

Status: Point in time view as at 01/10/1996.

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SCHEDULES

SCHEDULE 7

Section 135.

TRANSFER SCHEMES RELATING TO BBC TRANSMISSION NETWORK: TAXATION PROVISIONS

Interpretation

- 1 (1) In this Schedule, unless the context otherwise requires—
- “the Allowances Act” means the ^{M1}Capital Allowances Act 1990;
 - “the BBC transmission network” has the meaning given by section 131(2);
 - “the Capital Allowances Acts” has the meaning given by section 832(1) of the Taxes Act 1988;
 - “direct disposal scheme” means a transfer scheme which is not a preparatory scheme;
 - “direct disposal transfer” means a transfer in accordance with a direct disposal scheme;
 - “the documents regulating the BBC” includes—
 - (a) the ^{M2}Royal Charter of 1st May 1996 for the continuance of the British Broadcasting Corporation; and
 - (b) the ^{M3}Agreement dated 25th January 1996 between Her Majesty’s Secretary of State for National Heritage and the British Broadcasting Corporation;
 - “the Gains Act” means the ^{M4}Taxation of Chargeable Gains Act 1992;
 - “modification agreement” has the meaning given by paragraph 7(7) of Schedule 5;
 - “preparatory scheme” means a transfer scheme whose main purpose is to provide for a transfer of property, rights or liabilities from the BBC to a wholly-owned subsidiary of the BBC;
 - “preparatory transfer” means a transfer in accordance with a preparatory scheme;
 - “relevant transfer” means a transfer in accordance with a transfer scheme;
 - “successor company” means a company to which property, rights or liabilities are transferred in accordance with a preparatory scheme at a time when the company is a wholly-owned subsidiary of the BBC;
 - “the Taxes Act 1988” means the ^{M5}Income and Corporation Taxes Act 1988;
 - “transfer”, except for the purposes of paragraphs 13 to 18, includes—
 - (a) any transfer effected by or under an agreement or instrument entered into or executed in pursuance of an obligation imposed by a provision contained in a transfer scheme by virtue of paragraph 2(1)(g) of Schedule 5;

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- (b) the creation of interests, rights or liabilities by or under any such agreement or instrument; and
 - (c) the creation of interests, rights or liabilities by virtue of any provision contained in a transfer scheme by virtue of paragraph 2 of Schedule 5;
- and references to a transfer in accordance with a transfer scheme (or any description of transfer scheme) shall be construed accordingly;
- “transferee”—
- (a) in relation to a transfer scheme, means a person to whom property, rights or liabilities are transferred in accordance with the transfer scheme; and
 - (b) in relation to a relevant transfer, means the person to whom the property, rights or liabilities in question are transferred in accordance with the transfer scheme in question;
- “wholly-owned subsidiary” has the meaning given by section 736 of the ^{M6}Companies Act 1985.
- (2) In any provision of this Schedule “the prescribed amount”, in relation to any transferee under a transfer scheme, means such amount as may be specified by the Secretary of State by order for the purposes of that provision in its application to that transferee.
- (3) This Schedule—
- (a) so far as it relates to corporation tax, shall be construed as one with the Corporation Tax Acts, and
 - (b) so far as it relates to capital allowances, shall be construed as one with the Capital Allowances Acts.

Marginal Citations

- M1** 1990 c. 1.
- M2** Cm. 3248.
- M3** Cm. 3152.
- M4** 1992 c. 12.
- M5** 1988 c. 1.
- M6** 1985 c. 6.

Chargeable gains: preparatory transfers etc to be without gain or loss

- 2 (1) For the purposes of corporation tax on chargeable gains, the disposal of property, rights or liabilities which is constituted by a preparatory transfer shall, subject to the following provisions of this Schedule, be taken in relation to both—
- (a) the person to whom the disposal is made, and
 - (b) the person making the disposal,
- to be effected for a consideration such that no gain or loss accrues to the person making the disposal.
- (2) Section 171(1) of the Gains Act (which makes provision in relation to the disposal of assets from one member of a group of companies to another member of the group) shall not apply where the disposal in question is a preparatory transfer.

