Finance Act 1996

CHAPTER 8

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CHAPTER 8

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Finance Act 1996

1996 CHAPTER 8

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. [29th April 1996]

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

EXCISE DUTIES

Alcoholic liquor duties

Spirits: rate of duty. 1979 c. 4.

1.—(1) In section 5 of the Alcoholic Liquor Duties Act 1979 (spirits), for "£20.60" there shall be substituted "£19.78".

(2) This section shall be deemed to have come into force at 6 o'clock in the evening of 28th November 1995.

Wine and made-wine: rates.

2.—(1) In the Table of rates of duty in Schedule 1 to the Alcoholic Liquor Duties Act 1979 (wine and made-wine)—

(a) in Part I of the Table for "200.64", where it appears as the rate for wine or made-wine of a strength exceeding 15 per cent. but not exceeding 22 per cent., there shall be substituted "187.24"; and

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(b) in Part II of that Table (wine or made-wine of a strength exceeding 22 per cent.), for "20.60" there shall be substituted "19.78".

(2) Paragraph (a) of subsection (1) above shall be deemed to have come into force on 1st January 1996 and paragraph (b) shall be deemed to have come into force at 6 o'clock in the evening of 28th November 1995.

Cider: rate of duty.
1979 c. 4.

3.—(1) In subsection (1) of section 62 of the Alcoholic Liquor Duties Act 1979 (cider), for "rate of £23.78 per hectolitre" there shall be substituted "rates shown in subsection (1A) below."

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

"(1A) The rates at which the duty shall be charged are—

(a) £35.67 per hectolitre in the case of cider of a strength exceeding 7.5 per cent.; and

(b) £23.78 per hectolitre in any other case."

(3) This section shall come into force on 1st October 1996.

Hydrocarbon oil duties

Rates of duty and rebate.
1979 c. 5.

4.—(1) In section 6(1) of the Hydrocarbon Oil Duties Act 1979, for "£0.3614" (duty on light oil) and "£0.3132" (duty on heavy oil) there shall be substituted "£0.3912" and "£0.3430", respectively.

(2) In section 8(3) of that Act (duty on road fuel gas), for "£0.3314" there shall be substituted "£0.2817".

(3) In section 11(1) of that Act (rebate on heavy oil), for "£0.0166" (fuel oil) and "£0.0214" (gas oil) there shall be substituted "£0.0181" and "£0.0233", respectively.

(4) In subsection (1) of section 13A of that Act (rebate on unleaded petrol), for "the rate of £0.0482 a litre" there shall be substituted "the rate specified in subsection (1A) below"; and after that subsection there shall be inserted the following subsections—

"(1A) The rate of rebate shall be—

(a) £0.0150 a litre in the case of higher octane unleaded petrol; and

(b) £0.0482 a litre in any other case.

(1B) For the purposes of this section unleaded petrol is 'higher octane' if—

(a) its research octane number is not less than 96 and its motor octane number is not less than 86;

(b) it is delivered for home use as petrol which satisfies the condition set out in paragraph (a) above;

(c) it is delivered for home use as petrol which is suitable to be used as fuel for engines for which leaded petrol is suitable by virtue of being leaded; or

(d) it is delivered for home use under such a description, or in such a manner, as tends, in the circumstances, to suggest that it is—

(i) petrol satisfying the condition set out in paragraph (a) above; or

(ii) petrol suitable to be used as fuel for engines for which leaded petrol is suitable by virtue of being leaded.

(1C) The method of testing unleaded petrol for ascertaining, for the purposes of this section, its research octane number or motor octane number shall be such as the Commissioners may direct."

(5) In subsection (2) of that section (meaning of "unleaded"), for the words from "or, if" onwards there shall be substituted "; and petrol is 'leaded' for the purposes of this section if it is not unleaded."

(6) In section 14(1) of that Act (rebate on light oil for use as furnace fuel), for "£0.0166" there shall be substituted "£0.0181".

(7) Subsections (1) to (3) and (6) above shall be deemed to have come into force at 6 o'clock in the evening of 28th November 1995; and subsection (4) above shall come into force on 15th May 1996.

Misuse of rebated kerosene.
1979 c. 5.

5.—(1) The Hydrocarbon Oil Duties Act 1979 shall be amended as mentioned in subsections (2) to (5) below.

(2) In section 11(1) (rebate on heavy oil), for "and 13" there shall be substituted "13, 13AA and 13AB".

(3) In section 12(2) (restriction on use of rebated heavy oil for road vehicles), after "allowed" there shall be inserted "(whether under section 11(1) above or 13AA(1) below)".

(4) After section 13 there shall be inserted the following sections—

"Restrictions on use of rebated kerosene.

13AA.—(1) If, on the delivery of kerosene for home use, it is intended to use the kerosene as fuel for—

(a) an engine provided for propelling an excepted vehicle, or

(b) an engine which is used neither for propelling a vehicle nor for heating,

a declaration shall be made to that effect and thereupon rebate shall be allowed at the rate for rebated gas oil which is then in force, instead of at the rate then in force under section 11(1)(c) above.

(2) Subject to subsection (3) below, no kerosene on whose delivery for home use a rebate at the rate given by section 11(1)(c) above has been allowed shall—

(a) be used as fuel for an engine provided for propelling an excepted vehicle;

(b) be used as fuel for an engine which is used neither for propelling a vehicle nor for heating; or

(c) be taken into the fuel supply of an engine falling within paragraph (a) or (b) above.

(3) Subsection (2) above does not apply to any quantity of kerosene in respect of which there has been paid to the Commissioners an amount equal to duty on the same quantity of gas oil at the rate for rebated gas oil which is in force at the time of the payment.

(4) A payment under subsection (3) above shall be made in accordance with regulations made under section 24(1) below for the purposes of this section.

(5) For the purposes of this section and section 13AB below—

'excepted vehicle' means a vehicle which is an excepted vehicle under any provision of Schedule 1 to this Act; and

'kerosene' means heavy oil of which more than 50 per cent. by volume distils at a temperature of 240°C or less.

(6) For the purposes of this section and section 13AB below the rate for rebated gas oil which is in force at any time is the rate of duty which at that time is in force under section 6(1) above in the case of heavy oil as reduced by the rate of rebate allowable at that time under section 11(1)(b) above.

Penalties for misuse of kerosene.

13AB.—(1) If a person uses kerosene in contravention of section 13AA(2) above—

(a) the Commissioners may recover from him, in respect of the quantity of kerosene used, an amount equal to duty on the same quantity of gas oil at the rate for rebated gas oil which is in force at the time of the contravention;

(b) his use of the kerosene shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties); and

1994 c. 9.

(c) if he uses the kerosene with the relevant intent, he shall be guilty of an offence.

(2) If a person is liable for kerosene being taken into a fuel supply of an engine in contravention of section 13AA(2) above—

(a) the Commissioners may recover from him, in respect of the quantity of kerosene taken into the fuel supply, an amount equal to duty on the same quantity of gas oil at the rate for rebated gas oil which is in force at the time of the contravention;

(b) his becoming so liable shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties); and

(c) if he has the relevant intent in relation to the kerosene being taken into the fuel supply, he shall be guilty of an offence.

(3) For the purposes of subsection (2) above, a person is liable for kerosene being taken into a fuel supply of an engine if at the time—

(a) he has the charge of the engine; or

(b) subject to subsection (4) below, he is the owner of the engine.

(4) If a person other than the owner is for the time being entitled to possession of the engine, that other person and not the owner is liable.

(5) If—

(a) a person supplies kerosene having reason to believe that it will be put to a particular use, and

(b) that use is one which, if a payment is not made under subsection (3) of section 13AA above, will contravene subsection (2) of that section,

his supplying the kerosene shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties) and, if he makes the supply with the relevant intent, he shall be guilty of an offence. 1994 c. 9.

(6) In this section 'the relevant intent' means the intent that the restrictions imposed by section 13AA(2) above shall be contravened.

(7) A person guilty of an offence under this section shall be liable—

(a) on summary conviction, to a penalty of the statutory maximum, or to imprisonment for a term not exceeding 6 months, or to both;

(b) on conviction on indictment, to a penalty of any amount, or to a term of imprisonment not exceeding 7 years, or to both.

(8) Any kerosene falling within subsection (9) or (10) below is liable to forfeiture.

(9) Kerosene falls within this subsection if it is taken into a fuel supply in contravention of section 13AA(2) above.

(10) Kerosene falls within this subsection if—

(a) it has been supplied in circumstances in which there is reason to believe that it will be put to a particular use; and

(b) that use is one which, if payment is not made under subsection (3) of section 13AA above, will contravene subsection (2) of that section."

(5) In section 24 (control of use of duty-free and rebated oil)—

(a) in subsection (1), after "section 13A" there shall be inserted "section 13AA"; and

(b) in subsection (2), after "section 12" there shall be inserted "or section 13AA".

(6) This section shall have effect in relation to cases where kerosene is—

(a) used as fuel, or

(b) taken into a fuel supply,

on or after such day as the Commissioners of Customs and Excise may by order made by statutory instrument appoint.

PART I

Mixing of rebated oil.

1979 c. 5.

6.—(1) The Hydrocarbon Oil Duties Act 1979 shall be amended as mentioned in subsections (2) to (4) below.

(2) In section 20 (contaminated or accidentally mixed oil), after subsection (3) there shall be inserted the following subsection—

"(4) The power to make a payment to a person under subsection (2) above in relation to oils that have become accidentally mixed does not apply in relation to a mixture in respect of which he is liable to pay duty under section 20AAA below."

(3) After section 20A there shall be inserted the following sections—

"Mixing of rebated oil.

20AAA.—(1) Where—

(a) a mixture which is leaded or unleaded petrol is produced in contravention of Part I of Schedule 2A to this Act, and

(b) the mixture is not produced as a result of approved mixing,

a duty of excise shall be charged on the mixture.

(2) Where—

(a) a mixture of heavy oils is produced in contravention of Part II of Schedule 2A to this Act,

(b) the mixture is not produced as a result of approved mixing, and

(c) the mixture is supplied for use as fuel for a road vehicle or an excepted vehicle,

a duty of excise shall be charged on the mixture.

(3) The person liable to pay the duty charged under subsection (1) above is the person producing the mixture.

(4) The person liable to pay the duty charged under subsection (2) above is the person supplying the mixture.

(5) The Commissioners may exempt a person from liability to pay duty charged under this section in respect of the production or supply of a mixture if they are satisfied—

(a) that the mixture has been produced or (as the case may be) supplied accidentally; and

(b) that, having regard to all the circumstances, the person should be exempted from liability to pay the duty.

(6) Part III of Schedule 2A to this Act makes provision with respect to rates and amounts of duty charged under this section.

(7) In this section—

'approved mixing' has the meaning given by section 20A(5) above; and

'excepted vehicle' means a vehicle which is an excepted vehicle under any provision of Schedule 1 to this Act.

Mixing of rebated oil: supplementary.

20AAB.—(1) A person who—

(a) produces a mixture on which duty is charged under section 20AAA(1) above, or

(b) supplies a mixture on which duty is charged under section 20AAA(2) above,

must notify the Commissioners that he has done so within the period of seven days beginning with the date on which he produced or (as the case may be) supplied the mixture.

(2) A person is not required to give a notification under subsection (1) above if, before he produced or (as the case may be) supplied the mixture, he notified the Commissioners that he proposed to do so.

(3) Notification under subsection (1) or (2) above must be given in such form and in such manner, and must contain such particulars, as the Commissioners may direct.

(4) Subject to subsection (7) below, where it appears to the Commissioners—

(a) that a person has produced or supplied a mixture on which duty is charged under section 20AAA above, and

(b) that he is the person liable to pay the duty,

they may assess the amount of duty due from him to the best of their judgement and notify that amount to him or his representative.

(5) An assessment under subsection (4) above shall be treated as if it were an assessment under section 12(1) of the Finance Act 1994. 1994 c. 9.

(6) The Commissioners may give a direction that a person who is, or expects to be, liable to pay duty charged under section 20AAA above—

(a) shall account for duty charged under that section by reference to such periods ('accounting periods') as may be determined by or under the direction;

(b) shall make, in relation to accounting periods, returns in such form and at such times and containing such particulars as may be so determined;

(c) shall pay duty charged under that section at such times and in such manner as may be so determined.

(7) The power to make an assessment under subsection (4) above does not apply in relation to a person who is for the time being subject to a direction under subsection (6) above.

(8) Where any person—

(a) fails to give a notification which he is required to give under subsection (1) above, or

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(b) fails to comply with a direction under subsection (6) above,

his failure shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties)." 1994 c. 9.

(4) After Schedule 2 there shall be inserted the Schedule set out in Schedule 1 to this Act.

(5) This section and Schedule 1 to this Act shall have effect in relation to—

(a) the production on or after the appointed day of a mixture which is leaded or unleaded petrol; and

(b) the supply on or after the appointed day of a mixture of heavy oils;

and "the appointed day" here means such day as the Commissioners of Customs and Excise may by order made by statutory instrument appoint.

Marked oil used as fuel for road vehicles. 1979 c. 5.

7.—(1) After section 24 of the Hydrocarbon Oil Duties Act 1979 (control of use of duty free and rebated oil) there shall be inserted the following section—

"Penalties for misuse of marked oil.

24A.—(1) Marked oil shall not be used as fuel for a road vehicle.

(2) For the purposes of this section marked oil is any hydrocarbon oil in which a marker is present which is for the time being designated by regulations made by the Commissioners under subsection (3) below.

(3) The Commissioners may for the purposes of this section designate any marker which appears to them to be used for the purposes of the law of any place (whether within or outside the United Kingdom) for identifying hydrocarbon oil that is not to be used as fuel for road vehicles, or for road vehicles of a particular description.

(4) For the purposes of this section marked oil shall be taken to be used as fuel for a road vehicle if, but only if, it is used as fuel for the engine provided for propelling the vehicle or for an engine which draws its fuel from the same supply as that engine.

(5) Where a person uses any hydrocarbon oil in contravention of subsection (1) above, his use of the oil shall attract a penalty under section 9 of the Finance Act 1994 (civil penalties).

(6) If a person who uses any marked oil in contravention of subsection (1) above does so in the knowledge that the oil he is using is marked oil, he shall be guilty of an offence and liable—

(a) on summary conviction, to a penalty of the statutory maximum, or to imprisonment for a term not exceeding 6 months, or to both;

(b) on conviction on indictment, to a penalty of any amount, or to a term of imprisonment not exceeding 7 years, or to both.

(7) Any marked oil which is in a road vehicle as part of the fuel supply for the engine which propels the vehicle shall be liable to forfeiture.

(8) Where in any proceedings relating to this section a question arises as to the nature of any substance present at any time in any hydrocarbon oil—

(a) a certificate of the Commissioners to the effect that that substance is or was a marker designated for the purposes of this section shall be sufficient, unless the contrary is shown, for establishing that fact; and

(b) any document purporting to be such a certificate shall be taken to be one unless it is shown not to be."

(2) In section 24(1) of that Act (purposes for which regulations may be made), for "or section 19A above" there shall be inserted ", section 19A or section 24A of this Act".

Relief for marine voyages. 1979 c. 5.

8.—(1) The following provisions of the Hydrocarbon Oil Duties Act 1979 are hereby repealed—

(a) section 18 (fuel for ships in home waters), and

(b) in subsection (1) of section 19 (fuel used in fishing boats, etc.), paragraph (a) and the words from "by the owner" to "be".

(2) This section shall come into force on such day as the Commissioners of Customs and Excise may by order made by statutory instrument appoint.

Tobacco products duty

Rates of duty. 1979 c. 7.

9.—(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 £62.52 per thousand cigarettes.
2. Cigars...	£91.52 per kilogram.
3. Hand-rolling tobacco	£85.94 per kilogram.
4. Other smoking tobacco and chewing tobacco	£40.24 per kilogram."

(2) This section shall be deemed to have come into force at 6 o'clock in the evening of 28th November 1995.

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Betting duties: rates

General betting duty. 1981 c. 63.

10.—(1) In section 1(2) of the Betting and Gaming Duties Act 1981 (rate of general betting duty), for "7.75 per cent." there shall be substituted "6.75 per cent."

(2) This section shall apply in relation to bets made on or after 1st March 1996.

Pool betting duty.

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

(a) in relation to bets the stake money on which has been or is paid on or after 3rd December 1995 and before the first Sunday to follow the day on which this Act is passed, "27.50 per cent."; and

(b) in relation to bets the stake money on which is paid on or after that first Sunday, "26.50 per cent."

Amusement machine licence duty

Licences for machines as well as premises.

12.—(1) In subsection (1) of section 21 of the Betting and Gaming Duties Act 1981 (requirement for amusement machine licence with respect to premises), at the end there shall be inserted "or the machine".

(2) In subsection (2) of that section (licences to be known as amusement machine licences), at the end there shall be inserted "and, if it is granted with respect to a machine, rather than with respect to premises, as a special amusement machine licence."

(3) After subsection (3) of that section there shall be inserted the following subsections—

"(3AA) A special amusement machine licence shall not be granted except where—

(a) the machine with respect to which it is granted is of a description of machine for which special amusement machine licences are available;

(b) such conditions as may be prescribed by regulations made by the Commissioners are satisfied in relation to the application for the licence, the machine and the person by whom the application is made; and

(c) the licence is for twelve months.

(3AB) Special amusement machine licences shall be available for amusement machines of each of the following descriptions—

(a) machines that are not gaming machines; and

(b) small prize machines."

(4) In section 24(4) of that Act (provision of unlicensed machines), at the end there shall be inserted "or the machines".

(5) In paragraph 4 of Schedule 4 to that Act (seasonal licences), after sub-paragraph (7) there shall be inserted the following sub-paragraph—

"(7AA) Sub-paragraphs (4) and (5) above shall have effect where—

(a) an amusement machine is provided on any premises at any time in a winter period, and

(b) the provision of that machine on those premises at that time is authorised by a special amusement machine licence,

as if an amusement machine licence had been granted in respect of those premises for that winter period."

(6) Paragraph 5 of that Schedule shall become sub-paragraph (1) of that paragraph, and after that sub-paragraph there shall be inserted the following sub-paragraphs—

"(2) Regulations may provide for this Schedule to have effect in relation to special amusement machine licences with such exceptions, adaptations and modifications as may be prescribed.

(3) Without prejudice to the generality of sub-paragraphs (1) and (2) above, regulations may include provision requiring—

(a) a special amusement machine licence to be displayed on such premises and in such manner, and

(b) the machine to which such a licence relates to bear such labels and marks,

as may be determined by directions given, in accordance with the regulations, by the Commissioners."

Air passenger duty

13.—(1) In section 31 of the Finance Act 1994 (air passenger duty: exceptions for certain passengers) after subsection (4) there shall be inserted— Pleasure flights. 1994 c. 9.

"(4A) A passenger is not a chargeable passenger in relation to a flight if under his agreement for carriage (whether or not it is evidenced by a ticket)—

(a) the flight is to depart from and return to the same airport, and

(b) the duration of the flight (excluding any period during which the aircraft's doors are open for boarding or disembarkation) is not to exceed 60 minutes."

(2) In section 32 of that Act (change of circumstances after ticket issued etc.)—

(a) in subsection (1) (which provides that that section applies where a person's agreement for carriage is evidenced by a ticket) for the words "This section applies" there shall be substituted the words "Subsections (2) and (3) below apply";

(b) after subsection (3) there shall be added—

"(4) Where—

(a) at the time a passenger's flight begins, by virtue of section 31(4A) above he would not (assuming there is no change of circumstances) be a chargeable passenger in relation to the flight, and

(b) by reason only of a change of circumstances not attributable to any act or default of his, the flight does not return to the airport from which it departed or exceeds 60

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minutes in duration (excluding any period during which the aircraft's doors are open for boarding or disembarkation),

he shall not by reason of the change of circumstances be treated as a chargeable passenger in relation to that flight."

Vehicle excise duty

Increase in general rate. 1994 c. 22.

14.—(1) In Schedule 1 to the Vehicle Excise and Registration Act 1994 (annual rates of duty), in paragraph 1(2) (the general rate), for "£135" there shall be substituted "£140".

(2) Subsection (1) above applies in relation to licences taken out after 28th November 1995.

Electrically propelled vehicles.

15.—(1) In Schedule 1 to the Vehicle Excise and Registration Act 1994 (annual rates of duty), in paragraph 2(1)(a) (rate for motorcycles with low cylinder capacity), after "150 cubic centimetres" there shall be inserted "or the motorcycle is an electrically propelled vehicle".

(2) In paragraph 4F of that Schedule (electrically propelled vehicles are special concessionary vehicles)—

(a) in sub-paragraph (1), after "electrically propelled vehicle" there shall be inserted "other than a motorcycle (within the meaning of Part II of this Schedule)"; and

(b) sub-paragraph (2) shall be omitted.

(3) In section 62 of that Act (definitions), after subsection (1) there shall be inserted the following subsection—

"(1A) For the purposes of this Act, a vehicle is not an electrically propelled vehicle 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."

(4) Subsections (1) to (3) above apply in relation to licences taken out after 28th November 1995.

(5) In Schedule 2 to that Act (exemptions), after paragraph 2 there shall be inserted the following paragraph—

"Electrically assisted pedal cycles

2A.—(1) An electrically assisted pedal cycle is an exempt vehicle.

(2) For the purposes of sub-paragraph (1) an electrically assisted pedal cycle is a vehicle of a class complying with such requirements as may be prescribed by regulations made by the Secretary of State for the purposes of this paragraph."

Steam powered vehicles etc.

16.—(1) In Schedule 1 to the Vehicle Excise and Registration Act 1994 (annual rates of duty), after paragraph 4E there shall be inserted the following paragraph—

"4EE. A steam powered vehicle is a special concessionary vehicle."

(2) In paragraph 3 of that Schedule (buses), in sub-paragraph (2)(b) (vehicles which are not buses), after "excepted vehicle" there shall be inserted "or a special concessionary vehicle".

(3) In paragraph 4(2) of that Schedule (meaning of "special vehicle"), for "and is" there shall be substituted "which is not a special concessionary vehicle and which is".

(4) In paragraph 5 of that Schedule (recovery vehicles), after sub-paragraph (5) there shall be inserted the following sub-paragraph—

"(5A) A vehicle is not a recovery vehicle if it is a special concessionary vehicle."

(5) In paragraph 6(1) of that Schedule (vehicles used for exceptional loads), after paragraph (b) there shall be inserted—

"and which is not a special concessionary vehicle."

(6) In paragraph 7(2) of that Schedule (meaning of "haulage vehicle"), after "Part IV," there shall be inserted "IVA,".

(7) In paragraph 16 of that Schedule (application of Part VIII of the Schedule), in sub-paragraph (1)(a), after "Part II, IV," there shall be inserted "IVA,".

(8) This section applies in relation to licences taken out after 28th November 1995.

Vehicles capable of conveying loads.

1994 c. 22.

17.—(1) Schedule 1 to the Vehicle Excise and Registration Act 1994 (annual rates of duty) shall be amended in accordance with subsections (2) to (8) below.

(2) In paragraph 4(2) (meaning of "special vehicle"), immediately before paragraph (c) there shall be inserted the following paragraph—

"(bb) a vehicle falling within sub-paragraph (2A) or (2B),".

(3) After sub-paragraph (2) of paragraph 4 there shall be inserted the following sub-paragraphs—

"(2A) A vehicle falls within this sub-paragraph if—

(a) it is designed or adapted for use for the conveyance of goods or burden of any description; but

(b) it is not so used or is not so used for hire or reward or for or in connection with a trade or business.

(2B) A vehicle falls within this sub-paragraph if—

(a) it is designed or adapted for use with a semi-trailer attached; but

(b) it is not so used or, if it is so used, the semi-trailer is not used for the conveyance of goods or burden of any description."

(4) In paragraph 9(2) (rigid goods vehicles which are subject to basic goods vehicle rate), after paragraph (b) there shall be inserted "and

(c) to any rigid goods vehicle which is used loaded only in connection with a person learning to drive the vehicle or taking a driving test,".

(5) In paragraph 10(1) (trailer supplement), after "exceeding 12,000 kilograms" there shall be inserted ", which does not fall within paragraph 9(2)(b) or (c)".

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(6) In paragraph 11(2) (tractive units which are subject to basic goods vehicle rate), after paragraph (b) there shall be inserted "and

(c) to any tractive unit to which a semi-trailer is attached which is used loaded only in connection with a person learning to drive the tractive unit or taking a driving test,".

(7) In paragraph 16(1) (cases where Part VIII of Schedule 1 does not apply), paragraph (b), and the word "or" immediately preceding it, shall be omitted.

(8) After paragraph 18 there shall be inserted the following paragraph—

"Other expressions

19.—(1) In this Part 'driving test' means any test of competence to drive mentioned in section 89(1) of the Road Traffic Act 1988. 1988 c. 52.

(2) For the purposes of this Part a vehicle or a semi-trailer is used loaded if the vehicle or, as the case may be, the semi-trailer is used for the conveyance of goods or burden of any description."

1994 c. 22. (9) In section 7 of the Vehicle Excise and Registration Act 1994 (issue of licences), in subsection (2) (declarations and particulars in relation to goods vehicles)—

(a) after "goods vehicle" there shall be inserted "or a special vehicle"; and

(b) after "goods vehicles" there shall be inserted "or, as the case may be, special vehicles".

(10) After subsection (7) of that section there shall be inserted the following subsection—

"(8) In this section 'special vehicle' has the same meaning as in paragraph 4 of Schedule 1."

(11) Subject to subsection (13) below, subsections (1) to (8) above apply in relation to licences taken out after 28th November 1995.

(12) Subsection (13) below applies where a vehicle licence is taken out—

(a) on or before 28th November 1995, and

(b) at the rate applicable (at the time it is taken out) under Schedule 1 to the Vehicle Excise and Registration Act 1994.

(13) While the licence is in force duty shall not, by virtue of this section, become chargeable under section 15 of that Act (vehicle used in manner attracting higher rate).

(14) Subsections (9) and (10) above apply in relation to applications made after 28th November 1995.

(15) Paragraph 15 of Schedule 1 to that Act (which is unnecessary) shall be omitted.

Old vehicles. **18.**—(1) In Schedule 2 to the Vehicle Excise and Registration Act 1994 (exempt vehicles), immediately before paragraph 2 there shall be inserted the following paragraph—

"Old vehicles

1A.—(1) A vehicle of a description mentioned in sub-paragraph (2) is an exempt vehicle at any time if it was constructed more than 25 years before the beginning of the year in which that time falls.

(2) The descriptions of vehicles are—

(a) a vehicle in respect of which no annual rate is specified by any provision of Parts II to VIII of Schedule 1;

(b) a motorcycle which does not exceed 450 kilograms in weight unladen.

(3) In sub-paragraph (2)(b) 'motorcycle' has the same meaning as in Part II of Schedule 1."

(2) In Schedule 1 to that Act (annual rates of duty), in paragraph 1 (rate for vehicle for which no other rate is specified)—

(a) for paragraphs (a) and (b) of sub-paragraph (1) there shall be substituted "the general rate"; and

(b) sub-paragraphs (3) to (5) shall be omitted;

and, in paragraph 2 (motorcycles), sub-paragraph (2) shall be omitted.

(3) In section 2(4) of that Act (rate of duty for vehicle not currently in use and for which no previous licence issued), for the words from "whichever" to the end there shall be substituted "the general rate currently specified in paragraph 1(2) of Schedule 1".

(4) In that Act—

(a) in section 13 (trade licences), in subsection (3)(b),

(b) in section 13 as substituted under paragraph 8 of Schedule 4, in subsection (4)(b), and

(c) in section 36(3)(b) (additional liability where cheque dishonoured),

for "1(1)(a)" there shall be substituted "1".

(5) This section has effect in relation to times after 28th November 1995.

Old vehicles: further provisions. 1994 c. 22.

19.—(1) In Schedule 2 to the Vehicle Excise and Registration Act 1994 (exempt vehicles), for paragraph 1A (inserted by section 18 above) there shall be substituted the following paragraph—

"Old vehicles

1A.—(1) Subject to sub-paragraph (2), a vehicle is an exempt vehicle at any time if it was constructed more than 25 years before the beginning of the year in which that time falls.

(2) A vehicle is not an exempt vehicle by virtue of sub-paragraph (1) if—

(a) an annual rate is specified in respect of it by any provision of Part III, V, VI, VII or VIII of Schedule 1; or

(b) it is a special vehicle, within the meaning of Part IV of Schedule 1, which—

(i) falls within sub-paragraph (3) or (4); and

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(ii) is not a digging machine, mobile crane, works truck or road roller.

(3) A vehicle falls within this sub-paragraph if—

(a) it is designed or adapted for use for the conveyance of goods or burden of any description;

(b) it is put to a commercial use on a public road; and

(c) that use is not a use for the conveyance of goods or burden of any description.

(4) A vehicle falls within this sub-paragraph if—

(a) it is designed or adapted for use with a semi-trailer attached;

(b) it is put to a commercial use on a public road; and

(c) in a case where that use is a use with a semi-trailer attached, the semi-trailer is not used for the conveyance of goods or burden of any description.

(5) In sub-paragraph (2) 'digging machine', 'mobile crane' and 'works truck' have the same meanings as in paragraph 4 of Schedule 1.

(6) In sub-paragraphs (3) and (4) 'commercial use' means use for hire or reward or for or in connection with a trade or business."

(2) This section has effect in relation to times on or after 1st June 1996.

Exemptions for vehicle testing: general.
1994 c. 22.

20.—(1) Paragraph 22 of Schedule 2 to the Vehicle Excise and Registration Act 1994 (exemption for vehicle testing) shall be amended as follows.

(2) In sub-paragraph (1) (use for the purposes of submitting a vehicle to, or bringing it away from, a compulsory test), after the words "compulsory test", in each place where they occur, there shall be inserted "or a vehicle weight test".

(3) After sub-paragraph (1) there shall be inserted the following sub-paragraph—

"(1A) A vehicle is an exempt vehicle when it is being used solely for the purpose of—

(a) taking it (by previous arrangement for a specified time on a specified date) for a relevant re-examination, or

(b) bringing it away from such a re-examination."

(4) In sub-paragraph (2) (use by an authorised person in the course of compulsory test)—

(a) after "compulsory test" there shall be inserted ", a vehicle weight test or a relevant re-examination and is being so used"; and

(b) in paragraphs (a) and (b), after the words "the test", in each place where they occur, there shall be inserted "or re-examination".

(5) After sub-paragraph (2) there shall be inserted the following sub-paragraph—

"(2A) A vehicle is an exempt vehicle when it is being used by an authorised person solely for the purpose of warming up its engine in preparation for the carrying out of—

(a) a compulsory test, or

(b) a relevant re-examination that is to be carried out for the purposes of an appeal relating to a determination made on a compulsory test."

(6) In sub-paragraph (3) (exemption applying where the relevant certificate is refused), after "a vehicle" there shall be inserted "or as a result of a relevant re-examination,".

(7) In sub-paragraph (5) (relevant examinations)—

(a) for paragraph (a), there shall be substituted the following paragraph—

"(a) an examination under regulations under section 49(1)(b) or (c) of the Road Traffic Act 1988 (examination as to compliance with construction and use or safety requirements)"; 1988 c. 52.

(b) the word "and" shall be inserted at the end of paragraph (b); and

(c) paragraph (c) (examinations for the purpose of an appeal under section 60 of the Road Traffic Act 1988) shall be omitted.

(8) After sub-paragraph (6) there shall be inserted the following sub-paragraphs—

"(6A) In this paragraph 'a vehicle weight test' means any examination of a vehicle for which provision is made by regulations under—

(a) section 61A of this Act,

(b) section 49(1)(a) of the Road Traffic Act 1988 (tests for selecting plated weights and other plated particulars), or

(c) Article 65(1)(a) of the Road Traffic (Northern Ireland) Order 1995. S.I. 1995/2994 (N.I. 18).

(6B) In this paragraph 'a relevant re-examination' means any examination or re-examination which is carried out in accordance with any provision or requirement made or imposed for the purposes of an appeal relating to a determination made on a compulsory test or vehicle weight test."

(9) Subject to section 21(3) below, in sub-paragraph (7) (meaning of "authorised person")—

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

(b) at the end of paragraph (c) there shall be inserted the word "and"; and

(c) after that paragraph there shall be inserted the following paragraph—

"(d) in the case of a relevant re-examination—

(i) the person to whom the appeal in question is made, or

(ii) any person who, by virtue of an appointment made by that person, is authorised by or under any enactment to carry out that re-examination."

(10) This section shall be deemed to have come into force on 28th November 1995.

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Exemptions for vehicle testing in Northern Ireland.
1994 c. 22.

21.—(1) Paragraph 22 of Schedule 2 to the Vehicle Excise and Registration Act 1994 (exemption for vehicle testing) shall be further amended as follows.

(2) For sub-paragraph (6) (meaning of "compulsory test" in Northern Ireland) there shall be substituted the following sub-paragraph—

"(6) In this paragraph 'compulsory test' means, as respects Northern Ireland—

(a) an examination to obtain a test certificate under Article 61 of the Road Traffic (Northern Ireland) Order 1995 without which a vehicle licence cannot be obtained for the vehicle,

S.I. 1995/2994 (N.I. 18).

(b) an examination to obtain a goods vehicle test certificate under Article 65 of that Order, or

(c) an examination to obtain a public service vehicle licence under Article 60(1) of the Road Traffic (Northern Ireland) Order 1981."

S.I. 1981/154 (N.I. 1).

(3) For paragraph (c) of sub-paragraph (7) (as amended by section 20(9) above) there shall be substituted the following paragraph—

"(c) in the case of an examination within sub-paragraph (6), an authorised examiner within the meaning of Article 61(3)(a) of the Road Traffic (Northern Ireland) Order 1995 or a vehicle examiner within the meaning of Part III of that Order; and".

(4) In sub-paragraph (9) (meaning of "relevant certificate" in Northern Ireland), for paragraphs (a) and (b) there shall be substituted the following paragraphs—

"(a) a test certificate (within the meaning of Article 61(2) of the Road Traffic (Northern Ireland) Order 1995),

(b) a goods vehicle test certificate (within the meaning of Article 65(2) of that Order), or".

(5) In sub-paragraph (10)(a) (meaning of "relevant work"), the words "(or, in Northern Ireland, a vehicle test certificate)" shall be omitted.

(6) This section shall be deemed to have come into force on the date of the coming into operation of Articles 61 and 65 of the Road Traffic (Northern Ireland) Order 1995 ("the operational date").

(7) Subsections (2), (4) and (5) above do not have effect in relation to a compulsory test carried out in Northern Ireland before the operational date except for the purpose of construing, in relation to such a test, the reference to a further compulsory test in paragraph 22(10)(a) of Schedule 2 to the Vehicle Excise and Registration Act 1994.

Other provisions relating to Northern Ireland.

22.—(1) In section 42 of the Vehicle Excise and Registration Act 1994 (not fixing registration mark), in subsection (5)(b), for "Article 34 of the Road Traffic (Northern Ireland) Order 1981" there shall be substituted "Article 63 of the Road Traffic (Northern Ireland) Order 1995".

(2) In subsection (6) of that section, for paragraph (b) there shall be substituted—

"(b) it is being driven for the purposes of, or in connection with, its examination under Article 61 of the Road Traffic (Northern Ireland) Order 1995 in circumstances in which its use is exempted from paragraph (1) of Article 63 of that Order by regulations under paragraph (6) of that Article." S.I. 1995/2994 (N.I. 18).

(3) In section 60A(11) of that Act (special maximum weight in Northern Ireland), for "Article 29(3) of the Road Traffic (Northern Ireland) Order 1981" there shall be substituted "Article 60(1) of the Road Traffic (Northern Ireland) Order 1995". S.I. 1981/154 (N.I. 1).

(4) In section 61(6) of that Act (meaning of "weight unladen"), for paragraph (b) there shall be substituted—

"(b) in Northern Ireland, has the same meaning as it has for the purposes of the Road Traffic (Northern Ireland) Order 1995 by virtue of Article 7 of that Order."

