II of Part IV of that Act, or would apply apart from section 116 of that Act,

(b) it is a transaction under which the qualifying company becomes entitled to the right,

(c) it occurs on or after the company's commencement day but before the event mentioned in sub-paragraph (1) above, and

(d) the company holds the right at all times following the time when it becomes entitled to it and preceding the event mentioned in sub-paragraph (1) above.

(5) Paragraph 3 above applies for the purposes of this paragraph as if references to currency were references to a right."

PART II

AMENDMENTS OF OTHER PROVISIONS

Introduction

7. Paragraphs 8 to 12 below shall be deemed to have come into force on the day appointed under section 165(7)(b) of the Finance Act 1993 (which relates to exchange gains and losses).

1993 c. 34.

Interest on overdue tax

8. In section 87A of the Taxes Management Act 1970 (interest on overdue tax) in subsection (4A) (claims under section 131(5) or (6) of the Finance Act 1993)—

1970 c. 9.

(a) for paragraph (c) there shall be substituted—

"(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,", and

(b) for the words from "then" to the end there shall be substituted "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."

9.—(1) In subsection (4) of that section (amounts of surplus advance corporation tax) for the words "subsection (7)" there shall be substituted "subsections (4B) and (7)".

(2) After subsection (4A) of that section there shall be inserted—

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"(4B) Where, in a case falling within subsection (4A)(a) and (b) above—

1993 c. 34.

(a) there is in the earlier period, as a result of the claim under section 131(5) or (6) of the Finance Act 1993, an amount of surplus advance corporation tax, as defined in section 239(3) of the principal Act, and

(b) pursuant to a claim under the said section 239(3), the whole or any part of that amount is to be treated for the purposes of section 239 of the principal Act as discharging liability for an amount of corporation tax for an accounting period before the earlier period,

the claim under the said section 239(3) shall be disregarded for the purposes of subsection (4A) 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 section 131(5) or (6) of the Finance Act 1993, would be the later period for the purposes of subsection (4A) above."

1970 c. 9.

10. In section 91 of the Taxes Management Act 1970 (effect on interest of reliefs) in subsection (1B) (provisions to which section 91(1A) is subject) after the words "section 87A(4)" there shall be inserted ", (4A), (4B),".

Interest on tax overpaid

11. In section 826 of the Taxes Act 1988 (interest on tax overpaid) in subsection (7C) (claims under section 131(5) or (6) of the Finance Act 1993)—

(a) at the end of paragraph (c) there shall be inserted "or of income tax in respect of a payment received by the company in that accounting period", and

(b) for the words from "repayment of corporation tax" to "resulting from" there shall be substituted "repayment referred to in paragraph (c) above, no account shall be taken of so much of the amount of the repayment as falls to be made as a result of".

12.—(1) In subsection (7) of that section (amounts of surplus advance corporation tax) for the words "subsection (7AA)" there shall be substituted "subsections (7AA) and (7CA)".

(2) After subsection (7C) of that section there shall be inserted—

"(7CA) Where, in a case falling within subsection (7C)(a) and (b) above—

(a) there is in the earlier period, as a result of the claim under section 131(5) or (6) of the Finance Act 1993, an amount of surplus advance corporation tax, as defined in section 239(3), and

(b) pursuant to a claim under section 239(3), the whole or any part of that amount is to be treated for the purposes of section 239 as discharging liability for an amount of corporation tax for an accounting period before the earlier period,

then subsection (7) above shall have effect in relation to the claim under section 239(3) as if the reference in the words after paragraph (c) to the later period within the meaning of subsection (7) above were a reference to the period which, in relation to the claim under section 131(5) or (6) of the Finance Act 1993, would be the later period for the purposes of subsection (7C) above."

(3) In section 102 of the Finance Act 1989 (surrender of company tax refund etc. within group) in subsection (4A) (cases where any of subsections (7) to (7C) of section 826 of the Taxes Act 1988 applies) for "(7C)" there shall be substituted "(7CA)".

1989 c. 26.

(4) Subject to sub-paragraph (5) below, section 826(7CA) of the Taxes Act 1988 (inserted by sub-paragraph (2) above) shall apply in relation to any claim under section 131(5) or (6) of the Finance Act 1993 as a result of which there is an amount of surplus advance corporation tax in an accounting period ending after 30th September 1993.

1993 c. 34.

(5) Where there is a claim in relation to which section 826(7CA) would, but for this sub-paragraph, apply, and—

(a) the case is one falling within section 826(7CA)(a) and (b), but

(b) the period mentioned in section 826(7CA)(b) ended on or before 30th September 1993,

section 826(7CA) shall not apply but section 825(4)(a) of the Taxes Act 1988 shall have effect as if the reference to the accounting period in the case of which the amount of surplus advance corporation tax arose were a reference to the period which, in relation to the claim, would be the later period for the purposes of section 826(7C) of that Act.

SCHEDULE 25

Section 133.

CONTROLLED FOREIGN COMPANIES

Introduction

1. In this Schedule—

(a) paragraph 2 contains an amendment designed to secure that in certain cases the chargeable profits of a company resident outside the United Kingdom are to be computed and expressed in the currency used in its accounts;

(b) the other paragraphs contain amendments connected with that amendment.

The principal amendment

2. The following section shall be inserted after section 747 of the Taxes Act 1988—

"Special rule for computing chargeable profits.

747A.—(1) Subsection (2) below applies where for the purposes of this Chapter a company's chargeable profits fall to be determined for—

(a) the first relevant accounting period of the company, or

(b) any subsequent accounting period of the company.

(2) Notwithstanding any other rule (whether statutory or otherwise) the chargeable profits for any such period shall be computed and expressed in the currency used in the accounts of the company for its first relevant accounting period.

(3) Subsection (4) below applies where for the purposes of this Chapter a company's chargeable profits fall to be determined for any accounting period of the company which—

(a) begins on or after the appointed day, and

(b) falls before the company's first relevant accounting period.

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(4) Notwithstanding any other rule (whether statutory or otherwise) the chargeable profits for any such period shall be computed and expressed in the currency used in the accounts of the company for the accounting period concerned.

(5) For the purposes of this section the first relevant accounting period of the company shall be found in accordance with subsections (6) to (8) below.

(6) Where a direction has been given under section 747 as regards an accounting period of the company which begins before its commencement day, its first relevant accounting period is its accounting period which begins on its commencement day.

(7) Where the company is a trading company and subsection (6) above does not apply, its first relevant accounting period is its first accounting period which begins on or after its commencement day and as regards which a direction has been given under section 747.

(8) Where the company is not a trading company and subsection (6) above does not apply, its first relevant accounting period is its first accounting period which begins on or after its commencement day and as regards which—

(a) a direction has been given under section 747, or

(b) it can reasonably be assumed that a direction would have been given under section 747 but for the fact that it pursued, within the meaning of Part I of Schedule 25, an acceptable distribution policy.

(9) For the purposes of this section—

(a) a company's commencement day is the first day of its first accounting period to begin after the day preceding the appointed day;

1993 c. 34.

(b) the appointed day is such day as may be appointed under section 165(7)(b) of the Finance Act 1993 (which relates to exchange gains and losses).

(10) References in this section 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

1985 c. 6.

(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 Companies Act 1985 are required by that Act to keep;

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

Connected amendments

3. In section 747 of the Taxes Act 1988 (imputation of chargeable profits and creditable tax of controlled foreign companies) the following subsections shall be inserted after subsection (4)—

"(4A) Where by virtue of section 747A a company's chargeable profits for an accounting period are to be computed and expressed in a currency other than sterling, for the purposes of subsection (4)(a) above the apportioned amount shall be taken to be the sterling equivalent of the apportioned amount found in the currency other than sterling.

(4B) The translation required by subsection (4A) above shall be made by reference to the London closing exchange rate for the two currencies concerned for the last day of the accounting period concerned."

4. In section 748 of the Taxes Act 1988 (limitations on direction-making power) the following subsections shall be inserted after subsection (3)—

"(4) Where by virtue of section 747A a company's chargeable profits for an accounting period are to be computed and expressed in a currency other than sterling, for the purposes of subsection (1)(d) above its chargeable profits for the period shall be taken to be the sterling equivalent of its chargeable profits found in the currency other than sterling.

(5) The translation required by subsection (4) above shall be made by reference to the London closing exchange rate for the two currencies concerned for the last day of the accounting period concerned."

5. In section 750 of the Taxes Act 1988 (territories with a lower level of taxation) the following subsections shall be inserted after subsection (4)—

"(5) Subsections (6) and (7) below apply where by virtue of section 747A a company's chargeable profits for an accounting period are to be computed and expressed in a currency other than sterling.

(6) For the purposes of subsection (2) above the company's chargeable profits for the period shall be taken to be the sterling equivalent of its chargeable profits found in the currency other than sterling.

(7) In applying section 13 for the purposes of making the determination mentioned in subsection (3) above, any reference in section 13 to the amount of the company's profits for the period on which corporation tax falls finally to be borne shall be construed as a reference to the sterling sum found under subsection (6) above.

(8) Any translation required by subsection (6) above shall be made by reference to the London closing exchange rate for the two currencies concerned for the last day of the accounting period concerned."

6.—(1) Schedule 24 to the Taxes Act 1988 (assumptions for calculating chargeable profits etc.) shall be amended as mentioned in sub-paragraphs (2) to (5) below; and—

(a) the amendment made by sub-paragraph (2) below shall be deemed always to have had effect, and

(b) paragraph 1(4) of Schedule 16 to the Finance Act 1984 shall be deemed always to have had effect subject to the same amendment.

1984 c. 43.

(2) In paragraph 1 (general assumptions for calculating chargeable profits etc.) in sub-paragraph (4) (assumption for certain purposes that a direction has been given) before the words "it shall be assumed" there shall be inserted "in determining the chargeable profits of the company for the accounting period mentioned in paragraph (a) above".