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Chargeable gains: amendment of section 35(3)(d) of the Gains Act

- 3 In section 35(3)(d) of the Gains Act (list of provisions for transfers without gain or loss for purposes of provisions applying to assets held on 31st March 1982) after sub-paragraph (xi) there shall be inserted—
- “(xii) paragraph 2(1) of Schedule 7 to the Broadcasting Act 1996;”.

Chargeable gains: section 41 of the Gains Act

- 4 Subsection (1) of section 174 of the Gains Act (which applies section 41 of that Act to cases where assets have been acquired without gain or loss) shall have effect, without prejudice to paragraph 2, where there has been a preparatory transfer as if the asset to which the preparatory transfer relates had thereby been transferred and acquired in relevant circumstances, within the meaning of that subsection.

Chargeable gains: assets held before 6th April 1965

- 5 Schedule 2 to the Gains Act (assets held on 6th April 1965) shall have effect in relation to any assets which are transferred to a successor company in accordance with a preparatory scheme as if—
- (a) the BBC and the successor company were the same person; and
 - (b) those assets, to the extent that they were in fact acquired or provided by the BBC, were acquired or, as the case may be, provided by the successor company.

Chargeable gains: sale of successor company : group transactions

- 6 (1) For the purposes of section 179 of the Gains Act (company ceasing to be a member of a group), where any company (“the degrouped company”) ceases, by virtue of a qualifying transaction, to be a member of a group of companies, the degrouped company shall not, by virtue of that qualifying transaction, be treated under that section as having sold, and immediately reacquired, any asset acquired from a company which falls to be regarded for the purposes of subsection (1) of that section as having been at the time of acquisition a member of that group.
- (2) Where, disregarding any preparatory transactions, a company would be regarded for the purposes of section 179 of the Gains Act (and, accordingly, of this paragraph) as ceasing to be a member of a group of companies by virtue of a qualifying transaction, it shall be regarded for those purposes as so doing by virtue of the qualifying transaction and not by virtue of any preparatory transactions.
- (3) In this paragraph—
- “preparatory transaction”, in the case of any qualifying transaction, means anything done for the purpose of initiating, advancing or facilitating the qualifying transaction;
- “qualifying transaction” means the disposal by the BBC of any shares or securities of a successor company.
- (4) Expressions used in this paragraph and in section 179 of the Gains Act have the same meaning in this paragraph as they have in that section.

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Chargeable gains: sale or exchange of shares or securities of successor company

- 7 (1) Where a company issues shares or debentures to the BBC in exchange for shares in or debentures of a successor company which have not, before that exchange, been disposed of by the BBC—
- (a) sections 127 to 131 of the Gains Act (reorganisation or reduction of share capital) shall not apply by virtue of subsection (3) of section 135 of that Act (exchange of securities) in relation to that exchange, and
 - (b) section 116 of that Act (reorganisations, conversions and reconstructions) accordingly does not have effect in relation to that transaction,
- and the following provisions of this paragraph shall apply accordingly.
- (2) The following provisions of this paragraph apply in any case where—
- (a) there is a preparatory transfer to a successor company;
 - (b) the BBC disposes of any shares or securities of the successor company for a consideration in money or money's worth; and
 - (c) those shares or securities are shares or securities which were—
 - (i) held by or on behalf of the BBC immediately before the preparatory transfer takes effect, or
 - (ii) issued to or for the BBC at a time when the successor company is a wholly-owned subsidiary of the BBC,
 and which have not previously been disposed of by the BBC.
- (3) For the purposes of corporation tax on chargeable gains, neither a chargeable gain nor an allowable loss shall be regarded as arising to the BBC on the disposal mentioned in sub-paragraph (2)(b).
- (4) If the consideration for the disposal mentioned in sub-paragraph (2)(b) consists of or includes a right to any variable deferred consideration, then, for the purposes of corporation tax on chargeable gains, neither a chargeable gain nor an allowable loss shall be regarded as arising to the BBC on the disposal of the right to the variable deferred consideration.
- (5) In this paragraph “variable deferred consideration” means any consideration—
- (a) which is not to be given until after the disposal mentioned in sub-paragraph (2)(b); and
 - (b) whose amount or value, as at the time when it is to be given, is not ascertainable at the time of that disposal.