(5) In paragraph 6 of Schedule 1 to that Act (vehicles used for exceptional loads), in sub-paragraph (2) for paragraph (b) there shall be substituted—

"(b) Article 60 of the Road Traffic (Northern Ireland) Order 1995,".

(6) In that paragraph—

(a) in sub-paragraph (3)(a), for "Article 28 of the Road Traffic (Northern Ireland) Order 1981" there shall be substituted "Article 55 of the Road Traffic (Northern Ireland) Order 1995"; and

(b) in sub-paragraph (4), for "the Road Traffic (Northern Ireland) Order 1981" there shall be substituted "the Road Traffic (Northern Ireland) Order 1995".

(7) In paragraph 17 of Schedule 3 to that Act (amendments of the Road Traffic (Northern Ireland) Order 1981)—

(a) in sub-paragraph (1), "29(2)," and "34(6)," shall be omitted, and

(b) sub-paragraph (2) shall be omitted.

Licensing and registration.

23. Schedule 2 to this Act (which makes provision in connection with powers conferred on the Secretary of State by the Vehicle Excise and Registration Act 1994) shall have effect. 1994 c. 22.

Repeal of certain drawbacks and allowances

Repeal of certain drawbacks and allowances.

24. The following provisions (which provide for repayments, drawbacks or allowances in the case of certain excise duties) shall cease to have effect, that is to say—

(a) section 3 of the Finance Act 1977 (repayment in respect of tobacco used in the manufacture of a tobacco product after having borne duty under section 4 of the Finance Act 1964); 1977 c. 36. 1964 c. 49.

(b) section 22(6) of the Alcoholic Liquor Duties Act 1979 (additions in respect of waste which are deemed to be made to tinctures exported or shipped as stores); 1979 c. 4.

(c) section 23 of that Act of 1979 (allowances in respect of British compounded spirits);

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(d) section 92(6) of that Act of 1979 (transitional right to drawback); and

1979 c. 58.

(e) section 9(2) and (3) of the Isle of Man Act 1979 (removal to the Isle of Man treated as export for the purposes of drawback).

PART II

VALUE ADDED TAX

EC Second VAT Simplification Directive

EC Second VAT Simplification Directive.

25. Sections 26 to 29 of and Schedule 3 to this Act are for the purpose of giving effect to requirements of the directive of the Council of the European Communities dated 17th May 1977 No.77/388/EEC and the amendments of that directive by the directive of that Council dated 10th April 1995 No.95/7/EC (amendments with a view to introducing new simplification measures with regard to value added tax).

Fiscal and other warehousing.

26.—(1) The provisions of Schedule 3 to this Act shall have effect.

(2) Subject to subsection (3) below, this section and Schedule 3 to this Act shall come into force on such day as the Commissioners of Customs and Excise may by order made by statutory instrument appoint, and shall apply to any acquisition of goods from another member State and any supply taking place on or after that day.

(3) In so far as the provisions inserted by Schedule 3 to this Act confer power to make regulations they shall come into force on the day this Act is passed.

Value of imported goods.

1994 c. 23.

27.—(1) Section 21 of the Value Added Tax Act 1994 (value of imported goods) shall be amended as follows.

(2) In subsection (2) of that section at the end of paragraph (a) the word "and" shall be omitted.

(3) For paragraph (b) of that subsection there shall be substituted—

"(b) all incidental expenses, such as commission, packing, transport and insurance costs, up to the goods' first destination in the United Kingdom; and

(c) if at the time of the importation of the goods from a place outside the member States a further destination for the goods is known, and that destination is within the United Kingdom or another member State, all such incidental expenses in so far as they result from the transport of the goods to that other destination;

and in this subsection "the goods' first destination" means the place mentioned on the consignment note or any other document by means of which the goods are imported into the United Kingdom, or in the absence of such documentation it means the place of the first transfer of cargo in the United Kingdom."

(4) This section shall have effect in relation to goods imported on or after 1st January 1996.

PART II

Adaptation of aircraft and hovercraft.
1994 c. 23.

28.—(1) Section 22 of the Value Added Tax Act 1994 shall be omitted.

(2) This section shall apply to supplies made on or after 1st January 1996.

Work on materials.

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

(2) After subsection (2) of section 30 there shall be inserted the following subsection—

"(2A) A supply by a person of services which consist of applying a treatment or process to another person's goods is zero-rated by virtue of this subsection if by doing so he produces goods, and either—

(a) those goods are of a description for the time being specified in Schedule 8; or

(b) a supply by him of those goods to the person to whom he supplies the services would be of a description so specified."

(3) In subsection (5) of section 55 (supplies of gold), after paragraph (b) there shall be inserted the following—

"; or

(c) any supply of services consisting in the application to another person's goods of a treatment or process which produces goods a supply of which would fall within paragraph (a) above.";

and the word "or" at the end of paragraph (a) shall be omitted.

(4) Paragraph 2 of Schedule 4 (which provides that the treatment or processing of another person's goods shall in certain circumstances be a supply of goods) shall be omitted.

(5) This section shall apply to supplies made on or after 1st January 1996.

Other provisions relating to charges to VAT

Refunds in connection with construction and conversion.

30.—(1) For subsection (1) of section 35 of the Value Added Tax Act 1994 (refund of VAT to persons constructing certain buildings) there shall be substituted the following subsections—

"(1) Where—

(a) a person carries out works to which this section applies,

(b) his carrying out of the works is lawful and otherwise than in the course or furtherance of any business, and

(c) VAT is chargeable on the supply, acquisition or importation of any goods used by him for the purposes of the works,

the Commissioners shall, on a claim made in that behalf, refund to that person the amount of VAT so chargeable.

(1A) The works to which this section applies are—

(a) the construction of a building designed as a dwelling or number of dwellings;

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(b) the construction of a building for use solely for a relevant residential purpose or relevant charitable purpose; and

(c) a residential conversion.

(1B) For the purposes of this section goods shall be treated as used for the purposes of works to which this section applies by the person carrying out the works in so far only as they are building materials which, in the course of the works, are incorporated in the building in question or its site.

(1C) Where—

(a) a person ('the relevant person') carries out a residential conversion by arranging for any of the work of the conversion to be done by another ('a contractor'),

(b) the relevant person's carrying out of the conversion is lawful and otherwise than in the course or furtherance of any business,

(c) the contractor is not acting as an architect, surveyor or consultant or in a supervisory capacity, and

(d) VAT is chargeable on services consisting in the work done by the contractor,

the Commissioners shall, on a claim made in that behalf, refund to the relevant person the amount of VAT so chargeable.

(1D) For the purposes of this section works constitute a residential conversion to the extent that they consist in the conversion of a non-residential building, or a non-residential part of a building, into—

(a) a building designed as a dwelling or a number of dwellings;

(b) a building intended for use solely for a relevant residential purpose; or

(c) anything which would fall within paragraph (a) or (b) above if different parts of a building were treated as separate buildings."

(2) In subsection (2) of that section (method of making claim), after "may by regulations prescribe" there shall be inserted "or, in the case of documents, as the Commissioners may determine in accordance with the regulations".

(3) After subsection (3) of that section there shall be inserted the following subsections—

"(4) The notes to Group 5 of Schedule 8 shall apply for construing this section as they apply for construing that Group.

(5) The power of the Treasury by order under section 30 to vary Schedule 8 shall include—

(a) power to apply any variation made by the order for the purposes of this section; and

(b) power to make such consequential modifications of this section as they may think fit."

(4) This section applies in relation to any case in which a claim for repayment under section 35 of the Value Added Tax Act 1994 is made at any time on or after the day on which this Act is passed.

1994 c. 23.

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Groups: anti-avoidance.
1994 c. 23.

31.—(1) In section 43 of the Value Added Tax Act 1994 (groups of companies), after subsection (8) there shall be inserted the following subsection—

"(9) Schedule 9A (which makes provision for ensuring that this section is not used for tax avoidance) shall have effect."

(2) After Schedule 9 to that Act there shall be inserted the Schedule set out in Schedule 4 to this Act.

(3) In section 83 of that Act (appeals), after paragraph (w) there shall be inserted the following paragraph—

"(wa) any direction or assessment under Schedule 9A;".

(4) In section 84 of that Act (further provisions relating to appeals), after subsection (7) there shall be inserted the following subsection—

"(7A) Where there is an appeal against a decision to make such a direction as is mentioned in section 83(wa), the cases in which the tribunal shall allow the appeal shall include (in addition to the case where the conditions for the making of the direction were not fulfilled) the case where the tribunal are satisfied, in relation to the relevant event by reference to which the direction was given, that—

(a) the change in the treatment of the body corporate, or

(b) the transaction in question,

had as its main purpose or, as the case may be, as each of its main purposes a genuine commercial purpose unconnected with the fulfilment of the condition specified in paragraph 1(3) of Schedule 9A."

(5) Subsection (1A) of section 43 of that Act shall not have effect in relation to supplies on or after the day on which this Act is passed.

Supplies of gold etc.

32.—(1) In section 55 of the Value Added Tax Act 1994 (supplies of gold), for paragraph (a) of subsection (5) there shall be substituted the following paragraph—

"(a) any supply of goods consisting in fine gold, in gold grain of any purity or in gold coins of any purity; or".

(2) This section applies in relation to any supply after 28th November 1995.

Small gifts.

33.—(1) In Schedule 4 to the Value Added Tax Act 1994 (matters to be treated as supply of goods or services), in paragraph 5(2)(a) (gift of goods in the course or furtherance of a business not a supply if cost to donor is not more than £10), for "£10" there shall be substituted "£15".

(2) At the end of paragraph 5 of Schedule 4 to that Act there shall be inserted the following sub-paragraph—

"(7) The Treasury may by order substitute for the sum for the time being specified in sub-paragraph (2)(a) above such sum, not being less than £10, as they think fit."

(3) In section 97(4) of that Act (orders which are subject to affirmative procedure), after paragraph (a) there shall be inserted the following paragraph—

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"(ab) an order under paragraph 5(7) of Schedule 4 substituting a lesser sum for the sum for the time being specified in paragraph 5(2)(a) of that Schedule;".

(4) Subsection (1) above shall apply where a gift is made after 28th November 1995.

Payment and enforcement

Method of making payments on account.
1994 c. 23.

34. In section 28 of the Value Added Tax Act 1994 (payments on account of VAT), after subsection (2) there shall be inserted the following subsection—

"(2A) The Commissioners may give directions, to persons who are or may become liable by virtue of any order under this section to make payments on account of VAT, about the manner in which they are to make such payments; and where such a direction has been given to any person and has not subsequently been withdrawn, any duty of that person by virtue of such an order to make such a payment shall have effect as if it included a requirement for the payment to be made in the manner directed."

Default surcharges.

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

(2) After section 59 (default surcharge) there shall be inserted the following section—

"Default surcharge: payments on account.

59A.—(1) For the purposes of this section a taxable person shall be regarded as in default in respect of any prescribed accounting period if the period is one in respect of which he is required, by virtue of an order under section 28, to make any payment on account of VAT and either—

(a) a payment which he is so required to make in respect of that period has not been received in full by the Commissioners by the day on which it became due; or

(b) he would, but for section 59(1A), be in default in respect of that period for the purposes of section 59.

(2) Subject to subsections (10) and (11) below, subsection (4) below applies in any case where—

(a) a taxable person is in default in respect of a prescribed accounting period; and

(b) the Commissioners serve notice on the taxable person (a 'surcharge liability notice') specifying as a surcharge period for the purposes of this section a period which—

(i) begins, subject to subsection (3) below, on the date of the notice; and

(ii) ends on the first anniversary of the last day of the period referred to in paragraph (a) above.

(3) If—

(a) a surcharge liability notice is served by reason of a default in respect of a prescribed accounting period, and

(b) that period ends at or before the expiry of an existing surcharge period already notified to the taxable person concerned,

the surcharge period specified in that notice shall be expressed as a continuation of the existing surcharge period; and, accordingly, the existing period and its extension shall be regarded as a single surcharge period.

(4) Subject to subsections (7) to (11) below, if—

(a) a taxable person on whom a surcharge liability notice has been served is in default in respect of a prescribed accounting period,

(b) that prescribed accounting period is one ending within the surcharge period specified in (or extended by) that notice, and

(c) the aggregate value of his defaults in respect of that prescribed accounting period is more than nil,

that person shall be liable to a surcharge equal to whichever is the greater of £30 and the specified percentage of the aggregate value of his defaults in respect of that prescribed accounting period.

(5) Subject to subsections (7) to (11) below, the specified percentage referred to in subsection (4) above shall be determined in relation to a prescribed accounting period by reference to the number of such periods during the surcharge period which are periods in respect of which the taxable person is in default and in respect of which the value of his defaults is more than nil, so that—

(a) in relation to the first such prescribed accounting period, the specified percentage is 2 per cent.;

(b) in relation to the second such period, the specified percentage is 5 per cent.;

(c) in relation to the third such period, the specified percentage is 10 per cent.; and

(d) in relation to each such period after the third, the specified percentage is 15 per cent.

(6) For the purposes of this section the aggregate value of a person's defaults in respect of a prescribed accounting period shall be calculated as follows—

(a) where the whole or any part of a payment in respect of that period on account of VAT was not received by the Commissioners by the day on which it became due, an amount equal to that payment or, as the case may be, to that part of it shall be taken to be the value of the default relating to that payment;

(b) if there is more than one default with a value given by paragraph (a) above, those values shall be aggregated;

(c) the total given by paragraph (b) above, or (where there is only one default) the value of the default under paragraph (a) above, shall be taken to be the value for that period of that person's defaults on payments on account;

(d) the value of any default by that person which is a default falling within subsection (1)(b) above shall be taken to be equal to the amount of any outstanding VAT less the amount of unpaid payments on account; and

(e) the aggregate value of a person's defaults in respect of that period shall be taken to be the aggregate of—

(i) the value for that period of that person's defaults (if any) on payments on account; and

(ii) the value of any default of his in respect of that period that falls within subsection (1)(b) above.

(7) In the application of subsection (6) above for the calculation of the aggregate value of a person's defaults in respect of a prescribed accounting period—

(a) the amount of outstanding VAT referred to in paragraph (d) of that subsection is the amount (if any) which would be the amount of that person's outstanding VAT for that period for the purposes of section 59(4); and

(b) the amount of unpaid payments on account referred to in that paragraph is the amount (if any) equal to so much of any payments on account of VAT (being payments in respect of that period) as has not been received by the Commissioners by the last day on which that person is required (as mentioned in section 59(1)) to make a return for that period.

(8) If a person who, apart from this subsection, would be liable to a surcharge under subsection (4) above satisfies the Commissioners or, on appeal, a tribunal—

(a) in the case of a default that is material for the purposes of the surcharge and falls within subsection (1)(a) above—

(i) that the payment on account of VAT was despatched at such a time and in such a manner that it was reasonable to expect that it would be received by the Commissioners by the day on which it became due, or

(ii) that there is a reasonable excuse for the payment not having been so despatched,

or

(b) in the case of a default that is material for the purposes of the surcharge and falls within subsection (1)(b) above, that the condition specified in section 59(7)(a) or (b) is satisfied as respects the default,

he shall not be liable to the surcharge and for the purposes of the preceding provisions of this section he shall be treated as not having been in default in respect of the prescribed accounting period in question (and, accordingly, any surcharge liability notice the service of which depended upon that default shall be deemed not to have been served).

(9) For the purposes of subsection (8) above, a default is material to a surcharge if—

(a) it is the default which, by virtue of subsection (4) above, gives rise to the surcharge; or

(b) it is a default which was taken into account in the service of the surcharge liability notice upon which the surcharge depends and the person concerned has not previously been liable to a surcharge in respect of a prescribed accounting period ending within the surcharge period specified in or extended by that notice.

(10) In any case where—

(a) the conduct by virtue of which a person is in default in respect of a prescribed accounting period is also conduct falling within section 69(1), and

(b) by reason of that conduct, the person concerned is assessed to a penalty under section 69,

the default shall be left out of account for the purposes of subsections (2) to (5) above.

(11) If the Commissioners, after consultation with the Treasury, so direct, a default in respect of a prescribed accounting period specified in the direction shall be left out of account for the purposes of subsections (2) to (5) above.

(12) For the purposes of this section the Commissioners shall be taken not to receive a payment by the day on which it becomes due unless it is made in such a manner as secures (in a case where the payment is made otherwise than in cash) that, by the last day for the payment of that amount, all the transactions can be completed that need to be completed before the whole amount of the payment becomes available to the Commissioners.

(13) In determining for the purposes of this section whether any person would, but for section 59(1A), be in default in respect of any period for the purposes of section 59, subsection (12) above shall be deemed to apply for the purposes of section 59 as it applies for the purposes of this section.

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(14) For the purposes of this section references to a thing's being done by any day include references to its being done on that day."

(3) In section 59, at the beginning of subsection (1) (circumstances amounting to a default in respect of any prescribed accounting period), there shall be inserted "Subject to subsection (1A) below"; and after that subsection there shall be inserted the following subsection—

"(1A) A person shall not be regarded for the purposes of this section as being in default in respect of any prescribed accounting period if that period is one in respect of which he is required by virtue of any order under section 28 to make any payment on account of VAT."

(4) After subsection (10) of that section there shall be inserted the following subsection—

"(11) For the purposes of this section references to a thing's being done by any day include references to its being done on that day."

(5) After the section 59A inserted by subsection (2) above there shall be inserted the following section—

"Relationship between sections 59 and 59A.

59B.—(1) This section applies in each of the following cases, namely—

(a) where a section 28 accounting period ends within a surcharge period begun or extended by the service on a taxable person (whether before or after the coming into force of section 59A) of a surcharge liability notice under section 59; and

(b) where a prescribed accounting period which is not a section 28 accounting period ends within a surcharge period begun or extended by the service on a taxable person of a surcharge liability notice under section 59A.

(2) In a case falling within subsection (1)(a) above section 59A shall have effect as if—

(a) subject to paragraph (b) below, the section 28 accounting period were deemed to be a period ending within a surcharge period begun or, as the case may be, extended by a notice served under section 59A; but

(b) any question—

(i) whether a surcharge period was begun or extended by the notice, or

(ii) whether the taxable person was in default in respect of any prescribed accounting period which was not a section 28 accounting period but ended within the surcharge period begun or extended by that notice,

were to be determined as it would be determined for the purposes of section 59.

(3) In a case falling within subsection (1)(b) above section 59 shall have effect as if—

(a) subject to paragraph (b) below, the prescribed accounting period that is not a section 28 accounting period were deemed to be a period ending within a surcharge period begun or, as the case may be, extended by a notice served under section 59;

(b) any question—

(i) whether a surcharge period was begun or extended by the notice, or

(ii) whether the taxable person was in default in respect of any prescribed accounting period which was a section 28 accounting period but ended within the surcharge period begun or extended by that notice,

were to be determined as it would be determined for the purposes of section 59A; and

(c) that person were to be treated as having had outstanding VAT for a section 28 accounting period in any case where the aggregate value of his defaults in respect of that period was, for the purposes of section 59A, more than nil.

(4) In this section 'a section 28 accounting period', in relation to a taxable person, means any prescribed accounting period ending on or after the day on which the Finance Act 1996 was passed in respect of which that person is liable by virtue of an order under section 28 to make any payment on account of VAT."

(6) In section 69(4)(a) and (9)(b) (disregard in connection with penalties for breach of regulations of conduct giving rise to a surcharge), after the words "section 59", in each case, there shall be inserted "or 59A".

(7) In section 76(1) and (3)(a) (assessments for surcharges), after the words "section 59", in each case, there shall be inserted "or 59A".

(8) This section applies in relation to any prescribed accounting period ending on or after 1st June 1996, but a liability to make a payment on account of VAT shall be disregarded for the purposes of the amendments made by this section if the payment is one becoming due before that date.

Repeated misdeclaration penalty. 1994 c. 23.

36.—(1) In section 64 of the Value Added Tax Act 1994 (repeated misdeclaration penalty), the following subsections shall be substituted for subsections (6) and (7) (inaccuracies treated as not material)—

"(6) Subject to subsection (6A) below, where by reason of conduct falling within subsection (1) above—

(a) a person is convicted of an offence (whether under this Act or otherwise), or

(b) a person is assessed to a penalty under section 60 or 63,

the inaccuracy concerned shall not be regarded as material for the purposes of this section.

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(6A) Subsection (6) above shall not prevent an inaccuracy by reason of which a person has been assessed to a penalty under section 63—

(a) from being regarded as a material inaccuracy in respect of which the Commissioners may serve a penalty liability notice under subsection (2) above; or

(b) from being regarded for the purposes of subsection (3) above as a material inaccuracy by reference to which any prescribed accounting period falling within the penalty period is to be treated as the first prescribed accounting period so falling in respect of which there is a material inaccuracy.

(7) Where subsection (5) or (6) above requires any inaccuracy to be regarded as not material for the purposes of the serving of a penalty liability notice, any such notice served in respect of that inaccuracy shall be deemed not to have been served."

(2) This section has effect in relation to inaccuracies contained in returns made on or after the day on which this Act is passed.

Penalties for failure to notify. 1994 c. 23.

37.—(1) In section 67 of the Value Added Tax Act 1994 (penalty for failure to notify liability to be registered under Schedule 1, etc.)—

(a) in subsection (1)(a), after "6" there shall be inserted ", 7"; and

(b) in subsection (3)(a), for "or 6" there shall be substituted ", 6 or 7".

(2) Subject to subsection (3) below, subsection (1) above shall apply in relation to—

(a) any person becoming liable to be registered by virtue of sub-paragraph (2) of paragraph 1 of Schedule 1 to the Value Added Tax Act 1994 on or after 1st January 1996; and

(b) any person who became liable to be registered by virtue of that sub-paragraph before that date but who had not notified the Commissioners of the liability before that date.

(3) In relation to a person falling within subsection (2)(b) above, section 67 of the Value Added Tax Act 1994 shall have effect as if in subsection (3)(a) for the words "the date with effect from which he is, in accordance with that paragraph, required to be registered" there were substituted "1st January 1996".

VAT invoices and accounting.

38.—(1) Paragraph 2 of Schedule 11 to the Value Added Tax Act 1994 (regulations about accounting for VAT, VAT invoices etc.) shall be amended as follows.

(2) After sub-paragraph (2) there shall be inserted the following sub-paragraph—

"(2A) Regulations under this paragraph may confer power on the Commissioners to allow the requirements of any regulations as to the statements and other matters to be contained in a VAT invoice to be relaxed or dispensed with."

(3) In sub-paragraph (10) (adjustments of VAT accounts), at the end of paragraph (c) there shall be inserted "and

(d) for a person, for purposes connected with the making of any such entry or financial adjustment, to be required to provide to any prescribed person, or to retain, a document in the prescribed form containing prescribed particulars of the matters to which the entry or adjustment relates; and

(e) for enabling the Commissioners, in such cases as they may think fit, to dispense with or relax a requirement imposed by regulations made by virtue of paragraph (d) above."

PART III

LANDFILL TAX

The basic provisions

Landfill tax.

39.—(1) A tax, to be known as landfill tax, shall be charged in accordance with this Part.

(2) The tax shall be under the care and management of the Commissioners of Customs and Excise.

Charge to tax.

40.—(1) Tax shall be charged on a taxable disposal.

(2) A disposal is a taxable disposal if—

(a) it is a disposal of material as waste,

(b) it is made by way of landfill,

(c) it is made at a landfill site, and

(d) it is made on or after 1st October 1996.

(3) For this purpose a disposal is made at a landfill site if the land on or under which it is made constitutes or falls within land which is a landfill site at the time of the disposal.

Liability to pay tax.

41.—(1) The person liable to pay tax charged on a taxable disposal is the landfill site operator.

(2) The reference here to the landfill site operator is to the person who is at the time of the disposal the operator of the landfill site which constitutes or contains the land on or under which the disposal is made.

Amount of tax.

42.—(1) The amount of tax charged on a taxable disposal shall be found by taking—

(a) £7 for each whole tonne disposed of and a proportionately reduced sum for any additional part of a tonne, or

(b) a proportionately reduced sum if less than a tonne is disposed of.

(2) Where the material disposed of consists entirely of qualifying material this section applies as if the reference to £7 were to £2.

(3) Qualifying material is material for the time being listed for the purposes of this section in an order.

(4) The Treasury must have regard to the object of securing that material is listed if it is of a kind commonly described as inactive or inert.

PART III

Exemptions

Material removed from water.

43.—(1) A disposal is not a taxable disposal for the purposes of this Part if it is shown to the satisfaction of the Commissioners that the disposal is of material all of which—

(a) has been removed (by dredging or otherwise) from water falling within subsection (2) below, and

(b) formed part of or projected from the bed of the water concerned before its removal.

(2) Water falls within this subsection if it is—

(a) a river, canal or watercourse (whether natural or artificial), or

(b) a dock or harbour (whether natural or artificial).

(3) A disposal is not a taxable disposal for the purposes of this Part if it is shown to the satisfaction of the Commissioners that the disposal is of material all of which—

(a) has been removed (by dredging or otherwise) from water falling within the approaches to a harbour (whether natural or artificial),

(b) has been removed in the interests of navigation, and

(c) formed part of or projected from the bed of the water concerned before its removal.

(4) A disposal is not a taxable disposal for the purposes of this Part if it is shown to the satisfaction of the Commissioners that the disposal is of material all of which—

(a) consists of naturally occurring mineral material, and

(b) has been removed (by dredging or otherwise) from the sea in the course of commercial operations carried out to obtain substances such as sand or gravel from the seabed.

Mining and quarrying.

44.—(1) A disposal is not a taxable disposal for the purposes of this Part if it is shown to the satisfaction of the Commissioners that the disposal is of material all of which fulfils each of the conditions set out in subsections (2) to (4) below.

(2) The material must result from commercial mining operations (whether the mining is deep or open-cast) or from commercial quarrying operations.

(3) The material must be naturally occurring material extracted from the earth in the course of the operations.

(4) The material must not have been subjected to, or result from, a non-qualifying process carried out at any stage between the extraction and the disposal.

(5) A non-qualifying process is—

(a) a process separate from the mining or quarrying operations, or

(b) a process forming part of those operations and permanently altering the material's chemical composition.

Pet cemeteries.

45.—(1) A disposal is not a taxable disposal for the purposes of this Part if—

(a) the disposal is of material consisting entirely of the remains of dead domestic pets, and

(b) the landfill site at which the disposal is made fulfils the test set out in subsection (2) below.

(2) The test is that during the relevant period—

(a) no landfill disposal was made at the site, or

(b) the only landfill disposals made at the site were of material consisting entirely of the remains of dead domestic pets.

(3) For the purposes of subsection (2) above the relevant period—

(a) begins with 1st October 1996 or (if later) with the coming into force in relation to the site of the licence or resolution mentioned in section 66 below, and

(b) ends immediately before the disposal mentioned in subsection (1) above.

Power to vary.

46.—(1) Provision may be made by order to produce the result that—

(a) a disposal which would otherwise be a taxable disposal (by virtue of this Part as it applies for the time being) is not a taxable disposal;

(b) a disposal which would otherwise not be a taxable disposal (by virtue of this Part as it applies for the time being) is a taxable disposal.

(2) Without prejudice to the generality of subsection (1) above, an order under this section may—

(a) confer exemption by reference to certificates issued by the Commissioners and to conditions set out in certificates;

(b) allow the Commissioners to direct requirements to be met before certificates can be issued;

(c) provide for the review of decisions about certificates and for appeals relating to decisions on review.

(3) Provision may be made under this section in such way as the Treasury think fit (whether by amending this Part or otherwise).

Administration

Registration.

47.—(1) 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.

(2) A person who—

(a) carries out taxable activities, and

(b) is not registered,

is liable to be registered.

(3) Where—

(a) a person at any time forms the intention of carrying out taxable activities, and

(b) he is not registered,

he shall notify the Commissioners of his intention.

PART III

(4) A person who at any time ceases to have the intention of carrying out taxable activities shall notify the Commissioners of that fact.

(5) Where a person is liable to be registered by virtue of subsection (2) above the Commissioners shall register him with effect from the time when he begins to carry out taxable activities; and this subsection applies whether or not he notifies the Commissioners under subsection (3) above.

(6) Where the Commissioners are satisfied that a person has ceased to carry out taxable activities they may cancel his registration with effect from the earliest practicable time after he so ceased; and this subsection applies whether or not he notifies the Commissioners under subsection (4) above.

(7) Where—

(a) a person notifies the Commissioners under subsection (4) above,

(b) they are satisfied that he will not carry out taxable activities,

(c) they are satisfied that no tax which he is liable to pay is unpaid,

(d) they are satisfied that no credit to which he is entitled under regulations made under section 51 below is outstanding, and

(e) subsection (8) below does not apply,

the Commissioners shall cancel his registration with effect from the earliest practicable time after he ceases to carry out taxable activities.

(8) Where—

(a) a person notifies the Commissioners under subsection (4) above, and

(b) they are satisfied that he has not carried out, and will not carry out, taxable activities,

the Commissioners shall cancel his registration with effect from the time when he ceased to have the intention to carry out taxable activities.

(9) For the purposes of this section 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 any notification is to be made and as to the information to be contained in or provided with it;

(c) requiring a person who has made a notification to notify the Commissioners if any information contained in or provided in connection with it is or becomes inaccurate;

(d) as to the correction of entries in the register.

(10) References in this Part to a registrable person are to a person who—

(a) is registered under this section, or

(b) is liable to be registered under this section.

Information required to keep register up to date.

48.—(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 47 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.

Accounting for tax and time for payment.

49. Regulations may provide that a registrable person shall—

(a) account for tax by reference to such periods (accounting periods) as may be determined by or under the regulations;

(b) make, in relation to accounting periods, returns in such form as may be prescribed and at such times as may be so determined;

(c) pay tax at such times and in such manner as may be so determined.

Power to assess.

50.—(1) Where—

(a) a person has failed to make any returns required to be made under this Part,

(b) a person has failed to keep any documents necessary to verify returns required to be made under this Part,

(c) a person has failed to afford the facilities necessary to verify returns required to be made under this Part, or

(d) it appears to the Commissioners that returns required to be made by a person under this Part are incomplete or incorrect,

the Commissioners may assess the amount of tax due from the person concerned to the best of their judgment and notify it to him.

(2) Where a person has for an accounting period been paid an amount to which he purports to be entitled under regulations made under section 51 below, then, to the extent that the amount ought not to have been paid or would not have been paid had the facts been known or been as they later turn out to be, the Commissioners may assess the amount as being tax due from him for that period and notify it to him accordingly.

(3) Where a person is assessed under subsections (1) and (2) above in respect of the same accounting period the assessments may be combined and notified to him as one assessment.

(4) Where the person failing to make a return, or making a return which appears to the Commissioners to be incomplete or incorrect, was required to make the return as a personal representative, trustee in bankruptcy, receiver, liquidator or person otherwise acting in a representative capacity in relation to another person, subsection (1) above shall apply as if the reference to tax due from him included a reference to tax due from that other person.

(5) An assessment under subsection (1) or (2) above of an amount of tax due for an accounting period shall not be made after the later of the following—

(a) two years after the end of the accounting period;

(b) one year after evidence of facts, sufficient in the Commissioners' opinion to justify the making of the assessment, comes to their knowledge;

but where further such evidence comes to their knowledge after the making of an assessment under subsection (1) or (2) above another assessment may be made under the subsection concerned in addition to any earlier assessment.

(6) Where—

(a) as a result of a person's failure to make a return in relation to an accounting period the Commissioners have made an assessment under subsection (1) above for that period,

(b) the tax assessed has been paid but no proper return has been made in relation to the period to which the assessment related, and

(c) as a result of a failure to make a return in relation to a later accounting period, being a failure by the person referred to in paragraph (a) above or a person acting in a representative capacity in relation to him, as mentioned in subsection (4) above, the Commissioners find it necessary to make another assessment under subsection (1) above,

then, if the Commissioners think fit, having regard to the failure referred to in paragraph (a) above, they may specify in the assessment referred to in paragraph (c) above an amount of tax greater than that which they would otherwise have considered to be appropriate.

(7) Where an amount has been assessed and notified to any person under subsection (1) or (2) above it shall be deemed to be an amount of tax due from him and may be recovered accordingly unless, or except to the extent that, the assessment has subsequently been withdrawn or reduced.

(8) For the purposes of this section notification to—

(a) a personal representative, trustee in bankruptcy, receiver or liquidator, or

(b) a person otherwise acting in a representative capacity in relation to another person,

shall be treated as notification to the person in relation to whom the person mentioned in paragraph (a) above, or the first person mentioned in paragraph (b) above, acts.

(9) Subsection (5) above has effect subject to paragraph 33 of Schedule 5 to this Act.

(10) In this section "trustee in bankruptcy" means, as respects Scotland, an interim or permanent trustee (within the meaning of the Bankruptcy (Scotland) Act 1985) or a trustee acting under a trust deed (within the meaning of that Act).

1985 c. 66.

Credit

Credit: general.

51.—(1) Regulations may provide that where—

(a) a person has paid or is liable to pay tax, and

(b) prescribed conditions are fulfilled,

the person shall be entitled to credit of such an amount as is found in accordance with prescribed rules.

(2) Regulations may make provision as to the manner in which a person is to benefit from credit, and in particular may make provision—

(a) that a person shall be entitled to credit by reference to accounting periods;

(b) that a person shall be entitled to deduct an amount equal to his total credit for an accounting period from the total amount of tax due from him for the period;

(c) that if no tax is due from a person for an accounting period but he is entitled to credit for the period, the amount of the credit shall be paid to him by the Commissioners;

(d) that if the amount of credit to which a person is entitled for an accounting period exceeds the amount of tax due from him for the period, an amount equal to the excess shall be paid to him by the Commissioners;

(e) for the whole or part of any credit to be held over to be credited for a subsequent accounting period;

(f) as to the manner in which a person who has ceased to be registrable is to benefit from credit.

(3) Regulations under subsection (2)(c) or (d) above may provide that where at the end of an accounting period an amount is due to a person who has failed to submit returns for an earlier period as required by this Part, the Commissioners may withhold payment of the amount until he has complied with that requirement.

(4) Regulations under subsection (2)(e) above may provide for credit to be held over either on the person's application or in accordance with directions given by the Commissioners from time to time; and the regulations may allow directions to be given generally or with regard to particular cases.

(5) Regulations may provide that—

(a) no benefit shall be conferred in respect of credit except on a claim made in such manner and at such time as may be determined by or under regulations;

(b) payment in respect of credit shall be made subject to such conditions (if any) as the Commissioners think fit to impose, including conditions as to repayment in specified circumstances;

(c) deduction in respect of credit shall be made subject to such conditions (if any) as the Commissioners think fit to impose, including conditions as to the payment to the Commissioners, in specified circumstances, of an amount representing the whole or part of the amount deducted.

(6) Regulations may require a claim by a person to be made in a return required by provision made under section 49 above.

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(7) Nothing in section 52 or 53 below shall be taken to derogate from the power to make regulations under this section (whether with regard to bad debts, the environment or any other matter).

Bad debts.

52.—(1) Regulations may be made under section 51 above with a view to securing that a person is entitled to credit if—

(a) he carries out a taxable activity as a result of which he becomes entitled to a debt which turns out to be bad (in whole or in part), and

(b) such other conditions as may be prescribed are fulfilled.

(2) The regulations may include provision under section 51(5)(b) or (c) above requiring repayment or payment if it turns out that it was not justified to regard a debt as bad (or to regard it as bad to the extent that it was so regarded).

(3) The regulations may include provision for determining whether, and to what extent, a debt is to be taken to be bad.

Bodies concerned with the environment.

53.—(1) Regulations may be made under section 51 above with a view to securing that a person is entitled to credit if—

(a) he pays a sum to a body whose objects are or include the protection of the environment, and

(b) such other conditions as may be prescribed are fulfilled.

(2) The regulations may in particular prescribe conditions—

(a) requiring bodies to which sums are paid (environmental bodies) to be approved by another body (the regulatory body);

(b) requiring the regulatory body to be approved by the Commissioners;

(c) requiring sums to be paid with the intention that they be expended on such matters connected with the protection of the environment as may be prescribed.