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(3) Paragraph 4A (computation of basic profits or losses of a trade) shall be deemed never to have been inserted.

(4) The following paragraph shall be inserted after paragraph 11—

"11A.—(1) This paragraph applies where by virtue of section 747A the company's chargeable profits for an accounting period (the period in question) are to be computed and expressed in a currency (the relevant foreign currency) other than sterling.

(2) For the purposes of making in relation to the period in question any calculation which—

(a) falls to be made under the enactments relating to capital allowances, and

(b) takes account of amounts arrived at under those enactments in relation to accounting periods falling before the company's commencement day (within the meaning given by section 747A(9)),

it shall be assumed that any such amount is the equivalent, expressed in the relevant foreign currency, of the amount expressed in sterling.

(3) For the purposes of the application in relation to the period in question of paragraph 11(1)(c) above, it shall be assumed that the company's chargeable profits for the period are the sterling equivalent of its chargeable profits found in the relevant foreign currency.

(4) For the purposes of the application of section 34, 35 or 96 of the 1990 Act (motor cars and dwelling-houses) in relation to expenditure incurred in the period in question, it shall be assumed that any sterling sum mentioned in any of those sections is the equivalent, expressed in the relevant foreign currency, of the amount expressed in sterling.

(5) The translation required by sub-paragraph (2) above shall be made by reference to the London closing exchange rate for the two currencies concerned for the first day of the period in question.

(6) The translation required by sub-paragraph (3) above shall be made by reference to the London closing exchange rate for the two currencies concerned for the last day of the period in question.

(7) The translation required by sub-paragraph (4) above shall be made by reference to the London closing exchange rate for the two currencies concerned for the day on which the expenditure concerned was incurred."

(5) The following shall be inserted after paragraph 12—

"Exchange gains and losses

1993 c. 34.

13. Paragraphs 14 to 19 below apply for the purposes of the application of Chapter II of Part II of the Finance Act 1993.

14.—(1) This paragraph applies where—

(a) by virtue of section 747A the company's chargeable profits for an accounting period are to be computed and expressed in a particular currency (the relevant currency),

(b) in an accrual period an asset or contract was held, or a liability was owed, by the company, and

(c) the accrual period falls within or constitutes the accounting period concerned.

(2) It shall be assumed that—

(a) the local currency for the purposes of sections 125 to 127 of the Finance Act 1993 is the relevant currency, and

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(b) section 149 of that Act (local currency to be used) does not apply as regards the accrual period concerned.

15. Where the accounting period mentioned in section 139(1) of the Finance Act 1993 is one for which, by virtue of section 747A, the company's chargeable profits are to be computed and expressed in a currency other than sterling—

1993 c. 34.

(a) section 142(1) to (4) of that Act shall be assumed not to apply as regards that period;

(b) section 142(5) and (6) of that Act shall be assumed not to apply as regards the next accounting period of the company.

16.—(1) This paragraph applies where the last relevant accounting period for the purposes of section 146 of the Finance Act 1993 is one for which by virtue of section 747A the company's chargeable profits are to be computed and expressed in a particular currency (the relevant currency).

(2) Subsections (10), (11) and (14) of section 146 of the Finance Act 1993 shall be assumed not to apply.

17. Where by virtue of section 747A the company's chargeable profits for an accounting period are to be computed and expressed in a particular currency, the references in section 148(9) of the Finance Act 1993 to sterling shall be assumed to be references to that particular currency.

18.—(1) This paragraph applies where the accounting period mentioned in paragraph (b) of subsection (11) of section 153 of the Finance Act 1993 is one for which, by virtue of section 747A, the company's chargeable profits are to be computed and expressed in a particular currency (the relevant currency).

(2) That subsection shall have effect as if the reference to the local currency of the trade for the accounting period were a reference to the relevant currency.

19.—(1) This paragraph applies where—

(a) Chapter II of Part II of the Finance Act 1993 falls to be applied as regards an accounting period of the company;

(b) under that Chapter, an exchange gain or an exchange loss accrued to the company for an accrual period constituting or falling within an earlier accounting period of the company, and

(c) the accounting period mentioned in paragraph (b) above falls before the company's first relevant accounting period.

(2) It shall be assumed, for the purposes of applying Chapter II of Part II of the Finance Act 1993 as respects the accounting period mentioned in sub-paragraph (1)(a) above, that the exchange gain or loss mentioned in sub-paragraph (1)(b) above never existed.

(3) In sub-paragraph (1) above—

(a) references to an exchange gain are to an exchange gain of a trade or an exchange gain of part of a trade or a non-trading exchange gain;

(b) references to an exchange loss are to an exchange loss of a trade or an exchange loss of part of a trade or a non-trading exchange loss;

(c) the reference in sub-paragraph (1)(b) to an exchange gain or an exchange loss accruing is to the gain or loss accruing before the application of any of sections 131, 136, 137 and 140 of the Finance Act 1993 in relation to the accounting period mentioned in sub-paragraph (1)(b);

(d) references to the first relevant accounting period of the company shall be construed in accordance with section 747A."

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1993 c. 34.

7. The following section shall be inserted after section 168 of the Finance Act 1993—

"Application of Chapter to certain companies becoming resident in the United Kingdom.

168A.—(1) In a case where—

(a) by virtue of section 751 of the Taxes Act 1988, an exchange gain or an exchange loss accrues to a company for an accrual period constituting or falling within an accounting period during which the company is resident outside the United Kingdom, and

(b) the company subsequently becomes resident in the United Kingdom,

the company shall be treated, for the purposes of applying this Chapter to accounting periods beginning on or after the date when the company becomes resident in the United Kingdom, as if the exchange gain or loss mentioned in paragraph (a) above never existed.

(2) In this section—

(a) references to an exchange gain are to an exchange gain of a trade or an exchange gain of part of a trade or a non-trading exchange gain;

(b) references to an exchange loss are to an exchange loss of a trade or an exchange loss of part of a trade or a non-trading exchange loss;

(c) the reference in paragraph (a) of subsection (1) above to an exchange gain or an exchange loss accruing is to the gain or loss accruing before the application of any of sections 131, 136, 137 and 140 above in relation to the accounting period mentioned in that paragraph."

Section 135.

SCHEDULE 26

CHANGE IN OWNERSHIP OF INVESTMENT COMPANY: DEDUCTIONS

Introductory

1. The Taxes Act 1988 shall have effect subject to the amendments in paragraphs 2 to 4 below.

Main provisions

2. After section 768A there shall be inserted the following sections—

"Change in ownership of investment company: deductions generally.

768B.—(1) This section applies where there is a change in the ownership of an investment company and—

(a) after the change there is a significant increase in the amount of the company's capital; or

(b) within the period of six years beginning three years before the change there is a major change in the nature or conduct of the business carried on by the company; or

(c) the change in the ownership occurs at any time after the scale of the activities in the business carried on by the company has become small or negligible and before any considerable revival of the business.

(2) For the purposes of subsection (1)(a) above, whether there is a significant increase in the amount of a company's capital after a change in the ownership of the company shall be determined in accordance with the provisions of Part I of Schedule 28A.

(3) In paragraph (b) of subsection (1) above "major change in the nature or conduct of a business" includes a major change in the nature of the investments held by the company, even if the change is the result of a gradual process which began before the period of six years mentioned in that paragraph.

(4) For the purposes of this section—

(a) the accounting period of the company in which the change in the ownership occurs shall be divided into two parts, the first the part ending with the change, the second the part after;

(b) those parts shall be treated as two separate accounting periods; and

(c) the amounts in issue for the accounting period being divided shall be apportioned to those parts.

(5) In Schedule 28A—

(a) Part II shall have effect for identifying the amounts in issue for the accounting period being divided; and

(b) Part III shall have effect for the purpose of apportioning those amounts to the parts of that accounting period.

(6) Any sums which—

(a) are disbursed or treated as disbursed as expenses of management in the accounting period being divided, and

(b) under Part III of Schedule 28A are apportioned to either part of that period,

shall be treated for the purposes of section 75 as disbursed in that part.

(7) Any charges which under Part III of Schedule 28A are apportioned to either part of the accounting period being divided shall be treated for the purposes of sections 338 and 75 as paid in that part.

(8) Any allowances which under Part III of Schedule 28A are apportioned to either part of the accounting period being divided shall be treated for the purposes of section 28 of the 1990 Act and section 75(4) as falling to be made in that part.

(9) In computing the total profits of the company for an accounting period ending after the change in the ownership, no deduction shall be made under section 75 by reference to—

(a) sums disbursed or allowances falling to be made for an accounting period beginning before the change; or

(b) charges paid in such an accounting period.

(10) To the extent that a payment of interest made by the company represents excess overdue interest, the payment shall not be deductible under section 338(1) from the total profits for the accounting period in which it is made.

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(11) Whether a payment of interest made by the company represents excess overdue interest, and if so to what extent, shall be determined in accordance with the provisions of Part IV of Schedule 28A.

(12) Subject to the modification in subsection (13) below, subsections (6) to (9) of section 768 shall apply for the purposes of this section as they apply for the purposes of that section.

(13) The modification is that in subsection (6) of section 768 for the words "relief in respect of a company's losses has been restricted" there shall be substituted "deductions from a company's total profits have been restricted".

(14) In this section "investment company" has the same meaning as in Part IV.

Deductions: asset transferred within group.

768C.—(1) This section applies where—

(a) there is a change in the ownership of an investment company ("the relevant company");

(b) none of paragraphs (a) to (c) of section 768B(1) applies;

(c) after the change in the ownership the relevant company acquires an asset from another company in circumstances such that section 171(1) of the 1992 Act applies to the acquisition; and

(d) a chargeable gain ("a relevant gain") accrues to the relevant company on a disposal of the asset within the period of three years beginning with the change in the ownership.