*No chargeable gain or allowable loss to arise on
 any disposal constituted by a direct disposal transfer*

- 8 (1) For the purposes of corporation tax on chargeable gains, neither a chargeable gain nor an allowable loss shall be regarded as arising to the BBC on any disposal constituted by a direct disposal transfer.
- (2) If the consideration for a direct disposal transfer consists of or includes a right to any variable deferred consideration, then, for the purposes of corporation tax on chargeable gains, neither a chargeable gain nor an allowable loss shall be regarded as arising to the BBC on the disposal of the right to the variable deferred consideration.
- (3) In this paragraph “variable deferred consideration”, in the case of any direct disposal transfer, means any consideration—

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- (a) which is not to be given until after the direct disposal transfer; and
- (b) whose amount or value, as at the time when it is to be given, is not ascertainable at the time of the disposal constituted by that transfer.

Chargeable gains: value shifting

- 9 (1) Nothing in Part VI of this Act, and no instrument or agreement made, or other thing done, under or by virtue of that Part or for the purpose of initiating, advancing or facilitating the disposal by the BBC of—
- (a) the whole or any part of the BBC transmission network, or
 - (b) any shares or securities of a successor company which are shares or securities which were—
 - (i) held by or on behalf of the BBC immediately before a preparatory transfer to the successor company takes effect, or
 - (ii) issued to or for the BBC at a time when the successor company is a wholly-owned subsidiary of the BBC,and which have not previously been disposed of by the BBC,
- shall be regarded as a scheme or arrangement for the purposes of section 30 of the Gains Act (value-shifting).
- (2) In any case where—
- (a) an asset which is the subject of a preparatory transfer has previously been the subject of a scheme or arrangements falling within subsection (1) of section 30 of the Gains Act,
 - (b) in consequence, subsection (5) of that section (consideration on disposal to be treated as increased for certain purposes) would, apart from sub-paragraph (3), have had effect in relation to the consideration for the preparatory transfer, and
 - (c) the consideration for the preparatory transfer falls to be determined, for the purposes of corporation tax on chargeable gains, under paragraph 2, sub-paragraph (3) shall apply.
- (3) Where this sub-paragraph applies—
- (a) subsection (5) of section 30 of the Gains Act shall not have effect in relation to the consideration for the preparatory transfer; but
 - (b) on the first subsequent disposal of the asset which is neither a preparatory transfer nor a group disposal—
 - (i) that subsection shall have effect in relation to the consideration for that disposal (whether or not it would otherwise have done so); and
 - (ii) the increase that falls to be made under that subsection shall be so calculated as to include any increase which would, but for paragraph (a) above, have fallen to be made in relation to the preparatory transfer.
- (4) In this paragraph “group disposal” means a disposal which falls to be treated by virtue of section 171(1) of the Gains Act as made for a consideration such that no gain or loss accrues to the person making the disposal.

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Chargeable gains: receipt of compensation or insurance money