(3) The regulations may include provision under section 51(5)(b) or (c) above requiring repayment or payment if—

(a) a sum is not in fact expended on matters prescribed under subsection (2)(c) above, or

(b) a prescribed condition turns out not to have been fulfilled.

(4) The regulations may include—

(a) provision for determining the amount of credit (including provision for limiting it);

(b) provision that matters connected with the protection of the environment include such matters as overheads (including administration) of environmental bodies and the regulatory body;

(c) provision as to the matters by reference to which an environmental body or the regulatory body can be, and remain, approved (including matters relating to the functions and activities of any such body);

(d) provision allowing approval of an environmental body or the regulatory body to be withdrawn (whether prospectively or retrospectively);

(e) provision that, if approval of the regulatory body is withdrawn, another body may be approved in its place or its functions may be performed by the Commissioners;

(f) provision allowing the Commissioners to disclose to the regulatory body information which relates to the tax affairs of persons carrying out taxable activities and which is relevant to the credit scheme established by the regulations.

Review and appeal

Review of Commissioners' decisions.

54.—(1) This section applies to the following decisions of the Commissioners—

(a) a decision as to the registration or cancellation of registration of any person under this Part;

(b) a decision as to whether tax is chargeable in respect of a disposal or as to how much tax is chargeable;

(c) a decision as to whether a person is entitled to credit by virtue of regulations under section 51 above or as to how much credit a person is entitled to or as to the manner in which he is to benefit from credit;

(d) a decision as to an assessment falling within subsection (2) below or as to the amount of such an assessment;

(e) a decision to refuse a request under section 58(3) below;

(f) a decision to refuse an application under section 59 below;

(g) a decision as to whether conditions set out in a specification under the authority of provision made under section 68(4)(b) below are met in relation to a disposal;

(h) a decision to give a direction under any provision contained in regulations by virtue of section 68(5) below;

(i) a decision as to a claim for the repayment of an amount under paragraph 14 of Schedule 5 to this Act;

(j) a decision as to liability to a penalty under Part V of that Schedule or as to the amount of such a penalty;

(k) a decision under paragraph 19 of that Schedule (as mentioned in paragraph 19(5));

(l) a decision as to any liability to pay interest under paragraph 26 or 27 of that Schedule or as to the amount of the interest payable;

(m) a decision as to any liability to pay interest under paragraph 29 of that Schedule or as to the amount of the interest payable;

(n) a decision to require any security under paragraph 31 of that Schedule or as to its amount;

(o) a decision as to the amount of any penalty or interest specified in an assessment under paragraph 32 of that Schedule.

(2) An assessment falls within this subsection if it is an assessment under section 50 above in respect of an accounting period in relation to which a return required to be made by virtue of regulations under section 49 above has been made.

(3) Any person who is or will be affected by any decision to which this section applies may by notice in writing to the Commissioners require them to review the decision.

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(4) The Commissioners shall not be required under this section to review any decision unless the notice requiring the review is given before the end of the period of 45 days beginning with the day on which written notification of the decision, or of the assessment containing the decision, was first given to the person requiring the review.

(5) For the purposes of subsection (4) above it shall be the duty of the Commissioners to give written notification of any decision to which this section applies to any person who—

(a) requests such a notification,

(b) has not previously been given written notification of that decision, and

(c) if given such a notification, will be entitled to require a review of the decision under this section.

(6) A person shall be entitled to give a notice under this section requiring a decision to be reviewed for a second or subsequent time only if—

(a) the grounds on which he requires the further review are that the Commissioners did not, on any previous review, have the opportunity to consider certain facts or other matters, and

(b) he does not, on the further review, require the Commissioners to consider any facts or matters which were considered on a previous review except in so far as they are relevant to any issue not previously considered.

(7) Where the Commissioners are required in accordance with this section to review any decision it shall be their duty to do so; and on the review they may withdraw, vary or confirm the decision.

(8) Where—

(a) it is the duty under this section of the Commissioners to review any decision, and

(b) they do not, within the period of 45 days beginning with the day on which the review was required, give notice to the person requiring it of their determination on the review,

they shall be deemed for the purposes of this Part to have confirmed the decision.

Appeals: general.

55.—(1) Subject to the following provisions of this section, an appeal shall lie to an appeal tribunal with respect to any of the following decisions—

(a) any decision by the Commissioners on a review under section 54 above (including a deemed confirmation under subsection (8) of that section);

(b) any decision by the Commissioners on such review of a decision referred to in section 54(1) above as the Commissioners have agreed to undertake in consequence of a request made after the end of the period mentioned in section 54(4) above.

(2) Where an appeal is made under this section by a person who is required to make returns by virtue of regulations under section 49 above, the appeal shall not be entertained unless the appellant—

(a) has made all the returns which he is required to make by virtue of those regulations, and

(b) has paid the amounts shown in those returns as payable by him.

(3) Where an appeal is made under this section with respect to a decision falling within section 54(1)(b) or (d) above the appeal shall not be entertained unless—

(a) the amount which the Commissioners have determined to be payable as tax has been paid or deposited with them, or

(b) on being satisfied that the appellant would otherwise suffer hardship the Commissioners agree or the tribunal decides that it should be entertained notwithstanding that that amount has not been so paid or deposited.

(4) On an appeal under this section against an assessment to a penalty under paragraph 18 of Schedule 5 to this Act, the burden of proof as to the matters specified in paragraphs (a) and (b) of sub-paragraph (1) of paragraph 18 shall lie upon the Commissioners.

Appeals: other provisions.

56.—(1) Subsection (2) below applies where the Commissioners make a decision falling within section 54(1)(d) above and on a review of it there is a further decision with respect to which an appeal is made under section 55 above; and the reference here to a further decision includes a reference to a deemed confirmation under section 54(8) above.

(2) Where on the appeal—

(a) it is found that the amount specified in the assessment is less than it ought to have been, and

(b) the tribunal gives a direction specifying the correct amount,

the assessment shall have effect as an assessment of the amount specified in the direction and that amount shall be deemed to have been notified to the appellant.

(3) Where on an appeal under section 55 above it is found that the whole or part of any amount paid or deposited in pursuance of section 55(3) above is not due, so much of that amount as is found not to be due shall be repaid with interest at such rate as the tribunal may determine.

(4) Where on an appeal under section 55 above it is found that the whole or part of any amount due to the appellant by virtue of regulations under section 51(2)(c) or (d) or (f) above has not been paid, so much of that amount as is found not to have been paid shall be paid with interest at such rate as the tribunal may determine.

(5) Where an appeal under section 55 above has been entertained notwithstanding that an amount determined by the Commissioners to be payable as tax has not been paid or deposited and it is found on the appeal that that amount is due the tribunal may, if it thinks fit, direct that that amount shall be paid with interest at such rate as may be specified in the direction.

(6) Without prejudice to paragraph 25 of Schedule 5 to this Act, nothing in section 55 above shall be taken to confer on a tribunal any power to vary an amount assessed by way of penalty except in so far as it is necessary to reduce it to the amount which is appropriate under paragraphs 18 to 24 of that Schedule.

(7) Without prejudice to paragraph 28 of Schedule 5 to this Act, nothing in section 55 above shall be taken to confer on a tribunal any

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power to vary an amount assessed by way of interest except in so far as it is necessary to reduce it to the amount which is appropriate under paragraph 26 or 27 of that Schedule.

1994 c. 23.

(8) Sections 85 and 87 of the Value Added Tax Act 1994 (settling of appeals by agreement and enforcement of certain decisions of tribunal) shall have effect as if—

(a) the references to section 83 of that Act included references to section 55 above, and

(b) the references to value added tax included references to landfill tax.

Review and appeal: commencement.

57. Sections 54 to 56 above shall come into force on—

(a) 1st October 1996, or

(b) such earlier day as may be appointed by order.

Miscellaneous

Partnership, bankruptcy, transfer of business, etc.

58.—(1) As regards any case where a business is carried on in partnership or by another unincorporated body, regulations may make provision for determining by what persons anything required by this Part to be done by a person is to be done.

(2) The registration under this Part of an unincorporated body other than a partnership may be in the name of the body concerned; and in determining whether taxable activities are carried out by such a body no account shall be taken of any change in its members.

(3) The registration under this Part of a body corporate carrying on a business in several divisions may, if the body corporate so requests and the Commissioners see fit, be in the names of those divisions.

(4) As regards any case where a person carries on a business of a person who has died or become bankrupt or incapacitated or whose estate has been sequestrated, or of a person which is in liquidation or receivership or in relation to which an administration order is in force, regulations may—

(a) require the first-mentioned person to inform the Commissioners of the fact that he is carrying on the business and of the event that has led to his carrying it on;

(b) make provision allowing the person to be treated for a limited time as if he were the other person;

(c) make provision for securing continuity in the application of this Part where a person is so treated.

(5) Regulations may make provision for securing continuity in the application of this Part in cases where a business carried on by a person is transferred to another person as a going concern.

(6) Regulations under subsection (5) above may in particular—

(a) require the transferor to inform the Commissioners of the transfer;

(b) provide for liabilities and duties under this Part of the transferor to become, to such extent as may be provided by the regulations, liabilities and duties of the transferee;

(c) provide for any right of either of them to repayment or credit in respect of tax to be satisfied by making a repayment or allowing a credit to the other;

but the regulations may provide that no such provision as is mentioned in paragraph (b) or (c) of this subsection shall have effect in relation to any transferor and transferee unless an application in that behalf has been made by them under the regulations.

Groups of companies.

59.—(1) Where under the following provisions of this section any bodies corporate are treated as members of a group, for the purposes of this Part—

(a) any liability of a member of the group to pay tax shall be taken to be a liability of the representative member;

(b) the representative member shall be taken to carry out any taxable activities which a member of the group would carry out (apart from this section) by virtue of section 69 below;

(c) all members of the group shall be jointly and severally liable for any tax due from the representative member.

(2) Two or more bodies corporate are eligible to be treated as members of a group if the condition mentioned in subsection (3) below is fulfilled and—

(a) one of them controls each of the others,

(b) one person (whether a body corporate or an individual) controls all of them, or

(c) two or more individuals carrying on a business in partnership control all of them.

(3) The condition is that the prospective representative member has an established place of business in the United Kingdom.

(4) Where an application to that effect is made to the Commissioners with respect to two or more bodies corporate eligible to be treated as members of a group, then—

(a) from the beginning of an accounting period they shall be so treated, and

(b) one of them shall be the representative member,

unless the Commissioners refuse the application; and the Commissioners shall not refuse the application unless it appears to them necessary to do so for the protection of the revenue.

(5) Where any bodies corporate are treated as members of a group and an application to that effect is made to the Commissioners, then, from the beginning of an accounting period—

(a) a further body eligible to be so treated shall be included among the bodies so treated,

(b) a body corporate shall be excluded from the bodies so treated,

(c) another member of the group shall be substituted as the representative member, or

(d) the bodies corporate shall no longer be treated as members of a group,

unless the application is to the effect mentioned in paragraph (a) or (c) above and the Commissioners refuse the application.

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(6) The Commissioners may refuse an application under subsection (5)(a) or (c) above only if it appears to them necessary to do so for the protection of the revenue.

(7) Where a body corporate is treated as a member of a group as being controlled by any person and it appears to the Commissioners that it has ceased to be so controlled, they shall, by notice given to that person, terminate that treatment from such date as may be specified in the notice.

(8) An application under this section with respect to any bodies corporate must be made by one of those bodies or by the person controlling them and must be made not less than 90 days before the date from which it is to take effect, or at such later time as the Commissioners may allow.

(9) For the purposes of this section a body corporate shall be taken to control another body corporate if it is empowered by statute to control that body's activities or if it is that body's holding company within the meaning of section 736 of the Companies Act 1985; and an individual or individuals shall be taken to control a body corporate if he or they, were he or they a company, would be that body's holding company within the meaning of that section.

1985 c. 6.

Information, powers, penalties, etc.

60. Schedule 5 to this Act (which contains provisions relating to information, powers, penalties and other matters) shall have effect.

Taxable disposals: special provisions.

61.—(1) Where—

(a) a taxable disposal is in fact made on a particular day,

(b) within the period of 14 days beginning with that day the person liable to pay tax in respect of the disposal issues a landfill invoice in respect of the disposal, and

(c) he has not notified the Commissioners in writing that he elects not to avail himself of this subsection,

for the purposes of this Part the disposal shall be treated as made at the time the invoice is issued.

(2) The reference in subsection (1) above to a landfill invoice is to a document containing such particulars as regulations may prescribe for the purposes of that subsection.

(3) The Commissioners may at the request of a person direct that subsection (1) above shall apply—

(a) in relation to disposals in respect of which he is liable to pay tax, or

(b) in relation to such of them as may be specified in the direction,

as if for the period of 14 days there were substituted such longer period as may be specified in the direction.

Taxable disposals: regulations.

62.—(1) For the purposes of this Part, regulations may make provision under this section in relation to a disposal which is a taxable disposal (or would be apart from the regulations).

(2) The regulations may provide that if particular conditions are fulfilled—

(a) the disposal shall be treated as not being a taxable disposal, or

(b) the disposal shall, to the extent found in accordance with prescribed rules, be treated as not being a taxable disposal.

(3) The regulations may provide that if particular conditions are fulfilled—

(a) the disposal shall be treated as made at a time which is found in accordance with prescribed rules and which falls after the time when it would be regarded as made apart from the regulations, or

(b) the disposal shall, to the extent found in accordance with prescribed rules, be treated as made at a time which is found in accordance with prescribed rules and which falls after the time when it would be regarded as made apart from the regulations.

(4) In finding the time when the disposal would be regarded as made apart from the regulations, section 61(1) above and any direction under section 61(3) above shall be taken into account.

(5) The regulations may be framed by reference to—

(a) conditions specified in the regulations or by the Commissioners or by an authorised person, or

(b) any combination of such conditions;

and the regulations may specify conditions, or allow conditions to be specified, generally or with regard to particular cases.

(6) The regulations may make provision under subsections (2)(b) and (3)(b) above in relation to the same disposal.

(7) The regulations may only provide that a disposal is to be treated as not being a taxable disposal if or to the extent that—

(a) the disposal is a temporary one pending the incineration or recycling of the material concerned, or pending the removal of the material for use elsewhere, or pending the sorting of the material with a view to its removal elsewhere or its eventual disposal, and

(b) the temporary disposal is made in an area designated for the purpose by an authorised person.

Qualifying material: special provisions.

63.—(1) This section applies for the purposes of section 42 above.

(2) The Commissioners may direct that where material is disposed of it must be treated as qualifying material if it would in fact be such material but for a small quantity of non-qualifying material; and whether a quantity of non-qualifying material is small must be determined in accordance with the terms of the direction.

(3) The Commissioners may at the request of a person direct that where there is a disposal in respect of which he is liable to pay tax the material disposed of must be treated as qualifying material if it would in fact be such material but for a small quantity of non-qualifying material, and—

(a) a direction may apply to all disposals in respect of which a person is liable to pay tax or to such of them as are identified in the direction;

(b) whether a quantity of non-qualifying material is small must be determined in accordance with the terms of the direction.

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(4) If a direction under subsection (3) above applies to a disposal any direction under subsection (2) above shall not apply to it.

(5) An order may provide that material must not be treated as qualifying material unless prescribed conditions are met.

(6) A condition may relate to any matter the Treasury think fit (such as the production of a document which includes a statement of the nature of the material).

Interpretation

Disposal of material as waste.

64.—(1) A disposal of material is a disposal of it as waste if the person making the disposal does so with the intention of discarding the material.

(2) The fact that the person making the disposal or any other person could benefit from or make use of the material is irrelevant.

(3) Where a person makes a disposal on behalf of another person, for the purposes of subsections (1) and (2) above the person on whose behalf the disposal is made shall be treated as making the disposal.

(4) The reference in subsection (3) above to a disposal on behalf of another person includes references to a disposal—

(a) at the request of another person;

(b) in pursuance of a contract with another person.

Disposal by way of landfill.

65.—(1) There is a disposal of material by way of landfill if—

(a) it is deposited on the surface of land or on a structure set into the surface, or

(b) it is deposited under the surface of land.

(2) Subsection (1) above applies whether or not the material is placed in a container before it is deposited.

(3) Subsection (1)(b) above applies whether the material—

(a) is covered with earth after it is deposited, or

(b) is deposited in a cavity (such as a cavern or mine).

(4) If material is deposited on the surface of land (or on a structure set into the surface) with a view to it being covered with earth the disposal must be treated as made when the material is deposited and not when it is covered.

(5) An order may provide that the meaning of the disposal of material by way of landfill (as it applies for the time being) shall be varied.

(6) An order under subsection (5) above may make provision in such way as the Treasury think fit, whether by amending any of subsections (1) to (4) above or otherwise.

(7) In this section "land" includes land covered by water where the land is above the low water mark of ordinary spring tides.

(8) In this section "earth" includes similar matter (such as sand or rocks).

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Landfill sites.

66. Land is a landfill site at a given time if at that time—

(a) a licence which is a site licence for the purposes of Part II of the Environmental Protection Act 1990 (waste on land) is in force in relation to the land and authorises disposals in or on the land, 1990 c. 43.

(b) a resolution under section 54 of that Act (land occupied by waste disposal authorities in Scotland) is in force in relation to the land and authorises deposits or disposals in or on the land,

(c) a disposal licence issued under Part II of the Pollution Control and Local Government (Northern Ireland) Order 1978 (waste on land) is in force in relation to the land and authorises deposits on the land, S.I. 1978/1049 (N.I.19).

(d) a resolution passed under Article 13 of that Order (land occupied by district councils in Northern Ireland) is in force in relation to the land and relates to deposits on the land, or

(e) a licence under any provision for the time being having effect in Northern Ireland and corresponding to section 35 of the Environmental Protection Act 1990 (waste management licences) is in force in relation to the land and authorises disposals in or on the land.

Operators of landfill sites.

67. The operator of a landfill site at a given time is—

(a) the person who is at the time concerned the holder of the licence, where section 66(a) above applies;

(b) the waste disposal authority which at the time concerned occupies the landfill site, where section 66(b) above applies;

(c) the person who is at the time concerned the holder of the licence, where section 66(c) above applies;

(d) the district council which passed the resolution, where section 66(d) above applies;

(e) the person who is at the time concerned the holder of the licence, where section 66(e) above applies.

Weight of material disposed of.

68.—(1) The weight of the material disposed of on a taxable disposal shall be determined in accordance with regulations.

(2) The regulations may—

(a) prescribe rules for determining the weight;

(b) authorise rules for determining the weight to be specified by the Commissioners in a prescribed manner;

(c) authorise rules for determining the weight to be agreed by the person liable to pay the tax and an authorised person.

(3) The regulations may in particular prescribe, or authorise the specification or agreement of, rules about—

(a) the method by which the weight is to be determined;

(b) the time by reference to which the weight is to be determined;

(c) the discounting of constituents (such as water).

(4) The regulations may include provision that a specification authorised under subsection (2)(b) above may provide—

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(a) that it is to have effect only in relation to disposals of such descriptions as may be set out in the specification;

(b) that it is not to have effect in relation to particular disposals unless the Commissioners are satisfied that such conditions as may be set out in the specification are met in relation to the disposals;

and the conditions may be framed by reference to such factors as the Commissioners think fit (such as the consent of an authorised person to the specification having effect in relation to disposals).

(5) The regulations may include provision that—

(a) where rules are agreed as mentioned in subsection (2)(c) above, and

(b) the Commissioners believe that they should no longer be applied because they do not give an accurate indication of the weight or they are not being fully observed or for some other reason,

the Commissioners may direct that the agreed rules shall no longer have effect.

(6) The regulations shall be so framed that where in relation to a given disposal—

(a) no specification of the Commissioners has effect, and

(b) no agreed rules have effect,

the weight shall be determined in accordance with rules prescribed in the regulations.

Taxable activities.

69.—(1) A person carries out a taxable activity if—

(a) he makes a taxable disposal in respect of which he is liable to pay tax, or

(b) he permits another person to make a taxable disposal in respect of which he (the first-mentioned person) is liable to pay tax.

(2) Where—

(a) a taxable disposal is made, and

(b) it is made without the knowledge of the person who is liable to pay tax in respect of it,

that person shall for the purposes of this section be taken to permit the disposal.

Interpretation: other provisions.

70.—(1) Unless the context otherwise requires—

"accounting period" shall be construed in accordance with section 49 above;

"appeal tribunal" means a VAT and duties tribunal;

"authorised person" means any person acting under the authority of the Commissioners;

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

"conduct" includes any act, omission or statement;

"material" means material of all kinds, including objects, substances and products of all kinds;

"prescribed" means prescribed by an order or regulations under this Part;

"registrable person" has the meaning given by section 47(10) above;

"tax" means landfill tax;

"taxable disposal" has the meaning given by section 40 above.

(2) A landfill disposal is a disposal—

(a) of material as waste, and

(b) made by way of landfill.

(3) A reference to this Part includes a reference to any order or regulations made under it and a reference to a provision of this Part includes a reference to any order or regulations made under the provision, unless otherwise required by the context or any order or regulations.

(4) This section and sections 64 to 69 above apply for the purposes of this Part.

Supplementary

Orders and regulations.

71.—(1) The power to make an order under section 57 above shall be exercisable by the Commissioners, and the power to make an order under any other provision of this Part shall be exercisable by the Treasury.

(2) Any power to make regulations under this Part shall be exercisable by the Commissioners.

(3) Any power to make an order or regulations under this Part shall be exercisable by statutory instrument.

(4) An order to which this subsection applies shall be laid before the House of Commons; and unless it is approved by that House before the expiration of a period of 28 days beginning with the date on which it was made it shall cease to have effect on the expiration of that period, but without prejudice to anything previously done under the order or to the making of a new order.

(5) In reckoning any such period as is mentioned in subsection (4) above no account shall be taken of any time during which Parliament is dissolved or prorogued or during which the House of Commons is adjourned for more than four days.

(6) A statutory instrument containing an order or regulations under this Part (other than an order under section 57 above or an order to which subsection (4) above applies) shall be subject to annulment in pursuance of a resolution of the House of Commons.

(7) Subsection (4) above applies to—

(a) an order under section 42(3) above providing for material which would otherwise be qualifying material not to be qualifying material;

(b) an order under section 46 above which produces the result that a disposal which would otherwise not be a taxable disposal is a taxable disposal;

(c) an order under section 63(5) above other than one which provides only that an earlier order under section 63(5) is not to apply to material;

PART III

(d) an order under section 65(5) above providing for anything which would otherwise not be a disposal of material by way of landfill to be such a disposal.

(8) Any power to make an order or regulations under this Part—

(a) may be exercised as regards prescribed cases or descriptions of case;

(b) may be exercised differently in relation to different cases or descriptions of case.

(9) An order or regulations under this Part may include such supplementary, incidental, consequential or transitional provisions as appear to the Treasury or the Commissioners (as the case may be) to be necessary or expedient.

(10) No specific provision of this Part about an order or regulations shall prejudice the generality of subsections (8) and (9) above.

PART IV

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

CHAPTER I

PRINCIPAL PROVISIONS

Income tax charge, rates and reliefs

Charge and rates of income tax for 1996-97.

72.—(1) Income tax shall be charged for the year 1996-97, and for that year—

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

(b) the basic rate shall be 24 per cent.; and

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

(2) For the year 1996-97 section 1(2) of the Taxes Act 1988 shall apply—

(a) as if the amount specified in paragraph (aa) (the lower rate limit) were £3,900; and

(b) as if the amount specified in paragraph (b) (the basic rate limit) were £25,500;

and, accordingly, section 1(4) of that Act (indexation) shall not apply for the year 1996-97.

(3) Section 559(4) of the Taxes Act 1988 (deductions from payments to sub-contractors in the construction industry) shall have effect—

1995 c. 4.

(a) in relation to payments made on or after 1st July 1996 and before the appointed day (within the meaning of section 139 of the Finance Act 1995), with "24 per cent." substituted for "25 per cent."; and

(b) in relation to payments made on or after that appointed day, as if the substitution for which section 139(1) of the Finance Act 1995 provided were a substitution of "the relevant percentage" for "24 per cent."

PART IV
CHAPTER I

Application of lower rate to income from savings.

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

"Application of lower rate to income from savings and distributions.

1A.—(1) Subject to sections 469(2) and 686, so much of any person's total income for any year of assessment as—

(a) comprises income to which this section applies, and

(b) in the case of an individual, is not income falling within section 1(2)(b),

shall, by virtue of this section, be charged for that year at the lower rate, instead of at the rate otherwise applicable to it in accordance with section 1(2)(aa) and (a).

(2) Subject to subsection (4) below, this section applies to the following income—

(a) any income chargeable under Case III of Schedule D other than—

(i) relevant annuities and other annual payments that are not interest; and

(ii) amounts so chargeable by virtue of section 119 or 120;

(b) any income chargeable under Schedule F; and

(c) subject to subsection (4) below, any equivalent foreign income.

(3) The income which is equivalent foreign income for the purposes of this section is any income chargeable under Case IV or V of Schedule D which—

(a) is equivalent to a description of income falling within subsection (2)(a) above but arises from securities or other possessions out of the United Kingdom; or

(b) consists in any such dividend or other distribution of a company not resident in the United Kingdom as would be chargeable under Schedule F if the company were resident in the United Kingdom.

(4) This section does not apply to—

(a) any income chargeable to tax under Case IV or V of Schedule D which is such that section 65(5)(a) or (b) provides for the tax to be computed on the full amount of sums received in the United Kingdom; or

(b) any amounts deemed by virtue of section 695(4)(b) or 696(6) to be income chargeable under Case IV of Schedule D.

(5) So much of any person's income as comprises income to which this section applies shall be treated for the purposes of subsection (1)(b) above and any other provisions of the Income Tax Acts as the highest part of his income.

(6) Subsection (5) above shall have effect subject to section 833(3) but shall otherwise have effect notwithstanding any provision requiring income of any description to be treated for the purposes of the Income Tax Acts (other than section 550) as the highest part of a person's income.

(7) In this section 'relevant annuity' means any annuity other than a purchased life annuity to which section 656 applies or to which that section would apply but for section 657(2)(a)."

(2) In section 4 of that Act (construction of references to deduction of tax), after subsection (1) there shall be inserted the following subsection—

"(1A) As respects deductions from, and tax treated as paid on, any such amounts as constitute or (but for the person whose income they are) would constitute income to which section 1A applies, subsection (1) above shall have effect with a reference to the lower rate in force for the relevant year of assessment substituted for the reference to the basic rate in force for that year."

(3) Subsection (1) above has effect in relation to the year 1996-97 and subsequent years of assessment and subsection (2) above has effect in relation to payments on or after 6th April 1996.

(4) Schedule 6 to this Act (which makes further amendments in connection with the charge at the lower rate on income from savings etc.) shall have effect.

1978 c. 30.

(5) Where any subordinate legislation (within the meaning of the Interpretation Act 1978) falls to be construed in accordance with section 4 of the Taxes Act 1988, that legislation (whenever it was made) shall be construed, in relation to payments on or after 6th April 1996, subject to subsection (1A) of that section.

Personal allowances for 1996-97.

74.—(1) For the year 1996-97 the amounts specified in the provisions mentioned in subsection (2) below shall be taken to be as set out in that subsection; and, accordingly, section 257C(1) of the Taxes Act 1988 (indexation), so far as it relates to the amounts so specified, shall not apply for the year 1996-97.

(2) In section 257 of that Act (personal allowance)—

(a) the amount in subsection (1) (basic allowance) shall be £3,765;

(b) the amount in subsection (2) (allowance for persons aged 65 or more but not aged 75 or more) shall be £4,910; and

(c) the amount in subsection (3) (allowance for persons aged 75 or more) shall be £5,090.

Blind person's allowance.

75.—(1) In section 265(1) of the Taxes Act 1988 (blind person's allowance), for "£1,200" there shall be substituted "£1,250".

(2) This section shall apply for the year 1996-97 and subsequent years of assessment.

Limit on relief for interest.

76. For the year 1996-97 the qualifying maximum defined in section 367(5) of the Taxes Act 1988 (limit on relief for interest on certain loans) shall be £30,000.

Corporation tax charge and rate

Charge and rate of corporation tax for 1996.

77. Corporation tax shall be charged for the financial year 1996 at the rate of 33 per cent.

Small companies.

78. For the financial year 1996—

(a) the small companies' rate shall be 24 per cent.; and

(b) the fraction mentioned in section 13(2) of the Taxes Act 1988 (marginal relief for small companies) shall be nine four-hundredths.

Abolition of Schedule C charge etc.

Abolition of Schedule C charge etc.

79.—(1) The charge to tax under Schedule C is abolished—

(a) for the purposes of income tax, for the year 1996-97 and subsequent years of assessment;

(b) for the purposes of corporation tax, for accounting periods ending after 31st March 1996.

(2) Schedule 7 to this Act (which, together with Chapter II of this Part of this Act, makes provision for imposing a charge under Schedule D on descriptions of income previously charged under Schedule C, and makes connected amendments) shall have effect.

CHAPTER II

LOAN RELATIONSHIPS

Introductory provisions

Taxation of loan relationships.

80.—(1) For the purposes of corporation tax all profits and gains arising to a company from its loan relationships shall be chargeable to tax as income in accordance with this Chapter.

(2) To the extent that a company is a party to a loan relationship for the purposes of a trade carried on by the company, profits and gains arising from the relationship shall be brought into account in computing the profits and gains of the trade.

(3) Profits and gains arising from a loan relationship of a company that are not brought into account under subsection (2) above shall be brought into account as profits and gains chargeable to tax under Case III of Schedule D.

(4) This Chapter shall also have effect for the purposes of corporation tax for determining how any deficit on a company's loan relationships is to be brought into account in any case, including a case where none of the company's loan relationships falls by virtue of this Chapter to be regarded as a source of income.

(5) Subject to any express provision to the contrary, the amounts which in the case of any company are brought into account in accordance with this Chapter as respects any matter shall be the only amounts brought into account for the purposes of corporation tax as respects that matter.

Meaning of "loan relationship" etc.

81.—(1) Subject to the following provisions of this section, a company has a loan relationship for the purposes of the Corporation Tax Acts wherever—

(a) the company stands (whether by reference to a security or otherwise) in the position of a creditor or debtor as respects any money debt; and

(b) that debt is one arising from a transaction for the lending of money;

and references to a loan relationship and to a company's being a party to a loan relationship shall be construed accordingly.

(2) For the purposes of this Chapter a money debt is a debt which falls to be settled—

(a) by the payment of money; or

(b) by the transfer of a right to settlement under a debt which is itself a money debt.

(3) Subject to subsection (4) below, where an instrument is issued by any person for the purpose of representing security for, or the rights of a creditor in respect of, any money debt, then (whatever the circumstances of the issue of the instrument) that debt shall be taken for the purposes of this Chapter to be a debt arising from a transaction for the lending of money.

(4) For the purposes of this Chapter a debt shall not be taken to arise from a transaction for the lending of money to the extent that it is a debt arising from rights conferred by shares in a company.

(5) For the purposes of this Chapter—

(a) references to payments or interest under a loan relationship are references to payments or interest made or payable in pursuance of any of the rights or liabilities under that relationship; and

(b) references to rights or liabilities under a loan relationship are references to any of the rights or liabilities under the agreement or arrangements by virtue of which that relationship subsists;

and those rights or liabilities shall be taken to include the rights or liabilities attached to any security which, being a security issued in relation to the money debt in question, is a security representing that relationship.

(6) In this Chapter "money" includes money expressed in a currency other than sterling.

Taxation of profits and gains and relief for deficits

Method of bringing amounts into account.

82.—(1) For the purposes of corporation tax—

(a) the profits and gains arising from the loan relationships of a company, and

(b) any deficit on a company's loan relationships,

shall be computed in accordance with this section using the credits and debits given for the accounting period in question by the following provisions of this Chapter.

(2) To the extent that, in any accounting period, a loan relationship of a company is one to which it is a party for the purposes of a trade carried on by it, the credits and debits given in respect of that relationship for that period shall be treated (according to whether they are credits or debits) either—

(a) as receipts of that trade falling to be brought into account in computing the profits and gains of that trade for that period; or

(b) as expenses of that trade which are deductible in computing those profits and gains.

(3) Where for any accounting period there are, in respect of the loan relationships of a company, both—

(a) credits that are not brought into account under subsection (2) above ("non-trading credits"), and

(b) debits that are not so brought into account ("non-trading debits"),

the aggregate of the non-trading debits shall be subtracted from the aggregate of the non-trading credits to give the amount to be brought into account under subsection (4) below.

(4) That amount is the amount which for any accounting period is to be taken (according to whether the aggregate of the non-trading credits or the aggregate of the non-trading debits is the greater) to be either—

(a) the amount of the company's profits and gains for that period that are chargeable under Case III of Schedule D as profits and gains arising from the company's loan relationships; or

(b) the amount of the company's non-trading deficit for that period on its loan relationships.

(5) Where for any accounting period a company has non-trading credits but no non-trading debits in respect of its loan relationships, the aggregate amount of the credits shall be the amount of the company's profits and gains for that period that are chargeable under Case III of Schedule D as profits and gains arising from those relationships.

(6) Where for any accounting period a company has non-trading debits but no non-trading credits in respect of its loan relationships, that company shall have a non-trading deficit on its loan relationships for that period equal to the aggregate of the debits.

(7) Subsection (2) above, so far as it provides for any amount to be deductible as mentioned in paragraph (b) of that subsection, shall have effect notwithstanding anything in section 74 of the Taxes Act 1988 (allowable deductions).

Non-trading deficit on loan relationships.

83.—(1) This section applies for the purposes of corporation tax where for any accounting period ("the deficit period") there is a non-trading deficit on a company's loan relationships.

(2) The company may make a claim for the whole or any part of the deficit to be treated in any of the following ways, that is to say—

(a) to be set off against any profits of the company (of whatever description) for the deficit period;

(b) to be treated as eligible for group relief;

(c) to be carried back to be set off against profits for earlier accounting periods; or

(d) to be carried forward and set against non-trading profits for the next accounting period.

(3) So much of the deficit for the deficit period as is not the subject of a claim under subsection (2) above shall be carried forward so as to be

brought into account for the purposes of this Chapter as a non-trading debit ("a carried-forward debit") for the accounting period immediately following the deficit period.

(4) No claim shall be made under subsection (2)(a) to (c) above in respect of so much (if any) of the non-trading deficit of a company for any accounting period as is equal to the amount by which that deficit is greater than it would have been if any carried-forward debit for that period had been disregarded.

(5) No part of any non-trading deficit of a company established for charitable purposes only shall be set off against the profits of that or any other company in pursuance of a claim under subsection (2) above.

(6) A claim under subsection (2) above must be made within the period of two years immediately following the end of the relevant period, or within such further period as the Board may allow.

(7) In subsection (6) above "the relevant period"—

(a) in relation to a claim under subsection (2)(a), (b) or (c) above, means the deficit period; and

(b) in relation to a claim under subsection (2)(d) above, means the accounting period immediately following the deficit period.

(8) Different claims may be made under subsection (2) above as respects different parts of a non-trading deficit for any period, but no claim may be made as respects any part of a deficit to which another claim made under that subsection relates.

(9) Schedule 8 to this Act (which makes provision about what happens where a claim is made under subsection (2) above) shall have effect.

Computational provisions etc.

Debits and credits brought into account.

84.—(1) The credits and debits to be brought into account in the case of any company in respect of its loan relationships shall be the sums which, in accordance with an authorised accounting method and when taken together, fairly represent, for the accounting period in question—

(a) all profits, gains and losses of the company, including those of a capital nature, which (disregarding interest and any charges or expenses) arise to the company from its loan relationships and related transactions; and

(b) all interest under the company's loan relationship and all charges and expenses incurred by the company under or for the purposes of its loan relationships and related transactions.