(2) For the purposes of subsection (1)(d) above an asset acquired by the relevant company as mentioned in subsection (1)(c) above shall be treated as the same as an asset owned at a later time by that company if the value of the second asset is derived in whole or in part from the first asset, and in particular where the second asset is a freehold and the first asset was a leasehold and the lessee has acquired the reversion.

(3) For the purposes of this section—

(a) the accounting period of the relevant company in which the change in the ownership occurs shall be divided into two parts, the first the part ending with the change, the second the part after;

(b) those parts shall be treated as two separate accounting periods; and

(c) the amounts in issue for the accounting period being divided shall be apportioned to those parts.

(4) In Schedule 28A—

(a) Part V shall have effect for identifying the amounts in issue for the accounting period being divided; and

(b) Part VI shall have effect for the purpose of apportioning those amounts to the parts of that accounting period.

(5) Subsections (6) to (8) of section 768B shall apply in relation to the relevant company as they apply in relation to the company mentioned in subsection (1) of that section except that any reference in those subsections to Part III of Schedule 28A shall be read as a reference to Part VI of that Schedule.

(6) Subsections (7) and (9) below apply only where, in accordance with the relevant provisions of the 1992 Act and Part VI of Schedule 28A, an amount is included in respect of chargeable gains in the total profits for the accounting period of the relevant company in which the relevant gain accrues.

(7) In computing the total profits of the relevant company for the accounting period in which the relevant gain accrues, no deduction shall be made under section 75 by reference to—

(a) sums disbursed or allowances falling to be made for an accounting period of the relevant company beginning before the change in ownership, or

(b) charges paid in such an accounting period,

from an amount of the total profits equal to the amount which represents the relevant gain.

(8) For the purposes of this section, the amount of the total profits for an accounting period which represents the relevant gain is—

(a) where the amount of the relevant gain does not exceed the amount which is included in respect of chargeable gains for that period, an amount equal to the amount of the relevant gain;

(b) where the amount of the relevant gain exceeds the amount which is included in respect of chargeable gains for that period, the amount so included.

(9) To the extent that a payment of interest made by the relevant company in the accounting period in which the relevant gain accrues represents excess overdue interest, the payment shall not be deductible under section 338(1) from such part of the total profits for that accounting period as represents the relevant gain.

(10) Whether a payment of interest made by the relevant company represents excess overdue interest, and if so to what extent, shall be determined in accordance with the provisions of Part IV of Schedule 28A.

(11) Subsections (8) and (9) of section 768 shall apply for the purposes of this section as they apply for the purposes of that section.

(12) In this section—

"the relevant provisions of the 1992 Act" means section 8(1) of and Schedule 7A to that Act; and

"investment company" has the same meaning as in Part IV."

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Supplementary provisions

3. After Schedule 28 there shall be inserted—

"SCHEDULE 28A

CHANGE IN OWNERSHIP OF INVESTMENT COMPANY: DEDUCTIONS

PART I

SIGNIFICANT INCREASE IN COMPANY CAPITAL

General

1. The provisions referred to in section 768B(2) for determining whether there is a significant increase in the amount of a company's capital after a change in the ownership of the company are as follows.

The basic rule

2. There is a significant increase in the amount of a company's capital if amount B—

(a) exceeds amount A by at least £1 million; or

(b) is at least twice amount A.

Amount A

3.—(1) Amount A is the lower of—

(a) the amount of the company's capital immediately before the change in the ownership; and

(b) the highest 60 day minimum amount for the pre-change year, found in accordance with sub-paragraphs (2) to (6) below.

(2) Find the daily amounts of the company's capital over the pre-change year.

(3) Take the highest of the daily amounts.

(4) Find out whether there was in the pre-change year a period of 60 days or more in which there was no daily amount lower than the amount taken.

(5) If there was, the amount taken is the highest 60 day minimum amount for the pre-change year.

(6) If there was not, take the next highest of the daily amounts and repeat the process in sub-paragraph (4) above; and so on, until the highest 60 day minimum amount for the pre-change year is found.

(7) In this Part of this Schedule "the pre-change year" means the period of one year ending immediately before the change in the ownership of the company in question.

Amount B

4.—(1) Amount B is the highest 60 day minimum amount for the post-change period (finding that amount for that period in the same way as the highest 60 day minimum amount for the pre-change year is found).

(2) In this paragraph "the post-change period" means the period of three years beginning with the change in the ownership of the company in question.

Capital and amounts of capital

5.—(1) The capital of a company consists of the aggregate of—

(a) the amount of the paid up share capital of the company;

(b) the amount outstanding of any debts incurred by the company which are of a description mentioned in any of paragraphs (a) to (c) of section 417(7); and

(c) the amount outstanding of any redeemable loan capital issued by the company.

(2) For the purposes of sub-paragraph (1) above—

(a) the amount of the paid up share capital includes any amount in the share premium account of the company (construing "share premium account" in the same way as in section 130 of the Companies Act 1985); and

1985 c. 6.

(b) the amount outstanding of any debts includes any interest due on the debts.

(3) Amounts of capital shall be expressed in sterling and rounded up to the nearest pound.

PART II

AMOUNTS IN ISSUE FOR PURPOSES OF SECTION 768B

6. The amounts in issue referred to in section 768B(4)(c) are—

(a) the amount of any sums (including commissions) actually disbursed as expenses of management for the accounting period being divided, except any such expenses as would (apart from section 768B) be deductible in computing profits otherwise than under section 75;

(b) the amount of any charges which are paid in that accounting period wholly and exclusively for the purposes of the company's business;

(c) the amount of any excess carried forward under section 75(3) to the accounting period being divided;

(d) the amount of any allowances falling to be made for that accounting period by virtue of section 28 of the 1990 Act which would (apart from section 768B) be added to the expenses of management for that accounting period by virtue of section 75(4);

(e) any other amounts by reference to which the profits or losses of that accounting period would (apart from section 768B) be calculated.

PART III

APPORTIONMENT FOR PURPOSES OF SECTION 768B

7.—(1) Subject to paragraph 8 below, the apportionment required by section 768B(4)(c) shall be made—

(a) in the case of the sums and charges mentioned in paragraph 6(a) and (b) above, by reference to the time when the sum or charge is due to be paid;

(b) in the case of the excess mentioned in paragraph 6(c) above, by apportioning the whole amount of the excess to the first part of the accounting period being divided;

(c) in the case of the amounts mentioned in paragraph 6(d) and (e) above, by reference to the respective lengths of the parts of the accounting period being divided.

(2) For the purposes of sub-paragraph (1)(a) above, in the case of any charge consisting of interest, the interest shall be assumed to become due on a day to day basis as it arises.

8. If it appears that any method of apportionment given by paragraph 7 above would work unreasonably or unjustly for any case for which it is given, such other method shall be used for that case as appears just and reasonable.

Part IV

Excess overdue interest

Introductory

9.—(1) The provisions referred to in sections 768B(11) and 768C(10) for determining whether a payment of interest made by the company or, as the case may be, the relevant company represents excess overdue interest, and if so to what extent, are set out in paragraphs 10 to 12 below.

(2) In those paragraphs—

(a) "overdue interest" means interest due to be paid by the company or, as the case may be, the relevant company before the change in the ownership and still unpaid at the end of the actual accounting period in which the change occurs;

(b) "amount C" means the amount of all the overdue interest; and

(c) "amount P" means the amount of the profits for the accounting period ending with the change in the ownership.

(3) For the purposes of sub-paragraph (2) above—

(a) interest shall be assumed to become due on a day to day basis as it arises;

(b) the reference to the profits is a reference to the profits after making all deductions and giving all reliefs that for the purposes of corporation tax are made or given against the profits, including deductions and reliefs which under any provision are treated as reducing them for those purposes.

The rules

10.—(1) A payment of interest does not represent excess overdue interest except to the extent that it discharges a liability to pay overdue interest.

(2) For the purposes of this Part of this Schedule, a payment of interest on a debt shall be treated as discharging any liability to pay overdue interest before it is treated to any extent as discharging a liability to pay interest which is not overdue interest.

11. Where amount C does not exceed amount P, no payment of interest represents excess overdue interest.

12.—(1) Where amount C exceeds amount P—

(a) find the amount by which amount C exceeds amount P (amount X);

(b) take all the payments and parts of payments which discharge any liability to pay overdue interest;

(c) treat those payments and parts of payments as cancelling out amount X before any other part of amount C.

(2) A payment of interest represents excess overdue interest to the extent that, in accordance with sub-paragraph (1) above, it is treated as cancelling out amount X.

PART V

AMOUNTS IN ISSUE FOR PURPOSES OF SECTION 768C

13.—(1) The amounts in issue referred to in section 768C(3)(c) are—

(a) the amount which would in accordance with the relevant provisions of the 1992 Act (and apart from section 768C) be included in respect of chargeable gains in the total profits for the accounting period being divided;

(b) the amount of any sums (including commissions) actually disbursed as expenses of management for the accounting period being divided except any such expenses as would (apart from section 768C) be deductible in computing total profits otherwise than under section 75;

(c) the amount of any charges which are paid in that accounting period wholly and exclusively for the purposes of the company's business;

(d) the amount of any excess carried forward under section 75(3) to the accounting period being divided;

(e) the amount of any allowances falling to be made for that accounting period by virtue of section 28 of the 1990 Act which would (apart from section 768C) be added to the expenses of management for that accounting period by virtue of section 75(4); and

(f) any other amounts by reference to which the profits or losses of the accounting period being divided would (apart from section 768C) be calculated.

(2) In sub-paragraph (1)(a) above "the relevant provisions of the 1992 Act" means section 8(1) of and Schedule 7A to that Act.