- 10 (1) Subsection (4) of section 23 of the Gains Act (adjustments where compensation or insurance money used for purchase of replacement asset) shall have effect in accordance with sub-paragraph (3) in any case where—
- (a) there is a relevant transfer such that—
 - (i) a capital sum received by the BBC by way of compensation for the loss or destruction of an asset, or under a policy of insurance of the risk of the loss or destruction of an asset, becomes available to the transferee; or
 - (ii) a right of the BBC to receive such a sum is transferred to the transferee, and the transferee receives that sum; and
 - (b) the transferee acquires an asset in circumstances where—
 - (i) had there been no such relevant transfer, and
 - (ii) had the BBC acquired the asset by the application of that sum,
 the BBC would be treated for the purposes of that subsection as having so acquired the asset in replacement for the asset lost or destroyed.
- (2) Subsection (5) of that section (adjustments where a part of any compensation or insurance money is used for the purchase of a replacement asset) shall have effect in accordance with sub-paragraph (3) in any case where—
- (a) there is a relevant transfer such that—
 - (i) a capital sum received by the BBC by way of compensation for the loss or destruction of an asset, or under a policy of insurance of the risk of the loss or destruction of an asset, becomes available to the transferee; or
 - (ii) a right of the BBC to receive such a sum is transferred to the transferee, and the transferee receives that sum; and
 - (b) the transferee acquires an asset in circumstances where—
 - (i) had there been no such relevant transfer, and
 - (ii) had the BBC acquired the asset by the application of all of that sum except for a part which was less than the amount of the gain (whether all chargeable gain or not) accruing on the disposal of the asset lost or destroyed,
 the BBC would be treated for the purposes of that subsection as having so acquired the asset in replacement for the asset lost or destroyed.
- (3) In a case falling within sub-paragraph (1) or (2) of this paragraph, subsection (4) or, as the case may be, subsection (5) of section 23 of the Gains Act shall have effect as if the transferee and the BBC were the same person, except that—
- (a) in a case falling within sub-paragraph (1)(a)(i) or (2)(a)(i)—
 - (i) any claim under the subsection in question must be made by the BBC and the transferee; and
 - (ii) any adjustment to be made in consequence of paragraph (a) of that subsection shall be made for the purposes only of the taxation of the BBC; and
 - (b) in a case falling within sub-paragraph (1)(a)(ii) or (2)(a)(ii)—
 - (i) any claim under the subsection in question must be made by the transferee; and

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- (ii) any adjustment to be made in consequence of paragraph (a) of that subsection shall be made for the purposes only of the taxation of the transferee.

Loan relationships: disposal of securities by BBC

- 11 (1) This paragraph applies in any case where—
- (a) there is a preparatory transfer to a successor company;
 - (b) the BBC disposes of any securities of the successor company for a consideration in money or money's worth; and
 - (c) those securities are securities issued to or for the BBC in consideration for the preparatory transfer.
- (2) Where this paragraph applies, any debits or credits which, by reason of the disposal mentioned in sub-paragraph (1)(b), would, apart from this sub-paragraph, be given by Chapter II of Part IV of the ^{M7}Finance Act 1996 (loan relationships) in respect of a loan relationship for an accounting period of the BBC shall not be brought into account for the purposes of that Chapter as respects the BBC.

Marginal Citations

M7 1996 c. 8.

Transfer of trade: loss relief and capital allowances

- 12 (1) This paragraph applies in any case where, as a result of a relevant transfer,—
- (a) the BBC ceases to carry on a trade; and
 - (b) the transferee begins to carry on that trade.
- (2) Where this paragraph applies, section 343 of the Taxes Act 1988 (company reconstructions without change of ownership) shall not have effect in relation to the event described in sub-paragraph (1).
- (3) Where this paragraph applies, the trade mentioned in sub-paragraph (1) shall not be treated as permanently discontinued nor a new trade as set up and commenced for the purpose of the allowances and charges provided for by the Capital Allowances Acts; but—
- (a) there shall be made to or on the transferee in accordance with those Acts all such allowances and charges as would, if the BBC had continued to carry on the trade, have fallen to be made to or on it; and
 - (b) the amount of any such allowance or charge shall be computed as if—
 - (i) the transferee had been carrying on the trade since the BBC began to do so; and
 - (ii) everything done to or by the BBC had been done to or by the transferee (but so that no sale or transfer which on the transfer of the trade is made to the transferee by the BBC of any assets in use for the purpose of the trade shall be treated as giving rise to any such allowance or charge).
- (4) For the purposes of this paragraph—

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- (a) where, on the BBC ceasing to carry on a trade, a company begins to carry on the activities of the trade as part of its trade, then that part of the trade carried on by the company shall be treated as a separate trade, if the effect of so treating it is that this paragraph applies by virtue of sub-paragraph (1) on that event in relation to that separate trade; and
- (b) where, on the BBC ceasing to carry on part of a trade, a company begins to carry on the activities of that part as its trade or part of its trade, the BBC shall be treated as having carried on that part of its trade as a separate trade if the effect of so treating it is that this paragraph applies by virtue of sub-paragraph (1) on that event in relation to that separate trade.