(2) The reference in subsection (1) above to the profits, gains and losses arising to a company—

(a) does not include a reference to any amounts required to be transferred to the company's share premium account; but

(b) does include a reference to any profits, gains or losses which, in accordance with normal accountancy practice, are carried to or sustained by any other reserve maintained by the company.

(3) The reference in subsection (1)(b) above to charges and expenses incurred for the purposes of a company's loan relationships and related transactions does not include a reference to any charges or expenses other than those incurred directly—

(a) in bringing any of those relationships into existence;

(b) in entering into or giving effect to any of those transactions;

(c) in making payments under any of those relationships or in pursuance of any of those transactions; or

(d) in taking steps for ensuring the receipt of payments under any of those relationships or in accordance with any of those transactions.

(4) Where—

(a) any charges or expenses are incurred by a company for purposes connected—

(i) with entering into a loan relationship or related transaction, or

(ii) with giving effect to any obligation that might arise under a loan relationship or related transaction,

(b) at the time when the charges or expenses are incurred, the relationship or transaction is one into which the company may enter but has not entered, and

(c) if that relationship or transaction had been entered into by that company, the charges or expenses would be charges or expenses incurred as mentioned in subsection (3) above,

those charges or expenses shall be treated for the purposes of this Chapter as charges or expenses in relation to which debits may be brought into account in accordance with subsection (1)(b) above to the same extent as if the relationship or transaction had been entered into.

(5) In this section "related transaction", in relation to a loan relationship, means any disposal or acquisition (in whole or in part) of rights or liabilities under that relationship.

(6) The cases where there shall be taken for the purposes of this section to be a disposal and acquisition of rights or liabilities under a loan relationship shall include those where such rights or liabilities are transferred or extinguished by any sale, gift, exchange, surrender, redemption or release.

(7) This section has effect subject to Schedule 9 to this Act (which contains provision disallowing certain debits and credits for the purposes of this Chapter and making assumptions about how an authorised accounting method is to be applied in certain cases).

Authorised accounting methods.

85.—(1) Subject to the following provisions of this Chapter, the alternative accounting methods that are authorised for the purposes of this Chapter are—

(a) an accruals basis of accounting; and

(b) a mark to market basis of accounting under which any loan relationship to which that basis is applied is brought into account in each accounting period at a fair value.

(2) An accounting method applied in any case shall be treated as authorised for the purposes of this Chapter only if—

(a) it conforms (subject to paragraphs (b) and (c) below) to normal accountancy practice, as followed in cases where such practice allows the use of that method;

(b) it contains proper provision for allocating payments under a loan relationship to accounting periods; and

(c) where it is an accruals basis of accounting, it does not contain any provision (other than provision comprised in authorised arrangements for bad debt) that gives debits by reference to the valuation at different times of any asset representing a loan relationship.

(3) In the case of an accruals basis of accounting, proper provision for allocating payments under a loan relationship to accounting periods is provision which—

(a) allocates payments to the period to which they relate, without regard to the periods in which they are made or received or in which they become due and payable;

(b) includes provision which, where payments relate to two or more periods, apportions them on a just and reasonable basis between the different periods;

(c) assumes, subject to authorised arrangements for bad debt, that, so far as any company in the position of a creditor is concerned, every amount payable under the relationship will be paid in full as it becomes due;

(d) secures the making of the adjustments required in the case of the relationship by authorised arrangements for bad debt; and

(e) provides, subject to authorised arrangements for bad debt and for writing off government investments, that, where there is a release of any liability under the relationship, the appropriate amount in respect of the release is credited to the debtor in the accounting period in which the release takes place.

(4) In the case of a mark to market basis of accounting, proper provision for allocating payments under a loan relationship to accounting periods is provision which allocates payments to the accounting period in which they become due and payable.

(5) In this section—

(a) the references to authorised arrangements for bad debt are references to accounting arrangements under which debits and credits are brought into account in conformity with the provisions of paragraph 5 of Schedule 9 to this Act; and

(b) the reference to authorised arrangements for writing off government investments is a reference to accounting arrangements that give effect to paragraph 7 of that Schedule.

(6) In this section "fair value", in relation to any loan relationship of a company, means the amount which, at the time as at which the value falls to be determined, is the amount that the company would obtain from or, as the case may be, would have to pay to an independent person for—

(a) the transfer of all the company's rights under the relationship in respect of amounts which at that time are not yet due and payable; and

(b) the release of all the company's liabilities under the relationship in respect of amounts which at that time are not yet due and payable.

Application of accounting methods.

86.—(1) This section has effect, subject to the following provisions of this Chapter, for the determination of which of the alternative authorised accounting methods that are available by virtue of section 85 above is to be used as respects the loan relationships of a company.

(2) Different methods may be used as respects different relationships or, as respects the same relationship, for different accounting periods or for different parts of the same accounting period.

(3) If a basis of accounting which is or equates with an authorised accounting method is used as respects any loan relationship of a company in a company's statutory accounts, then the method which is to be used for the purposes of this Chapter as respects that relationship for the accounting period, or part of a period, for which that basis is used in those accounts shall be—

(a) where the basis used in those accounts is an authorised accounting method, that method; and

(b) where it is not, the authorised accounting method with which it equates.

(4) For any period or part of a period for which the authorised accounting method to be used as respects a loan relationship of a company is not determined under subsection (3) above, an authorised accruals basis of accounting shall be used for the purposes of this Chapter as respects that loan relationship.

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

(a) a basis of accounting equates with an authorised accruals basis of accounting if it purports to allocate payments under a loan relationship to accounting periods according to when they are taken to accrue; and

(b) a basis of accounting equates with an authorised mark to market basis of accounting if (without equating with an authorised accruals basis of accounting) it purports in respect of a loan relationship—

(i) to produce credits or debits computed by reference to the determination, as at different times in an accounting period, of a fair value; and

(ii) to produce credits or debits relating to payments under that relationship according to when they become due and payable.

(6) An accounting method which purports to make any such allocation of payments under a loan relationship as is mentioned in subsection (5)(a) above shall be taken for the purposes of this section to equate with an authorised mark to market basis of accounting (rather than with an authorised accruals basis of accounting) if—

(a) it purports to bring that relationship into account in each accounting period at a value which would be a fair value if the valuation were made on the basis that interest under the relationship were to be disregarded to the extent that it has already accrued; and

(b) the credits and debits produced in the case of that relationship by that method (when it is properly applied) correspond, for all practical purposes, to the credits and debits produced in the case of that relationship, and for the same accounting period, by an authorised mark to market basis of accounting.

(7) In this section "fair value" has the same meaning as in section 85 above.

(8) In this section "statutory accounts", in relation to a company, means—

(a) any accounts relating to that company that are drawn up in accordance with any requirements of the Companies Act 1985 or the Companies (Northern Ireland) Order 1986 that apply in relation to that company;

1985 c. 6.
S.I. 1986/1032 (N.I.6).

(b) any accounts relating to that company that are drawn up in accordance with any requirements of regulations under section 70 of the Friendly Societies Act 1992 that apply in relation to that company;

1992 c. 40.

(c) any accounts relating to that company which are accounts to which Part I of Schedule 21C to the Companies Act 1985 or Part I of Schedule 21D to that Act (companies with UK branches) applies;

(d) in the case of a company which—

(i) is not subject to any such requirements as are mentioned in paragraphs (a) or (b) above, and

(ii) is a company in whose case there are no accounts for the period in question that fall within paragraph (c) above,

any accounts relating to the company drawn up in accordance with requirements imposed in relation to that company under the law of its home State; and

(e) in the case of a company which—

(i) is not subject to any such requirements as are mentioned in paragraphs (a), (b) or (d) above, and

(ii) is a company in whose case there are no accounts for the period in question that fall within paragraph (c) above,

the accounts relating to the company that most closely correspond to the accounts which, in the case of a company formed and registered under the Companies Act 1985, are required under that Act.

(9) For the purposes of subsection (8) above the home State of a company is the country or territory under whose law the company is incorporated.

Accounting method where parties have a connection.

87.—(1) This section applies in the case of a loan relationship of a company where for any accounting period there is a connection between the company and—

(a) in the case of a debtor relationship of the company, a person standing in the position of a creditor as respects the debt in question; or

(b) in the case of a creditor relationship of the company, a person standing in the position of a debtor as respects that debt.

(2) The only accounting method authorised for the purposes of this Chapter for use by the company as respects the loan relationship shall be an authorised accruals basis of accounting.

(3) For the purposes of this section there is a connection between a company and another person for an accounting period if (subject to subsection (4) and section 88 below)—

(a) the other person is a company and there is a time in that period, or in the two years before the beginning of that period, when one of the companies has had control of the other;

(b) the other person is a company and there is a time in that period, or in those two years, when both the companies have been under the control of the same person; or

(c) there is a time in that accounting period, or in those two years, when the company was a close company and the other person was a participator in that company or the associate of a person who was such a participator at that time.

(4) Two companies which have at any time been under the control of the same person shall not, by virtue of that fact, be taken for the purposes of this section to be companies between whom there is a connection if the person was the Crown, a Minister of the Crown, a government department, a Northern Ireland department, a foreign sovereign power or an international organisation.

(5) The references in subsection (1) above to a person who stands in the position of a creditor or debtor as respects a loan relationship include references to a person who indirectly stands in that position by reference to a series of loan relationships.

(6) Subsections (2) to (6) of section 416 of the Taxes Act 1988 (meaning of "control") shall apply for the purposes of this section as they apply for the purposes of Part XI of that Act.

(7) Subject to subsection (8) below, in this section "participator" and "associate" have the meanings given for the purposes of Part XI of the Taxes Act 1988 by section 417 of that Act.

(8) A person shall not for the purposes of this section be regarded as a participator in relation to a company by reason only that he is a loan creditor of the company.

Exemption from section 87 in certain cases.

88.—(1) Subject to subsection (5) below, where a creditor relationship of a company is one to which that company is a party in any accounting period in exempt circumstances, any connection for that accounting period between the company and a person who stands in the position of a debtor as respects the debt shall be disregarded for the purposes of section 87 above.

(2) A company having a creditor relationship in any accounting period shall, for that period, be taken for the purposes of this section to be a party to that relationship in exempt circumstances if—

(a) the company, in the course of carrying on any activities forming an integral part of a trade carried on by that company in that period, disposes of or acquires assets representing creditor relationships;

(b) that period is one for which the company uses an authorised mark to market basis of accounting as respects all the creditor relationships represented by assets acquired in the course of those activities;

(c) the asset representing the creditor relationship in question was acquired in the course of those activities;

(d) that asset is either—

(i) listed on a recognised stock exchange at the end of that period; or

(ii) a security the redemption of which must occur within twelve months of its issue;

(e) there is a time in that period when assets of the same kind as the asset representing the loan relationship in question are in the beneficial ownership of persons other than the company; and

(f) there is not more than three months, in aggregate, in that accounting period during which the equivalent of 30 per cent. or more of the assets of that kind is in the beneficial ownership of connected persons.

(3) An insurance company carrying on basic life assurance and general annuity business and having a creditor relationship in any accounting period shall, for that period, be taken for the purposes of this section to be a party to that relationship in exempt circumstances if—

(a) assets of the company representing any of its creditor relationships are linked for that period to its basic life assurance and general annuity business;

(b) that period is one for which the company uses an authorised mark to market basis of accounting as respects all the creditor relationships of the company represented by assets that are so linked;

(c) the asset representing the creditor relationship in question is so linked;

(d) that asset is either—

(i) listed on a recognised stock exchange at the end of that period; or

(ii) a security the redemption of which must occur within twelve months of its issue;

(e) there is a time in that period when assets of the same kind as the asset representing the creditor relationship in question are in the beneficial ownership of persons other than the company; and

(f) there is not more than three months, in aggregate, in that accounting period during which the equivalent of 30 per cent. or more of the assets of that kind is in the beneficial ownership of connected persons.

(4) For the purposes of subsections (2) and (3) above—

(a) assets shall be taken to be of the same kind where they are treated as being of the same kind by the practice of any recognised stock exchange, or would be so treated if dealt with on such a stock exchange; and

(b) a connected person has the beneficial ownership of an asset wherever there is, or (apart from this section) would be, a connection (within the meaning of section 87 above) between—

(i) the person who has the beneficial ownership of the asset, and

(ii) a person who stands in the position of a debtor as respects the money debt by reference to which any loan relationship represented by that asset subsists.

(5) Where for any accounting period—

(a) subsection (1) above has effect in the case of a creditor relationship of a company, and

(b) the person who stands in the position of a debtor as respects the debt in question is also a company,

that subsection shall not apply for determining, for the purposes of so much of section 87 above as relates to the corresponding debtor relationship, whether there is a connection between the two companies.

(6) Subsection (5) of section 87 above shall apply for the purposes of this section as it applies for the purposes of that section.

(7) In this section "basic life assurance and general annuity business" and "insurance company" have the same meanings as in Chapter I of Part XII of the Taxes Act 1988, and section 432ZA of that Act (linked assets) shall apply for the purposes of this section as it applies for the purposes of that Chapter.

Inconsistent application of accounting methods.

89.—(1) Where there is any inconsistency or other material difference between the way in which any authorised accounting method is applied as respects the same loan relationship in successive accounting periods, a balancing credit or balancing debit shall be brought into account in the second of those periods ("the second period").

(2) The amount of the balancing credit or debit shall be computed as respects the relationship in question by—

(a) taking the amount given by subsection (3) below and the amount given by subsection (4) below; and

(b) then aggregating those amounts (treating any debit as a negative amount) to produce a net credit or net debit.

(3) The amount given by this subsection is whichever of the following is applicable—

(a) a debit equal to the amount (if any) by which the first of the following amounts exceeds the second, that is to say—

(i) the aggregate of the credits actually brought into account for all previous periods in which the accounting method was used; and

(ii) the aggregate of the credits that would have been brought into account if that method had been applied in those periods in the same way as it was applied in the second period;

(b) a credit equal to the amount (if any) by which the second aggregate mentioned in paragraph (a) above exceeds the first; or

(c) if both those aggregates are the same, nil.

(4) The amount given by this subsection is whichever of the following is applicable—

(a) a credit equal to the amount (if any) by which the first of the following amounts exceeds the second, that is to say—

(i) the aggregate of the debits actually brought into account for all previous periods in which the accounting method was used; and

(ii) the aggregate of the debits that would have been brought into account if that method had been applied in those periods in the same way as it was applied in the second period;

(b) a debit equal to the amount (if any) by which the second aggregate mentioned in paragraph (a) above exceeds the first; or

(c) if both those aggregates are the same, nil.

(5) In this section "previous period" means any accounting period before the second period.

Changes of accounting method.

90.—(1) This section applies where different authorised accounting methods are used for the purposes of this Chapter as respects the same loan relationship for different parts of the same accounting period or for successive accounting periods.

(2) Where, in the case of any loan relationship, the use of any authorised accounting method is superseded in the course of any accounting period by the use of another—

(a) the assumptions specified in subsection (4) below shall be made;

(b) each method shall be applied on those assumptions as respects the part of the period for which it is used; and

(c) the credits and debits given by the application of those methods on those assumptions shall be brought into account in the accounting period in which the change of method takes effect.

(3) Where, in the case of any loan relationship, the use of any authorised accounting method is superseded as from the beginning of an accounting period by the use of another—

(a) a net credit or debit shall be computed (treating any debit used in the computation as a negative amount) by—

(i) aggregating the credits and debits which, on the assumptions specified in subsection (4) below, would have been given in respect of that relationship for the successive accounting periods by the use for each period of the accounting method actually used for that period;

(ii) aggregating the credits and debits so given without the making of those assumptions; and

(iii) subtracting the second aggregate from the first;

and

(b) the net credit or debit shall be brought into account for the purposes of this Chapter in the accounting period as from the beginning of which the change of method takes effect.

(4) The assumptions mentioned in subsections (2) and (3) above are—

(a) that the company ceased to be a party to the relationship immediately before the end of the period, or part of a period, for which the superseded method is used;

(b) that the company again became a party to that relationship as from the beginning of the period or, as the case may be, part of a period for which the other authorised accounting method is used;

(c) that the relationship to which the company is deemed to have become a party is separate and distinct from the one to which it is deemed to have ceased to be a party;

(d) that the amount payable under the transaction comprised in each of the assumptions specified in paragraphs (a) and (b) above was equal to the fair value of the relationship; and

(e) so far as relevant, that that amount became due at the time when the company is deemed to have ceased to be a party to the relationship or, as the case may be, to have again become a party to it.

(5) Where—

(a) a mark to market basis of accounting is superseded by an accruals basis of accounting in the case of any loan relationship, and

(b) the amount which would have accrued in respect of that relationship in the period or part of a period for which the accruals basis of accounting is used falls to be determined for the purposes of this section in accordance with the assumptions mentioned in subsection (4) above,

that amount shall be taken for those purposes to be equal to the amount resulting from the subtraction of the amount given by subsection (6)(a) below from the amount given by subsection (6)(b) below.

(6) Those amounts are—

(a) the amount which by virtue of the assumptions mentioned in subsection (4) above is given as an opening value for the period or part of a period; and

(b) the amount equal to whatever, in the computation in accordance with an authorised accruals basis of accounting of the amount accruing in that period or part of a period, would have been taken to be the closing value applicable as at the end of that period or part of a period if such a basis of accounting had always been used as respects the relationship.

(7) In this section "fair value" has the same meaning as in section 85 above.

Payments subject to deduction of tax.

91.—(1) This section applies where—

(a) any company receives a payment of interest on which it bears income tax by deduction; and

(b) in the case of that company, a credit relating to that interest has been brought into account for the purposes of this Chapter for an accounting period ending more than two years before the receipt of the payment.

(2) On a claim made by the company to an officer of the Board, section 7(2) or, as the case may be, 11(3) of the Taxes Act 1988 (deducted income tax to be set against liability to corporation tax) shall have effect in relation to the income tax on the payment as if the interest had fallen to be taken into account for the purposes of corporation tax in the accounting period in which the payment of that interest is received.

(3) In determining for the purposes of this section which accounting period is the accounting period for which a credit relating to interest paid subsequently was brought into account, every payment of interest to a company under a loan relationship of that company shall be assumed to be a payment in discharge of the earliest outstanding liability to that company in respect of interest payable under the relationship.

(4) For the purposes of this section, the earliest outstanding liability to interest payable under a loan relationship of a company shall be identified, in relation to any payment of such interest, according to the authorised accounting method most recently used as respects that relationship, so that—

(a) if that method is an authorised accruals basis of accounting, it shall be determined by reference to the time when the interest accrued; and

(b) if that method is an authorised mark to market basis of accounting, it shall be determined by reference to the time when the interest became due and payable.

(5) In subsection (4) above the reference, in relation to a payment of interest made to a company in any accounting period, to the authorised accounting method most recently used as respects that relationship is a reference to the authorised accounting method which, in the case of that company, has been used as respects that relationship for the accounting period which, when the payment is made, is the most recent for which amounts in respect of that relationship have been brought into account for the purposes of this Chapter.

(6) A claim under this section shall not be made in respect of any payment of interest at any time after the later of the following, that is to say—

(a) the time two years after the end of the accounting period in which the payment is received; and

(b) the time six years after the end of the accounting period for which the credit in respect of the interest was brought into account for the purposes of this Chapter.

(7) Where—

(a) there is a payment of interest to a company under a loan relationship of that company, and

(b) the company is prevented by virtue of subsection (6) above from making any claim under this section in respect of that payment,

the company shall not be entitled to make any claim under paragraph 5 of Schedule 16 to the Taxes Act 1988 (set off of income tax borne against income tax payable) in respect of that payment.

Special cases

Convertible securities etc.

92.—(1) This section applies to an asset if—

(a) the asset represents a creditor relationship of a company;

(b) the rights attached to the asset include provision by virtue of which the company is or may become entitled to acquire (whether by conversion or exchange or otherwise) any shares in a company;

(c) the extent to which shares may be acquired under that provision is not determined using a cash value which is specified in that provision or which is or will be ascertainable by reference to the terms of that provision;

(d) the asset is not a relevant discounted security within the meaning of Schedule 13 to this Act;

(e) at the time when the asset came into existence there was a more than negligible likelihood that the right to acquire shares in a company would in due course be exercised to a significant extent; and

(f) the asset is not one the disposal of which by the company would fall to be treated as a disposal in the course of activities forming an integral part of a trade carried on by the company.

(2) The amounts falling for any accounting period to be brought into account for the purposes of this Chapter in respect of a creditor relationship represented by an asset to which this section applies shall be confined to amounts relating to interest.

(3) Only an authorised accruals basis of accounting shall be used for ascertaining those amounts.

(4) Amounts shall be brought into account in computing the profits of the company for the purposes of corporation tax as if the Taxation of Chargeable Gains Act 1992 had effect in relation to any asset to which this section applies as it has effect in relation to an asset that does not represent a loan relationship. 1992 c. 12.

(5) For the purposes of that Act the amount or value of the consideration for any disposal or acquisition of the asset shall be treated as adjusted so as to exclude so much of it as, on a just and reasonable apportionment, relates to any interest which—

(a) falls to be brought into account under subsections (2) and (3) above as accruing to any company at any time; and

(b) in consequence of, or of the terms of, the disposal or acquisition, is not paid or payable to the company to which it is treated for the purposes of this Chapter as accruing.

(6) In subsection (5) above the references to a disposal, in relation to an asset, are references to anything which—

(a) is a disposal of that asset (within the meaning of the Taxation of Chargeable Gains Act 1992); or

(b) would be such a disposal but for section 127 or 116(10) of that Act (reorganisations etc.);

and the references to the acquisition of an asset shall be construed accordingly.

PART IV
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Relationships linked to the value of chargeable assets.

93.—(1) This section applies in the case of any loan relationship of a company that is linked to the value of chargeable assets unless it is one the disposal of which by the company would fall to be treated as a disposal in the course of activities forming an integral part of a trade carried on by the company.

(2) The amounts falling for any accounting period to be brought into account for the purposes of this Chapter in respect of the relationship shall be confined to amounts relating to interest.

(3) Only an authorised accruals basis of accounting shall be used for ascertaining those amounts.

1992 c. 12.

(4) Amounts shall be brought into account in computing the profits of the company for the purposes of corporation tax as if the Taxation of Chargeable Gains Act 1992 had effect in relation to the asset representing the relationship as it has effect in relation to an asset that does not represent a loan relationship.

(5) For the purposes of that Act the amount or value of the consideration for any disposal or acquisition of the asset shall be treated as adjusted so as to exclude so much of it as, on a just and reasonable apportionment, relates to any interest which—

(a) falls to be brought into account under subsections (2) and (3) above as accruing to any company at any time; and

(b) in consequence of, or of the terms of, the disposal or acquisition, is not paid or payable to the company to which it is treated for the purposes of this Chapter as accruing.

(6) For the purposes of this section a loan relationship is linked to the value of chargeable assets if, in pursuance of any provision having effect for the purposes of that relationship, the amount that must be paid to discharge the money debt (whether on redemption of a security issued in relation to that debt or otherwise) is equal to the amount determined by applying a relevant percentage change in the value of chargeable assets to the amount falling for the purposes of this Chapter to be regarded as the amount of the original loan from which the money debt arises.

(7) In subsection (6) above the reference to a relevant percentage change in the value of chargeable assets is a reference to the amount of the percentage change (if any) over the relevant period in the value of chargeable assets of any particular description or in any index of the value of any such assets.

(8) In subsection (7) above "the relevant period" means—

(a) the period between the time of the original loan and the discharge of the money debt; or

(b) any other period in which almost all of that period is comprised and which differs from that period exclusively for purposes connected with giving effect to a valuation in relation to rights or liabilities under the loan relationship.

(9) If—

(a) there is a provision which, in the case of any loan relationship, falls within subsection (6) above,

(b) that provision is made subject to any other provision applying to the determination of the amount payable to discharge the money debt,

(c) that other provision is to the effect only that the amount so payable must not be less than a specified percentage of the amount falling for the purposes of this Chapter to be regarded as the amount of the original loan, and

(d) the specified percentage is not more than 10 per cent.,

that other provision shall be disregarded in determining for the purposes of this section whether the relationship is linked to the value of chargeable assets.

(10) For the purposes of this section an asset is a chargeable asset, in relation to a loan relationship of a company, if any gain accruing on the disposal of the asset by the company on or after 1st April 1996 would, on the assumptions specified in subsection (11) below, be a chargeable gain for the purposes of the Taxation of Chargeable Gains Act 1992. 1992 c. 12.

(11) Those assumptions are—

(a) where it is not otherwise the case, that the asset is an asset of the company;

(b) that the asset is not one the disposal of which by the company would fall to be treated for the purposes of corporation tax as a disposal in the course of a trade carried on by the company; and

(c) that chargeable gains that might accrue under section 116(10) of that Act (postponed charges) are to be disregarded.

(12) In subsection (5) above references to a disposal, in relation to an asset, are references to anything which—

(a) is a disposal of that asset (within the meaning of the Taxation of Chargeable Gains Act 1992); or

(b) would be such a disposal but for section 127 or 116(10) of that Act (reorganisations etc.);

and the references to the acquisition of an asset shall be construed accordingly.

(13) For the purposes of this section neither—

(a) the retail prices index, nor

(b) any similar general index of prices published by the government of any territory or by the agent of any such government,

shall be taken to be an index of the value of chargeable assets.

Indexed gilt-edged securities.

94.—(1) In the case of any loan relationship represented by an index-linked gilt-edged security, the adjustment for which this section provides shall be made in computing the credits and debits which fall, for any accounting period, to be brought into account for the purposes of this Chapter in respect of that relationship as non-trading credits or non-trading debits.

(2) The adjustment shall be made wherever—

(a) the authorised accounting method applied as respects the index-linked gilt-edged security gives credits or debits by reference to the value of the security at two different times, and

(b) there is any change in the retail prices index between those times.

(3) Subject to subsection (4) below, the adjustment is such an adjustment of the amount which would otherwise be taken for the

purposes of that accounting method to be the value of the security at the earlier time ("the opening value") as results in the amount in fact so taken being equal to the opening value increased or, as the case may be, reduced by the same percentage as the percentage increase or reduction in the retail prices index between the earlier and the later time.

(4) The Treasury may, in relation to any description of index-linked gilt-edged securities, by order provide that—

(a) there are to be no adjustments under this section; or

(b) that an adjustment specified in the order (instead of the adjustment specified in subsection (3) above) is to be the adjustment for which this section provides.

(5) An order under subsection (4) above—

(a) shall not have effect in relation to any gilt-edged security issued before the making of the order; but

(b) may make different provision for different descriptions of securities.

(6) For the purposes of this section the percentage increase or reduction in the retail prices index between any two times shall be determined by reference to the difference between—

(a) that index for the month in which the earlier time falls; and

(b) that index for the month in which the later time falls.

(7) In this section "index-linked gilt-edged securities" means any gilt-edged securities the amounts of the payments under which are determined wholly or partly by reference to the retail prices index.

Gilt strips.

95.—(1) This section has effect for the purposes of the application of an authorised accruals basis of accounting as respects a loan relationship represented by a gilt-edged security or a strip of a gilt-edged security.

(2) Where a gilt-edged security is exchanged by any person for strips of that security—

(a) the security shall be deemed to have been redeemed at the time of the exchange by the payment to that person of its market value; and

(b) that person shall be deemed to have acquired each strip for the amount which bears the same proportion to that market value as is borne by the market value of the strip to the aggregate of the market values of all the strips received in exchange for the security.

(3) Where strips of a gilt-edged security are consolidated into a single gilt-edged security by being exchanged by any person for that security—

(a) each of the strips shall be deemed to have been redeemed at the time of the exchange by the payment to that person of the amount equal to its market value; and

(b) that person shall be deemed to have acquired the security received in the exchange for the amount equal to the aggregate of the market values of the strips given in exchange for the security.

(4) References in this section to the market value of a security given or received in exchange for another are references to its market value at the time of the exchange.

(5) Without prejudice to the generality of any power conferred by section 202 below, the Treasury may by regulations make provision for the purposes of this section as to the manner of determining the market value at any time of any gilt-edged security (including any strip).

(6) Regulations under subsection (5) above may—

(a) make different provision for different cases; and

(b) contain such incidental, supplemental, consequential and transitional provision as the Treasury may think fit.

(7) In this section "strip" means anything which, within the meaning of section 47 of the Finance Act 1942, is a strip of a gilt-edged security. 1942 c. 21.

Special rules for certain other gilts.

96.—(1) This section applies as respects any loan relationship of a company if—

(a) it is represented by a security of any of the following descriptions—

(i) 3½% Funding Stock 1999-2004; or

(ii) 5½% Treasury Stock 2008-2012;

and

(b) it is one to which the company is a party otherwise than in the course of activities that form an integral part of a trade carried on by the company.

(2) The amounts falling for any accounting period to be brought into account for the purposes of this Chapter in respect of a loan relationship to which this section applies shall be confined to amounts relating to interest.

(3) Only an authorised accruals basis of accounting shall be used for ascertaining those amounts.

Manufactured interest.

97.—(1) This section applies where—

(a) any amount ("manufactured interest") is payable by or on behalf of, or to, any company under any contract or arrangements relating to the transfer of an asset representing a loan relationship; and

(b) that amount is, or (when paid) will fall to be treated as, representative of interest under that relationship ("the real interest").

(2) In relation to that company the manufactured interest shall be treated for the purposes of this Chapter—

(a) as if it were interest under a loan relationship to which the company is a party; and

(b) where that company is the company to which the manufactured interest is payable, as if that relationship were the one under which the real interest is payable.

(3) Any question whether debits or credits falling to be brought into account in the case of any company by virtue of this section—

(a) are to be brought into account under section 82(2) above, or

(b) are to be treated as non-trading debits or non-trading credits,

shall be determined according to the extent (if any) to which the manufactured interest is paid for the purposes of a trade carried on by the company or is received in the course of activities forming an integral part of such a trade.

(4) Where section 737A(5) of the Taxes Act 1988 (deemed manufactured payments) has effect in relation to a transaction relating to an asset representing a loan relationship so as, for the purposes of section 737 of, or Schedule 23A to, that Act, to deem there to have been a payment representative of interest under that relationship, this section shall apply as it would have applied if such a representative payment had in fact been made.

(5) This section does not apply where the manufactured interest is treated by virtue of paragraph 5(2)(c) or (4)(c) of Schedule 23A to the Taxes Act 1988 (manufactured interest passing through the market) as not being income of the person who receives it.

Collective investment schemes.

98. The provisions of this Chapter have effect subject to the provisions of Schedule 10 to this Act (which makes special provision in relation to certain collective investment schemes).

Insurance companies.

99. The preceding provisions of this Chapter have effect subject to Schedule 11 to this Act (which makes special provision in relation to certain insurance companies and in relation to corporate members of Lloyd's).

Miscellaneous other provisions

Interest on judgments, imputed interest, etc.

100.—(1) This Chapter shall have effect in accordance with subsection (2) below where—

(a) interest on a money debt is payable to or by any company;

(b) that debt is one as respects which it stands, or has stood, in the position of a creditor or debtor; and

(c) that debt did not arise from a loan relationship.

(2) It shall be assumed for the purposes of this Chapter—

(a) that the interest is interest payable under a loan relationship to which the company is a party; but

(b) that the only credits or debits to be brought into account for those purposes in respect of that relationship are those relating to the interest.

(3) References in this section to interest payable on a money debt include references to any amount which, in pursuance of sections 770 to 772 of the Taxes Act 1988 (transactions at an undervalue or overvalue), as those sections have effect by virtue of section 773(4) of that Act, falls to be treated in pursuance of those sections as—

(a) interest on a money debt; or

(b) interest on an amount which is treated as a money debt.

(4) Any question whether debits or credits falling to be brought into account in accordance with this section in relation to any company—

(a) are to be brought into account under section 82(2) above, or

(b) are to be treated as non-trading debits or non-trading credits,

shall be determined according to the extent (if any) to which the interest in question is paid for the purposes of a trade carried on by the company or is received in the course of activities forming an integral part of such a trade, or (in the case of deemed interest) would be deemed to be so paid or received.

(5) This section has effect subject to the provisions of Schedules 9 and 11 to this Act.

Financial instruments. 1994 c. 9.

101.—(1) Chapter II of Part IV of the Finance Act 1994 (provisions relating to certain financial instruments) shall not apply to any profit or loss which, in accordance with that Chapter, accrues to a company for any accounting period on a qualifying contract by virtue of which the company is a party to any loan relationship if—

(a) an amount representing that profit or loss, or

(b) an amount representing the profit or loss accruing to that company on that contract,

is brought into account for that period for the purposes of this Chapter.

(2) After section 147 of that Act (qualifying contracts) there shall be inserted the following section—

"Debt contracts and options to be qualifying contracts.

147A.—(1) For the purposes of this Chapter a debt contract or option is a qualifying contract as regards a qualifying company if the company becomes entitled to rights, or subject to duties, under the contract or option at any time on or after 1st April 1996.

(2) For the purposes of this Chapter a qualifying company which is entitled to rights, or subject to duties, under a debt contract or option both immediately before and on 1st April 1996 shall be deemed to have become entitled or subject to those rights or duties on that date.

(3) This section has effect subject to paragraph 25 of Schedule 15 to the Finance Act 1996 (transitional provisions)."

(3) After section 150 of that Act (qualifying contracts) there shall be inserted the section set out in Schedule 12 to this Act (which defines debt contracts and options by reference to contracts and options conferring rights and duties to participate in loan relationships).

(4) In section 151 of that Act (provisions that may be included in contracts and options), for the words "or a currency contract or option,", in each place where they occur, there shall be substituted "a currency contract or option or a debt contract or option".

(5) In section 152(1) of that Act (disregard of provisions for relatively small payments in contracts and options), after "150" there shall be inserted "or 150A".

PART IV
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(6) In section 153(1) of that Act (qualifying payments), for the word "and" at the end of paragraph (c) there shall be substituted—

"(ca) in relation to a qualifying contract which is a debt contract, a payment falling within section 150A(5) or (6) above; and".

Discounted securities: income tax provisions.

102. Schedule 13 to this Act (which, in connection with the provisions of this Chapter relating to corporation tax, makes provision for income tax purposes about discounted securities) shall have effect.

Supplemental

Interpretation of Chapter.

103.—(1) In this Chapter—

"authorised accounting method", "authorised accruals basis of accounting" and "authorised mark to market basis of accounting" shall be construed in accordance with section 85 above;

"creditor relationship", in relation to a company, means any loan relationship of that company in the case of which it stands in the position of a creditor as respects the debt in question;

"debt" includes a debt the amount of which falls to be ascertained by reference to matters which vary from time to time;

"debtor relationship", in relation to a company, means any loan relationship of that company in the case of which it stands in the position of a debtor as respects the debt in question;

"gilt-edged securities" means any securities which—

1992 c. 12.

(a) are gilt-edged securities for the purposes of the Taxation of Chargeable Gains Act 1992; 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 are issued;

"an independent person" means a knowledgeable and willing party dealing at arm's length;

"international organisation" means an organisation of which two or more sovereign powers, or the governments of two or more sovereign powers, are members;

"loan" includes any advance of money, and cognate expressions shall be construed accordingly;

"money" shall be construed in accordance with section 81(6) above and subsection (5) below;

"money debt" shall be construed in accordance with section 81(2) above;

"non-trading credit" and "non-trading debit" shall be construed in accordance with section 82(3) above;

"retail prices index" has the same meaning as it has, by virtue of section 833(2) of the Taxes Act 1988, in the Income Tax Acts;

"share", in relation to a company, means any share in the company under which an entitlement to receive distributions may arise.

(2) For the purposes of this Chapter a company shall be taken to be a party to a creditor relationship for the purposes of a trade carried on by that company only if it is a party to that relationship in the course of activities forming an integral part of that trade.

(3) For the purposes of this Chapter, and of so much of any other enactment as contains provision by reference to which amounts fall to be brought into account for the purposes of this Chapter, activities carried on by a company in the course of—

(a) any mutual trading, or

(b) any mutual insurance or other mutual business which is not life assurance business (within the meaning of Chapter I of Part XII of the Taxes Act 1988),

shall be deemed not to constitute the whole or any part of a trade.