PART VI

APPORTIONMENT FOR PURPOSES OF SECTION 768C

14. The apportionment required by section 768C(3)(c) shall be made as follows.

15. In the case of the amount mentioned in paragraph 13(1)(a) above—

(a) if it does not exceed the amount of the relevant gain, the whole of it shall be apportioned to the second part of the accounting period being divided;

(b) if it exceeds the amount of the relevant gain, the excess shall be apportioned to the first part of the accounting period being divided and the relevant gain shall be apportioned to the second part.

16.—(1) Subject to paragraph 17 below, the apportionment shall be made—

(a) in the case of the sums and charges mentioned in paragraph 13(1)(b) and (c) above, by reference to the time when the sum or charge is due to be paid;

(b) in the case of the excess mentioned in paragraph 13(1)(d) above, by apportioning the whole amount of the excess to the first part of the accounting period being divided;

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(c) in the case of the amounts mentioned in paragraph 13(1)(e) and (f) above, by reference to the respective lengths of the parts of the accounting period being divided.

(2) For the purposes of sub-paragraph (1)(a) above, in the case of any charge consisting of interest, the interest shall be assumed to become due on a day to day basis as it arises.

17. If it appears that any method of apportionment given by paragraph 16 above would work unreasonably or unjustly for any case for which it is given, such other method shall be used for that case as appears just and reasonable."

Consequential amendments

4.—(1) Section 769 (rules for ascertaining change in ownership of company) shall be amended in accordance with sub-paragraphs (2) to (4) below.

(2) In subsections (1), (2)(d) and (5) for "sections 767A, 768 and 768A" there shall in each case be substituted "sections 767A, 768, 768A, 768B and 768C".

(3) After subsection (3) there shall be inserted—

"(3A) Subsection (3) above shall apply for the purposes of sections 768B and 768C as if the reference to the benefit of losses were a reference to the benefit of deductions."

(4) In subsection (4) for "section 768 or 768A" there shall be substituted "section 768, 768A, 768B or 768C".

Application of Schedule

5. This Schedule shall apply in relation to a change in ownership occurring on or after 29th November 1994 other than a change occurring in pursuance of a contract entered into before that date.

Section 139.

SCHEDULE 27

SUB-CONTRACTORS IN THE CONSTRUCTION INDUSTRY

Payments to which provision for deductions applies

1.—(1) In subsection (1) of section 559 of the Taxes Act 1988 (payments from which deductions are made), for "subsection (2) below" there shall be substituted "subsections (2) and (3A) below".

(2) Subsection (3) of that section (limit on payments exempted where a guarantee has been given or the recipient is a school leaver) shall not apply in relation to payments made to a person in any case where that person's certificate under section 561 of that Act is one issued or renewed with respect to a period beginning on or after the appointed day.

(3) Before subsection (4) of that section there shall be inserted the following subsection—

"(3A) Subsection (1) above shall not apply to a payment made under any contract if such conditions as may be prescribed in regulations made by the Board are satisfied in relation to the payment and the person making it."

(4) Sub-paragraphs (1) and (3) above shall have effect in relation to payments made on or after the appointed day.

Persons who are contractors and sub-contractors

2.—(1) In subsection (2) of section 560 of that Act (persons who are contractors)—

(a) after paragraph (a) there shall be inserted the following paragraph—

"(aa) any public office or department of the Crown (including any Northern Ireland department);";

and

(b) after paragraph (e) there shall be inserted the following paragraph—

"(ea) any such body, being a body (in addition to those falling within paragraphs (aa) to (e) above) which has been established for the purpose of carrying out functions conferred on it by or under any enactment, as may be designated as a body to which this subsection applies in regulations made by the Board;".

(2) In paragraph (f) of that subsection and in subsection (3) of that section (persons to be contractors where average annual expenditure on construction exceeds £250,000), for "£250,000", wherever it occurs, there shall be substituted "£1,000,000".

(3) This paragraph applies in relation to any payments made on or after the appointed day.

Individual partners and liabilities for certain contraventions

3.—(1) In subsection (2)(b) of section 561 of that Act (condition of certificate for a member of a firm), for "563" there shall be substituted "562".

(2) In subsection (10) of that section (offence in connection with obtaining certificate), for "on summary conviction to a fine not exceeding £5,000" there shall be substituted "to a penalty not exceeding £3,000".

(3) In subsection (11) of that section (offences in connection with certificates, vouchers etc.)—

(a) after "section 566(2)(j)" there shall be inserted "or who is in possession of any form or other document supplied to him by the Board for use in connection with any regulations under this Chapter"; and

(b) for "on summary conviction to a fine not exceeding £5,000" there shall be substituted "to a penalty not exceeding £3,000".

Turnover test etc.

4.—(1) Section 562 of that Act (conditions for grant of exemption certificate to be satisfied by individuals) shall be amended as follows.

(2) In subsection (1) (applications to which section applies)—

(a) the words "(otherwise than as a partner in a firm)" shall be omitted; and

(b) at the end there shall be inserted "except that, where the application is for the issue of that certificate to that individual as a partner in a firm, this section shall have effect with the omission of subsections (2) to (2B)."

(3) After subsection (2) there shall be inserted the following subsections—

"(2A) The applicant must satisfy the Board, by such evidence as may be prescribed in regulations made by the Board, that the carrying on of the business mentioned in subsection (2) above is likely to involve the receipt, annually in the period to which the certificate would relate, of an aggregate amount by way of relevant payments which is not less than the amount specified in regulations made by the Board as the minimum turnover for the purposes of this subsection.

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(2B) In subsection (2A) above 'relevant payments' means the following payments, other than so much of them as would fall, as representing the direct cost to any person of any materials, to be disregarded in calculating the amount of any deductions under subsection (4) of section 559, that is to say—

(a) payments from which such deductions would fall to be made if the certificate is not granted; and

(b) payments which would be such payments but for any regulations under subsection (3A) of that section."

(4) Subsections (3) to (7) (which relate to the period for which an individual has carried on his business) shall cease to have effect.

(5) In subsection (9) (compliance by companies of which the applicant has had control), for "has the meaning given by section 840" there shall be substituted "shall be construed in accordance with section 416(2) to (6)".

(6) In subsection (11) (persons who have been out of the United Kingdom), for the words from the beginning to the word "Board", in the second place where it occurs, there shall be substituted—

"(11) Where the applicant states, for the purpose of showing that he has complied with all obligations imposed on him as mentioned in subsection (8) above, that he was not subject to any of one or more obligations in respect of any period ending within the qualifying period—

(a) he must satisfy the Board of that fact by such evidence as may be prescribed in regulations made by the Board; and

(b) if for that purpose he states that he has been outside the United Kingdom for the whole or any part of the qualifying period, he must also satisfy them, by such evidence as may be so prescribed,".

(7) For subsection (14) (meaning of "qualifying period") there shall be substituted the following subsections—

"(13A) Subject to subsection (10) above, a person shall not be taken for the purposes of this section to have complied with any such obligation or request as is referred to in subsections (8) to (11) above if there has been a contravention of a requirement as to the time at which, or the period within which, the obligation or request was to be complied with.

(14) In this section 'the qualifying period', in relation to an application for the issue of a certificate under section 561, means the period of three years ending with the date of the application."

5. Section 563 of that Act (conditions to be satisfied by individuals who are partners) shall cease to have effect.

6. For subsections (3) to (5) of section 564 of that Act there shall be substituted the following subsections—

"(2A) The partners must satisfy the Board, by such evidence as may be prescribed in regulations made by the Board, that the carrying on of the firm's business is likely to involve the receipt, annually in the period to which the certificate would relate, of an aggregate amount by way of relevant payments which is not less than whichever is the smaller of—

(a) the sum specified in subsection (2B) below; and

(b) the amount specified for the purposes of this paragraph in regulations made by the Board;

and in this subsection 'relevant payments' has the meaning given by section 562(2B).

(2B) The sum referred to in subsection (2A)(a) above is the sum of the following amounts, that is to say—

(a) the amount obtained by multiplying the number of partners in the firm who are individuals by the amount specified in regulations as the minimum turnover for the purposes of section 562(2A); and

(b) in respect of each partner in the firm who is a company (other than one to which section 565(2A)(b) would apply), the amount equal to what would have been the minimum turnover for the purposes of section 565(2A) if the application had been for the issue of a certificate to that company.

(3) Subject to subsection (4) below, each of the persons who are partners at the time of the application must have complied, so far as any such charge to income tax or corporation tax is concerned as falls to be computed by reference to the profits or gains of the firm's business—

(a) with all obligations imposed on him by or under the Tax Acts or the Management Act in respect of periods ending within the qualifying period; and

(b) with all requests to him as such a partner to supply to an inspector accounts of, or other information about, the firm's business or his share of the profits or gains of that business.

(4) Where a person has failed to comply with such an obligation or request as is referred to in subsection (3) above the firm shall nevertheless be treated, in relation to that partner, as satisfying that condition as regards that obligation or request if the Board are of the opinion that the failure is minor and technical and does not give reason to doubt that the condition mentioned in subsection (5) below will be satisfied.

(5) There must be reason to expect that each of the persons who are from time to time partners in the firm will, in respect of periods ending after the end of the qualifying period, comply with such obligations and requests as are referred to in subsection (3) above.

(6) Subject to subsection (4) above, a person shall not be taken for the purposes of this section to have complied with any such obligation or request as is referred to in subsection (3) above if there has been a contravention of a requirement as to the time at which, or the period within which, the obligation or request was to be complied with.

(7) In this section 'the qualifying period', in relation to an application for the issue of a certificate under section 561, means the period of three years ending with the date of the application."