Capital allowances: industrial buildings and structures

- 13
- (1) This paragraph applies in any case where there is a relevant transfer of property which is, for the purposes of Part I of the Allowances Act (industrial buildings and structures), the relevant interest in relation to any expenditure incurred on the construction of a building or structure.
 - (2) Where this paragraph applies, the Secretary of State may by order make provision specifying, as respects the transferee,—
 - (a) the amount which is to be taken for the purposes of Part I of the Allowances Act to be the amount of the capital expenditure incurred on the construction of the building or structure; and
 - (b) the date which is to be taken for the purposes of that Part as the date on which the building or structure was first used.
 - (3) This paragraph shall not have effect in relation to any property if paragraph 12(3) has effect in relation to it.

Capital allowances: machinery and plant

- 14
- (1) For the purposes of Part II of the Allowances Act (capital allowances in respect of machinery and plant) property which is transferred to a successor company in accordance with a preparatory scheme shall be treated as if—
 - (a) it had been acquired by the successor company, for the purposes for which it is used by that company on and after the date on which the transfer of the property in accordance with the scheme takes effect, on that date; and
 - (b) capital expenditure of the prescribed amount had been incurred on that date by the successor company on the acquisition of the property for the purposes mentioned in paragraph (a).
 - (2) This paragraph shall not have effect in relation to any property if paragraph 12(3) has effect in relation to it.

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Capital allowances: leased fixtures

- 15 (1) This paragraph applies to any lease which is granted in pursuance of an obligation imposed by a provision contained in a preparatory scheme by virtue of paragraph 2(1)(g) of Schedule 5.
- (2) Where the conditions in paragraphs (a) and (b) of subsection (1) of section 55 of the Allowances Act (expenditure incurred by incoming lessee: transfer of allowances) are fulfilled in relation to a lease to which this paragraph applies—
- (a) the lessee shall be deemed for the purposes of Part II of that Act to have given as consideration for the lease a capital sum which falls to be treated for the purposes of that Part as expenditure on the provision of the fixture concerned;
 - (b) the amount of that capital sum shall be the prescribed amount; and
 - (c) subsection (4)(a) of that section shall be disregarded.
- (3) Where the conditions in paragraphs (a), (c) and (d) of section 56 of the Allowances Act (expenditure incurred by incoming lessee: lessor not entitled to allowances) are fulfilled in relation to a lease to which this paragraph applies—
- (a) the lessee shall be deemed for the purposes of Part II of that Act to have given as consideration for the lease a capital sum which falls to be treated for the purposes of that Part as expenditure on the provision of the fixture concerned; and
 - (b) the amount of that capital sum shall be the prescribed amount.

Capital allowances: connected persons

- 16 In Part II of the Allowances Act (machinery and plant) references to a transaction (however described) between connected persons within the meaning of section 839 of the Taxes Act 1988 shall not include references to a preparatory transfer.

Capital allowances: agricultural buildings

- 17 (1) This paragraph applies in any case where there is a relevant transfer of property which is the relevant interest in relation to any expenditure for which the BBC would be entitled to an allowance under Part V of the Allowances Act (agricultural buildings etc.) apart from section 128 of that Act (balancing allowances and charges).
- (2) Where this paragraph applies—
- (a) the acquisition of the relevant interest by the transferee shall, as respects the transferee, be treated for the purposes of Part V of the Allowances Act as a balancing event falling within subsection (1)(a) of section 129 of that Act (so that, in particular, subsection (3) of that section applies by reason of its occurrence); and
 - (b) it shall accordingly be assumed, as respects the transferee, that an election has been made under subsection (2) of that section (acquisition of relevant interest by another not to be a balancing event without an election under that subsection) with respect to the acquisition of the relevant interest by the transferee.