(4) If, in any proceedings, any question arises whether a person is an international organisation for the purposes of any provision of this Chapter, 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.

(5) For the purposes of this Chapter the European currency unit (as for the time being defined in Council Regulation No. 3180/78/EEC or in any Community instrument replacing it) shall be taken to be a currency other than sterling.

Minor and consequential amendments.

104. Schedule 14 to this Act (which, for the purposes of both corporation tax and income tax, makes certain minor and consequential amendments in connection with the provisions of this Chapter) shall have effect.

Commencement and transitional provisions.

105.—(1) Subject to Schedule 15 to this Act, this Chapter has effect—

(a) for the purposes of corporation tax, in relation to accounting periods ending after 31st March 1996; and

(b) so far as it makes provision for the purposes of income tax, in relation to the year 1996-97 and subsequent years of assessment.

(2) Schedule 15 to this Act (which contains transitional provisions and savings in connection with the coming into force of this Chapter) shall have effect.

CHAPTER III

PROVISIONS RELATING TO THE SCHEDULE E CHARGE

Living accommodation provided for employees.

106.—(1) In subsection (1) of section 145 of the Taxes Act 1988 (living accommodation provided for employees), the words "and is not otherwise made the subject of any charge to him by way of income tax" shall be omitted.

(2) After section 146 of that Act there shall be inserted the following section—

"Priority of rules applying to living accommodation.

146A.—(1) This section applies where, within the meaning of section 145, living accommodation is provided in any period for any person by reason of his employment.

(2) The question whether the employee is to be treated under section 145 or 146 as in receipt of emoluments in respect of the provision of the accommodation shall be determined before any other question whether there is an amount falling to be treated in respect of the provision of that accommodation as emoluments.

(3) Tax under Schedule E in respect of the provision of the accommodation shall be chargeable on the employee otherwise than in pursuance of sections 145 and 146 to the extent only that the amount on which it is chargeable by virtue of those sections is exceeded by the amount on which it would be chargeable apart from those sections."

(3) This section applies for the year 1996-97 and subsequent years of assessment.

Beneficial loans.

107.—(1) For section 160(1B) of the Taxes Act 1988 (aggregation of loans) there shall be substituted the following subsections—

"(1B) Where, in relation to any year—

(a) there are loans between the same lender and borrower which are aggregable with each other,

(b) the lender elects, by notice given to the inspector, for aggregation to apply in the case of that borrower, and

(c) that notice is given before the end of the period of 92 days after the end of that year,

all the loans between that lender and that borrower which are aggregable with each other shall be treated for the purposes of subsections (1) and (1A) above and Part II of Schedule 7 as a single loan.

(1BA) For the purposes of subsection (1B) above loans are aggregable with each other for any year where—

(a) in the case of each of the loans, there is a time in that year, while the loan is outstanding as to any amount, when the lender is a close company and the borrower a director of that company;

(b) the benefit of each of the loans is obtained by reason of the borrower's employment;

(c) in the case of each of the loans, there is no time in that year when a rate of interest is applied to the loan which is equal to or more than whatever is the official rate at that time;

(d) the loans are loans made in the same currency; and

(e) none of the loans is a qualifying loan."

(2) In paragraph 5 of Schedule 7 to that Act (alternative method of calculation)—

(a) in sub-paragraph (1)(a), for the words from "for the purpose" to "appeal)" there shall be substituted "at a time allowed by sub-paragraph (2) below"; and

(b) in sub-paragraph (1)(b), for "within the time allowed by sub-paragraph (2) below" there shall be substituted "at such a time".

(3) For sub-paragraph (2) of that paragraph there shall be substituted the following sub-paragraph—

"(2) A notice containing a requirement or election for the purposes of sub-paragraph (1) above is allowed to be given at any time before the end of the period of 12 months beginning with the 31st January next following the relevant year."

(4) This section has effect for the year 1996-97 and subsequent years of assessment and applies to loans whenever made.

Incidental benefits for holders of certain offices etc.

108.—(1) After section 200 of the Taxes Act 1988 (expenses of Members of Parliament) there shall be inserted the following section—

"Incidental benefits for holders of certain offices etc.

200AA.—(1) A person holding any of the offices mentioned in subsection (2) below shall not be charged to tax under Schedule E in respect of—

(a) any transport or subsistence provided or made available by or on behalf of the Crown to the office-holder or any member of his family or household; or

(b) the payment or reimbursement by or on behalf of the Crown of any expenses incurred in connection with the provision of transport or subsistence to the office-holder or any member of his family or household.

(2) Those offices are—

(a) any office in Her Majesty's Government in the United Kingdom, and

(b) any other office which is one of the offices and positions in respect of which salaries are payable under section 1 of the Ministerial and other Salaries Act 1975 (whether or not the person holding it is a person to whom a salary is paid or payable under the Act). 1975 c. 27.

(3) Nothing in this section shall prevent a person from being chargeable to tax under Schedule E in respect of the benefit of a mobile telephone (within the meaning of section 159A).

(4) References in this section to a member of the family or household of an office-holder shall be construed in accordance with section 168(4).

(5) References in this section to the provision of transport to any person include references to the following—

(a) the provision or making available to that person of any car (whether with or without a driver);

(b) the provision of any fuel for a car provided or made available to that person;

(c) the provision of any other benefit in connection with a car provided or made available to that person.

(6) In this section—

'car' means any mechanically propelled road vehicle; and

'subsistence' includes food and drink and temporary living accommodation."

(2) This section has effect for the year 1996–97 and subsequent years of assessment.

Charitable donations: payroll deduction schemes.

109.—(1) In section 202(7) of the Taxes Act 1988 (which limits to £900 the deductions attracting relief), for "£900" there shall be substituted "£1,200".

(2) This section has effect for the year 1996-97 and subsequent years of assessment.

PAYE settlement agreements.

110. After section 206 of the Taxes Act 1988 there shall be inserted the following section—

"PAYE settlement agreements.

206A.—(1) PAYE regulations may make provision falling within subsection (2) below about the sums which, as sums in respect of income tax under Schedule E on emoluments of a person's employees, are to be the sums for which the employer is to be accountable to the Board from time to time.

(2) That provision is provision under which the accountability of the employer, and the sums for which he is to be accountable, are to be determined, to such extent as may be prescribed, in accordance with an agreement between the Board and the employer ('a PAYE settlement agreement'), instead of under PAYE regulations made otherwise than by virtue of this section.

(3) PAYE regulations may provide for a PAYE settlement agreement to allow sums for which an employer is to be accountable to the Board in accordance with the agreement—

(a) to be computed, in cases where there are two or more persons holding employments to which the agreement relates, by reference to a number of those persons all taken together;

(b) to include sums representing income tax on an estimated amount taken, in accordance with the agreement, to be the aggregate of the cash equivalents and other amounts chargeable to tax in respect of—

(i) taxable benefits provided or made available by reason of the employments to which the agreement relates; and

(ii) expenses paid to the persons holding those employments;

and

(c) to be computed in a manner under which the sums for which the employer is accountable do not necessarily represent an amount of income tax payable in respect of income which (apart from the regulations) is assessable under Schedule E on persons holding employments to which the agreement relates.

(4) PAYE regulations may provide—

(a) for an employer who is accountable to the Board under a PAYE settlement agreement for any sum to be so accountable without that sum, or any other sum, being treated for any prescribed purpose as tax deducted from emoluments;

(b) for an employee to have no right to be treated as having paid tax in respect of sums for which his employer is accountable under such an agreement;

(c) for an employee to be treated, except—

(i) for the purposes of the obligations imposed on his employer by such an agreement, and

(ii) to such further extent as may be prescribed,

as relieved from any prescribed obligations of his under the Income Tax Acts in respect of emoluments from an employment to which the agreement relates; and

(d) for such emoluments to be treated as excluded from the employee's income for such further purposes of the Income Tax Acts, and to such extent, as may be prescribed.

(5) For the purposes of any PAYE regulations made by virtue of this section it shall be immaterial that any agreement to which they relate was entered into before the coming into force of the regulations.

(6) PAYE regulations made by virtue of this section may—

(a) make different provision for different cases; and

(b) contain such incidental, supplemental, consequential and transitional provision as the Board may think fit.

(7) Without prejudice to the generality of subsection (6) above, the transitional provision that may be made by virtue of that subsection includes transitional provision for any year of assessment which—

(a) for the purposes of the regulations, treats sums accounted for in that year before the coming into force of the regulations as accounted for in accordance with an agreement as respects which the regulations have effect after they come into force; and

(b) provides, by reference to any provision made by virtue of paragraph (a) above, for income arising in that year before the coming into force of the regulations to be treated as income in relation to which modifications of the Income Tax Acts contained in the regulations apply.

(8) Without prejudice to the generality of subsection (6) above, any power of the Board to make PAYE regulations with respect to sums falling to be accounted for under such regulations shall include power to make the corresponding provision with respect to sums falling, by virtue of this section, to be accounted for in accordance with a PAYE settlement agreement.

(9) In this section—

'employment' means any office or employment the emoluments from which are (or, apart from any regulations made by virtue of this section, would be) assessable to tax under Schedule E, and cognate expressions shall be construed accordingly;

'PAYE regulations' means regulations under section 203;

'prescribed' means prescribed by PAYE regulations;

'taxable benefit', in relation to an employee, means any benefit provided or made available, otherwise than in the form of a payment of money, to the employee or to a person who is, for the purposes of Chapter II of this Part, a member of his family or household;

and references in this section to a time before the coming into force of any regulations include references to a time before the commencement of section 110 of the Finance Act 1996 (by virtue of which this section was inserted in this Act)."

CHAPTER IV

SHARE OPTIONS, PROFIT SHARING AND EMPLOYEE SHARE OWNERSHIP

Share options

Amount or value of consideration for option.
1992 c. 12.

111.—(1) Section 149A of the Taxation of Chargeable Gains Act 1992 (consideration for grant of option under approved share option schemes not to be deemed to be equal to market value of option) shall be amended as follows.

(2) In subsection (1)(b) (restriction to approved share option schemes) for "as mentioned in section 185(1) of the Taxes Act (approved share option schemes)" there shall be substituted "by an individual by reason of his office or employment as a director or employee of that or any other body corporate".

(3) In subsection (2) (grantor to be treated as if the amount or value of the consideration was its actual amount or value) for "The grantor of the option" there shall be substituted "Both the grantor of the option and the person to whom the option is granted".

(4) Subsection (4) (section not to affect treatment under that Act of person to whom option granted) shall cease to have effect.

(5) For the side-note to that section there shall be substituted "Share option schemes."

(6) This section has effect in relation to any right to acquire shares in a body corporate obtained on or after 28th November 1995 by an individual by reason of his office or employment as a director or employee of a body corporate.

Release and replacement. 1992 c. 12.

112.—(1) After section 237 of the Taxation of Chargeable Gains Act 1992 there shall be inserted—

"Share option schemes: release and replacement of options.

237A.—(1) This section applies in any case where a right to acquire shares in a body corporate ("the old right") which was obtained by an individual by reason of his office or employment as a director or employee of that or any other body corporate is released in whole or in part for a consideration which consists of or includes the grant to that individual of another right ("the new right") to acquire shares in that or any other body corporate.

(2) As respects the person to whom the new right is granted—

(a) without prejudice to subsection (1) above, the new right shall not be regarded for the purposes of capital gains tax as consideration for the release of the old right;

(b) the amount or value of the consideration given by him or on his behalf for the acquisition of the new right shall be taken for the purposes of section 38(1) to be the amount or value of the consideration given by him or on his behalf for the old right; and

(c) any consideration paid for the acquisition of the new right shall be taken to be expenditure falling within section 38(1)(b).

(3) As respects the grantor of the new right, in determining for the purposes of this Act the amount or value of the consideration received for the new right, the release of the old right shall be disregarded."

(2) Section 238(4) of that Act (which provides that the release of an option under an approved share option scheme in exchange for another option, in connection with a company take-over, is not to involve a disposal, and which is superseded by subsection (1) above) shall cease to have effect.

(3) This section has effect in relation to transactions effected on or after 28th November 1995.

Savings-related share option schemes

Exercise of rights by employees of non-participating companies.

113.—(1) In paragraph 21 of Schedule 9 to the Taxes Act 1988 (provisions which an approved savings-related share option scheme may make with respect to the exercise of rights under the scheme) in sub-paragraph (1), the word "and" immediately preceding paragraph (e) shall be omitted and after that paragraph there shall be inserted "and

(f) if, at the bonus date, a person who has obtained rights under the scheme holds an office or employment in a company which is not a participating company but which is—

(i) an associated company of the grantor, or

(ii) a company of which the grantor has control,

those rights may be exercised within six months of that date."

(2) After sub-paragraph (3) of that paragraph there shall be inserted—

"(4) Where a scheme approved before the date of the passing of the Finance Act 1996 is altered before 5th May 1998 so as to include such a provision as is specified in sub-paragraph (1)(f) above, the scheme may apply the provision to rights obtained under the scheme before the alteration takes effect, whether the bonus date in relation to the rights occurred before or after the passing of that Act; and where the provision is applied to such rights by virtue of this sub-paragraph, its application to such rights shall not itself be regarded as the acquisition of a right for the purposes of this Schedule.

This sub-paragraph has effect subject to paragraph 4 above."

(3) In paragraph 26(3) of that Schedule (only directors or employees of grantor or participating company to be eligible to participate, except as provided by paragraph 19 or pursuant to such a provision as is referred to in paragraph 21(1)(e)) after "21(1)(e)" there shall be inserted "or (f)".

Other share option schemes

Requirements to be satisfied by approved schemes.

114.—(1) Part IV of Schedule 9 to the Taxes Act 1988 (requirements applicable to approved share option schemes which are not savings-related) shall be amended in accordance with subsections (2) and (3) below.

(2) In paragraph 28 (scheme must impose limit on aggregate market value of shares which may be acquired in pursuance of rights obtained under the scheme or certain related schemes)—

(a) in sub-paragraph (1) (aggregate market value of shares not to exceed the appropriate limit) for "the appropriate limit" there shall be substituted "£30,000"; and

(b) sub-paragraphs (2) and (4) (meaning of the appropriate limit and, for the purposes of that definition, the relevant emoluments) shall cease to have effect.

(3) In paragraph 29 (price at which shares may be acquired to be stated and to be not manifestly less than the market value, or, in certain circumstances, 85 per cent. of the market value, of shares of the same class) for sub-paragraphs (1) to (6) there shall be substituted—

"(1) The price at which scheme shares may be acquired by the exercise of a right obtained under the scheme—

(a) must be stated at the time the right is obtained, and

(b) must not be manifestly less than the market value of shares of the same class at that time or, if the Board and the grantor agree in writing, at such earlier time or times as may be provided in the agreement."

(4) Section 185 of the Taxes Act 1988 (approved share option schemes) shall be amended in accordance with subsections (5) to (7) below.

(5) In subsection (2), for "Subject to subsections (6) to (6B) below" there shall be substituted "Subject to subsection (6) below".

(6) For subsections (6) to (6B) there shall be substituted—

"(6) Where, in the case of a right obtained by a person under a scheme which is not a savings-related share option scheme, the aggregate of—

(a) the amount or value of any consideration given by him for obtaining the right, and

(b) the price at which he may acquire the shares by exercising the right,

is less than the market value, at the time he obtains the right, of the same quantity of issued shares of the same class, he shall be chargeable to tax under Schedule E for the year of assessment in which he obtains the right on the amount of the difference; and the amount so chargeable shall be treated as earned income, whether or not it would otherwise fall to be so treated."

(7) In subsections (7) and (8) for "(6A)" there shall be substituted "(6)".

(8) In section 120 of the Taxation of Chargeable Gains Act 1992 (increase in expenditure by reference to tax charged in relation to shares etc) in subsection (6) (which defines the applicable provision) for paragraph (b) (which refers to subsection (6A) of section 185 of the Taxes Act 1988) there shall be substituted— 1992 c. 12.

"(b) subsection (6A) of that section (as that subsection has effect in relation to rights obtained before the day on which the Finance Act 1996 was passed), or

(c) subsection (6) of that section (as that subsection has effect in relation to rights obtained on or after that day)."

(9) Schedule 16 to this Act, which makes provision with respect to share option schemes approved before the day on which this Act is passed, shall have effect.

(10) Subsections (3) to (7) above have effect in relation to rights obtained on or after the day on which this Act is passed.

Transitional provisions.

115.—(1) If, during the period—

(a) beginning with 17th July 1995, and

(b) ending with the day preceding the passing of this Act,

any rights have been obtained by a person under an approved share option scheme in circumstances falling within subsection (2) below, the rights shall be treated for the purposes of sections 185 to 187 of, and Schedule 9 to, the Taxes Act 1988 as being rights obtained otherwise than in accordance with the provisions of an approved share option scheme.

(2) The circumstances mentioned in subsection (1) above are circumstances such that, on the assumptions in subsection (3) below, there would, by virtue of paragraph 28 or 29 of Schedule 9 to the Taxes Act 1988 (limit on what may be obtained and requirements with respect to price), have been, with respect to the operation of the scheme, a contravention of any of the relevant requirements or of the scheme itself.

(3) The assumptions mentioned in subsection (2) above are—

(a) that the amendments made by subsection (2) of section 114 above had effect at all times on and after 17th July 1995;

(b) that the amendments made by subsections (3) to (7) of that section had effect in relation to rights obtained at any time on or after that date; and

(c) that the provisions of paragraphs 1(1) and 2 to 5 of Schedule 16 to this Act had effect at all times on and after 17th July 1995, but with the substitution for references to the day on which this Act is passed of references to that date.

(4) For the purposes of this section, rights obtained by a person on or after 17th July 1995 shall be treated as having been obtained by him before that date if—

(a) the scheme in question is one approved before that date;

(b) an offer of the rights or an invitation to apply for them was made in writing to that person before that date; and

(c) he obtained the rights within the period of thirty days beginning with the day on which the offer or invitation was made.

(5) In this section—

"approved share option scheme" means an approved share option scheme, within the meaning of section 185 of the Taxes Act 1988, other than a savings-related share option scheme;

"relevant requirements" has the meaning given in paragraph 1(1) of Schedule 9 to the Taxes Act 1988;

"savings-related share option scheme" has the meaning given by Schedule 9 to the Taxes Act 1988.

Profit sharing schemes

The release date.

116.—(1) In section 187(2) of the Taxes Act 1988 (interpretation of sections 185 and 186 of, and Schedules 9 and 10 to, that Act) in the definition of "release date" (the fifth anniversary of the date on which shares were appropriated to a participant in a profit sharing scheme) for "fifth" there shall be substituted "third".

(2) The amendment made by subsection (1) above shall have effect in relation to shares of a participant in a profit sharing scheme if the third anniversary of the appropriation of the shares to the participant occurs on or after the day on which this Act is passed.

(3) If the third anniversary of the appropriation of any shares to a participant in a profit sharing scheme has occurred, but the fifth anniversary of their appropriation to him has not occurred, before the passing of this Act, then, in the application of sections 186 and 187 of, and Schedules 9 and 10 to, the Taxes Act 1988 in relation to those shares, the release date shall be the day on which this Act is passed.

The appropriate percentage.

117.—(1) In Schedule 10 to the Taxes Act 1988 (further provisions relating to profit sharing schemes) for paragraph 3 (the appropriate percentage) there shall be substituted—

"3.—(1) For the purposes of any of the relevant provisions charging an individual to income tax under Schedule E by reason of the occurrence of an event relating to any of his shares, the "appropriate percentage" in relation to those shares is 100 per cent., unless sub-paragraph (2) below applies.

(2) Where the individual—

(a) ceases to be a director or employee of the grantor or, in the case of a group scheme, a participating company as mentioned in paragraph 2(a) above, or

(b) reaches the relevant age,

before the event occurs, the "appropriate percentage" is 50 per cent., unless paragraph 6(4) below applies."

(2) In section 187(8) of that Act (determination of certain values and percentages where shares are appropriated to a participant at different times) paragraph (b) (which relates to the appropriate percentage), and the word "and" immediately preceding it, shall cease to have effect.

(3) Subsections (1) and (2) above have effect in relation to the occurrence, on or after the day on which this Act is passed, of events by reason of whose occurrence any provision of section 186 or 187 of, or Schedule 9 or 10 to, the Taxes Act 1988 charges an individual to income tax under Schedule E.

The appropriate allowance.

118.—(1) In section 186(12) of the Taxes Act 1988 (determination of the appropriate allowance for the purposes of the charge to tax on capital receipts by a participant in an approved profit sharing scheme)—

(a) for "£100" there shall be substituted "£60"; and

(b) for "five years" there shall be substituted "three years".

(2) Subsection (1) above has effect for the year 1997-98 and subsequent years of assessment.

Employee share ownership trusts

Removal of requirement for at least one year's service.
1989 c. 26.

119.—(1) In Schedule 5 to the Finance Act 1989 (employee share ownership trusts) in paragraph 4(5)(a) (for a trust to be a qualifying ESOT, its beneficiaries must have been employees or directors of the company for at least one year) the words "not less than one year and" shall cease to have effect.

(2) This section applies to trusts established on or after the day on which this Act is passed.

Grant and exercise of share options.

120.—(1) In Schedule 5 to the Finance Act 1989 (employee share ownership trusts), in paragraph 4 (the trust deed must contain provision as to the beneficiaries) after sub-paragraph (2) there shall be inserted—

"(2A) The trust deed may provide that a person is a beneficiary at a given time if at that time he is eligible to participate in a savings-related share option scheme within the meaning of Schedule 9 to the Taxes Act 1988—

(a) which was established by a company within the founding company's group, and

(b) which is approved under that Schedule.

(2B) Where a trust deed contains a rule conforming with sub-paragraph (2A) above it must provide that the only powers and duties which the trustees may exercise in relation to persons who are beneficiaries by virtue only of that rule are those which may be exercised in accordance with the provisions of a scheme such as is mentioned in that sub-paragraph."

1989 c. 26.

(2) In consequence of the amendment made by subsection (1) above, section 69 of, and Schedule 5 to, the Finance Act 1989 (which respectively make provision about chargeable events in relation to the trustees of qualifying employee share ownership trusts and the requirements to be satisfied by such trusts) shall be amended in accordance with the following provisions of this section.

(3) In subsection (4) of that section (meaning of "qualifying terms" for the purposes of the provision that the transfer of securities to beneficiaries is a chargeable event if it is not on qualifying terms)—

(a) in paragraph (a) (securities which are transferred at the same time must be transferred on similar terms) after "time" there shall be inserted "other than those transferred on a transfer such as is mentioned in subsection (4ZA) below";

(b) in paragraph (b) (securities must have been offered to all the persons who are beneficiaries), after "trust deed" there shall be inserted "by virtue of a rule which conforms with paragraph 4(2), (3) or (4) of Schedule 5 to this Act"; and

(c) in paragraph (c) (securities must be transferred to all such beneficiaries who have accepted the offer) for "beneficiaries" there shall be substituted "persons".

(4) After subsection (4) of that section there shall be inserted—

"(4ZA) For the purposes of subsection (1)(b) above a transfer of securities is also made on qualifying terms if—

(a) it is made to a person exercising a right to acquire shares, and

(b) that right was obtained in accordance with the provisions of a savings-related share option scheme within the meaning of Schedule 9 to the Taxes Act 1988—

(i) which was established by, or by a company controlled by, the company which established the trust, and

(ii) which is approved under that Schedule, and

(c) that right is being exercised in accordance with the provisions of that scheme, and

(d) the consideration for the transfer is payable to the trustees."

(5) In sub-paragraph (4) of paragraph 4 of that Schedule (trust deed may provide for charity to be beneficiary if there are no beneficiaries falling within a rule conforming with sub-paragraph (2) or (3)) after "sub-paragraph (2)" there shall be inserted ", (2A)".

(6) In sub-paragraph (7) of that paragraph (trust deed must not provide for a person to be a beneficiary unless he falls within a rule conforming with sub-paragraph (2), (3) or (4)) after "sub-paragraph (2)" there shall be inserted ", (2A)".

(7) In sub-paragraph (8) of that paragraph (trust deed must provide that person with material interest in founding company cannot be a beneficiary) after "at a particular time (the relevant time)" there shall be inserted "by virtue of a rule which conforms with sub-paragraph (2), (3) or (4) above".

(8) In paragraph 5(2) of that Schedule (trust deed must be so expressed that it is apparent that the general functions of the trustees are as mentioned in paragraphs (a) to (e)) after paragraph (c) there shall be inserted—

"(cc) to grant rights to acquire shares to persons who are beneficiaries under the terms of the trust deed;".

(9) In paragraph 9 of that Schedule (trust deed must provide that transfers of securities to beneficiaries must be on qualifying terms and within the qualifying period) in sub-paragraph (2) (meaning of qualifying terms)—

(a) in paragraph (a) (securities which are transferred at the same time must be transferred on similar terms) after "time" there shall be inserted "other than those transferred on a transfer such as is mentioned in sub-paragraph (2ZA) below";

(b) in paragraph (b) (securities must have been offered to all the persons who are beneficiaries) after "trust deed" there shall be inserted "by virtue of a rule which conforms with paragraph 4(2), (3) or (4) above"; and

(c) in paragraph (c) (securities must be transferred to all such beneficiaries who have accepted the offer) for "beneficiaries" there shall be substituted "persons".

(10) After sub-paragraph (2) of that paragraph there shall be inserted—

"(2ZA) For the purposes of sub-paragraph (1) above a transfer of securities is also made on qualifying terms if—

(a) it is made to a person exercising a right to acquire shares, and

(b) that right was obtained in accordance with the provisions of a savings-related share option scheme within the meaning of Schedule 9 to the Taxes Act 1988—

(i) which was established by, or by a company controlled by, the founding company, and

(ii) which is approved under that Schedule, and

(c) that right is being exercised in accordance with the provisions of that scheme, and

(d) the consideration for the transfer is payable to the trustees."

(11) In paragraph 10 of that Schedule (trust deed must not contain features not essential or reasonably incidental to purposes mentioned in that paragraph)—

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(a) after "acquiring sums and securities," there shall be inserted "granting rights to acquire shares to persons who are eligible to participate in savings-related share option schemes approved under Schedule 9 to the Taxes Act 1988, transferring shares to such persons,"; and

(b) for "Schedule 9 to the Taxes Act 1988" there shall be substituted "that Schedule".

(12) This section has effect in relation to trusts established on or after the day on which this Act is passed.

CHAPTER V

SELF ASSESSMENT, GENERAL MANAGEMENT ETC.

General

Returns and self assessment.
1970 c. 9.

121.—(1) In subsection (1) of section 8 of the Taxes Management Act 1970 (personal return), and in subsection (1) of section 8A of that Act (trustee's return), after the words "year of assessment," there shall be inserted the words "and the amount payable by him by way of income tax for that year,".

(2) In subsection (1A) of each of those sections, the words from "and the amounts referred to" to the end shall cease to have effect.

(3) After that subsection of each of those sections there shall be inserted the following subsection—

"(1AA) For the purposes of subsection (1) above—

(a) the amounts in which a person is chargeable to income tax and capital gains tax are net amounts, that is to say, amounts which take into account any relief or allowance a claim for which is included in the return; and

(b) the amount payable by a person by way of income tax is the difference between the amount in which he is chargeable to income tax and the aggregate amount of any income tax deducted at source and any tax credits to which section 231 of the principal Act applies."

(4) For subsection (1) of section 9 of that Act (returns to include self-assessment) there shall be substituted the following subsection—

"(1) Subject to subsection (2) below, every return under section 8 or 8A of this Act shall include a self-assessment, that is to say—

(a) an assessment of the amounts in which, on the basis of the information contained in the return and taking into account any relief or allowance a claim for which is included in the return, the person making the return is chargeable to income tax and capital gains tax for the year of assessment; and

(b) an assessment of the amount payable by him by way of income tax, that is to say, the difference between the amount in which he is assessed to income tax under paragraph (a) above and the aggregate amount of any income tax deducted at source and any tax credits to which section 231 of the principal Act applies."

(5) In subsection (1)(b) of section 11AA of that Act (return of profits to include self-assessment), for the words ", allowance or repayment of tax" there shall be substituted the words "or allowance".

(6) In subsection (1)(a) of section 12AA of that Act (partnership return), after the words "so chargeable" there shall be inserted the words "and the amount payable by way of income tax by each such partner".

(7) For subsection (1A) of that section there shall be substituted the following subsection—

"(1A) For the purposes of subsection (1) above—

(a) the amount in which a partner is chargeable to income tax or corporation tax is a net amount, that is to say, an amount which takes into account any relief or allowance for which a claim is made; and

(b) the amount payable by a partner by way of income tax is the difference between the amount in which he is chargeable to income tax and the aggregate amount of any income tax deducted at source and any tax credits to which section 231 of the principal Act applies."

(8) This section and sections 122, 123, 125 to 127 and 141 below—

(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.

Notional tax deductions and payments.
1970 c. 9.

122.—(1) At the end of subsection (1) of section 9 of the Taxes Management Act 1970 (as substituted by section 121(4) above) there shall be inserted the words "but nothing in this subsection shall enable a self-assessment to show as repayable any income tax treated as deducted or paid by virtue of section 233(1), 246D(1), 249(4), 421(1), 547(5) or 599A(5) of the principal Act."

(2) At the end of subsection (1) of section 59B of that Act (payment of income tax and capital gains tax) there shall be inserted the words "but nothing in this subsection shall require the repayment of any income tax treated as deducted or paid by virtue of section 233(1), 246D(1), 249(4), 421(1), 547(5) or 599A(5) of the principal Act."

(3) In subsection (1) of section 233 of the Taxes Act 1988 (taxation of certain recipients of distributions), for paragraphs (a) and (b) there shall be substituted the following paragraphs—

"(a) that person shall be treated as having paid income tax at the lower rate on the amount or value of the distribution;

(b) no repayment shall be made of any income tax treated by virtue of paragraph (a) above as having been paid;".

(4) In paragraph (a) of subsection (1A) of that section—

(a) for sub-paragraph (i) there shall be substituted the following sub-paragraph—

"(i) income on which that person falls to be treated as having paid income tax at the lower rate by virtue of paragraph (a) of subsection (1) above, or"; and

(b) for the words "that assessment" there shall be substituted the words "that subsection".

(5) In the following enactments, namely—

(a) subsection (2)(a) of section 246D of that Act (individuals etc.); and

(b) subsection (4)(a) of section 249 of that Act (stock dividends treated as income),

for the words from "no assessment" to "on it" there shall be substituted the words "the individual shall be treated as having paid income tax at the lower rate on that income".

(6) In subsection (1)(b) of section 421 of that Act (taxation of borrower when loan released), for the words "no assessment shall be made on him in respect of" there shall be substituted the words "he shall not be liable to pay".

(7) The following shall cease to have effect, namely—

(a) in subsection (5)(a) of section 547 of that Act (method of charging to tax), the words from "no assessment" to "but";

(b) in subsection (6) of section 599A of that Act (charge to tax: payments out of surplus funds), the words from "subject" to "and"; and

(c) subsection (7) of that section.

Liability of partners. 1970 c. 9.

123.—(1) In subsection (2) of section 12AA of the Taxes Management Act 1970 (partnership return) after the words "with the notice" there shall be inserted the words "or a successor of his".

(2) In subsection (3) of that section after the words "the partner" there shall be inserted the words "or a successor of his".

(3) In subsection (7)(a) of that section, the words "any part of" shall cease to have effect.

(4) At the end of that section there shall be inserted the following subsections—

"(11) In this Act 'successor', in relation to a person who is required to make and deliver, or has made and delivered, a return in pursuance of a notice under subsection (2) or (3) above, but is no longer available, means—

(a) where a partner is for the time being nominated for the purposes of this subsection by a majority of the relevant partners, that partner; and

(b) where no partner is for the time being so nominated, such partner as—

(i) in the case of a notice under subsection (2) above, is identified in accordance with rules given with that notice; or

(ii) in the case of a notice under subsection (3) above, is nominated for the purposes of this subsection by an officer of the Board;

and 'predecessor' and 'successor', in relation to a person so nominated or identified, shall be construed accordingly.

(12) For the purposes of subsection (11) above a nomination under paragraph (a) of that subsection, and a revocation of such a nomination, shall not have effect in relation to any time before notice of the nomination or revocation is given to an officer of the Board.

(13) In this section 'relevant partner' means a person who was a partner at any time during the period for which the return was made or is required, or the personal representatives of such a person."

(5) In subsection (1) of section 12AB of that Act (partnership return to include partnership statement)—

(a) in paragraph (a), for the words "each period of account ending within the period in respect of which the return is made" there shall be substituted the words "the period in respect of which the return is made and each period of account ending within that period";

(b) in sub-paragraph (i) of that paragraph, for the words "that period" there shall be substituted the words "the period in question";

(c) after that sub-paragraph there shall be inserted the following sub-paragraph—

"(ia) the amount of the consideration which, on that basis, has accrued to the partnership in respect of each disposal of partnership property during that period,";

and

(d) in paragraph (b), after the words "such period" there shall be inserted the words "as is mentioned in paragraph (a) above" and after the word "loss," there shall be inserted the word "consideration,".

(6) In subsection (2) of that section—

(a) in paragraph (a) after the words "to that person" there shall be inserted the words "or a successor"; and

(b) in paragraph (b) for the words from "partnership statement" to "he" there shall be substituted the words "or a predecessor's partnership statement as to give effect to any amendments to the return in which it is included which he or a predecessor".

(7) In section 12AC of that Act (power to enquire into partnership return)—

(a) in subsection (1)(b), after the word "person" there shall be inserted the words "or a successor of that person"; and

(b) subsection (6) (which is superseded by subsection (4) above) shall cease to have effect.

(8) In subsection (1)(b) of section 93A of that Act (failure to make partnership return), after the word "he" there shall be inserted the words "or a successor of his".

(9) In subsections (3) and (4) of that section, after the words "the representative partner" there shall be inserted the words "or a successor of his".

(10) In subsection (6) of that section—

(a) after the words "the representative partner" there shall be inserted the words "or a successor of his"; and

(b) after the words "that partner", in both places where they occur, there shall be inserted the words "or successor".

(11) In subsection (7) of that section, for the words "the representative partner had a reasonable excuse for not delivering the return" there shall be substituted the words "the person for the time being required to deliver the return (whether the representative partner or a successor of his) had a reasonable excuse for not delivering it".

(12) In subsection (1)(a)(ii) of section 95A of that Act (incorrect partnership return or accounts), for the words "such a return" there shall be substituted the words "a return of such a kind".

(13) In subsection (3) of that section—

(a) after the words "the representative partner" there shall be inserted the words "or a successor of his"; and

(b) after the words "that partner", in both places where they occur, there shall be inserted the words "or successor".

(14) In subsection (1) of section 118 of that Act (interpretation), for the definition of "successor" there shall be substituted the following definition—

"'successor', in relation to a person who is required to make and deliver, or has made and delivered, a return under section 12AA of this Act, and 'predecessor' and 'successor', in relation to the successor of such a person, shall be construed in accordance with section 12AA(11) of this Act;".

Retention of original records. 1970 c. 9.

124.—(1) The Taxes Management Act 1970, as it has effect—

(a) for the purposes of income tax and capital gains tax, as respects the year 1996-97 and subsequent years of assessment, and

(b) for the purposes of corporation tax, as respects accounting periods ending on or after the day appointed under section 199 of the Finance Act 1994 for the purposes of Chapter III of Part IV of that Act (self-assessment management provisions), 1994 c. 9.

shall be amended in accordance with the following provisions of this section.

(2) In section 12B (records to be kept for purposes of returns) in subsection (4) (which permits the duty to preserve records to be discharged by the preservation of the information contained in them, and provides for the admissibility in evidence of copy documents) at the beginning there shall be inserted the words "Except in the case of records falling within subsection (4A) below,".