7.—(1) After subsection (2) of section 565 of that Act there shall be inserted the following subsections—

"(2A) The company must either—

(a) satisfy the Board, by such evidence as may be prescribed in regulations made by them, that the carrying on of its business is likely to involve the receipt, annually in the period to which the certificate would relate, of an aggregate amount by way of relevant payments which is not less than the amount which is the minimum turnover for the purposes of this subsection; or

(b) satisfy the Board that the only persons with shares in the company are companies which are limited by shares and themselves excepted from section 559 by virtue of a certificate which is in force under section 561;

and in this subsection 'relevant payments' has the meaning given by section 562(2B).

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(2B) The minimum turnover for the purposes of subsection (2A) above is whichever is the smaller of—

(a) the amount obtained by multiplying the amount specified in regulations as the minimum turnover for the purposes of section 562(2A) by the number of persons who are relevant persons in relation to the company; and

(b) the amount specified for the purposes of this paragraph in regulations made by the Board.

(2C) For the purposes of subsection (2B) above a person is a relevant person in relation to the company—

(a) where the company is a close company, if he is a director of the company (within the meaning of Chapter II of Part V) or a beneficial owner of shares in the company; and

(b) in any other case, if he is such a director of the company."

(2) After subsection (8) of that section there shall be inserted the following subsection—

"(8A) Subject to subsection (4) above, a company shall not be taken for the purposes of this section to have complied with any such obligation or request as is referred to in subsections (3) to (7) above if there has been a contravention of a requirement as to the time at which, or the period within which, the obligation or request was to be complied with."

Commencement of paragraphs 3 to 7

8.—(1) Except in the case of paragraph 3(2) and (3) above, paragraphs 3 to 7 above shall have effect in relation to any application for the issue or renewal of a certificate under section 561 of the Taxes Act 1988 which is made with respect to any period beginning on or after the appointed day.

(2) Paragraph 3(2) and (3)(b) above shall have effect in relation to contraventions of section 561(10) or (11) occurring on or after the appointed day; and paragraph 3(3)(a) above shall have effect in relation to forms and other documents in a person's possession at any time after the passing of this Act.

Powers to make regulations

9. In section 566 of that Act (general powers to make regulations), after subsection (2) there shall be inserted the following subsection—

"(3) Any power under this Chapter to make regulations prescribing the evidence required for establishing what is likely to happen at any time shall include power to provide for such matters to be presumed (whether conclusively or unless the contrary is shown in the manner provided for in the regulations) from evidence of what has previously happened."

Section 153.

SCHEDULE 28

ELECTRONIC LODGEMENT OF TAX RETURNS, ETC.

1970 c. 9.

1. In the Taxes Management Act 1970 after section 115 there shall be inserted—

"Electronic lodgement of tax returns, etc.

115A. Schedule 3A to this Act (which makes provision with respect to the electronic lodgement of tax returns and documents required in connection with tax returns) shall have effect."

2. After Schedule 3 to that Act there shall be inserted—

"Schedule 3A

Electronic lodgement of tax returns, etc.

Part I

Tax returns: general

The basic rule

1.—(1) Sub-paragraph (2) below applies where a person is—

(a) required by a notice to which this Schedule applies, or

(b) subject to any other requirement to which this Schedule applies,

to deliver or make a return to an officer of the Board or to the Board.

(2) The requirement to deliver or make the return shall be treated as fulfilled by the person subject to the requirement if—

(a) information is transmitted electronically in response to that requirement; and

(b) each of the conditions in Part III of this Schedule is met with respect to that transmission.

(3) Sub-paragraphs (4) and (5) below apply where the requirement to deliver or make the return is fulfilled by virtue of sub-paragraph (2) above.

(4) Any requirement—

(a) under any provision of Part II of this Act that the return include a declaration by the person making the return to the effect that the return is to the best of his knowledge correct and complete, or

(b) under or by virtue of any other provision of the Taxes Acts that the return be signed or include any description of declaration or certificate,

shall not apply.

(5) The time at which the requirement to deliver or make the return is fulfilled is the end of the day during which the last of the conditions in Part III of this Schedule to be met with respect to the transmission is met.

(6) In sub-paragraph (2)(a) above "information" includes any self-assessment, partnership statement, particulars or claim.

Returns to which Schedule applies

2.—(1) This Schedule applies to a notice requiring a return to be delivered or made if—

(a) the notice is given under any provision of the Taxes Acts or of regulations made under the Taxes Acts;

(b) the provision is specified for the purposes of this Schedule by an order made by the Treasury; and

(c) the notice is given after the day appointed by the order in relation to notices under the provision so specified.

(2) This Schedule applies to any other requirement to deliver or make a return if—

(a) the requirement is imposed by any provision of the Taxes Acts or of regulations made under the Taxes Acts;

(b) the provision is specified for the purposes of this Schedule by an order made by the Treasury; and

(c) the requirement is required to be fulfilled within a period beginning after the day appointed by the order in relation to the specified provision.

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

(4) For the purposes of this Schedule, any reference to a requirement to deliver a return includes, in relation to regulations made under the principal Act, a reference to a requirement to render a return.

PART II

DOCUMENTS SUPPORTING CERTAIN TAX RETURNS

3.—(1) This paragraph applies where—

(a) a person is required by a notice to which this Schedule applies to deliver a return to an officer of the Board;

(b) the notice also requires any document other than the return ("a supporting document") to be delivered;

(c) the provision under which the notice is given requires the supporting document to be delivered with the return;

(d) the notice states that the supporting document may be transmitted electronically; and

(e) the requirement to deliver the return is fulfilled by virtue of paragraph 1(2) of this Schedule.

(2) The requirement to deliver the supporting document shall be treated as fulfilled by the person subject to the requirement if—

(a) information is transmitted electronically in response to that requirement; and

(b) each of the conditions in Part III of this Schedule is met with respect to that transmission.

(3) If information is not transmitted electronically in response to the requirement to deliver the supporting document, that requirement shall have effect as a requirement to deliver the document on or before the day which is the last day for the delivery of the return.

(4) For the purposes of sub-paragraph (1)(b) above the reference to a document includes in particular a reference to any accounts, statements or reports.

(5) Where the requirement to deliver the supporting document is fulfilled by virtue of sub-paragraph (2) above, the time at which it is fulfilled is the end of the day during which the last of the conditions in Part III of this Schedule to be met with respect to the transmission is met.

PART III

THE CONDITIONS

Approved persons

4.—(1) The first condition is that the transmission must be made by a person approved by the Board.

(2) A person seeking approval under this paragraph shall be given notice of the grant or refusal of approval.

(3) A person may be approved for the purpose of transmitting the information—

(a) on behalf of another person or other persons; or

(b) on his own behalf.

(4) An approval under this paragraph may be withdrawn by notice with effect from such date as may be specified in the notice.

(5) A notice refusing or withdrawing an approval shall state the grounds for the refusal or withdrawal.

(6) A person who is refused approval or whose approval is withdrawn may appeal to the Special Commissioners against the refusal or withdrawal.

(7) The appeal shall be made by notice given to the Board before the end of the period of 30 days beginning with the day on which notice of the refusal or withdrawal was given to the appellant.

(8) The Special Commissioners shall not allow the appeal unless it appears to them that, having regard to all the circumstances, it is unreasonable for the approval to be refused or (as the case may be) withdrawn.

(9) If the Special Commissioners allow an appeal by a person who has been refused approval, they shall specify the date from which the approval is to have effect.

Approved manner of transmission

5.—(1) The second condition applies if the person who makes the transmission is notified by the Board of any requirements for the time being applicable to him as to the manner in which transmissions are to be made by him or as to the manner in which any description of transmission is to be made by him.

(2) The second condition is that the transmission must comply with the requirements so notified.

(3) The requirements referred to include in particular requirements as to—

(a) the hardware or type of hardware, or

(b) the software or type of software,

to be used to make transmissions or a description of transmissions.

Content of transmission

6. The third condition is that the transmission must signify, in a manner approved by the Board, that before the transmission was made a hard copy of the information proposed to be transmitted was made and authenticated in accordance with Part IV of this Schedule.

Procedure for accepting electronic transmissions

7.—(1) The fourth condition is that the information transmitted must be accepted for electronic lodgement.

(2) For the purposes of this Schedule, information is accepted for electronic lodgement if it is accepted under a procedure selected by the Board for the purposes of this Schedule.

(3) The selected procedure may in particular consist of or include the use of specially designed software.

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PART IV

HARD COPIES OF INFORMATION TRANSMITTED

Provisions about making of hard copies

8.—(1) A hard copy is made in accordance with this Part of this Schedule if it is made under arrangements designed to ensure that the information contained in the hard copy is the information in fact transmitted.

(2) A hard copy is authenticated in accordance with this Part of this Schedule if—

(a) where the transmission is made in response to a requirement imposed by a notice under Part II of this Act to deliver a return, the hard copy is endorsed with a declaration by the relevant person that the hard copy is to the best of his knowledge correct and complete; and

(b) in any other case, if the hard copy is signed by the relevant person.

(3) In sub-paragraph (2) above "the relevant person" means—

(a) where the transmission is made as mentioned in sub-paragraph (2)(a) above, the person who, but for paragraph 1(4)(a) of this Schedule, would have been required to make the declaration there mentioned;

(b) in any other case, the person subject to the requirement to deliver or make the return or, in the case of a document other than a return, deliver the document.

Meaning of "hard copy"

9. In this Part of this Schedule "hard copy", in relation to information held electronically, means a printed out version of that information.

PART V

STATUS OF INFORMATION

Exercise of powers

10.—(1) Sub-paragraphs (2) to (5) below apply where information transmitted in response to a requirement to deliver or make a return is accepted for electronic lodgement.

(2) An officer of the Board shall have all the powers that he would have had if the information accepted had been contained in a return delivered by post.

(3) The Board shall have all the powers that they would have had if the information accepted had been contained in a return delivered by post.