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- (3) Where this paragraph applies, subsection (3) of section 129 of the Allowances Act (entitlement of the new owner to allowances) shall, as respects the transferee, have effect with the following modifications, that is to say—
- (a) the period which, by virtue of paragraph (a) of that subsection, is to be treated as if it were itself the writing-down period in which the allowances in respect of the expenditure in question were to be made shall be such period as the Secretary of State may by order specify; and
 - (b) the expenditure which, by virtue of paragraph (b) of that subsection, is to be treated as the expenditure in respect of which the transferee (as being the new owner, within the meaning of that section) is entitled to the allowances mentioned in that paragraph shall be equal to the prescribed amount (without any reduction or addition under that paragraph).
- (4) This paragraph shall not have effect in relation to any property if paragraph 12(3) has effect in relation to it.

Corporation tax: BBC and successor company to be treated as one for certain purposes

- 18 (1) If any property, rights or liabilities are transferred to a successor company in accordance with a preparatory scheme, then, subject to sub-paragraph (2), the following provisions shall apply for the purposes of the Corporation Tax Acts in their application in respect of any accounting period ending on or after the date on which the transfer takes effect, namely—
- (a) any trade or part of a trade carried on by the BBC which is transferred in accordance with the preparatory scheme to the successor company shall be treated as having been, at the time of its commencement and at all times since that time, a separate trade carried on by that company;
 - (b) the trade or trades carried on by the successor company on and after the date on which the transfer takes effect shall be treated as the same trade or trades as that which, by virtue of paragraph (a), is treated as carried on before that date;
 - (c) all property, rights and liabilities of the BBC which are transferred in accordance with the scheme to the successor company shall be treated as having been, at the time when they became vested in the BBC and at all times since that time, property, rights and liabilities of that company; and
 - (d) anything done by the BBC in relation to property, rights and liabilities which are transferred to the successor company in accordance with the preparatory scheme shall be treated as having been done by that company.
- (2) Sub-paragraph (1) shall not apply for the purposes of—
- (a) corporation tax on chargeable gains,
 - (b) capital allowances, or
 - (c) relief for losses incurred in carrying on a trade,
- and no provision included in a scheme by virtue of paragraph 4(2)(a) of Schedule 5 shall have effect for those purposes.

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Corporation tax: no profit or loss under Case I of Schedule D by reason of a direct disposal transfer

- 19 In determining for the purposes of Case I of Schedule D the profits or gains or losses arising or accruing to the BBC, it shall be assumed that no profits or gains, and no losses, arise or accrue to the BBC by reason of a direct disposal transfer of—
- (a) any trading stock, within the meaning of section 100 of the Taxes Act 1988, belonging to a trade carried on by the BBC;
 - (b) any right of the BBC to receive an amount which is for the purposes of corporation tax—
 - (i) an amount brought into account as a trading receipt of the BBC for any accounting period ending before the time when the transfer takes effect; or
 - (ii) an amount falling to be so brought into account if it is assumed, where it is not the case, that the accounting period of the BBC current on the day before the transfer takes effect ends immediately before that time; or
 - (c) the whole or any part of the amount of a liability which falls for the purposes of corporation tax—
 - (i) to be brought into account as deductible in computing the profits of any trade carried on by the BBC for any accounting period ending before the time when the transfer takes effect; or
 - (ii) to be so brought into account if it is assumed, where it is not the case, that the accounting period of the BBC current on the day before the transfer takes effect ends immediately before that time.

Corporation tax: group relief

- 20 (1) None of the following, namely—
- (a) the existence of the powers of any Minister of the Crown or the BBC under Part VI of this Act or under the documents regulating the BBC,
 - (b) any direction given by a Minister of the Crown under that Part or those documents, so far as that direction relates to a transfer scheme or (in a case where there is a preparatory scheme) to the sale of shares or securities issued by the successor company, or
 - (c) any arrangements (of any kind, whether in writing or not) so far as relating to a transfer scheme or any such sale,
- shall be regarded as constituting arrangements falling within subsection (1) or (2) of section 410 of the Taxes Act 1988 (arrangements for the transfer of a company to another group or consortium).
- (2) Neither—
- (a) the existence of the powers of any Minister of the Crown or the BBC under Part VI of this Act or under the documents regulating the BBC, nor
 - (b) any direction given as mentioned in sub-paragraph (1)(b),
- shall be regarded as constituting option arrangements for the purposes of paragraph 5B of Schedule 18 to the Taxes Act 1988.
- (3) Any reference in sub-paragraph (1) or (2) to the documents regulating the BBC is a reference to those documents only so far as they have effect in relation to a disposal by the BBC of—

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- (a) the whole or any part of the BBC transmission network, or
 - (b) any shares or securities of a successor company,
- or the initiating, advancing or facilitating of any such disposal.