(3) After that subsection there shall be inserted—

"(4A) The records which fall within this subsection are—

(a) any statement in writing such as is mentioned in—

(i) subsection (1) of section 234 of the principal Act (amount of qualifying distribution and tax credit), or

(ii) subsection (1) of section 352 of that Act (gross amount, tax deducted, and actual amount paid, in certain cases where payments are made under deduction of tax),

which is furnished by the company or person there mentioned, whether after the making of a request or otherwise;

(b) any certificate or other record (however described) which is required by regulations under section 566(1) of the principal Act to be given to a sub-contractor (within the meaning of Chapter IV of Part XIII of that Act) on the making of a payment to which section 559 of that Act (deductions on account of tax) applies;

(c) any such record as may be requisite for making a correct and complete claim in respect of, or otherwise requisite for making a correct and complete return so far as relating to, an amount of tax—

(i) which has been paid under the laws of a territory outside the United Kingdom, or

(ii) which would have been payable under the law of such a territory but for a relief to which section 788(5) of the principal Act (relief for promoting development and relief contemplated by double taxation arrangements) applies."

(4) In subsection (5) of that section (penalty for failure to comply with section 12B(1) or (2A)) for "Subject to subsection (5A)" there shall be substituted "Subject to subsections (5A) and (5B)".

(5) After subsection (5A) of that section there shall be inserted—

"(5B) Subsection (5) above also does not apply where—

(a) the records which the person fails to keep or preserve are records falling within paragraph (a) of subsection (4A) above; and

(b) an officer of the Board is satisfied that any facts which he reasonably requires to be proved, and which would have been proved by the records, are proved by other documentary evidence furnished to him."

(6) In Schedule 1A (claims etc not included in returns) in paragraph 2A (keeping and preserving of records) in sub-paragraph (3) (which makes corresponding provision to section 12B(4)) at the beginning there shall be inserted "Except in the case of records falling within section 12B(4A) of this Act,".

(7) In sub-paragraph (4) of that paragraph (penalty for failure to comply with paragraph 2A(1)) at the beginning there shall be inserted "Subject to sub-paragraph (5) below,".

(8) After that sub-paragraph there shall be inserted—

"(5) Sub-paragraph (4) above does not apply where—

(a) the records which the person fails to keep or preserve are records falling within paragraph (a) of section 12B(4A) of this Act; and

(b) an officer of the Board is satisfied that any facts which he reasonably requires to be proved, and which would have been proved by the records, are proved by other documentary evidence furnished to him."

(9) The amendments made by this section shall not have effect in relation to—

(a) any time before this Act is passed, or

(b) any records which a person fails to preserve before this Act is passed.

Determination of tax where no return delivered. 1970 c. 9.

125.—(1) For subsection (1) of section 28C of the Taxes Management Act 1970 (determination of tax where no return delivered) there shall be substituted the following subsections—

"(1) This section applies where—

(a) a notice has been given to any person under section 8 or 8A of this Act (the relevant section), and

(b) the required return is not delivered on or before the filing date.

(1A) An officer of the Board may make a determination of the following amounts, to the best of his information and belief, namely—

(a) the amounts in which the person who should have made the return is chargeable to income tax and capital gains tax for the year of assessment; and

(b) the amount which is payable by him by way of income tax for that year;

and subsection (1AA) of section 8 or, as the case may be, section 8A of this Act applies for the purposes of this subsection as it applies for the purposes of subsection (1) of that section."

(2) In subsection (3) of that section the words "or 11AA" shall cease to have effect.

(3) In subsection (6) of that section for the words ", section 8A(1A) or, as the case may be, section 11(4)" there shall be substituted the words "or, as the case may be, section 8A(1A)".

(4) After subsection (5) of section 59B of that Act (payment of income tax and capital gains tax) there shall be inserted the following subsection—

"(5A) Where a determination under section 28C of this Act which has effect as a person's self-assessment is superseded by his self-assessment under section 9 of this Act, any amount of tax which is payable or repayable by virtue of the supersession shall be payable or (as the case may be) repayable on or before the day given by subsection (3) or (4) above."

PAYE regulations.

126.—(1) After subsection (9) of section 59A of the Taxes Management Act 1970 (payments on account of income tax) there shall be inserted the following subsection—

"(10) Regulations under section 203 of the principal Act (PAYE) may provide that, for the purpose of determining the amount of any such excess as is mentioned in subsection (1) above, any necessary adjustments in respect of matters prescribed by the regulations shall be made to the amount of tax deducted at source under that section."

(2) After subsection (7) of section 59B of that Act (payment of income tax and capital gains tax) there shall be inserted the following subsection—

"(8) Regulations under section 203 of the principal Act (PAYE) may provide that, for the purpose of determining the amount of the difference mentioned in subsection (1) above, any necessary adjustments in respect of matters prescribed by the regulations shall be made to the amount of tax deducted at source under that section."

Repayment postponed pending completion of enquiries.
1970 c. 9.

127. After subsection (4) of section 59B of the Taxes Management Act 1970 (payment of income tax and capital gains tax) there shall be inserted the following subsection—

"(4A) Where in the case of a repayment the return on the basis of which the person's self-assessment was made under section 9 of this Act is enquired into by an officer of the Board—

(a) nothing in subsection (3) or (4) above shall require the repayment to be made before the day on which, by virtue of section 28A(5) of this Act, the officer's enquiries are treated as completed; but

(b) the officer may at any time before that day make the repayment, on a provisional basis, to such extent as he thinks fit."

Claims for reliefs involving two or more years.

128.—(1) In section 42 of the Taxes Management Act 1970 (procedure for making claims etc.)—

(a) subsections (3A) and (3B) (which are superseded by subsection (2) below) shall cease to have effect;

(b) in subsection (7)(a), the words "534, 535, 537A, 538" shall cease to have effect; and

(c) after subsection (11) there shall be inserted the following subsection—

"(11A) Schedule 1B to this Act shall have effect as respects certain claims for relief involving two or more years of assessment."

(2) After Schedule 1A to that Act there shall be inserted, as Schedule 1B, the provisions set out in Schedule 17 to this Act (claims for reliefs involving two or more years).

(3) For subsection (9) of section 96 of the Taxes Act 1988 (relief for fluctuating profits of farming etc.) there shall be substituted the following subsection—

"(9) Where a person makes a claim under this section, any claim by him for relief under any other provision of the Income Tax Acts for either of the two years of assessment—

(a) shall not be out of time if made before the end of the period during which the claim under this section is capable of being revoked; and

(b) if already made, may be amended or revoked before the end of that period;

and, in relation to a claim made by being included in a return, any reference in this subsection to amending or revoking the claim is a reference to amending the return by amending or, as the case may be, omitting the claim."

(4) In section 108 of that Act (election for carry-back)—

(a) for the words "the inspector within two years after" there shall be substituted the words "an officer of the Board within one year from the 31st January next following"; and

(b) the words from "and, in any such case" to the end shall cease to have effect.

(5) For subsection (5) of section 534 of that Act (relief for copyright payments) there shall be substituted the following subsections—

"(5) A claim under this section with respect to any payment to which it applies by virtue only of subsection (4)(b) above—

(a) shall have effect as a claim with respect to all qualifying payments, that is to say, all such payments in respect of the copyright in the same work which are receivable by the claimant, whether before or after the claim; and

(b) where qualifying payments are so receivable in two or more years of assessment, shall be treated for the purposes of the Management Act as if it were two or more separate claims, each in respect of the qualifying payments receivable in one of those years.

(5A) A claim under this section may be made at any time within one year from the 31st January next following—

(a) in the case of such a claim as is mentioned in subsection (5) above, the latest year of assessment in which a qualifying payment is receivable; and

(b) in the case of any other claim, the year of assessment in which the payment in question is receivable.

(5B) For the purposes of subsections (5) and (5A) above, a payment shall be regarded as receivable in the year of assessment in computing the amount of the profits or gains of which it would, but for this section, be included."

(6) After subsection (6) of that section there shall be inserted the following subsection—

"(6A) In the case of persons carrying on a trade, profession or business in partnership, no claim may be made under any of the following provisions, namely—

(a) this section and section 535;

(b) section 537 as it has effect in relation to this section and section 535; and

(c) section 537A and section 538,

in respect of any payment or sum receivable on or after 6th April 1996; and nothing in any of those provisions shall be construed as applying to profits chargeable to corporation tax."

(7) In section 535 of that Act (relief where copyright sold after ten years or more), the following shall cease to have effect, namely—

(a) in subsection (4), the words "Subject to subsection (5) below";

(b) subsections (5) and (7); and

(c) in subsection (6), the words from "unless the author" to the end.

(8) After subsection (8) of that section there shall be inserted the following subsection—

"(8A) No claim for relief made under subsection (1) above shall be allowed unless it is made within one year from the 31st January next following the year of assessment in which the payment is receivable; and for the purposes of this subsection a payment shall be regarded as receivable in the year of assessment in computing the amount of the profits or gains of which it would, but for this section, be included."

(9) For subsection (5) of section 537A of that Act (relief for payments in respect of designs) there shall be substituted the following subsections—

"(5) A claim under this section with respect to any payment to which it applies by virtue only of subsection (4)(b) above—

(a) shall have effect as a claim with respect to all qualifying payments, that is to say, all such payments in respect of rights in the design in question which are receivable by the claimant, whether before or after the claim; and

(b) where qualifying payments are so receivable in two or more years of assessment, shall be treated for the purposes of the Management Act as if it were two or more separate claims, each in respect of the qualifying payments receivable in one of those years.

(5A) A claim under this section may be made at any time within one year from the 31st January next following—

(a) in the case of such a claim as is mentioned in subsection (5) above, the latest year of assessment in which a qualifying payment is receivable; and

(b) in the case of any other claim, the year of assessment in which the payment in question is receivable.

(5B) For the purposes of subsections (5) and (5A) above, a payment shall be regarded as receivable in the year of assessment in computing the amount of the profits or gains of which it would, but for this section, be included."

(10) After subsection (3) of section 538 of that Act (relief for painters, sculptors and other artists) there shall be inserted the following subsection—

"(4) No claim for relief made under subsection (1) above shall be allowed unless it is made within one year from the 31st January next following the year of assessment in which the payment is receivable;

and for the purposes of this subsection a payment shall be regarded as receivable in the year of assessment in computing the amount of the profits or gains of which it would, but for this section, be included."

(11) This section (except subsections (1)(b) and (6) above) and Schedule 17 to this Act have effect as respects claims made (or deemed to be made) in relation to the year 1996-97 or later years of assessment.

(12) Subsection (1)(b) above has effect as respects claims made in relation to the year 1997-98 or later years of assessment.

Claims for medical insurance and vocational training relief.

129.—(1) Nothing in section 42 of the Taxes Management Act 1970 (procedure for making claims etc.), or Schedule 1A to that Act (claims etc. not included in returns), shall apply in relation to—

1970 c. 9.

(a) any claim under subsection (6)(b) of section 54 (medical insurance relief) of the Finance Act 1989 ("the 1989 Act"); or

1989 c. 26.

(b) any claim under subsection (5)(b) of section 32 (vocational training relief) of the Finance Act 1991 ("the 1991 Act").

1991 c. 31.

(2) In section 54(6)(b) of the 1989 Act and section 32(5)(b) of the 1991 Act, after the words "on making a claim" there shall be inserted the words "in accordance with regulations".

(3) In section 57(1) of the 1989 Act (medical insurance relief: supplementary), after paragraph (a) there shall be inserted the following paragraph—

"(aa) make provision for and with respect to appeals against a decision of an officer of the Board or the Board with respect to a claim under section 54(6)(b) above;".

(4) In section 33(1) of the 1991 Act (vocational training relief: supplementary), after paragraph (a) there shall be inserted the following paragraph—

"(aa) make provision for and with respect to appeals against a decision of an officer of the Board or the Board with respect to a claim under section 32(5)(b) above;".

(5) Subsection (1)(a) above shall not apply in relation to claims made before the coming into force of regulations made by virtue of section 57(1)(aa) of the 1989 Act.

(6) Subsection (1)(b) above shall not apply in relation to claims made before the coming into force of regulations made by virtue of section 33(1)(aa) of the 1991 Act.

Procedure for giving notices.

130.—(1) Section 42 of, and Schedule 1A to, the Taxes Management Act 1970, as they have effect—

(a) for the purposes of income tax and capital gains tax, as respects the year 1996-97 and subsequent years of assessment, and

(b) for the purposes of corporation tax, as respects accounting periods ending on or after the day appointed under section 199 of the Finance Act 1994 for the purposes of Chapter III of Part IV of that Act (self-assessment management provisions),

1994 c. 9.

shall be amended in accordance with the following provisions of this section.

(2) In subsection (7) of section 42 (which contains a list of provisions, claims under which must be made in accordance with subsection (6)) the following words shall cease to have effect, that is to say—

(a) in paragraph (a), "62A," and "401,"; and

(b) in paragraph (c), "30,", "33,", "48, 49," and "124A,".

(3) In subsection (10) of that section (section 42 to apply in relation to elections and notices as it applies in relation to claims) the words "and notices" shall cease to have effect.

(4) In subsection (11) of that section (Schedule 1A to apply as respects any claim, election or notice made otherwise than in a return under section 8 etc) for the words ", election or notice" there shall be substituted "or election".

(5) In paragraph 1 of Schedule 1A (claims etc. not included in returns), in the definition of "claim", for the words "means a claim, election or notice" there shall be substituted "means a claim or election".

Interest on overdue tax.
1995 c. 4.

131.—(1) Section 110 of the Finance Act 1995 (interest on overdue tax) shall be deemed to have been enacted with the insertion after subsection (3) of the following subsection—

"(4) So far as it relates to partnerships whose trades, professions or businesses were set up and commenced before 6th April 1994, subsection (1) above has effect as respects the year 1997-98 and subsequent years of assessment."

1970 c. 9.

(2) In subsection (3) of section 86 of the Taxes Management Act 1970 (which was substituted by the said section 110), for the words "section 93" there shall be substituted the words "section 92".

1994 c. 9.

(3) In Schedule 19 to the Finance Act 1994, paragraph 23 (which is superseded by the said section 110) shall cease to have effect.

Overdue tax and excessive payments by the Board.

132. Schedule 18 to this Act (which amends enactments relating to overdue tax or excessive payments by the Board) shall have effect.

Claims and enquiries.

133. Schedule 19 to this Act (which, for purposes connected with self-assessment, further amends provisions relating to claims and enquiries) shall have effect.

Discretions exercisable by the Board etc.

134.—(1) Schedule 20 to this Act (which in connection with self-assessment modifies enactments by virtue of which a decision or other action affecting an assessment may be or is required to be taken by the Board, or one of their officers, before the making of the assessment) shall have effect.

(2) Subject to subsection (3) below, the amendments made by that Schedule shall have effect—

(a) for the purposes of income tax and capital gains tax, as respects the year 1996-97 and subsequent years of assessment; and

(b) for the purposes of corporation tax, as respects accounting periods ending on or after the day appointed under section 199 of the Finance Act 1994 for the purposes of Chapter III of Part IV of that Act (self-assessment management provisions).

(3) Paragraphs 22 and 23 of that Schedule shall have effect in relation to shares issued on or after 6th April 1996.

Time limits for claims etc.

135.—(1) Schedule 21 to this Act (which in connection with self-assessment modifies enactments which impose time limits on the making of claims, elections, adjustments and assessments and the giving of notices, and enactments which provide for the giving of notice to the inspector) shall have effect.

(2) Subject to subsections (3) to (5) below, the amendments made by that Schedule shall have effect—

(a) for the purposes of income tax and capital gains tax, as respects the year 1996-97 and subsequent years of assessment; and

(b) for the purposes of corporation tax, as respects accounting periods ending on or after the day appointed under section 199 of the Finance Act 1994 for the purposes of Chapter III of Part IV of that Act (self-assessment management provisions).

1994 c. 9.

1990 c. 1.

(3) The amendments made to the Capital Allowances Act 1990 and the Finance Act 1994 by that Schedule, in their application to trades, professions or vocations set up and commenced before 6th April 1994, shall (so far as relating to income tax) have effect as respects the year 1997-98 and subsequent years of assessment.

(4) The Capital Allowances Act 1990, as it has effect for the year 1996-97 in relation to trades, professions or vocations set up and commenced before 6th April 1994, shall (so far as relating to income tax) have effect as respects that year with the following modifications, that is to say, as if—

(a) in sections 25(3)(c), 30(1), 31(3) and 33(1) and (4), for "two years after the end of" there were substituted "the first anniversary of the 31st January next following";

(b) in section 37(2)(c), for "more than two years after the end of the chargeable period or its basis period" there were substituted "later than the first anniversary of the 31st January next following the year of assessment in which ends the basis period";

(c) in section 53(2), for "before the expiry of the period of two years beginning at the end of" there were substituted "on or before the first anniversary of the 31st January next following";

(d) in section 68(5), for "two years after the end of that period" there were substituted "the first anniversary of the 31st January next following the year of assessment in which the relevant period ends";

(e) in section 68(9A)(b), for "two years after the end of" there were substituted "the first anniversary of the 31st January next following the year of assessment in which ends";

(f) in section 129(2), for "not more than two years after the end of" there were substituted "on or before the first anniversary of the 31st January next following";

(g) in section 141(3), for "the inspector not later than two years after the end of" there were substituted "an officer of the Board on or before the first anniversary of the 31st January next following".

(5) Section 118 of the Finance Act 1994, as it has effect for the year 1996-97 in relation to trades, professions or vocations set up and commenced before 6th April 1994, shall (so far as relating to income tax)

have effect as respects that year as if, in subsection (3), for "two years after the end of" there were substituted "the first anniversary of the 31st January next following".

Appeals.

136. Schedule 22 to this Act (which makes provision, in connection with self-assessment, about appeals) shall have effect.

Companies

Schedules 13 and 16 to the Taxes Act 1988.

137.—(1) Schedule 23 to this Act shall have effect.

(2) The amendments made by that Schedule shall have effect as respects return 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.

(3) In subsection (2) above "return period" means—

(a) so far as relating to Schedule 13 to the Taxes Act 1988, a period for which a return is required to be made under paragraph 1 of that Schedule; and

(b) so far as relating to Schedule 16 to that Act, a period for which a return is required to be made under paragraph 2 of that Schedule.

Accounting periods.

138. Schedule 24 to this Act (which makes provision, in connection with self-assessment, in relation to accounting periods) shall have effect.

Surrenders of advance corporation tax.

139. Schedule 25 to this Act (which makes provision, in connection with self-assessment, about surrenders of advance corporation tax) shall have effect.

Chargeable gains

Transfer of company's assets to investment trust.

140.—(1) In section 101 of the Taxation of Chargeable Gains Act 1992 (transfer of company's assets to investment trust) after subsection (1) there shall be inserted—

"(1A) Any chargeable gain or allowable loss which, apart from this subsection, would accrue to the company on the sale referred to in subsection (1) above shall be treated as accruing to the company immediately before the end of the last accounting period to end before the beginning of the accounting period mentioned in that subsection."

1992 c. 12.

(2) This section shall have effect as respects accounting periods ending on or after the day appointed under section 199 of the Finance Act 1994 for the purposes of Chapter III of Part IV of that Act (self-assessment management provisions).

Roll-over relief.

141.—(1) In subsection (4) of section 152 of the Taxation of Chargeable Gains Act 1992 (roll-over relief)—

(a) after the word "making" there shall be inserted the words "or amending"; and

(b) after the word "assessments", in the second place where it occurs, there shall be inserted the words "or amendments".

(2) After section 153 of that Act there shall be inserted the following section—

"Provisional application of sections 152 and 153.

153A.—(1) This section applies where a person carrying on a trade who for a consideration disposes of, or of his interest in, any assets ('the old assets') declares, in his return for the chargeable period in which the disposal takes place—

(a) that the whole or any specified part of the consideration will be applied in the acquisition of, or of an interest in, other assets ('the new assets') which on the acquisition will be taken into use, and used only, for the purposes of the trade;

(b) that the acquisition will take place as mentioned in subsection (3) of section 152; and

(c) that the new assets will be within the classes listed in section 155.

(2) Until the declaration ceases to have effect, section 152 or, as the case may be, section 153 shall apply as if the acquisition had taken place and the person had made a claim under that section.

(3) The declaration shall cease to have effect as follows—

(a) if and to the extent that it is withdrawn before the relevant day, or is superseded before that day by a valid claim made under section 152 or 153, on the day on which it is so withdrawn or superseded; and

(b) if and to the extent that it is not so withdrawn or superseded, on the relevant day.

(4) On the declaration ceasing to have effect in whole or in part, all necessary adjustments—

(a) shall be made by making or amending assessments or by repayment or discharge of tax; and

(b) shall be so made notwithstanding any limitation on the time within which assessments or amendments may be made.

(5) In this section 'the relevant day' means—

(a) in relation to capital gains tax, the third anniversary of the 31st January next following the year of assessment in which the disposal of, or of the interest in, the old assets took place;

(b) in relation to corporation tax, the fourth anniversary of the last day of the accounting period in which that disposal took place.

(6) Subsections (6), (8), (10) and (11) of section 152 shall apply for the purposes of this section as they apply for the purposes of that section."

(3) In section 175 of that Act (replacement of business assets by members of a group)—

(a) in subsections (2A) and (2B), after the words "Section 152" there shall be inserted the words "or 153"; and

(b) in subsection (2C), for the words "Section 152 shall not" there shall be substituted the words "Neither section 152 nor section 153 shall".

(4) In section 246 of that Act (time of disposal or acquisition), the words from "or, if earlier" to the end shall cease to have effect.

(5) In subsection (5)(b) of section 247 of that Act (roll-over relief on compulsory acquisition), for the words "subsection (3)" there shall be substituted the words "subsections (3) and (4)".

(6) After that section there shall be inserted the following section—

"Provisional application of section 247.

247A.—(1) This section applies where a person who disposes of land ('the old land') to an authority exercising or having compulsory powers declares, in his return for the chargeable period in which the disposal takes place—

(a) that the whole or any specified part of the consideration for the disposal will be applied in the acquisition of other land ('the new land');

(b) that the acquisition will take place as mentioned in subsection (3) of section 152; and

(c) that the new land will not be land excluded from section 247(1)(c) by section 248.

(2) Until the declaration ceases to have effect, section 247 shall apply as if the acquisition had taken place and the person had made a claim under that section.

(3) For the purposes of this section, subsections (3) to (5) of section 153A shall apply as if the reference to section 152 or 153 were a reference to section 247 and the reference to the old assets were a reference to the old land.

(4) In this section 'land' and 'authority exercising or having compulsory powers' have the same meaning as in section 247."

Premiums for leases.
1992 c. 12.

142.—(1) Paragraph 3 of Schedule 8 to the Taxation of Chargeable Gains Act 1992 (premiums for leases) shall be amended as follows.

(2) In sub-paragraph (2), for the words "for the period" to the end there shall be substituted the words ", being a premium which—

(a) is due when the sum is payable by the tenant; and

(b) where the sum is payable in lieu of rent, is in respect of the period in relation to which the sum is payable."

(3) In sub-paragraph (3), for the words "for the period" to the end there shall be substituted the words ", being a premium which—

(a) is due when the sum is payable by the tenant; and

(b) is in respect of the period from the time when the variation or waiver takes effect to the time when it ceases to have effect."

(4) For sub-paragraphs (4) to (6) there shall be substituted the following sub-paragraphs—

"(4) Where under sub-paragraph (2) or (3) above a premium is deemed to have been received by the landlord, that shall not be the occasion of any recomputation of the gain accruing on the receipt of any other premium, and the premium shall be regarded—

(a) in the case of a premium deemed to have been received for the surrender of a lease, as consideration for a separate transaction which is effected when the premium is deemed to be due and consists of the disposal by the landlord of his interest in the lease; and

(b) in any other case, as consideration for a separate transaction which is effected when the premium is deemed to be due and consists of a further part disposal of the freehold or other asset out of which the lease is granted.

(5) If under sub-paragraph (2) or (3) above a premium is deemed to have been received by the landlord, otherwise than as consideration for the surrender of the lease, and the landlord is a tenant under a lease the duration of which does not exceed 50 years, this Schedule shall apply—

(a) as if an amount equal to the amount of that premium deemed to have been received had been given by way of consideration for the grant of the part of the sublease covered by the period in respect of which the premium is deemed to have been paid; and

(b) as if that consideration were expenditure incurred by the sublessee and attributable to that part of the sublease under section 38(1)(b)."

(5) This section has effect as respects sums payable on or after 6th April 1996.

CHAPTER VI

MISCELLANEOUS PROVISIONS

Reliefs

Annual payments under certain insurance policies.

143.—(1) After section 580 of the Taxes Act 1988 there shall be inserted the following sections—

"Relief from tax on annual payments under certain insurance policies.

580A.—(1) This section applies (subject to subsection (7)(b) below) in the case of any such annual payment under an insurance policy as—

(a) apart from this section, would be brought into charge under Case III of Schedule D; or

(b) is equivalent to a description of payment brought into charge under Case III of that Schedule but (apart from this section) would be brought into charge under Case V of that Schedule.

(2) Subject to the following provisions of this section, the annual payment shall be exempt from income tax if—

(a) it constitutes a benefit provided under so much of an insurance policy as provides insurance against a qualifying risk;

(b) the provisions of the policy by which insurance is provided against that risk are self-contained (within the meaning of section 580B);

(c) the only annual payments relating to that risk for which provision is made by that policy are payments in respect of a period throughout which the relevant conditions of payment are satisfied; and

(d) at all times while the policy has contained provisions relating to that risk, those provisions have been of a qualifying type.

(3) For the purposes of this section and section 580B a qualifying risk is any risk falling within either of the following descriptions, that is to say—

(a) a risk that the insured will (or will in any specified way) become subject to, or to any deterioration in a condition resulting from, any physical or mental illness, disability, infirmity or defect;

(b) a risk that circumstances will arise as a result of which the insured will cease to be employed or will cease to carry on any trade, profession or vocation carried on by him.

(4) For the purposes of this section the relevant conditions of payment are satisfied in relation to payments under an insurance policy for so long as any of the following continues, that is to say—

(a) an illness, disability, infirmity or defect which is insured against by the relevant part of the policy, and any related period of convalescence or rehabilitation;

(b) any period during which the insured is, in circumstances insured against by the relevant part of the policy, either unemployed or not carrying on a trade, profession or vocation;

(c) any period during which the income of the insured (apart from any benefits under the policy) is less, in circumstances so insured against, than it would have been if those circumstances had not arisen; or

(d) any period immediately following the end, as a result of the death of the insured, of any period falling within any of paragraphs (a) to (c) above;

and in this subsection 'the relevant part of the policy' means so much of it as relates to insurance against one or more risks mentioned in subsection (3) above.

(5) For the purposes of subsection (2)(d) above provisions relating to a qualifying risk are of a qualifying type if they are of such a description that their inclusion in any policy of insurance containing provisions relating only to a comparable risk would (apart from any reinsurance) involve the possibility for the insurer that a significant loss might be sustained on the amounts

payable by way of premiums in respect of the risk, taken together with any return on the investment of those amounts.

(6) An annual payment shall not be exempt from income tax under this section if it is paid in accordance with a contract the whole or any part of any premiums under which have qualified for relief for the purposes of income tax by being deductible either—

(a) in the computation of the insured's income from any source; or

(b) from the insured's income.

(7) Where a person takes out any insurance policy wholly or partly for the benefit of another and that other person pays or contributes to the payment of the premiums under that policy, then to the extent only that the benefits under the policy are attributable, on a just and reasonable apportionment, to the payments or contributions made by that other person—

(a) that other person shall be treated for the purposes of this section and section 580B as the insured in relation to that policy;

(b) this section shall have effect in relation to those benefits, so far as comprised in payments to that other person or his spouse, as if the reference in subsection (1)(a) above to Case III of Schedule D included a reference to Schedule E; and

(c) subsection (6) above shall have effect as if the references to the premiums under the policy were references only to the payments or contributions made by that other person in respect of the premiums.

(8) Where—

(a) payments are made to or in respect of any person ('the beneficiary') under any insurance policy ('the individual policy'),

(b) the rights under the individual policy in accordance with which the payments are made superseded, with effect from the time when another policy ('the employer's policy') ceased to apply to that person, any rights conferred under that other policy,

(c) the employer's policy is or was a policy entered into wholly or partly for the benefit of persons holding office or employment under any person ('the employer') against risks falling within subsection (3)(a) above,

(d) the individual policy is one entered into in pursuance of, or in accordance with, any provisions contained in the employer's policy, and

(e) the beneficiary has ceased to hold office or employment under the employer as a consequence of the occurrence of anything insured against by so much of the employer's policy as related to risks falling within subsection (3)(a) above,

this section shall have effect as if the employer's policy and the individual policy were one policy.

(9) In the preceding provisions of this section references to the insured, in relation to any insurance policy, include references to—

(a) the insured's spouse; and

(b) in the case of a policy entered into wholly or partly for purposes connected with the meeting of liabilities arising from an actual or proposed transaction identified in the policy, any person on whom any of those liabilities will fall jointly with the insured or his spouse.

(10) References in this section and section 580B to insurance against a risk include references to any insurance for the provision (otherwise than by way of indemnity) of any benefits against that risk, and references to what is insured against by a policy shall be construed accordingly.

Meaning of 'self-contained' for the purposes of s.580A.

580B.—(1) For the purposes of section 580A the provisions of an insurance policy by which insurance is provided against a qualifying risk are self-contained unless subsection (2) or (3) below applies to the provisions of that policy so far as they relate to that risk; but, in determining whether either of those subsections so applies, regard shall be had to all the persons for whose benefit insurance is provided by that policy against that risk.

(2) This subsection applies to the provisions of an insurance policy so far as they relate to a qualifying risk if—

(a) that insurance policy contains provision for the payment of benefits other than those relating to that risk;

(b) the terms of the policy so far as they relate to that risk, or the manner in which effect is given to those terms, would have been significantly different if the only benefits under the policy had been those relating to that risk; and

(c) that difference is not one relating exclusively to the fact that the amount of benefits receivable by or in respect of any person under the policy is applied for reducing the amount of other benefits payable to or in respect of that person under the policy.

(3) This subsection applies to the provisions of an insurance policy ('the relevant policy') so far as they relate to a qualifying risk if—

(a) the insured under that policy is, or has been, the insured under one or more other policies;

(b) that other policy, or each of those other policies, is in force or has been in force at a time when the relevant policy was in force or at the time immediately before the relevant policy was entered into;

(c) the terms of the relevant policy so far as relating to that risk, or the manner in which effect is given to those terms, would have been significantly different if the other policy or policies had not been entered into; and

(d) that difference is not one relating exclusively to the fact that the amount of benefits receivable by or in respect of any person under the other policy, or any of the other policies, is applied for reducing the amount of benefits payable to or in respect of that person under the relevant policy.

(4) In subsections (2)(b) and (3)(c) above the references to the terms of a policy so far as they relate to a risk include references to the terms fixing any amount payable by way of premium or otherwise in respect of insurance against that risk."

(2) This section has effect for the year 1996-97 and subsequent years of assessment in relation to—

(a) any payment which under the policy in question falls to be paid at any time on or after 6th April 1996; and

(b) any payment not falling within paragraph (a) above in relation to which the conditions mentioned in subsection (3)(a) and (b) below are satisfied.

(3) This section shall also be deemed to have had effect for earlier years of assessment in relation to any payment in relation to which the following conditions are satisfied, that is to say—

(a) the payment was made under a policy in relation to which the requirements of subsection (4) below were fulfilled; and

(b) the policy in question provided for the right to annual payments under the policy to cease when all the liabilities in question were discharged.

(4) The requirements of this subsection are fulfilled in relation to any policy if—

(a) the only or main purpose of the insurance under the policy was to secure that the insured would be able to meet (in whole or in part) liabilities that would or might arise from any transaction;

(b) the policy expressly identified the transaction or, as the case may be, all the transactions (whether actual or proposed) by reference to which the insurance was taken out; and

(c) none of the transactions which would or might give rise to the liabilities mentioned in paragraph (a) above could be one entered into after any of the circumstances insured against arose.

(5) In subsection (4) above "transaction" includes any arrangements for the provision of credit or for the supply of services to residential premises.

Vocational training.
1991 c. 31.

144.—(1) Section 32 of the Finance Act 1991 (vocational training relief) shall be amended in accordance with the following provisions of this section.

(2) In subsection (1) (application of section) for paragraph (ca) (individual has attained school leaving age etc at time of paying for the course) there shall be substituted—

"(ca) at the time the payment is made, the individual—

(i) in a case where the qualifying course of vocational training is such a course by virtue only of paragraph (b) of subsection (10) below, has attained the age of thirty, or

(ii) in any other case, has attained school-leaving age and, if under the age of nineteen, is not a person who is being provided with full-time education at a school,".

(3) For subsection (10) (meaning of "qualifying course of vocational training") there shall be substituted—

"(10) In this section "qualifying course of vocational training" means—

(a) any programme of activity capable of counting towards a qualification—

(i) accredited as a National Vocational Qualification by the National Council for Vocational Qualifications; or

(ii) accredited as a Scottish Vocational Qualification by the Scottish Vocational Education Council; or

(b) any course of training which—

(i) satisfies the conditions set out in the paragraphs of section 589(1) of the Taxes Act 1988 (qualifying courses of training etc),

(ii) requires participation on a full-time or substantially full-time basis, and

(iii) extends for a period which consists of or includes four consecutive weeks,

but treating any time devoted to study in connection with the course as time devoted to the practical application of skills or knowledge."

(4) This section applies to payments made on or after 6th May 1996.

Personal reliefs for non-resident EEA nationals.

145.—(1) In section 278(2)(a) of the Taxes Act 1988 (exclusion of non-residents from entitlement to personal reliefs not to apply to

Commonwealth citizens or citizens of the Republic of Ireland), for "a citizen of the Republic of Ireland" there shall be substituted "an EEA national".

(2) After subsection (8) of that section (claims to be made to the Board) there shall be added the following subsection—

"(9) In this section 'EEA national' means a national of any State, other than the United Kingdom, which is a Contracting Party to 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."

(3) This section has effect for the year 1996-97 and subsequent years of assessment.

Exemptions for charities.

146.—(1) Section 505(1) of the Taxes Act 1988 (exemptions for charities) shall be amended as follows.

(2) For paragraph (a) (rents etc.) there shall be substituted the following paragraph—

"(a) exemption from tax under Schedules A and D in respect of any profits or gains arising in respect of rents or other receipts from an estate, interest or right in or over any land (whether situated in the United Kingdom or elsewhere) to the extent that the profits or gains—

(i) arise in respect of rents or receipts from an estate, interest or right vested in any person for charitable purposes; and

(ii) are applied to charitable purposes only;".

(3) For sub-paragraph (ii) of paragraph (c) (yearly interest and annual payments) there shall be substituted the following sub-paragraphs—

"(ii) from tax under Case III of Schedule D,

(iia) from tax under Case IV or V of Schedule D in respect of income equivalent to income chargeable under Case III of that Schedule but arising from securities or other possessions outside the United Kingdom,

(iib) from tax under Case V of Schedule D in respect of income consisting in any such dividend or other distribution of a company not resident in the United Kingdom as would be chargeable to tax under Schedule F if the company were so resident, and".

(4) In paragraph (e) (trading profits), after "by a charity" there shall be inserted "(whether in the United Kingdom or elsewhere)".

(5) This section has effect—

(a) for the purposes of income tax, for the year 1996-97 and subsequent years of assessment; and

(b) for the purposes of corporation tax, in relation to accounting periods ending after 31st March 1996.

Withdrawal of relief for Class 4 contributions.

147.—(1) In section 617 of the Taxes Act 1988 (social security benefits and contributions), subsection (5) (relief for Class 4 contributions) shall cease to have effect.

(2) In consequence of the provision made by subsection (1) above, in paragraph 3(2) of Schedule 2 to—

(a) the Social Security Contributions and Benefits Act 1992, and 1992 c. 4.

(b) the Social Security Contributions and Benefits (Northern Ireland) Act 1992, 1992 c. 7.

the words "(e) section 617(5) (relief for Class 4 contributions);" shall be omitted.

(3) This section shall have effect in relation to the year 1996-97 and subsequent years of assessment.

Mis-sold personal pensions etc.