(4) Where the information is transmitted in response to a notice given under any provision of Part II of this Act, any power which, if the information had been contained in a return delivered by post, a person would have had under this Act to amend the return—

(a) by delivering a document, or

(b) by notifying amendments,

to an officer of the Board, shall have effect as if the power enabled that person to deliver a statement of amended information to the officer.

(5) Any right that a person would have had, if the information transmitted had been contained in a return delivered by post, to claim that tax charged under an assessment was excessive by reason of some mistake

or error in the return shall have effect as far as the claimant is concerned as if the information transmitted had been contained in a return delivered by post.

(6) Where information transmitted in response to a requirement to deliver a document other than a return is accepted for electronic lodgement, an officer of the Board shall have all the powers that he would have had if the information had been contained in a document delivered by post.

(7) This paragraph is subject to paragraph 11 of this Schedule.

Proceedings

11.—(1) Sub-paragraphs (2) to (4) below apply where—

(a) a person is required by a notice to which this Schedule applies, or subject to any other requirement to which this Schedule applies, to deliver or make a return; and

(b) that requirement is fulfilled by virtue of paragraph 1(2) of this Schedule.

(2) A hard copy shown to have been made and authenticated in accordance with Part IV of this Schedule for the purposes of the transmission in question shall be treated for the purposes of any proceedings as if it were a return delivered or made in response to the requirement.

(3) Sub-paragraph (4) below applies if no hard copy is shown to have been made and authenticated in accordance with Part IV of this Schedule for the purposes of the transmission in question.

(4) A hard copy certified by an officer of the Board to be a true copy of the information transmitted shall be treated for the purposes of any proceedings in relation to which the certificate is given as if it—

(a) were a return delivered or made in response to the requirement in question, and

(b) contained any declaration or signature which would have appeared on a hard copy made and authenticated in accordance with Part IV of this Schedule for the purposes of the transmission.

(5) Where—

(a) a person is required by a notice to which this Schedule applies to deliver any document other than a return, and

(b) that requirement is fulfilled by virtue of paragraph 3(2) of this Schedule,

sub-paragraphs (2) to (4) above shall apply as if any reference to a return delivered in response to the requirement were a reference to a document delivered in response to the requirement.

(6) In this paragraph—

"hard copy" has the same meaning as in Part IV of this Schedule; and

"proceedings" includes proceedings before the General or Special Commissioners or any tribunal having jurisdiction by virtue of any provision of the Taxes Acts."

Section 162.

SCHEDULE 29

Repeals

Part I

Alcoholic Liquor

(1) Low-Strength Liquor

Chapter	Short title	Extent of repeal
1979 c. 4.	The Alcoholic Liquor Duties Act 1979.	In section 55A(1), the words "exceeding 1.2 per cent, but". Section 60(1A). Section 63(2).
1988 c. 39.	The Finance Act 1988.	In Schedule 1, in Part II, paragraph 8 and in paragraph 9 the words from "and after" to the end.

These repeals have effect in accordance with section 1 of this Act.

(2) Alcoholic Ingredients Relief

Chapter or Number	Citation	Extent of repeal
1979 c. 4.	The Alcoholic Liquor Duties Act 1979.	Section 6A. Section 45. Section 60(1) and (2). Section 63(1).
1988 c. 39.	The Finance Act 1988.	In Schedule 1, paragraph 2.
1991 c. 31.	The Finance Act 1991.	In Schedule 2, paragraph 12.
SI 1992/3158.	The Excise Duty (Amendment of the Alcoholic Liquor Duties Act 1979 and the Hydrocarbon Oil Duties Act 1979) Regulations 1992.	Regulation 2(4).

(3) Denatured Alcohol

Chapter	Short title	Extent of repeal
1979 c. 4.	The Alcoholic Liquor Duties Act 1979.	In section 1(2), the words "but does not include methylated spirits". In section 2— (a) in subsection (1), the words "methylated spirits"; (b) in subsection (7), the words "or in any methylated spirits" and the words "or

Chapter	Short title	Extent of repeal
1979 c. 4. (*contd.*)	The Alcoholic Liquor Duties Act 1979. (*contd.*)	methylated spirits"; and (c) in subsection (8), the words "or methylated spirits". In section 4(1), the definition of "methylated spirits". Section 9. Section 77(1)(b).
1979 c. 5.	The Hydrocarbon Oil Duties Act 1979.	In section 27(3), in the Table, the words "'methylated spirits'".
1990 c. 29.	The Finance Act 1990.	Section 8.
1993 c. 34.	The Finance Act 1993.	Section 8.
1994 c. 9.	The Finance Act 1994.	In Schedule 4, paragraph 47. In Schedule 5, in paragraph 3— (a) in sub-paragraph (1)(o), the words "methylated spirits and"; and (b) in sub-paragraph (2), the words "methylated spirits".

The powers in section 5(6) and (7) of this Act shall apply in relation to these repeals as they apply in relation to the provisions of that section and Schedule 2 to this Act.

PART II

ROAD FUEL GAS

Chapter	Short title	Extent of repeal
1979 c. 5.	The Hydrocarbon Oil Duties Act 1979.	Section 8(7).

PART III

BETTING AND GAMING ETC.

Chapter	Short title	Extent of repeal
1981 c. 63.	The Betting and Gaming Duties Act 1981.	Sections 28(4) and 29(4). In section 33(1), in the definition of "gaming", the words "(except where it refers to a machine provided for gaming)". In Schedule 4, paragraph 13.
1993 c. 34.	The Finance Act 1993.	Section 16(8).
1994 c. 9.	The Finance Act 1994.	In Schedule 3, paragraph 3(8).

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1. These repeals, except the repeals of sections 28(4) and 29(4) of the Betting and Gaming Duties Act 1981, have effect in accordance with section 14 of this Act.

2. The repeals of sections 28(4) and 29(4) of that Act come into force with the passing of this Act.

PART IV

AIR PASSENGER DUTY

Chapter	Short title	Extent of repeal
1994 c. 9.	The Finance Act 1994.	In Schedule 5, in paragraph 9, the word "and" immediately preceding sub-paragraph (d).

This repeal has effect in accordance with section 16 of this Act.

PART V

VEHICLE EXCISE AND REGISTRATION

(1) EXEMPTIONS

Chapter	Short title	Extent of repeal
1994 c. 22.	The Vehicle Excise and Registration Act 1994.	In Schedule 2, paragraphs 1, 12, 13, 14, 15, 16, 17 and 21.
1968 c. xxxii.	The Port of London Act 1968.	In section 199, paragraph (a) of the proviso to each of subsections (3) and (5).

These repeals come into force on 1st July 1995.

(2) RATES

Chapter	Short title	Extent of repeal
1994 c. 22.	The Vehicle Excise and Registration Act 1994.	Section 17(3) to (7). In section 61, in subsection (3), paragraph (c) and the word "and" immediately preceding it, and subsections (4), (5) and (7). In section 62(1) the definitions of "built-in road construction machinery", "farmer's goods vehicle", "road construction machinery" and "road construction vehicle" In Schedule 1— (a) paragraph 4(2)(a), (b) and (f) and (3); (b) paragraph 8;

Chapter	Short title	Extent of repeal
1994 c. 22. (*contd.*)	The Vehicle Excise and Registration Act 1994. (*contd.*)	(c) in paragraph 10, in each of sub-paragraphs (2) and (3), the words "(or relevant maximum weight)", and sub-paragraph (4); (d) paragraphs 12, 14(b) and (c) and 17(1)(c) to (e) and (2).

These repeals have effect in accordance with Parts III, IV and IX of Schedule 4 to this Act.

(3) OTHER REPEALS

Chapter	Short title	Extent of repeal
1994 c. 22.	The Vehicle Excise and Registration Act 1994.	In section 31(5)(b) the words "(or an amount equal to the duty due)". In section 37(2) the words "(or, in Scotland, on indictment or on summary conviction)" and "(or, in Scotland, the statutory maximum)". In section 41(1)(b) the words "182 or" and "183 or".

1. The repeal in section 31(5)(b) applies in relation to offences committed after the day on which this Act is passed.

2. The repeals in sections 37(2) and 41(1)(b) apply in relation to proceedings begun after the day on which this Act is passed.

PART VI

VALUE ADDED TAX

(1) FUEL AND POWER

Chapter	Short title	Extent of repeal
1994 c. 23.	The Value Added Tax Act 1994.	In Schedule 13, paragraph 7.

This repeal has effect in accordance with section 21 of this Act.

(2) AGENTS

Chapter	Short title	Extent of repeal
1994 c. 23.	The Value Added Tax Act 1994.	In section 47(3), the words "goods or".

This repeal has effect in accordance with section 23(4)(b) of this Act.

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(3) MARGIN SCHEMES

Chapter	Short title	Extent of repeal
1994 c. 23.	The Value Added Tax Act 1994.	Section 32.

This repeal comes into force on the day appointed by an order under section 24(2) of this Act.

(4) APPEALS

Chapter	Short title	Extent of repeal
1994 c. 23.	The Value Added Tax Act 1994.	In section 84(2) the words ", except in the case of an appeal against a decision with respect to the matter mentioned in section 83(l),".

This repeal has effect in accordance with section 31 of this Act.

PART VII

INSURANCE PREMIUM TAX

Chapter	Short title	Extent of repeal
1994 c. 9.	The Finance Act 1994.	In section 53(5), paragraph (c) and the word "and" immediately preceding it.

This repeal has effect in accordance with paragraph 2 of Schedule 5 to this Act.

PART VIII

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

(1) SCHEDULE A

Chapter	Short title	Extent of repeal
1988 c. 1.	The Income and Corporation Taxes Act 1988.	Sections 22 and 23. Section 34(9). In section 354(2)(a), the words "or any of the other payments mentioned in section 25(1)". In section 779(13)(a), the words "allowable by virtue of sections 25, 26 and 28 to 31 and Schedule 1".
1989 c. 26.	The Finance Act 1989.	Section 170(1).
1990 c. 1.	The Capital Allowances Act 1990.	In section 9(6), paragraph (a) and, in paragraph (b), the words "if it is a charge to corporation tax".