- (4) In this paragraph “Minister of the Crown” has the same meaning as in the Ministers of the ^{M8}Crown Act 1975.

Marginal Citations

M8 1975 c. 26.

Corporation tax: leases at an undervalue

- 21 (1) Section 35 of the Taxes Act 1988 (charge on lease granted at an undervalue) shall not apply in the case of any lease which, in accordance with a transfer scheme, is granted—
- (a) to a company which is a transferee under that or any other transfer scheme, or
 - (b) by such a company to the BBC.
- (2) Section 87 of the Taxes Act 1988 (taxable premiums) shall not apply where there is an amount which would have become chargeable in relation to any land but for subparagraph (1); and, accordingly, references to any such amount shall not be included in references in that section to the amount chargeable.
- (3) In this paragraph “lease” has the same meaning as in Part II of the Taxes Act 1988.

Corporation tax: sale and lease-back

- 22 (1) Section 779 of the Taxes Act 1988 (sale and lease-back: limitation on tax reliefs) shall not apply where the liability of the transferor or of the person associated with that transferor is as a result of—
- (a) the creation, in accordance with a transfer scheme, of any interest or right in favour of a transferee or the BBC;
 - (b) any other transaction for which a transfer scheme provides; or
 - (c) the grant by a company which is a transferee under a transfer scheme (“the relevant company”) to the BBC or to another company which is a transferee (whether under that or any other transfer scheme) of any interest or right, at a time when the relevant company remains a wholly-owned subsidiary of the BBC, in a case where the ability of the relevant company to grant that interest or right derives from the transfer to the company in accordance with a transfer scheme of an estate or interest in land.
- (2) In this paragraph “transferor” has the same meaning as in section 779 of the Taxes Act 1988 and “associated” shall be construed in accordance with that section.

Corporation tax: sale of lease of land

- 23 (1) Section 780 of the Taxes Act 1988 (sale and lease-back: taxation of consideration) shall not apply where—
- (a) the assignment of the original lease, and
 - (b) the grant or assignment of the new lease,

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each fall within sub-paragraph (2).

- (2) The assignment of the original lease, or the grant or assignment of the new lease, falls within this sub-paragraph if—
 - (a) it is a relevant transfer; or
 - (b) it takes place between the BBC and a successor company at a time when the successor company remains a wholly-owned subsidiary of the BBC; or
 - (c) it takes place between two successor companies at a time when both remain wholly-owned subsidiaries of the BBC.
- (3) The reference in sub-paragraph (1) to the assignment of the original lease and the grant or assignment of the new lease shall be construed in accordance with section 780 of the Taxes Act 1988 and sub-paragraph (2) shall be construed accordingly.

Corporation tax: leased assets

- 24 (1) For the purposes of section 781 of the Taxes Act 1988 (assets leased to traders and others) where the interest of the lessor or the lessee under a lease, or any other interest in an asset, is transferred in accordance with a transfer scheme to the BBC or a transferee, the transfer shall be treated as being effected without any capital sum having been obtained in respect of that interest by the BBC or the transferee.
- (2) Section 782 of the Taxes Act 1988 (deduction of payment under leases: special cases) shall not apply to any payments made by the BBC or a company which is a transferee under a transfer scheme if the payments are made—
 - (a) under any lease created in favour of the BBC or such a company by virtue of, or in pursuance of an obligation imposed by, a provision contained in a transfer scheme by virtue of paragraph 2 of Schedule 5; or
 - (b) under any lease—
 - (i) which is granted to or by a successor company at a time when it remains a wholly-owned subsidiary of the BBC; and
 - (ii) which is a lease of an asset which at any time before the creation of the lease was used by the BBC for the purposes of a trade carried on by the BBC and which was, when so used, owned by the BBC.
- (3) In this paragraph “lease” and “asset” have the meaning given by section 785 of the Taxes Act 1988.