148.—(1) Income tax shall not be chargeable on any payment falling within subsection (3) or (5) below.

(2) Receipt of a payment falling within subsection (3) below shall not be regarded for the purposes of capital gains tax as the disposal of an asset.

(3) A payment falls within this subsection if it is a capital sum by way of compensation for loss suffered, or reasonably likely to be suffered, by a person in a case where that person, or some other person, acting in reliance on bad investment advice at least some of which was given during the period beginning with 29th April 1988 and ending with 30th June 1994,—

(a) has, while eligible, or reasonably likely to become eligible, to be a member of an occupational pension scheme, instead become a member of a personal pension scheme or entered into a retirement annuity contract;

(b) has ceased to be a member of, or to pay contributions to, an occupational pension scheme and has instead become a member of a personal pension scheme or entered into a retirement annuity contract;

(c) has transferred to a personal pension scheme accrued rights of his under an occupational pension scheme; or

(d) has ceased to be a member of an occupational pension scheme and has instead (by virtue of such a provision as is mentioned in section 591(2)(g) of the Taxes Act 1988) entered into arrangements for securing relevant benefits by means of an annuity contract.

(4) A payment chargeable to income tax apart from subsection (1) above may nevertheless be regarded as a capital sum for the purpose of determining whether it falls within subsection (3) above.

(5) A payment falls within this subsection if and to the extent that it is a payment of interest, on the whole or any part of a capital sum such as is mentioned in subsection (3) above, for a period ending on or before the earliest date on which a determination (whether or not subsequently varied on an appeal or in any other proceedings) of the amount of the particular capital sum in question is made, whether by agreement or by a decision of—

(a) a court, tribunal or commissioner,

(b) an arbitrator or (in Scotland) arbiter, or

(c) any other person appointed for the purpose.

(6) In this section—

"bad investment advice" means investment advice in respect of which an action against the person who gave it has been, or may be, brought—

(a) in or for negligence;

(b) for breach of contract;

(c) by reason of a breach of a fiduciary obligation; or

(d) by reason of a contravention which is actionable under section 62 of the Financial Services Act 1986;

1986 c. 60.

"investment advice" means advice such as is mentioned in paragraph 15 of Schedule 1 to the Financial Services Act 1986;

"occupational pension scheme" means—

(a) a scheme approved, or being considered for approval, under Chapter I of Part XIV of the Taxes Act 1988 (retirement benefit schemes);

(b) a relevant statutory scheme, as defined in section 611A(1) of that Act; or

(c) a fund to which section 608 of that Act applies (superannuation funds approved before 6th April 1980 etc);

"personal pension scheme" has the meaning given by section 630(1) of the Taxes Act 1988;

"relevant benefits" has the meaning given by section 612(1) of the Taxes Act 1988;

"retirement annuity contract" means a contract made before 1st July 1988 and approved by the Board under or by virtue of any provision of Chapter III of Part XIV of the Taxes Act 1988.

(7) This section shall have effect, and be taken always to have had effect, in relation to any payment falling within subsection (3) or (5) above, whether made before or after the passing of this Act.

Annual payments in residuary cases.

149.—(1) Section 347A of the Taxes Act 1988 (annual payments not a charge on the income of a payer) shall apply to any payment made on or after 6th April 1996—

(a) in pursuance of any obligation which falls within section 36(4)(a) of the Finance Act 1988 (existing obligations under certain court orders), and

1988 c. 39.

(b) for the benefit, maintenance or education of a person (whether or not the person to whom the payment is made) who attained the age of 21 before 6th April 1994,

as if that obligation were not an existing obligation within the definition contained in section 36(4) of the Finance Act 1988.

(2) Subsection (1) above does not apply to any payment to which section 38 of the Finance Act 1988 (treatment of certain maintenance payments under existing obligations) applies.

Income tax exemption for periodical payments of damages and compensation for personal injury.

150.—(1) The sections set out in Schedule 26 to this Act shall be inserted after section 329 of the Taxes Act 1988.

(2) The first of those sections supersedes sections 329A and 329B inserted by the Finance Act 1995 and applies to payments received after the passing of this Act irrespective of when the agreement or order referred to in that section was made or took effect.

1995 c. 4.

(3) Subsections (1) and (2) of the second of those sections supersede section 329C inserted by the Criminal Injuries Compensation Act 1995 and apply to payments received after the passing of that Act.

1995 c. 53.

(4) The repeal of sections 329A and 329B does not affect the operation of those sections in relation to payments received before the passing of this Act.

Taxation of benefits

Benefits under pilot schemes.

151.—(1) The Treasury may by order make provision for the Income Tax Acts to have effect in relation to any amount of benefit payable by virtue of a Government pilot scheme as if it was, as they think fit, either—

(a) wholly or partly exempt from income tax and, accordingly, to be disregarded in computing the amount of any receipts brought into account for income tax purposes; or

(b) to the extent specified in the order, to be brought into account for the purposes of income tax as income of a description so specified or as a receipt of a description so specified.

(2) The Treasury may by order provide for any amount of benefit payable by virtue of a Government pilot scheme to be left out of account, to the extent specified in the order, in the determination for the purposes of section 153 of the Capital Allowances Act 1990 (subsidies etc.) of how far any expenditure has been or is to be met directly or indirectly by the Crown or by an authority or person other than the person actually incurring it.

1990 c. 1.

(3) In this section "Government pilot scheme" means any arrangements (whether or not contained in a scheme) which—

(a) are made, under any enactment or otherwise, by the Secretary of State or any Northern Ireland department;

(b) make provision for or about the payment of amounts of benefit either—

(i) for purposes that are similar to those for which any social security or comparable benefit is payable; or

(ii) for purposes connected with the carrying out of any functions of the Secretary of State or any such department in relation to employment or training for employment;

(c) are arrangements relating to a temporary experimental period; and

(d) are made wholly or partly for the purpose of facilitating a decision as to whether, or to what extent, it is desirable for provision to be made on a permanent basis for or in relation to any benefit.

(4) In subsection (3)(b) above the reference to making provision for or about the payment of amounts of benefit for purposes that are similar to those for which any social security or comparable benefit is payable shall

include a reference to making provision by virtue of which there is a modification of the conditions of entitlement to, or the conditions for the payment of, an existing social security or comparable benefit.

(5) An order under this section may—

(a) make different provision for different cases, and

(b) contain such incidental, supplemental, consequential and transitional provision (including provision modifying provision made by or under the Income Tax Acts) as the Treasury may think fit.

(6) In this section "benefit" includes any allowance, grant or other amount the whole or any part of which is payable directly or indirectly out of public funds.

(7) The power to make an order under this section—

(a) shall be exercisable for the year 1996-97 and subsequent years of assessment; and

(b) so far as exercisable for the year 1996-97, shall be exercisable in relation to benefits, allowances and other amounts paid at times on or after 6th April 1996 but before the making of the order.

(8) The Treasury shall not make an order under this section containing any such provision as is mentioned in subsection (1)(b) above unless a draft of the order has been laid before, and approved by a resolution of, the House of Commons.

Jobfinder's grant.

152.—(1) The Income Tax Acts shall have effect, and be deemed always to have had effect, as if jobfinder's grant were exempt from income tax and, accordingly, were to be disregarded in computing the amount of any receipts brought into account for income tax purposes.

1973 c. 50.
1950 c. 29 (N.I.).

(2) In this section "jobfinder's grant" means grant paid under that name by virtue of arrangements made in pursuance of section 2 of the Employment and Training Act 1973 or section 1 of the Employment and Training Act (Northern Ireland) 1950 (arrangements for assisting persons to select, train for, obtain or retain employment).

Investments

Foreign income dividends.

153. Schedule 27 to this Act (which makes provision relating to foreign income dividends) shall have effect.

FOTRA securities.
1940 c. 29.
1931 c. 49.

154.—(1) The modifications which, under section 60 of the Finance Act 1940, may be made for the purposes of any issue of securities to the conditions about tax exemption specified in section 22 of the Finance (No. 2) Act 1931 shall include a modification by virtue of which the tax exemption contained in any condition of the issue applies, as respects capital, irrespective of where the person with the beneficial ownership of the securities is domiciled.

(2) Subject to subsections (3) to (5) below, nothing in the Tax Acts shall impose any charge to tax on any person in respect of so much of any profits or gains arising from a FOTRA security, or from any loan relationship represented by a FOTRA security, as is expressed to be exempt from tax in the tax exemption condition applying to that security.

(3) Exemption from tax shall not be conferred by virtue of subsection (2) above in relation to any security unless the requirements imposed as respects that exemption by the conditions with which the security is issued (including any requirement as to the making of a claim) are complied with.

(4) The tax exemption condition of a FOTRA security shall not be taken to confer any exemption from any charge to tax imposed by virtue of the provisions of Chapter IA of Part XV or Chapter III of Part XVII of the Taxes Act 1988 (anti-avoidance provisions for residents etc.)

(5) Nothing in this section shall entitle any person to any repayment of tax which he has not claimed within the time limit which would be applicable under the Tax Acts (apart from this section) to a claim for the repayment of that tax.

(6) A person with the beneficial ownership of a FOTRA security who would, by virtue of this section, be exempt from tax in respect of some or all of the profits and gains arising from that security, or from any loan relationship represented by it, shall not be entitled for the purposes of income tax or corporation tax to bring into account any amount—

(a) in respect of changes in the value of that security;

(b) as expenses or disbursements incurred in, or in connection with, the holding of the security or any transaction relating to the security; or

(c) as a debit given, in respect of any loan relationship represented by that security, by any provision of Chapter II of this Part of this Act in respect of such a relationship.

(7) Schedule 28 to this Act (which contains amendments consequential on the provisions of this section) shall have effect.

(8) References in this section to a FOTRA security are references to—

(a) any security issued with such a condition about exemption from taxation as is authorised in relation to its issue by virtue of section 22 of the Finance (No. 2) Act 1931; or 1931 c. 49.

(b) any 3½% War Loan 1952 Or After which was issued with a condition authorised by virtue of section 47 of the Finance (No. 2) Act 1915; 1915 c. 89.

and references, in relation to such a security, to the tax exemption condition shall be construed accordingly.

(9) This section and Schedule 28 to this Act shall have effect—

(a) for the purposes of income tax, for the year 1996-97 and subsequent years of assessment; and

(b) for the purposes of corporation tax, for accounting periods ending after 31st March 1996.

Directions for payment without deduction of tax.

155. After section 51 of the Taxes Act 1988 there shall be inserted the following section—

"Commencement of direction under section 50 or 51.

51AA. A direction under section 50 or 51 that any security shall be deemed to have been issued subject to the condition that the interest thereon shall be paid without deduction of tax may provide that the direction is to have effect in relation only to payments of interest made on or after such date as may be specified in the direction."

PART IV
CHAPTER VI

Paying and collecting agents etc.

156. Schedule 29 to this Act (which amends the rules relating to paying and collecting agents) shall have effect.

Stock lending fees.

157.—(1) After section 129A of the Taxes Act 1988 (interest on cash collateral paid in connection with stock lending arrangements) there shall be inserted the following section—

"Stock lending fees.

129B.—(1) The income which, as income deriving from investments of a description specified in any of the relevant provisions, is eligible for relief from tax by virtue of that provision shall be taken to include any relevant stock lending fee.

(2) For the purposes of this section the relevant provisions are sections 592(2), 608(2)(a), 613(4), 614(3), 620(6) and 643(2).

(3) In this section 'relevant stock lending fee', in relation to investments of any description, means any amount, in the nature of a fee, which is payable in connection with an approved stock lending arrangement relating to investments which, but for any transfer under the arrangement, would be investments of that description.

(4) In this section 'approved stock lending arrangement' has the same meaning as in Schedule 5A."

(2) This section has effect in relation to any arrangements entered into on or after 2nd January 1996.

Transfers on death under the accrued income scheme.

158.—(1) In section 710(5) of the Taxes Act 1988 (meaning of "transfer" in sections 711 to 728), after "or otherwise" there shall be inserted ", but—

(a) does not include the vesting of securities in a person's personal representatives on his death; and".

(2) Subsection (1) of section 721 of that Act (transfer of securities on death) shall cease to have effect.

(3) For subsection (2) of that section (transfers by personal representatives to legatees) there shall be substituted—

"(2) Where—

(a) an individual who is entitled to securities dies, and

(b) in the interest period in which the individual died, the securities are transferred by his personal representatives to a legatee,

section 713 shall not apply to the transfer."

(4) Subsection (4) of that section (interest period treated as ending with death) shall cease to have effect.

(5) This section has effect as respects deaths on or after 6th April 1996.

Manufactured payments, repos, etc.

159.—(1) Sections 729, 737A(2)(b) and 786(4) of the Taxes Act 1988 (provisions applying to sale and repurchase agreements) shall cease to

have effect except in relation to cases where the initial agreement to sell or transfer the securities or other property was made before the appointed day.

(2) In section 737 of that Act—

(a) in subsection (5) (manufactured dividends paid to UK residents by non-residents), for the words from "a person resident in the United Kingdom" to "the United Kingdom recipient shall" there shall be substituted "a United Kingdom recipient, that recipient shall"; and

(b) after that subsection there shall be inserted the following subsection—

"(5AAA) For the purposes of subsection (5) above a person who receives a manufactured dividend is a United Kingdom recipient if—

(a) he is resident in the United Kingdom; or

(b) he is not so resident but receives that dividend for the purposes of a trade carried on through a branch or agency in the United Kingdom."

(3) In section 737C of that Act (deemed manufactured payments), the following subsection shall be inserted after subsection (11A) in relation to cases where the initial agreement to sell the securities is made on or after the appointed day, that is to say—

"(11B) The preceding provisions of this section shall have effect in cases where paragraph 2, 3 or 4 of Schedule 23A would apply by virtue of section 737A(5) but for paragraph 5 of that Schedule as they have effect in a case where the paragraph in question is not disapplied by paragraph 5; and where—

(a) the gross amount of the deemed manufactured interest, or

(b) the gross amount of the deemed manufactured overseas dividend,

falls to be calculated in such a case under subsection (8) or (11) above, it shall be so calculated by reference to the provisions of paragraph 3 or 4 of Schedule 23A that would have applied but for paragraph 5 of that Schedule."

(4) In sub-paragraph (3) of paragraph 4 of Schedule 23A to that Act (manufactured overseas dividends paid to UK residents by non-residents), for the words from "a person resident in the United Kingdom" to "the United Kingdom recipient shall" there shall be substituted "a United Kingdom recipient, that recipient shall".

(5) After that sub-paragraph there shall be inserted the following sub-paragraphs—

"(3A) For the purposes of sub-paragraph (3) above a person who receives a manufactured overseas dividend is a United Kingdom recipient if—

(a) he is resident in the United Kingdom; or

(b) he is not so resident but receives that dividend for the purposes of a trade carried on through a branch or agency in the United Kingdom.

(3B) Dividend manufacturing regulations may make provision, in relation to cases falling within sub-paragraph (3) above, for the amount of tax required under that sub-paragraph to be taken to be reduced, to such extent and for such purposes as may be determined under the regulations, by reference to amounts of overseas tax charged on, or in respect of—

(a) the making of the manufactured overseas dividend; or

(b) the overseas dividend of which the manufactured overseas dividend is representative."

(6) In sub-paragraph (7) of paragraph 4 of that Schedule (regulations for off-setting), for the words from "against" to "and account" in the words after paragraph (b) there shall be substituted "in accordance with the regulations and to the prescribed extent, amounts falling within paragraph (a) of sub-paragraph (7AA) below against the sums falling within paragraph (b) of that sub-paragraph, and to account"; and after that sub-paragraph there shall be inserted the following sub-paragraph—

"(7AA) Those amounts and sums are—

(a) amounts of overseas tax in respect of overseas dividends received by him in that chargeable period, amounts of overseas tax charged on, or in respect of, the making of manufactured overseas dividends so received by him and amounts deducted under sub-paragraph (2) above from any such manufactured overseas dividends; and

(b) the sums due from him on account of the amounts deducted by him under sub-paragraph (2) above from the manufactured overseas dividends paid by him in that chargeable period."

(7) In sub-paragraph (1) of paragraph 8 of that Schedule (power to modify provisions of Schedule)—

(a) before the "or" at the end of paragraph (a) there shall be inserted—

"(aa) such persons who receive, or become entitled to receive, manufactured dividends, manufactured interest or manufactured overseas dividends as may be prescribed,"

and

(b) in the words after paragraph (b), for "paragraph 2, 3 or 4 above" there shall be substituted "paragraphs 2 to 5 above".

(8) After sub-paragraph (1) of paragraph 8 of that Schedule there shall be inserted the following sub-paragraph—

"(1A) Dividend manufacturing regulations may provide, in relation to prescribed cases where a person makes or receives the payment of any amount representative of an overseas dividend, or is treated for any purposes of this Schedule or such regulations as a person making or receiving such a payment—

(a) for any entitlement of that person to claim relief under Part XVIII to be extinguished or reduced to such extent as may be found under the regulations; and

(b) for the adjustment, by reference to any provision having effect under the law of a territory outside the United Kingdom, of any amount falling to be taken, for any

prescribed purposes of the Tax Acts or the 1992 Act, to be the amount paid or payable by or to any person in respect of any sale, repurchase or other transfer of the overseas securities to which the payment relates."

(9) Subsections (2), (4) and (5) above have effect—

(a) for the purposes of corporation tax, in relation to accounting periods ending after 31st March 1996; and

(b) for the purposes of income tax, in relation to the year 1996-97 and subsequent years of assessment.

(10) In this section "the appointed day" means such day as the Treasury may by order appoint, and different days may be appointed under this subsection for different purposes.

Investments in housing.

160. Schedule 30 to this Act (which makes provision conferring relief from corporation tax on companies that invest in housing) shall have effect.

Venture capital trusts: control of companies etc.

161.—(1) Schedule 28B to the Taxes Act 1988 (venture capital trusts: meaning of qualifying holdings) shall have effect, and be deemed always to have had effect, subject to the amendments in subsections (2) and (3) below.

(2) In paragraph 9 (requirements as to subsidiaries etc. of the relevant company), the following shall be omitted—

(a) in sub-paragraph (1), the words "subject to sub-paragraph (2) below"; and

(b) sub-paragraph (2).

(3) In paragraph 13 (interpretation), for sub-paragraphs (2) and (3) ("connected" and "control" to be construed in accordance with sections 839 and 416(2) to (6)) there shall be substituted the following sub-paragraphs—

"(2) For the purposes of paragraphs 5(2) and 9 above, the question whether a person controls a company shall be determined in accordance with subsections (2) to (6) of section 416 with the modification given by sub-paragraph (3) below.

(3) The modification is that, in determining whether a person controls a company, there shall be disregarded—

(a) his or any other person's possession of, or entitlement to acquire, relevant fixed-rate preference shares of the company; and

(b) his or any other person's possession of, or entitlement to acquire, rights as a loan creditor of the company.

(4) Section 839 shall apply for the purposes of this Schedule, but as if the reference in subsection (8) to section 416 were a reference to subsections (2) to (6) of section 416 with the modification given by sub-paragraph (3) above.

(5) For the purposes of sub-paragraph (3) above—

(a) relevant fixed-rate preference shares are fixed-rate preference shares that do not for the time being carry voting rights; and

(b) 'fixed-rate preference shares' has the same meaning as in section 95."

Insurance policies

Qualifying life insurance policies: certification.
1995 c. 4.

162.—(1) Section 55 of the Finance Act 1995 (removal of certification requirements for qualifying policies with respect to any time on or after 5th May 1996 etc) shall have effect—

(a) with the substitution for "5th May 1996", wherever occurring, of "the appointed date"; and

(b) with the addition of the following subsection after subsection (8)—

"(9) In this section "the appointed date" means such date as may be specified for the purpose in an order made by the Board."

(2) In Schedule 15 to the Taxes Act 1988 (qualifying policies) paragraphs 24(2A) and 25(2) shall have effect with the substitution for "5th May 1996" of "the appointed date for the purposes of section 55 of the Finance Act 1995 (removal of certification requirements)".

Insurance companies

Life assurance business losses.

163. Schedule 31 to this Act, which makes provision about losses arising to insurance companies in the carrying on of life assurance business, shall have effect.

Limits on relief for expenses.

164.—(1) For subsections (2) to (5) of section 76 of the Taxes Act 1988 there shall be substituted the following subsections—

"(2) Where, in the case of any such company, the amount mentioned in paragraph (a) of subsection (2A) below exceeds for any accounting period the amount mentioned in paragraph (b) of that subsection, the amount which by virtue of this section is to be deductible by way of management expenses for that period shall be equal to the basic deduction for that period reduced by the amount of the excess.

(2A) Those amounts are—

(a) the amount which would be the profits of the company's life assurance business for that period if computed in accordance with the provisions applicable to Case I of Schedule D and adjusted in respect of losses; and

(b) the amount (including any negative amount) produced by deducting the following aggregate amount from the company's relevant income for that period from its life assurance business, that is to say, the aggregate of—

(i) the basic deduction,

(ii) any non-trading deficit on the company's loan relationships which is produced for that period in relation to that business by a separate computation under paragraph 2 of Schedule 11 to the Finance Act 1996,

(iii) any amount which in pursuance of a claim under paragraph 4(3) of that Schedule is carried back to that period and (in accordance with paragraph 4(5) of that Schedule) applied in reducing profits of the company for that period, and

(iv) any charges on income for that period so far as they consist in annuities or other annual payments that are referable to the company's life assurance business and, if they are not annuities, are payable by the company wholly or partly in satisfaction of claims under insurance policies.

(2B) For the purposes of subsection (2A) above a company's relevant income for any accounting period from its life assurance business is the sum of the following—

(a) the income and gains of the company's life assurance business for that accounting period; and

(b) the relevant franked investment income of the company for that period so far as it arises from assets held for the purposes of that business and is not included in the income and gains mentioned in paragraph (a) above.

(2C) The adjustment in respect of losses that is to be made for any accounting period under paragraph (a) of subsection (2A) above is a deduction of the amount equal to the unused part of the sum which—

(a) by reference to computations made in respect of the company's life assurance business in accordance with the provisions applicable to Case I of Schedule D, and

(b) disregarding section 434A(2),

would fall, in the case of the company, to be set off under section 393 against the company's income for that period.

(2D) For the purposes of subsection (2C) above, an amount is unused to the extent that it has not been taken into account for any previous accounting period in determining the amount by reference to which the following question was answered, namely, the question whether, and by how much, the amount deductible by virtue of this section by way of management expenses was less than the basic deduction.

(5) Subject to paragraph 4(11) to (13) of Schedule 11 to the Finance Act 1996, where the basic deduction for any period exceeds the amount which for that period is to be deductible by virtue of this section by way of management expenses, the amount to be carried forward by virtue of section 75(3) (including the amount to be so carried forward for the purpose of computing the amount of the basic deduction for any period) shall be increased by the amount of the excess."

(2) In subsection (8) of that section—

(a) after the definition of "authorised person" there shall be inserted the following definition—

"'basic deduction', in relation to an accounting period of an insurance company, means the amount which, by virtue of this section, would be deductible by way of management expenses for that period but for subsection (2) above;"

and

(b) after the definition of "recognised self-regulating organisation" there shall be inserted the following definition—

"'relevant franked investment income', in relation to any insurance company, means any franked investment income of the company in so far as it is not income the tax credits comprised in which may be claimed by the company under section 438(4) or 441A(7);".

(3) In paragraph 5 of Schedule 19AC to the Taxes Act 1988 (modification of section 76)—

(a) in sub-paragraph (1), in the subsection (6B) treated as inserted in section 76, for "their" there shall be substituted "its" and the words "and subsections (2) and (3)(b) above" shall be omitted; and

(b) after that sub-paragraph there shall be inserted the following sub-paragraph—

"(1A) In section 76 references to franked investment income shall be treated as being references to UK distribution income within the meaning of paragraph 5B of this Schedule."

(4) In section 56(4) of the Taxes Act 1988 (which contains a reference to the computation required by section 76(2) of that Act), for "by" there shall be substituted "for the purposes of".

(5) Subject to subsection (6) below, this section has effect in relation to accounting periods beginning on or after 1st January 1996.

(6) Notwithstanding anything in the previous provisions of this section, section 76 of the Taxes Act 1988 has effect in relation to accounting periods beginning on or after 1st January 1996—

(a) as if the reference in subsection (2D) of that section to a previous accounting period included a reference to an accounting period beginning before that date, and

(b) in relation to such a previous accounting period, as if the references—

(i) to the amount deductible by virtue of this section, and

(ii) to the basic deduction,

were to be construed by reference to whatever provisions had effect in relation to that previous period for purposes corresponding to those of that section as amended by this section.

Annual payments under insurance policies: deductions.

165.—(1) In section 337 of the Taxes Act 1988 (deductions in computing income), the following subsections shall be inserted after subsection (2)—

"(2A) In computing any profits or losses of a company in accordance with the provisions of this Act applicable to Case I of Schedule D, subsection (2)(b) above shall not prevent the deduction

of any annuity or other annual payment which is payable by a company wholly or partly in satisfaction of any claim under an insurance policy in relation to which the company is the insurer.

(2B) The reference in subsection (2A) above to an annuity payable wholly or partly in satisfaction of a claim under an insurance policy shall be taken, in relation to an insurance company (within the meaning of Chapter I of Part XII), to include a reference to every annuity payable by that company; and the references in sections 338(2) and 434B(2) to an annuity paid wholly or partly as mentioned in subsection (2A) above shall be construed accordingly."

(2) In section 338(2) of that Act, in the words after paragraph (b) (payments which are not charges on income), after "corporation tax" there shall be inserted "nor any annuity or other annual payment which (without being so deductible) is paid wholly or partly as mentioned in section 337(2A)".

(3) In section 434B of that Act (treatment of interest and annuities in the case of insurance companies), subsection (1) shall cease to have effect; and in subsection (2), for the words from the beginning to "mentioned in subsection (1) above" there shall be substituted—

"(2) Nothing in section 337(2A) or 338(2) shall be construed as preventing any annuity or other annual payment which is paid wholly or partly as mentioned in section 337(2A)".

(4) Subject to subsection (5) below, this section has effect in relation to accounting periods beginning on or after 1st January 1996.

(5) In relation to any accounting period beginning on or after 1st January 1996 but ending before 1st April 1996, this section shall have effect as if any reference in provisions inserted by this section to an annuity payable or paid by an insurance company included a reference to any such interest as was mentioned in section 434B(1) of the Taxes Act 1988 before its repeal by virtue of this section.

Equalisation reserves.

166. Schedule 32 to this Act (which makes provision about the tax treatment of equalisation reserves maintained by insurance companies) shall have effect.

Industrial assurance business.

167.—(1) In section 432 of the Taxes Act 1988, subsection (2) (industrial assurance business treated as separate business for the purposes of Chapter I of Part XII) shall cease to have effect.

(2) In section 432A(2) of the Taxes Act 1988, for paragraphs (d) and (e) (different categories of basic life assurance and general annuity business, including and not including industrial assurance business), there shall be substituted the following paragraph—

"(d) basic life assurance and general annuity business; and".

1989 c. 26.

(3) In section 86 of the Finance Act 1989 (spreading of relief for acquisition expenses)—

(a) in subsection (1)(a), for "in respect of industrial life assurance business carried on by the company" there shall be substituted "for persons who collect premiums from house to house"; and

(b) in subsection (2), for "in respect of industrial life assurance business" there shall be substituted "for persons who collect premiums from house to house".

(4) In section 832 of the Taxes Act 1988 (interpretation), in the definition of "industrial assurance business" for "has" there shall be substituted "means any such business carried on before the day appointed for the coming into force of section 167(4) of the Finance Act 1996 as was industrial assurance business within".

(5) In Schedule 14 to the Taxes Act 1988 (ancillary provisions about relief in respect of life assurance premiums), in paragraph 8, at the beginning of sub-paragraph (4) (policy which is varied so as to increase benefits, etc. to be treated as issued after 13th March 1984) there shall be inserted "Subject to sub-paragraph (8) below,".

(6) After sub-paragraph (7) of that paragraph there shall be inserted the following sub-paragraph—

"(8) Sub-paragraph (4) above does not apply in the case of a variation so as to increase the benefits secured, if the variation is made—

(a) on or after such day as the Board may by order appoint, and

(b) in consideration of a change in the method of payment of premiums from collection by a person collecting premiums from house to house to payment by a different method."

(7) In Schedule 15 to the Taxes Act 1988 (qualifying policies)—

(a) in paragraph 1(6) (calculation of amount included in premiums of whole life and term insurances in respect of their payment otherwise than annually), for "and if the policy is issued in the course of an industrial assurance business," there shall be substituted "and if the policy provides for payment otherwise than annually without providing for the amount of the premiums if they are paid annually,"; and

(b) in paragraph 2(2) (the equivalent calculation for endowment assurances), for "issued in the course of an industrial assurance business" there shall be substituted "that provides for the payment of premiums otherwise than annually without providing for the amount of the premiums if they are paid annually,".

(8) After paragraph 8 of that Schedule there shall be inserted the following paragraph—

"8A.—(1) Paragraphs 7 and 8 above shall have effect in relation to any policy issued on or after the appointed day as if the references to the issue of a policy in the course of an industrial assurance business were references to the issue of a policy by any company in a case in which—

(a) the company, before that day and in the course of such a business, issued any policy which was a qualifying policy by virtue of either of those paragraphs; and

(b) the policies which on 28th November 1995 were being offered by the company as available to be issued included policies of the same description as the policy issued on or after the appointed day.

(2) In this paragraph 'the appointed day' means such day as the Board may by order appoint."

(9) In paragraph 18(3) of that Schedule (certain variations of a policy not to affect whether policy is a qualifying policy), after paragraph (b) there shall be inserted "or

(c) any variation so as to increase the benefits secured or reduce the premiums payable which is effected—

(i) on or after such day as the Board may by order appoint, and

(ii) in consideration of a change in the method of payment of premiums from collection by a person collecting premiums from house to house to payment by a different method."

(10) Subsections (1) to (3) above have effect in relation to accounting periods beginning on or after 1st January 1996.

(11) Subsection (4) above shall come into force on such day as the Board may by order appoint.

(12) Subsection (7) above shall have effect in relation to policies issued on or after such day as the Board may by order appoint.

Capital redemption business.

168.—(1) For subsection (3) of section 458 of the Taxes Act 1988 (meaning of capital redemption business) there shall be substituted the following subsection—

"(3) In this section 'capital redemption business' means any business in so far as it—

(a) is insurance business for the purposes of the Insurance Companies Act 1982, but not life assurance business; and 1982 c. 50.

(b) consists in effecting on the basis of actuarial calculations, and carrying out, contracts under which, in return for one or more fixed payments, a sum or series of sums of a specified amount become payable at a future time or over a period."

(2) Schedule 33 to this Act (which makes provision for the application of the I minus E basis of charging tax to companies carrying on capital redemption business) shall have effect.

(3) In Chapter I of Part XII of the Taxes Act 1988, after section 458 (capital redemption business) there shall be inserted the following section—

"Capital redemption business: power to apply life assurance provisions.

458A.—(1) The Treasury may by regulations provide for the life assurance provisions of the Corporation Tax Acts to have effect in relation to companies carrying on capital redemption business as if capital redemption business were, or were a category of, life assurance business.

(2) Regulations under this section may provide that

the provisions applied by the regulations are to have effect as respects capital redemption business with such modifications and exceptions as may be provided for in the regulations.

(3) Regulations under this section may—

(a) make different provision for different cases;

(b) include such incidental, supplemental, consequential and transitional provision (including provision modifying provisions of the Corporation Tax Acts other than the life assurance provisions) as the Treasury consider appropriate; and

(c) include retrospective provision.

(4) In this section references to the life assurance provisions of the Corporation Tax Acts are references to the following—

(a) the provisions of this Chapter so far as they relate to life assurance business or companies carrying on such business; and

(b) any other provisions of the Corporation Tax Acts making separate provision by reference to whether or not the business of a company is or includes life assurance business or any category of insurance business that includes life assurance business.

(5) In this section 'capital redemption business' has the same meaning as in section 458."

(4) In section 539(3) of that Act, in the definition of "capital redemption policy" for "insurance" there shall be substituted "contract".

(5) In section 553(10) of that Act, in paragraph (a) of the definition of "new offshore capital redemption policy", for "an insurance" there shall be substituted "a contract".

1994 c. 9.

(6) Subsection (1) above shall have effect as respects accounting periods ending on or after the day appointed under section 199 of the Finance Act 1994 for the purposes of Chapter III of Part IV of that Act (self-assessment management provisions), and subsections (4) and (5) above shall have effect as respects contracts effected on or after that day.

Provisional repayments in connection with pension business.

169.—(1) Schedule 19AB to the Taxes Act 1988 (pension business: payments on account of tax credits and deducted tax) shall be amended in accordance with the provisions of Part I of Schedule 34 to this Act.

(2) Schedule 19AC to the Taxes Act 1988 (modification of that Act in relation to overseas life insurance companies) shall be amended in accordance with the provisions of Part II of Schedule 34 to this Act.

(3) The amendments made by Schedule 34 to this Act shall have effect in relation to provisional repayment periods, within the meaning of Schedule 19AB to the Taxes Act 1988, falling in accounting periods ending on or after the day appointed under section 199 of the Finance Act 1994 for the purposes of Chapter III of Part IV of that Act (self-assessment management provisions).

170.—(1) After section 11AB of the Taxes Management Act 1970 there shall be inserted the following sections—

"Modifications of sections 11AA and 11AB in relation to non-annual accounting of general insurance business.

11AC.—(1) This section applies in any case where a company carrying on insurance business in any period delivers a return for that period under section 11 of this Act which is based wholly or partly on accounts which the company is required or permitted to draw up using the method described in paragraph 52 of Schedule 9A to the Companies Act 1985 (accounting for general insurance business on a non-annual basis).

1970 c. 9.

1985 c. 6.

(2) Where this section applies, section 11AA(2) of this Act shall have effect as if after paragraph (b) there were added "and

(c1) where a company has delivered a return which is based wholly or partly on accounts drawn up as mentioned in section 11AC(1) of this Act, then, at any time before the end of the period of twelve months beginning with the date on which any particular technical provision constituted in the case of those accounts as described in paragraph 52 of Schedule 9A to the Companies Act 1985 is replaced as described in sub-paragraph (4) of that paragraph, the company may by notice to an officer of the Board so amend its self-assessment as to give effect to any amendments to the return—

(i) which arise from the replacement of that technical provision, and

(ii) which the company has notified to such an officer."

(3) Where this section applies, section 11AB of this Act shall have effect—

(a) as if in subsection (1)(b) after "subsection (2)(b)" there were inserted "or (c1)"; and

(b) as if in subsection (2) for the words from "is" to the end of paragraph (b) there were substituted—

"(a1) in the case of a return (whenever delivered) which is based wholly or partly on accounts drawn up as mentioned in section 11AC(1) of this Act, is whichever of the following periods ends the later, that is to say—

(i) the period of two years beginning with the date (or, if there is more than one such date, the latest date) on which any technical provision constituted in the case of those accounts as described in paragraph 52 of Schedule 9A to the Companies

Act 1985 is replaced as mentioned in sub-paragraph (4) of that paragraph; or

(ii) the period ending with the quarter day next following the first anniversary of the day on which the return was delivered; and

(b1) in the case of an amendment of such a return—

(i) if the amendment is made on or before the filing date, is the period of twelve months beginning with that date; or

(ii) if the amendment is made after that date, is the period ending with the quarter day next following the first anniversary of the day on which the amendment was made;".

Modifications of sections 11AA and 11AB for insurance companies with non-annual actuarial investigations.

1982 c. 50.

11AD.—(1) This section applies in any case where a return under section 11 of this Act is delivered by an insurance company which is permitted by an order under section 68 of the Insurance Companies Act 1982 to cause investigations to be made into its financial condition less frequently than is required by section 18 of that Act.