Chapter	Short title	Extent of repeal
1990 c. 1. (*contd.*)	The Capital Allowances Act 1990. (*contd.*)	In section 92(2), paragraph (a) and, in paragraph (b), the words "if it is a charge to corporation tax". In section 132(4), paragraph (a) and, in paragraph (b), the words "if it is a charge to corporation tax".
1991 c. 31.	The Finance Act 1991.	In Schedule 15, paragraph 18.

These repeals come into force in accordance with section 39(4) and (5) of this Act.

(2) INTEREST RELIEF FOR COMMERCIALLY LET PROPERTY

Chapter	Short title	Extent of repeal
1988 c. 1.	The Income and Corporation Taxes Act 1988.	In section 353— (a) in subsection (1A), paragraph (b) and the word "and" immediately preceding that paragraph; (b) in subsection (1B), paragraph (b) and the word "or" immediately preceding that paragraph; (c) subsections (1C) and (1D); and (d) in subsection (1E), the words "the following factors, that is to say", and paragraph (b) and the word "and" immediately preceding that paragraph. Section 354(4). In section 355— (a) in subsection (1), the words from "or" at the end of paragraph (a) to the end of the subsection; and (b) subsection (4). In section 356A(3), the words "or but for section 353(1C)(a) would be". In section 356D(1), the words from "in a case" to "358". In section 357(1), the words from "in a case" to "358". Section 358(4A). In section 366(1)(c), the

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Chapter	Short title	Extent of repeal
1988 c. 1. (*contd.*)	The Income and Corporation Taxes Act 1988. (*contd.*)	words "355(4) or". In section 370— (a) in subsection (6), in paragraph (a), the words "in paragraph (a)", and paragraph (b) and the word "and" immediately preceding it; (b) subsection (6A); and (c) in subsection (7), in paragraph (a), the words from "and paragraph (b)" to "omitted", and in paragraph (aa), sub-paragraph (ii).
1994 c. 9.	The Finance Act 1994.	In Schedule 9, paragraphs 4 to 6, 7(2) to (4) and 8.

These repeals come into force in accordance with section 42(3) to (5) of this Act.

(3) BENEFICIAL LOANS: REPLACEMENT LOANS

Chapter	Short title	Extent of repeal
1988 c. 1.	The Income and Corporation Taxes Act 1988.	Section 160(5)(b).

This repeal has effect in accordance with section 45(5) of this Act.

(4) ROLL-OVER RELIEF: GROUPS

Chapter	Short title	Extent of repeal
1992 c. 12.	The Taxation of Chargeable Gains Act 1992.	In section 175(1), the words from "(unless" to the end.

This repeal has effect where the acquisition of, or of the interest in, the new assets is on or after 29th November 1994.

(5) LIFE ASSURANCE BUSINESS

Chapter	Short title	Extent of repeal
1988 c. 1.	The Income and Corporation Taxes Act 1988.	In section 75(4), the words "and insurance". In section 241(5), the words from "(that is to say," to "otherwise be liable)". In section 242(1)(b), the words "for purposes of section 241(3)". In section 242(9), the words

Chapter	Short title	Extent of repeal
1988 c. 1. (*contd.*)	The Income and Corporation Taxes Act 1988. (*contd.*)	"by virtue of section 241(5)". In section 431(2), the definitions of "general annuity business" and "pension business", "annuity fund", "basic life assurance business", "basic life assurance and general annuity business", "offshore income gain" and "overseas life assurance business", the word "and" following the definition of "overseas life insurance company" and the definition of "UK distribution income". Section 431(2A) to (6). Section 431AA. Section 432C(5)(a). Section 434(2) and (7). In section 436(3)(d), from the word "and" following sub-paragraph (i) to the end of the paragraph. Section 437(6). In section 441, in subsection (1), the words "resident in the United Kingdom" and subsection (7). Sections 444C to 444E. In section 474(1), paragraph (b) and the word "and" immediately preceding it. In section 475(2)(a), the words from "or," to "life assurance business". In Schedule 19AC, paragraphs 2(2), 3(4), 4(2), 5(2), 6(3), (4) and (6), 7(3), 8(4), 9(2) and (3), 10(3), 11(2) and (6), 12(2), 13(3), 14(3) and 15(2). In Schedule 28, in Part I, paragraph 3(4).
1989 c. 26.	The Finance Act 1989.	In Schedule 6, paragraph 2. In Schedule 8, paragraph 4. In Schedule 8A, paragraph 2(11).
1990 c. 29.	The Finance Act 1990.	Section 45(8). In Schedule 6— (a) paragraph 1(2)(a); (b) in paragraph 1(2)(b), the definitions of "basic life assurance business", "linked assets" and "overseas

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Chapter	Short title	Extent of repeal
1990 c. 29. (*contd.*)	The Finance Act 1990. (*contd.*)	life assurance business"; and (c) paragraph 1(3) and (4). In Schedule 7, paragraph 7.
1991 c. 31.	The Finance Act 1991.	In Schedule 7, paragraphs 2, 3, 6 and 10.
1992 c. 12.	The Taxation of Chargeable Gains Act 1992.	In Schedule 10, paragraph 14(63)(b)(iv).
1993 c. 34.	The Finance Act 1993.	Section 99. Section 100(1) and (2)(a).
1994 c. 9.	The Finance Act 1994.	Section 143. Section 176(1). In Schedule 16, paragraph 5(2) and (3). In Schedule 17, paragraph 4.

1. The following repeals have effect in accordance with paragraph 55 of Schedule 8 to this Act—

the repeal of the definitions of "offshore income gain" and "overseas life assurance business" in section 431(2) of the Taxes Act 1988,

the repeal in section 441(1) of that Act,

the repeal of section 444C of that Act so far as it relates to subsection (2)(a) of that section,

the repeals in sections 474 and 475 of that Act,

the repeals of paragraphs 6(3) and (4) and 11(2) of Schedule 19AC to that Act,

the repeal in Schedule 28 to that Act,

the repeal of the definition of "overseas life assurance business" in paragraph 1(2)(b) of Schedule 6 to the Finance Act 1990 and the repeal in Schedule 7 to that Act,

the repeal of paragraph 10 of Schedule 7 to the Finance Act 1991, and

the repeal in the Taxation of Chargeable Gains Act 1992.

2. The repeals other than those listed above have effect in accordance with paragraph 57 of Schedule 8 to this Act.

3. The repeal of the definitions of "general annuity business" and "basic life assurance business" in Chapter I of Part XII of the Taxes Act 1988 does not affect the meaning of those expressions in paragraph 16 or 17 of Schedule 7 to the Finance Act 1991 or section 214 of the Taxation of Chargeable Gains Act 1992 (transitional provisions relating to changes in 1991).

(6) FRIENDLY SOCIETIES

Chapter	Short title	Extent of repeal
1988 c. 1.	The Income and Corporation Taxes Act 1988.	In Schedule 15, paragraph 3(2)(c).
1992 c. 48.	The Finance (No. 2) Act 1992.	In Schedule 9, paragraph 19(3).

(7) QUALIFYING LIFE INSURANCE POLICIES

Chapter	Short title	Extent of repeal
1988 c. 1.	The Income and Corporation Taxes Act 1988.	In Schedule 14, in paragraph 7(1), the words "and paragraphs 9 and 10 of Schedule 15". In Schedule 15, paragraphs 21, 22 and, in paragraph 24, in sub-paragraph (3), the word "first" and sub-paragraph (4).

These repeals come into force, in accordance with section 55(1) to (5) of this Act, on 5th May 1996.

(8) SETTLEMENTS: LIABILITY OF SETTLOR

Chapter	Short title	Extent of repeal
1988 c. 1.	The Income and Corporation Taxes Act 1988.	In section 347A(2)(b), the words "within the meaning given by section 660(3)". Sections 660 to 676. Section 678(7). Sections 679 to 681. Sections 683 to 685. Section 689. In Schedule 29, in paragraph 32, the entry relating to section 27(2) of the Taxes Management Act 1970. In Schedule 30, paragraphs 10 to 12.
1988 c. 39.	The Finance Act 1988.	In Schedule 3, paragraph 20.
1989 c. 26.	The Finance Act 1989.	Section 60(3). Sections 108 and 109(1) to (3).
1990 c. 29.	The Finance Act 1990.	Section 82.
1991 c. 50.	The Age of Legal Capacity (Scotland) Act 1991.	In Schedule 1, paragraph 48.
1992 c. 12.	The Taxation of Chargeable Gains Act 1992.	Section 6(1) and (2)(b). In section 79(2), paragraph (b) and the word "and" preceding it. Section 79(4). In section 79(5)(a), the words "or income" wherever occurring.
1992 c. 48.	The Finance (No. 2) Act 1992.	In section 19(3), the words "683(2), 684(2), 689(2)". Section 23(2). Section 27.
1993 c. 34.	The Finance Act 1993.	In Schedule 6— (a) in paragraph 1, the

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Chapter	Short title	Extent of repeal
1993 c. 34. (*contd.*)	The Finance Act 1993. (*contd.*)	words "683(2), 684(2)"; (b) in paragraph 6, the word "689(2)"; (c) paragraph 24.

These repeals have effect for the year 1995-96 and subsequent years of assessment.

(9) STOCK LENDING

Chapter	Short title	Extent of repeal
1988 c. 1.	The Income and Corporation Taxes Act 1988.	In section 129(1), the words "has contracted to sell securities, and to enable him to fulfil the contract, he".

(10) DECEASED PERSONS' ESTATES

Chapter	Short title	Extent of repeal
1988 c. 1.	The Income and Corporation Taxes Act 1988.	In section 695, in subsection (2), the words "subject to subsection (3) below". In section 701, subsection (14).