Stamp duty

- 25 (1) Stamp duty shall not be chargeable on any agreement or instrument to the extent that it is certified by the Secretary of State to the Commissioners of Inland Revenue as being—
 - (a) a restructuring scheme,
 - (b) a restructuring scheme modification agreement, or
 - (c) an instrument giving effect to a restructuring scheme modification agreement,
 or as having been made in accordance with, or in pursuance of an obligation imposed by, a restructuring scheme.

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- (2) No agreement or instrument which is certified as mentioned in sub-paragraph (1) shall be taken to be duly stamped unless—
- (a) it is stamped with the duty to which it would be liable, apart from that sub-paragraph; or
 - (b) it has, in accordance with section 12 of the ^{M9}Stamp Act 1891, been stamped with a particular stamp denoting that it is not chargeable with that duty or that it is duly stamped.
- (3) Section 12 of the ^{M10}Finance Act 1895 (collection of stamp duty in cases of property vested by Act or purchased under statutory power) shall not operate to require—
- (a) the delivery to the Commissioners of Inland Revenue of a copy of this Act, or
 - (b) the payment of stamp duty under that section on any copy of this Act,
- and shall not apply in relation to any instrument on which, by virtue of the preceding provisions of this paragraph, stamp duty is not chargeable.
- (4) In this paragraph—
- “restructuring scheme modification agreement” means a modification agreement, so far as relating to a restructuring scheme;
- “restructuring scheme” means a preparatory scheme, so far as it provides for the transfer of property, rights or liabilities in accordance with the scheme—
- (a) from the BBC to a wholly-owned subsidiary of the BBC;
 - (b) to the BBC from a wholly-owned subsidiary of the BBC; or
 - (c) from one wholly-owned subsidiary of the BBC to another.

Marginal Citations

M9 1891 c. 39.

M10 1895 c. 16.

Stamp duty reserve tax

- 26 (1) An agreement to transfer chargeable securities, as defined in section 99 of the ^{M11}Finance Act 1986, from the BBC to a wholly-owned subsidiary of the BBC shall not give rise to a charge to stamp duty reserve tax if the agreement is made for the purposes of, or for purposes connected with, a restructuring scheme.
- (2) An agreement shall not give rise to a charge to stamp duty reserve tax if the agreement is a restructuring scheme modification agreement.
- (3) In this paragraph “restructuring scheme” and “restructuring scheme modification agreement” have the same meaning as in paragraph 25.

Marginal Citations

M11 1986 c. 41.

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Modifications of transfer schemes

- 27 (1) If the effect of any transfer scheme is modified in pursuance of a modification agreement, then the Corporation Tax Acts and this Schedule, other than paragraphs 25 and 26, shall have effect as if—
- (a) the scheme originally made had been the scheme as modified; and
 - (b) anything done by or in relation to the person who without the modification became entitled or subject in accordance with the scheme to any property, rights or liabilities had, so far as relating to the property, rights or liabilities to which another person becomes entitled or subject in consequence of the modification, been done by or in relation to that other person.
- (2) If, in a case falling within sub-paragraph (1), the transfer scheme, as originally made, was a preparatory scheme, the scheme as modified shall be taken to be a preparatory scheme, whether or not any company which was a wholly-owned subsidiary of the BBC at the time when the preparatory scheme took effect remains a wholly-owned subsidiary of the BBC at the time when the modification takes effect.

Orders

- 28 (1) The Secretary of State shall not make an order under this Schedule in relation to any transferee under a transfer scheme except—
- (a) with the consent of the Treasury;
 - (b) after consultation with the BBC; and
 - (c) if the transferee is not a wholly-owned subsidiary of the BBC, after consultation with the transferee.
- (2) Any power of the Secretary of State to make an order under this Part of this Schedule—
- (a) shall be exercisable by statutory instrument; and
 - (b) shall include power to make different provision for different cases, including different provision in relation to different assets or descriptions of assets.

Status:

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