(11) DEDUCTION OF TAX FROM INTEREST ON DEPOSITS

Chapter	Short title	Extent of repeal
1988 c. 1.	The Income and Corporation Taxes Act 1988.	In section 481(5)(k), the word "that" before sub-paragraph (i).

This repeal comes into force in accordance with section 86 of this Act.

(12) MEANING OF "DISTRIBUTION"

Chapter	Short title	Extent of repeal
1988 c. 1.	The Income and Corporation Taxes Act 1988.	In section 209(2)(e), sub-paragraphs (iv) and (v).

These repeals come into force in accordance with section 87(7) and (8) of this Act.

(13) GENERALISATION OF SS.63 TO 66 OF FINANCE ACT 1993

Chapter	Short title	Extent of repeal
1993 c. 34.	The Finance Act 1993.	Section 63(12).

This repeal has effect in accordance with section 88(4) and (5) of this Act.

(14) MANAGEMENT: SELF-ASSESSMENT ETC.

Chapter	Short title	Extent of repeal
1970 c. 9.	The Taxes Management Act 1970.	In section 9(3), the words "the following provisions of". Section 11A. In section 12B(2), the words from "or, where a return" to the end. In section 42(11), paragraph (b) and the word "and" immediately preceding that paragraph.
1988 c. 1.	The Income and Corporation Taxes Act 1988.	Section 73. In section 206, the words "under Schedule E". In section 536, in subsection (2), the words "are shown on a claim to" and, in subsection (4), the words from "and in that case" to the end. In section 537B, in subsection (2), the words "are shown on a claim to" and, in subsection (4), the words from "and in that case" to the end. In Schedule 3, in paragraph 6E, sub-paragraphs (1) and (3).
1992 c. 12.	The Taxation of Chargeable Gains Act 1992.	Section 7.
1994 c. 9.	The Finance Act 1994.	Section 198.

1. The repeal of section 11A of the Taxes Management Act 1970 has effect in accordance with section 115(13) of this Act.

2. The other repeals, except that in the Finance Act 1994, have effect in accordance with section 103(7) of this Act.

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(15) CHANGES FOR FACILITATING SELF-ASSESSMENT

Chapter	Short title	Extent of repeal
1988 c. 1.	The Income and Corporation Taxes Act 1988.	Section 114(3). Section 401(2).

1. The repeal of section 114(3) has effect in accordance with section 218(1) of the Finance Act 1994.

2. The other repeal has effect in accordance with section 120(2) of this Act.

(16) NON-RESIDENTS

Chapter	Short title	Extent of repeal
1970 c. 9.	The Taxes Management Act 1970.	Sections 78 to 85.
1985 c. 54.	The Finance Act 1985.	Section 50.
1987 c. 51.	The Finance (No. 2) Act 1987.	In Schedule 6, paragraph 7.
1988 c. 1.	The Income and Corporation Taxes Act 1988.	Section 43. In section 115(7), the words "this section and". In section 510A, in subsection (6), the words "Subject to subsection (7) below", and subsections (7) and (8). In Schedule 29, in the Table in paragraph 32, the entries relating to section 78(1) and (5) of the Taxes Management Act 1970.
1989 c. 26.	The Finance Act 1989.	In section 182(3)(c), the words "for the purposes of section 80(3) of the Taxes Management Act 1970 or".
1991 c. 31.	The Finance Act 1991.	Section 81.
1992 c. 12.	The Taxation of Chargeable Gains Act 1992.	In section 59, paragraph (c) and the word "and" immediately preceding it. In Schedule 10, paragraph 2(2), the words "78(3)(b)".
1994 c. 9.	The Finance Act 1994.	In section 215(5), paragraph (b), and the word "and" immediately preceding it.

1. The repeal of section 43 of the Taxes Act 1988 comes into force in accordance with section 40(3) of this Act.

2. The repeals in sections 115(7) of the Taxes Act 1988 and of section 59(c) of the Taxation of Chargeable Gains Act 1992 shall have effect in relation to any cases in relation to which section 112 of the Taxes Act 1988 has effect as amended by section 125 of this Act.

3. The repeals in section 510A of the Taxes Act 1988 have effect as respects the year 1997-98 and subsequent years of assessment and also, in relation to groupings whose trades or professions were set up and commenced on or after 6th April 1994, as respects the years 1995-96 and 1996-97.

4. The repeal of section 215(5)(b) of the Finance Act 1994 has effect in accordance with section 125(1) of this Act for the year 1995-96 and subsequent years of assessment.

5. The other repeals come into force—

(a) for the purposes of income tax and capital gains tax, in relation to the year 1996-97 and subsequent years of assessment, and

(b) for the purposes of corporation tax, in relation to accounting periods beginning after 31st March 1996.

(17) EXCHANGE GAINS AND LOSSES

Chapter	Short title	Extent of repeal
1993 c. 34.	The Finance Act 1993.	In section 129(8)(b) the words "or the circumstances are such that a charge would be so allowed if the duty were settled".

This repeal has effect in accordance with Schedule 24 to this Act.

(18) CONTROLLED FOREIGN COMPANIES

Chapter	Short title	Extent of repeal
1988 c. 1.	The Income and Corporation Taxes Act 1988.	In Schedule 24, paragraph 4A.
1993 c. 34.	The Finance Act 1993.	Section 96.

Paragraph 4A of Schedule 24 to the Taxes Act 1988 is deemed never to have been inserted, and section 96 of the Finance Act 1993 is deemed never to have been enacted.

(19) PROFIT-RELATED PAY

Chapter	Short title	Extent of repeal
1988 c. 1.	The Income and Corporation Taxes Act 1988.	In Schedule 8, in paragraph 19(6), paragraphs (g) to (k).

This repeal has effect in accordance with section 136 of this Act.

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(20) PART-TIME WORKERS

Chapter	Short title	Extent of repeal
1988 c. 1.	The Income and Corporation Taxes Act 1988.	In Schedule 8, paragraph 8(a). In Schedule 9, in paragraph 27(4) the words from "who is required" to the end.

These repeals have effect in accordance with section 137 of this Act.

(21) SUB-CONTRACTORS IN THE CONSTRUCTION INDUSTRY

Chapter	Short title	Extent of repeal
1988 c. 1.	The Income and Corporation Taxes Act 1988.	Section 559(3). In section 561— (a) in subsection (1), the words "subsection (5) below or"; (b) in subsection (3), the words "563"; (c) subsections (4) and (5); (d) in subsection (6), the words from "(not being" to "apply)."; and (e) subsection (12). In section 562— (a) in subsection (1), the words "(otherwise than as a partner in a firm)"; and (b) subsections (3) to (7). Section 563.
1988 c. 39.	The Finance Act 1988.	Section 28.

1. The repeal of sections 559(3) and 561(4) and (5) of the Taxes Act 1988, and the repeal in section 561(1) of that Act, have effect in relation to payments made to a person in any case where that person's certificate under section 561 of that Act is one issued or renewed with respect to a period beginning on or after the appointed day.

2. The repeal of section 561(12) of the Taxes Act 1988 comes into force in accordance with paragraph 8(2) of Schedule 27 to this Act.

3. The other repeals in the Taxes Act 1988 have effect in relation to any application for the issue or renewal of a certificate under section 561 of that Act which is made with respect to a period beginning on or after the appointed day.

4. The repeal of section 28 of the Finance Act 1988 has effect in relation to payments made on or after the appointed day.

5. In Notes 1, 3 and 4 above, "the appointed day" has the same meaning as in section 139 of this Act.

(22) PAYMENT OF RENT, &C UNDER DEDUCTION OF TAX

Chapter	Short title	Extent of repeal
1988 c. 1.	Income and Corporation Taxes Act 1988.	In section 3(1)(c), the words "119 or".
		In section 74(1)(q), the words "119 or".
		In section 119(1), the words from "and, subject to subsection (2) below, shall be subject to deduction of income tax" to the end.
		In section 119(2), the words from "instead of" to "subsection (1) above".
		In section 122(1), the words from "but without prejudice" to the end.
		In section 348(2)(b), the words "119 or".
		In section 349(1)(c), the words "119 or".
		In section 821(3)(c), the words "119 or".
1992 c. 12.	Taxation of Chargeable Gains Act 1992.	In section 201(2), the words from "but without prejudice" to the end.

These repeals have effect in relation to payments made after the passing of this Act.

PART IX

PETROLEUM REVENUE TAX

Chapter	Short title	Extent of repeal
1975 c. 22.	The Oil Taxation Act 1975.	In Schedule 8, in paragraph 4, in sub-paragraph (1), the words from "and the date" to the end of the sub-paragraph and, in sub-paragraph (2), the words "within the time allowed for making the original claim".

These repeals have effect in accordance with section 147 of this Act.

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PART X
STAMP DUTY

Chapter	Short title	Extent of repeal
1930 c. 28.	The Finance Act 1930.	In section 42(3) the words from "with the substitution" to the end.
1954 c. 23 (N.I.).	The Finance Act (Northern Ireland) 1954.	In section 11(3A) the words from "with the substitution" to the end.

These repeals have effect in accordance with sections 149 and 150 of this Act.

PART XI
INHERITANCE TAX: AGRICULTURAL PROPERTY

Chapter	Short title	Extent of repeal
1984 c. 51.	The Inheritance Tax Act 1984.	In section 116(2) the word "either".

This repeal has effect in accordance with section 155 of this Act.

PART XII
PORTS LEVY

Chapter	Short title	Extent of repeal
1989 c. 26.	The Finance Act 1989.	Section 178(2)(n).
1990 c. 29.	The Finance Act 1990.	Sections 115 to 120.
1991 c. 52.	The Ports Act 1991.	Section 41(3).

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