(2) Where this section applies, section 11AA(2) of this Act shall have effect as if, after paragraph (b), there were added "and

(c2) where a company falling within section 11AD(1) of this Act has delivered a return for any period, then, at any time before the end of the period of twelve months beginning with the date as at which the relevant investigation is carried out, that is to say—

(i) if the return is for a period as at the end of which there is carried out an investigation under section 18 of the Insurance Companies Act 1982 into the financial condition of the company, that investigation, or

(ii) if the return is not for such a period, the first such investigation to be made into the financial condition of the company as at the end of a subsequent period,

the company may by notice to an officer of the Board so amend its self-assessment as to give effect to any amendments to its return which arise from that investigation and which the company has notified to such an officer."

(3) Where this section applies, section 11AB of this Act shall have effect—

(a) as if in subsection (1)(b) after "subsection (2)(b)" there were inserted "or (c2)"; and

(b) as if in subsection (2) for the words from "is" to the end of paragraph (b) there were substituted—

"(a2) in the case of a return delivered at any time by a company falling within section 11AD(1) of this Act, is the period of two years beginning with the date as at which the relevant investigation, as defined in section 11AA(2)(c2) of this Act, is carried out; and

(b2) in the case of an amendment of such a return—

(i) if the amendment is made on or before the filing date, is the period of twelve months beginning with that date; or

(ii) if the amendment is made after that date, is the period ending with the quarter day next following the first anniversary of the day on which the amendment was made;".

Modifications of sections 11AA and 11AB for friendly societies with non-annual actuarial investigations.

11AE.—(1) This section applies in any case where a return under section 11 of this Act is delivered by a friendly society which is required by section 47 of the Friendly Societies Act 1992 to cause an investigation to be made into its financial condition at least once in every period of three years. 1992 c. 40.

(2) Where this section applies, section 11AA(2) of this Act shall have effect as if, after paragraph (b), there were added "and

(c3) where a friendly society falling within section 11AE(1) of this Act has delivered a return for any period, then, at any time before the end of the period of fifteen months beginning with the date as at which the relevant investigation is carried out, that is to say—

(i) if the return is for a period as at the end of which there is carried out an investigation under section 47 of the Friendly Societies Act 1992 into the financial condition of the society, that investigation, or

(ii) if the return is not for such a period, the first such investigation to be made into the financial condition of the society as at the end of a subsequent period,

the society may by notice to an officer of the Board so amend its self-assessment as to give effect to any amendments to its return which arise from that investigation and which the society has notified to such an officer."

(3) Where this section applies, section 11AB of this Act shall have effect—

(a) as if in subsection (1)(b) after "subsection (2)(b)" there were inserted "or (c3)"; and

(b) as if in subsection (2) for the words from "is" to the end of paragraph (b) there were substituted—

"(a3) in the case of a return delivered at any time by a friendly society falling within section 11AE(1) of this Act, is the period of twenty seven months beginning with the date as at which the relevant investigation, as defined in section 11AA(2)(c3) of this Act, is carried out; and

(b3) in the case of an amendment of such a return—

(i) if the amendment is made on or before the filing date, is the period of twelve months beginning with that date; or

(ii) if the amendment is made after that date, is the period ending with the quarter day next following the first anniversary of the day on which the amendment was made;"."

(2) The amendment made by subsection (1) above shall have effect as respects accounting periods ending on or after the day appointed under section 199 of the Finance Act 1994 for the purposes of Chapter III of Part IV of that Act (self-assessment management provisions).

1994 c. 9.

Friendly societies

Life or endowment business.

171.—(1) In section 466 of the Taxes Act 1988 (interpretation of Chapter II of Part XII) for subsection (1) (meaning of "life or endowment business") there shall be substituted—

"(1) In this Chapter "life or endowment business" means, subject to subsections (1A) and (1B) below,—

(a) any business within Class I, II or III of Head A of Schedule 2 to the Friendly Societies Act 1992;

1992 c. 40.

(b) pension business;

(c) any other life assurance business;

(d) any business within Class IV of Head A of that Schedule, if—

(i) the contract is one made before 1st September 1996; or

(ii) the contract is one made on or after 1st September 1996 and the effecting and carrying out of the contract also constitutes business within Class I, II or III of Head A of that Schedule.

(1A) Life or endowment business does not include the issue, in respect of a contract made before 1st September 1996, of a policy affording provision for sickness or other infirmity (whether bodily or mental), unless—

(a) the policy also affords assurance for a gross sum independent of sickness or other infirmity;

(b) not less than 60 per cent. of the amount of the premiums is attributable to the provision afforded during sickness or other infirmity; and

(c) there is no bonus or addition which may be declared or accrue upon the assurance of the gross sum.

(1B) Life or endowment business does not include the assurance of any annuity the consideration for which consists of sums obtainable on the maturity, or on the surrender, of any other policy of assurance issued by the friendly society, being a policy of assurance forming part of the tax exempt life or endowment business of the friendly society."

(2) In subsection (2) of that section (other definitions) there shall be inserted at the appropriate places—

(a) ""insurance company" shall be construed in accordance with section 431;"; and

(b) ""long term business" shall be construed in accordance with section 431;".

(3) In section 266 of that Act (life assurance premium relief) in subsection (6) (deduction from total income where relief given for part of certain payments to friendly societies) after paragraph (b) there shall be inserted "and

(c) the insurance or contract is not excluded by subsection (6A) below,".

(4) After that subsection there shall be inserted—

"(6A) For the purposes of subsection (6)(c) above, an insurance or contract is excluded by this subsection if it is made on or after 1st September 1996 and affords provision for sickness or other infirmity (whether bodily or mental), unless—

(a) it also affords assurance for a gross sum independent of sickness or other infirmity;

(b) not less than 60 per cent. of the amount of the premiums is attributable to the provision afforded during sickness or other infirmity; and

(c) there is no bonus or addition which may be declared or accrue upon the assurance of the gross sum."

(5) In section 463(1) of that Act (Corporation Tax Acts to apply to friendly societies' life or endowment business as they apply to insurance companies' mutual life assurance business) after "mutual life assurance business" there shall be inserted "(or other long term business)".

(6) The amendment made by subsection (5) above shall have effect in relation to accounting periods ending on or after 1st September 1996.

Personal pension schemes

Return of contributions on or after death of member.

172.—(1) In section 633(1) of the Taxes Act 1988 (Board not to approve a personal pension scheme which makes provision for any benefit other than those specified in paragraphs (a) to (e)) in paragraph (e) (payment on or after the death of a member of a lump sum satisfying the conditions in section 637A) for the words following "a lump sum" there shall be substituted "with respect to which the conditions in section 637A (return of contributions) are satisfied".

(2) For section 637A of that Act (return of contributions on or after death of member) there shall be substituted—

"Return of contributions on or after death of member.

637A.—(1) The lump sum payable under the arrangements in question (or, where two or more lump sums are so payable, those lump sums taken together) must represent no more than the return of contributions together with reasonable interest on contributions or bonuses out of profits, after allowing for—

(a) any income withdrawals, and

(b) any purchases of annuities such as are mentioned in section 636.

To the extent that contributions are invested in units under a unit trust scheme, the lump sum (or lump sums) may represent the sale or redemption price of the units.

(2) A lump sum must be payable only if, in the case of the arrangements in question,—

(a) no such annuity as is mentioned in section 634 has been purchased by the member;

(b) no such annuity as is mentioned in section 636 has been purchased in respect of the relevant interest; and

(c) no election in accordance with subsection (5)(a) of section 636 has been made in respect of the relevant interest.

(3) Where the member's death occurs after the date which is his pension date in relation to the arrangements in question, a lump sum must not be payable more than two years after the death unless, in the case of that lump sum, the person entitled to such an annuity as is mentioned in section 636 in respect of the relevant interest—

(a) has elected in accordance with section 636A to defer the purchase of an annuity; and

(b) has died during the period of deferral.

(4) In this section "the relevant interest" means the interest, under the arrangements in question, of the person to whom or at whose direction the payment in question is made, except where there are two or more such interests, in which case it means that one of them in respect of which the payment is made.

(5) Where, under the arrangements in question, there is a succession of interests, any reference in subsection (2)

or (3) above to the relevant interest includes a reference to any interest (other than that of the member) in relation to which the relevant interest is a successive interest."

(3) This section—

(a) has effect in relation to approvals, of schemes or amendments, given under Chapter IV of Part XIV of the Taxes Act 1988 (personal pension schemes) after the passing of this Act; and

(b) does not affect any approval previously given.

Participators in close companies

Loans to participators etc.

173.—(1) Section 419 of the Taxes Act 1988 (loans to participators etc.) shall be amended in accordance with subsections (2) to (4) below.

(2) For subsection (3) (time when tax becomes due) there shall be substituted the following subsection—

"(3) Tax due by virtue of this section in relation to any loan or advance shall be due and payable on the day following the expiry of nine months from the end of the accounting period in which the loan or advance was made."

(3) After subsection (4) (relief in respect of repayment) there shall be inserted the following subsection—

"(4A) Where the repayment of the whole or any part of a loan or advance occurs on or after the day on which tax by virtue of this section becomes due in relation to that loan or advance, relief in respect of the repayment shall not be given under subsection (4) above at any time before the expiry of nine months from the end of the accounting period in which the repayment occurred."

(4) In subsection (6) (application to loans and advances to certain companies who are participators etc.), the words "and to a company not resident in the United Kingdom" shall be omitted.

(5) In section 826(4) of that Act (interest on repayment of tax by virtue of section 419), for paragraph (a) there shall be substituted the following paragraph—

"(a) the date when the entitlement to relief in respect of the repayment accrued, that is to say—

(i) where the repayment of the loan or advance (or part thereof) occurred on or after the day mentioned in section 419(4A), the date nine months after the end of that accounting period; and

(ii) in any other case, the date nine months after the end of the accounting period in which the loan or advance was made;

or".

(6) This section has effect in relation to any loan or advance made in an accounting period ending on or after 31st March 1996.

PART IV
CHAPTER VI

Attribution of gains to participators in non-resident companies.

1992 c. 12.

174.—(1) Section 13 of the Taxation of Chargeable Gains Act 1992 (attribution of gains to members of non-resident companies) shall be amended in accordance with subsections (2) to (9) below.

(2) In subsection (2) (persons subject to charge on gain to company), for "holds shares" there shall be substituted "is a participator".

(3) For subsections (3) and (4) (part of gain attributed to person subject to charge) there shall be substituted the following subsections—

"(3) That part shall be equal to the proportion of the gain that corresponds to the extent of the participator's interest as a participator in the company.

(4) Subsection (2) above shall not apply in the case of any participator in the company to which the gain accrues where the aggregate amount falling under that subsection to be apportioned to him and to persons connected with him does not exceed one twentieth of the gain."

(4) In subsection (5), paragraph (a) (section not to apply where gain distributed within two years) shall be omitted; and after that subsection there shall be inserted the following subsection—

"(5A) Where—

(a) any amount of capital gains tax is paid by a person in pursuance of subsection (2) above, and

(b) an amount in respect of the chargeable gain is distributed (either by way of dividend or distribution of capital or on the dissolution of the company) within 2 years from the time when the chargeable gain accrued to the company,

that amount of tax (so far as neither reimbursed by the company nor applied as a deduction under subsection (7) below) shall be applied for reducing or extinguishing any liability of that person to income tax in respect of the distribution or (in the case of a distribution falling to be treated as a disposal on which a chargeable gain accrues to that person) to any capital gains tax in respect of the distribution."

(5) In subsection (7) (deduction of tax paid in computing gain on shares in the company)—

(a) for "not reimbursed by the company)" there shall be inserted "neither reimbursed by the company nor applied under subsection (5A) above for reducing any liability to tax)"; and

(b) for "the shares by reference to which the tax was paid" there shall be substituted "any asset representing his interest as a participator in the company."

(6) After subsection (7) there shall be inserted the following subsection—

"(7A) In ascertaining for the purposes of subsection (5A) or (7) above the amount of capital gains tax or income tax chargeable on any person for any year on or in respect of any chargeable gain or distribution—

(a) any such distribution as is mentioned in subsection (5A)(b) above and falls to be treated as income of that person for that year shall be regarded as forming the highest part of the income on which he is chargeable to tax for the year;

(b) any gain accruing in that year on the disposal by that person of any asset representing his interest as a participator in the company shall be regarded as forming the highest part of the gains on which he is chargeable to tax for that year;

(c) where any such distribution as is mentioned in subsection (5A)(b) above falls to be treated as a disposal on which a gain accrues on which that person is so chargeable, that gain shall be regarded as forming the next highest part of the gains on which he is so chargeable, after any gains falling within paragraph (b) above; and

(d) any gain treated as accruing to that person in that year by virtue of subsection (2) above shall be regarded as the next highest part of the gains on which he is so chargeable, after any gains falling within paragraph (c) above."

(7) In subsection (9) (cases where person charged is a company)—

(a) for "the person owning any of the shares in the company" there shall be substituted "a person who is a participator in the company"; and

(b) for the words from "to the shares" onwards there shall be substituted "to the participating company's interest as a participator in the company to which the gain accrues shall be further apportioned among the participators in the participating company according to the extent of their respective interests as participators, and subsection (2) above shall apply to them accordingly in relation to the amounts further apportioned, and so on through any number of companies."

(8) In subsection (10) (application to trustees), for "owning shares in the company" there shall be substituted "who are participators in the company, or in any company amongst the participators in which the gain is apportioned under subsection (9) above,".

(9) After subsection (11) there shall be inserted the following subsections—

"(12) In this section 'participator', in relation to a company, has the meaning given by section 417(1) of the Taxes Act for the purposes of Part XI of that Act (close companies).

(13) In this section—

(a) references to a person's interest as a participator in a company are references to the interest in the company which is represented by all the factors by reference to which he falls to be treated as such a participator; and

(b) references to the extent of such an interest are references to the proportion of the interests as participators of all the participators in the company (including any who are not

resident or ordinarily resident in the United Kingdom) which on a just and reasonable apportionment is represented by that interest.

(14) For the purposes of this section, where—

(a) the interest of any person in a company is wholly or partly represented by an interest which he has under any settlement ('his beneficial interest'), and

(b) his beneficial interest is the factor, or one of the factors, by reference to which that person would be treated (apart from this subsection) as having an interest as a participator in that company,

the interest as a participator in that company which would be that person's shall be deemed, to the extent that it is represented by his beneficial interest, to be an interest of the trustees of the settlement (and not of that person), and references in this section, in relation to a company, to a participator shall be construed accordingly.

(15) Any appeal under section 31 of the Management Act involving any question as to the extent for the purposes of this section of a person's interest as a participator in a company shall be to the Special Commissioners."

1992 c. 12.

(10) In paragraph 1(3) of Schedule 5 to the Taxation of Chargeable Gains Act 1992 (application of section 86 to section 13 gains)—

(a) in paragraph (a), for "hold shares in a company which originate" there shall be substituted "are participators in a company in respect of property which originates";

(b) in paragraph (b), for "the shares" there shall be substituted "so much of their interest as participators as arises from that property"; and

(c) at the end there shall be added—

"Subsections (12) and (13) of section 13 shall apply for the purposes of this sub-paragraph as they apply for the purposes of that section."

(11) This section applies to gains accruing on or after 28th November 1995.

Cancellation of tax advantages

Transactions in certain securities.

175.—(1) In section 704 of the Taxes Act 1988 (which relates to the cancellation of tax advantages and specifies the circumstances mentioned in section 703(1)) in paragraph D(2)(b) (companies which do not satisfy the conditions there specified with respect to their shares or stocks) for "are authorised to be dealt in on the Stock Exchange, and are so dealt in (regularly or from time to time)" there shall be substituted "are listed in the Official List of the Stock Exchange, and are dealt in on the Stock Exchange regularly or from time to time".

(2) The reference in paragraph D(2)(b) of section 704 of the Taxes Act 1988 to being listed in the Official List of the Stock Exchange and being dealt in on the Stock Exchange regularly or from time to time shall be taken to include a reference to being dealt in on the Unlisted Securities Market regularly or from time to time, but this subsection is subject to subsection (3) below.

(3) Subsection (2) above—

(a) so far as relating to sub-paragraph (2) of paragraph D of section 704 of the Taxes Act 1988 as it applies for the purposes of sub-paragraph (1) of that paragraph or paragraph E of that section, shall not have effect where the relevant transaction takes place after the date on which the Unlisted Securities Market closes;

(b) so far as relating to paragraph D of that section as it applies for the purposes of section 210(3) or 211(2) of that Act (which relate to bonus issues following, and other matters to be treated or not treated as, repayment of share capital) shall not have effect—

(i) in the case of section 210(3), in relation to share capital issued after that date; or

(ii) in the case of section 211(2), in relation to distributions made after that date.

(4) Except as provided by subsection (3) above, this section—

(a) so far as relating to sub-paragraph (2) of paragraph D of section 704 of the Taxes Act 1988 as it applies for the purposes of sub-paragraph (1) of that paragraph or paragraph E of that section, shall have effect where the relevant transaction takes place after the passing of this Act; and

(b) so far as relating to paragraph D of that section as it applies for the purposes of section 210(3) or 211(2) of that Act, shall have effect—

(i) in the case of section 210(3), in relation to share capital issued after the passing of this Act; or

(ii) in the case of section 211(2), in relation to distributions made after the passing of this Act.

(5) In this section "the relevant transaction" means—

(a) the transaction in securities mentioned in paragraph (b) of section 703(1) of the Taxes Act 1988, or

(b) the first of the two or more such transactions mentioned in that paragraph,

as the case may be.

Chargeable gains: reliefs

Retirement relief: age limits. 1992 c. 12.

176.—(1) In each of sections 163 and 164 of, and paragraph 5 of Schedule 6 to, the Taxation of Chargeable Gains Act 1992 (retirement relief), for "the age of 55", wherever occurring, there shall be substituted "the age of 50".

(2) The amendments made by this section shall apply in relation to disposals on or after 28th November 1995.

Reinvestment relief on disposal of qualifying corporate bond.

177. Section 164A of the Taxation of Chargeable Gains Act 1992 (re-investment relief) shall have effect, and be deemed always to have had effect, as if the following subsections were inserted after subsection (2)—

"(2A) Where the chargeable gain referred to in subsection (1)(a) above is one which (apart from this section) would be deemed to accrue by virtue of section 116(10)(b)—

(a) any reduction falling to be made by virtue of subsection (2)(a) above shall be treated as one made in the consideration mentioned in section 116(10)(a), instead of in the consideration for the disposal of the asset disposed of; but

(b) if the disposal on which that gain is deemed to accrue is a disposal of only part of the new asset, it shall be assumed, for the purpose only of making a reduction affecting the amount of that gain—

(i) that the disposal is a disposal of the whole of a new asset,

(ii) that the gain accruing on that disposal relates to an old asset consisting in the corresponding part of what was in fact the old asset, and

(iii) that the corresponding part of the consideration deemed to be given for what was in fact the old asset is taken to be the consideration by reference to which the amount of that gain is computed;

and in this subsection 'new asset' and 'old asset' have the same meanings as in section 116.

(2B) Where a chargeable gain accrues in accordance with subsection (12) of section 116, this Chapter shall have effect—

(a) as if that gain were a gain accruing on the disposal of an asset; and

(b) in relation to that deemed disposal, as if references in this Chapter to the consideration for the disposal were references to the sum of money falling, apart from this Chapter, to be used in computing the gain accruing under that subsection."

Special cases

Sub-contractors in the construction industry.

178.—(1) In section 566 of the Taxes Act 1988 (powers to make regulations in connection with the provisions relating to sub-contractors in the construction industry), after subsection (2) there shall be inserted the following subsection—

"(2A) The Board may by regulations make provision—

(a) for the issue of documents (to be known as 'registration cards') to persons who are parties, as sub-contractors, to any contract relating to construction operations or who are likely to become such parties;

(b) for a registration card to contain all such information about the person to whom it is issued as may be required, for the purposes of any regulations under this section, by a person making payments under any such contract;

(c) for a registration card to take such form and to be valid for such period as may be prescribed by the regulations;

(d) for the renewal, replacement or cancellation of a registration card;

(e) for requiring the surrender of a registration card in such circumstances as may be specified in the regulations;

(f) for requiring the production of a registration card to such persons and in such circumstances as may be so specified;

(g) for requiring any person who—

(i) makes or is proposing to make payments to which section 559 applies, and

(ii) is a person to whom a registration card has to be produced under the regulations,

to take steps that ensure that it is produced to him and that he has an opportunity of inspecting it for the purpose of checking that it is a valid registration card issued to the person required to produce it.

(2B) A person who fails to comply with an obligation imposed on him by virtue of subsection (2A)(g) above shall be liable to a penalty not exceeding £3,000.

(2C) Subject to subsection (2D) below, where—

(a) a person who is a party to a contract relating to any construction operations ('the contractor') makes or is proposing to make payments to which section 559 applies,

(b) the contractor is required by regulations under this section to make statements about another party to the contract ('the sub-contractor') in any return, certificate or other document,

(c) a registration card containing the information to be stated should have been produced, in accordance with any such regulations, to the contractor, and

(d) the statements made in the return, certificate or other document, so far as relating to matters the information about which should have been obtainable from the card, are inaccurate or incomplete in any material respect,

the contractor shall be liable to a penalty not exceeding £3,000.

(2D) A person shall not be liable to a penalty under subsection (2C) above if—

(a) a valid registration card issued to the sub-contractor, or a document which the contractor had reasonable grounds for believing to be such a card, was produced to the contractor and inspected by him before the statements in question were made; and

(b) the contractor took all such steps as were reasonable, in addition to the inspection of that card, for ensuring that the statements were accurate and complete.

(2E) A person liable to a penalty under subsection (2C) above shall not, by reason only of the matters in respect of which he is liable to a penalty under that subsection, be liable to any further penalty under section 98 of the Management Act.

(2F) Regulations under this section may make different provision for different cases."

1970 c. 9.

(2) In the second column of the Table in section 98 of the Taxes Management Act 1970 (penalties in respect of certain information provisions), for the entry relating to regulations under section 566(1) and (2) of the Taxes Act 1988 there shall be substituted the following entry—

"regulations under section 566(1), (2) or (2A);".

Roll-over relief in respect of ships.

1990 c. 1.

179. Schedule 35 to this Act (which amends sections 33A to 33F of the Capital Allowances Act 1990) shall have effect.

Scientific research expenditure: oil licences.

180.—(1) The Capital Allowances Act 1990 shall have effect, and be deemed always to have had effect, with the following sections inserted after section 138 (assets ceasing to belong to traders)—

"Disposal of oil licences etc.

138A.—(1) For the purposes of section 138 where—

(a) a person ('the transferor') disposes of any interest in an oil licence to another ('the transferee'), and

(b) part of the value of that interest is attributable to any allowable exploration expenditure incurred by the transferor,

that disposal shall be deemed (subject to section 138B) to be a disposal by which an asset representing the allowable exploration expenditure to which that part of the value is attributable ceases to belong to the transferor.

(2) Section 138 shall have effect in relation to the disposal of an interest in an oil licence, to the extent that the disposal is treated by virtue of subsection (1) above as a disposal of an asset representing allowable exploration expenditure, as if the disposal value of the asset were an amount equal to such part of the transferee's expenditure on acquiring the interest as it is just and reasonable to attribute to the part of the value of that interest that is attributable to the allowable exploration expenditure.

(3) In this section and section 138B references to allowable exploration expenditure are references to any allowable scientific research expenditure of a capital nature incurred on mineral exploration and access.

(4) In this section and section 138B—

'foreign oil concession' means any right to search for or win overseas petroleum, being a right conferred or exercisable (whether or not by virtue of a licence) in relation to a particular area;

'interest' in relation to an oil licence, includes, where there is an agreement which—

(a) relates to oil from the whole or any part of the area to which the licence applies, and

(b) was made before the extraction of the oil to which it relates,

any entitlement under that agreement to, or to a share of, either that oil or the proceeds of its sale;

'mineral exploration and access' has the same meaning as in Part IV;

'oil'—

(a) except in relation to a UK licence, means any petroleum; and

(b) in relation to such a licence, has the same meaning as in Part I of the Oil Taxation Act 1975; 1975 c. 22.

'oil licence' means any UK licence or foreign oil concession;

'overseas petroleum' means any petroleum that exists in its natural condition at a place to which neither the Petroleum (Production) Act 1934 1934 c. 36. nor the Petroleum (Production) Act (Northern Ireland) 1964 applies; 1964 c. 28 (N.I.).

'petroleum' has the same meaning as in the Petroleum (Production) Act 1934; and

'UK licence' means a licence within the meaning of Part I of the Oil Taxation Act 1975.

Disposal of oil licences: election for alternative tax treatment.

138B.—(1) Subsections (2) and (3) below apply where—

(a) a person ('the transferor') disposes of any interest in an oil licence to another ('the transferee') during the transitional period;

(b) part of the value of the interest is attributable to allowable exploration expenditure incurred by the transferor; and

(c) an election is made in accordance with this section specifying an amount as the amount to be treated as so attributable.

(2) Section 138 shall have effect in relation to the disposal as if—

(a) the disposal were a disposal by which an asset representing the allowable exploration expenditure ceases to belong to the transferor; and

(b) the disposal value of that asset were an amount equal to the amount specified in the election.

(3) For the purposes of Part IV, the amount of any expenditure incurred—

(a) by the transferee in acquiring the interest from the transferor, or

(b) by any person subsequently acquiring the interest (or an interest deriving from the interest),

which is taken to be attributable to expenditure incurred, before the disposal to the transferee, on mineral exploration and access shall be the lesser of the amount specified in the election and the amount which, apart from this subsection, would be taken to be so attributable.

(4) An election—

(a) shall be made by notice to the Board given by the transferor; and

(b) subject to subsection (5) below, shall not have effect unless a copy of it is served on the transferee and the transferee consents to it.

(5) If the Special Commissioners are satisfied—

(a) that the disposal was made under or in pursuance of an agreement entered into by the transferor and the transferee on the mutual understanding that a quantified (or quantifiable) part of the value of the interest disposed of was attributable to allowable exploration expenditure, and

(b) that the part quantified in accordance with that understanding and the amount specified in the election are the same,

they may dispense with the need for the transferee to consent to the election.

(6) Any question falling to be determined by the Special Commissioners under subsection (5) above shall be determined by them in like manner as if it were an appeal; but both the transferor and the transferee shall be entitled to appear and be heard by those Commissioners or to make representations to them in writing.

(7) Subject to subsection (8) below, an election may specify any amount, including a nil amount, as the amount to be treated as mentioned in subsection (1)(c) above.

(8) Where—

(a) a return has been made for a chargeable period of the transferor, and

(b) the return includes, at the time when it is made, an amount which, disregarding the provisions of this section, would be treated under section 138 as a trading receipt accruing in that period,

the election must not specify an amount less than the amount included in the return unless the Board agrees the lesser amount in question.

(9) An election made in accordance with this section—

(a) is irrevocable; and

(b) shall not be varied after it is made.

(10) For the purposes of this section a disposal is a disposal made during the transitional period if it is one made—

(a) before 13th September 1995; or

(b) on or after that date in pursuance of any obligation to make the disposal which, immediately before that date, was an unconditional obligation.

(11) For the purposes of subsection (10) above, the fact that a third party who is not connected with the transferor or the transferee may, by exercising any right or withholding any permission, prevent the fulfilment of an obligation does not prevent the obligation from being treated as unconditional.

(12) In subsection (11) above the reference to a third party is a reference to any person, body, government or public authority, whether within or outside the United Kingdom; and section 839 of the principal Act (connected persons) applies for the purposes of that subsection.

(13) All such assessments and adjustments of assessments shall be made as may be necessary to give effect to this section."

(2) Section 151(1) of the Capital Allowances Act 1990 (procedure on apportionments under Parts I, III to VI and Part VIII) shall have effect, and be deemed always to have had effect, as if for "VI" there were substituted "VII". 1990 c. 1.

(3) In section 118 of the Capital Allowances Act 1990 (mineral extraction licences in the case of assets formerly owned by non-traders), the existing provisions shall become subsection (1) of that section and the following subsection shall be inserted after that subsection—

"(2) Section 138A shall have effect for the purposes of subsection (1) above in relation to expenditure on mineral exploration and access as it has effect for the purposes of section 138 in relation to allowable scientific research expenditure of a capital nature."

(4) Subsection (3) above applies in relation to any sale taking place on or after 13th September 1995.

(5) In any case to which enactments re-enacted in the Capital Allowances Act 1990 apply instead of that Act, this section shall have effect as if it required amendments equivalent to those made by subsections (1) and (2) above to have effect, and be deemed always to have had effect, in relation to those enactments.

181.—(1) In subsection (1) of section 196 of the Taxation of Chargeable Gains Act 1992 (interpretation of sections 194 and 195), for "licence" there shall be substituted "UK licence". Overseas petroleum. 1992 c. 12.

(2) After subsection (1) of section 196 of that Act there shall be inserted the following subsection—

"(1A) For the purposes of section 194 a licence other than a UK licence relates to an undeveloped area at any time if, at that time—

(a) no development has actually taken place in any part of the licensed area; and

(b) no condition for the carrying out of development anywhere in that area has been satisfied—

(i) by the grant of any consent by the authorities of a country or territory exercising jurisdiction in relation to the area; or

(ii) by the approval or service on the licensee, by any such authorities, of any programme of development.";

and in subsection (2) of that section for "subsection (1) above" there shall be substituted "subsections (1) and (1A) above".

(3) For subsection (5) of section 196 of that Act there shall be substituted the following subsections—

"(5) In sections 194 and 195 and this section—

'foreign oil concession' means any right to search for or win overseas petroleum, being a right conferred or exercisable (whether or not by virtue of a licence) in relation to a particular area;

'interest' in relation to a licence, includes, where there is an agreement which—

(a) relates to oil from the whole or any part of the licensed area, and

(b) was made before the extraction of the oil to which it relates,

any entitlement under that agreement to, or to a share of, either that oil or the proceeds of its sale;

'licence' means any UK licence or foreign oil concession;

'licensed area' (subject to subsection (4) above)—

(a) in relation to a UK licence, has the same meaning as in Part I of the Oil Taxation Act 1975; and

1975 c. 22.

(b) in relation to a foreign oil concession, means the area to which the concession applies;

'licensee'—

(a) in relation to a UK licence, has the same meaning as in Part I of the Oil Taxation Act 1975; and

(b) in relation to a foreign oil concession, means the person with the concession or any person having an interest in it;

'oil'—

(a) except in relation to a UK licence, means any petroleum (within the meaning of the Petroleum (Production) Act 1934); and

1934 c. 36.

(b) in relation to such a licence, has the same meaning as in Part I of the Oil Taxation Act 1975;

'overseas petroleum' means any oil that exists in its natural condition at a place to which neither the Petroleum (Production) Act 1934 nor the Petroleum (Production) Act (Northern Ireland) 1964 applies; and 1934 c. 36. 1964 c. 28 (N.I.).

'UK licence' means a licence within the meaning of Part I of the Oil Taxation Act 1975. 1975 c. 22.

(5A) References in sections 194 and 195 to a part disposal of a licence shall include references to the disposal of any interest in a licence."

(4) Subsections (1) to (3) above shall have effect in relation to any disposal on or after 13th September 1995 and subsection (3) shall also have effect, and be deemed always to have had effect, for the construction of section 195 of the Taxation of Chargeable Gains Act 1992 in its application to disposals before that date. 1992 c. 12.

(5) Where enactments re-enacted in the Taxation of Chargeable Gains Act 1992 apply, instead of that Act, in the case of any disposal before 13th September 1995, this section shall have effect as if it required amendments equivalent to those made by subsection (3) above to have effect, and be deemed always to have had effect, for the construction of any enactment corresponding to section 195 of that Act.

182. Schedule 36 to this Act (which contains amendments of Chapter IV of Part XVII of the Taxes Act 1988) shall have effect in relation to accounting periods of a controlled foreign company, within the meaning of that Chapter, beginning on or after 28th November 1995. Controlled foreign companies.

PART V

INHERITANCE TAX

183.—(1) For the Table in Schedule 1 to the Inheritance Tax Act 1984 there shall be substituted— Rate bands. 1984 c. 51.

TABLE OF RATES OF TAX

Portion of value		*Rate of tax*
Lower limit £	Upper limit £	Per cent.
0	200,000	Nil
200,000	—	40

(2) Subsection (1) above shall apply to any chargeable transfer made on or after 6th April 1996; and section 8 of that Act (indexation of rate bands) shall not have effect as respects any difference between the retail prices index for the month of September 1994 and that for the month of September 1995.

184.—(1) The Inheritance Tax Act 1984 shall be amended as follows. Business property relief.

(2) In section 105(1) (relevant business property for the purposes of business property relief)—

PART V

(a) in paragraph (b) (unquoted shares and securities attracting 100 per cent. relief where they gave the transferor control of a company)—

(i) the words "shares in or" shall be omitted; and

(ii) for the words "shares or securities owned by the transferor" there shall be substituted "securities owned by the transferor and any unquoted shares so owned";

(b) for paragraph (bb) (unquoted shares attracting 100 per cent. relief in other cases) there shall be substituted the following paragraph—

"(bb) any unquoted shares in a company;"

and

(c) paragraph (c) (unquoted shares attracting 50 per cent. relief) shall be omitted.

(3) In section 107(4) (replacement of property with unquoted shares), for the words from the beginning to "such shares" there shall be substituted—

"(4) Without prejudice to subsection (1) above, where any shares falling within section 105(1)(bb) above which are".

(4) In section 113A(3A)(b) (which contains a reference to shares and securities falling within paragraph (b) of section 105(1)), after "(b)" there shall be inserted "or (bb)".

(5) For the removal of any doubt, the following subsection shall be inserted in section 113A (provisions applying to business property relief where there is a transfer within seven years of death) after subsection (7)—

"(7A) The provisions of this Chapter for the reduction of value transferred shall be disregarded in any determination for the purposes of this section of whether there is a potentially exempt or chargeable transfer in any case."

(6) This section—

(a) so far as it inserts a new subsection (7A) in section 113A, has effect in relation to any transfer of value on or after 28th November 1995; and

(b) so far as it makes any other provision, has effect—

(i) in relation to any transfer of value on or after 6th April 1996, and

(ii) for the purposes of any charge to tax by reason of an event occurring on or after 6th April 1996, in relation to transfers of value before that date.

Agricultural property relief. 1984 c. 51.

185.—(1) Chapter II of Part V of the Inheritance Tax Act 1984 (agricultural property) shall be amended as follows.

(2) In section 116 (relief for transfers of agricultural property) after subsection (5) there shall be inserted—

"(5A) Where, in consequence of the death on or after 1st September 1995 of the tenant or, as the case may be, the last surviving tenant of any property, the tenancy—

(a) becomes vested in a person, as a result of his being a person beneficially entitled under the deceased tenant's will or other testamentary writing or on his intestacy, and

(b) is or becomes binding on the landlord and that person as landlord and tenant respectively,

subsection (2)(c) above shall have effect as if the tenancy so vested had been a tenancy beginning on the date of the death.

(5B) Where in consequence of the death on or after 1st September 1995 of the tenant or, as the case may be, the last surviving tenant of any property, a tenancy of the property or of any property comprising the whole or part of it—

(a) is obtained by a person under or by virtue of an enactment, or

(b) is granted to a person in circumstances such that he is already entitled under or by virtue of an enactment to obtain such a tenancy, but one which takes effect on a later date, or

(c) is granted to a person who is or has become the only or only remaining applicant, or the only or only remaining person eligible to apply, under a particular enactment for such a tenancy in the particular case,

subsection (2)(c) above shall have effect as if the tenancy so obtained or granted had been a tenancy beginning on the date of the death.

(5C) Subsection (5B) above does not apply in relation to property situate in Scotland.

(5D) If, in a case where the transferor dies on or after 1st September 1995,—

(a) the tenant of any property has, before the death, given notice of intention to retire in favour of a new tenant, and

(b) the tenant's retirement in favour of the new tenant takes place after the death but not more than thirty months after the giving of the notice,

subsection (2)(c) above shall have effect as if the tenancy granted or assigned to the new tenant had been a tenancy beginning immediately before the transfer of value which the transferor is treated by section 4(1) above as making immediately before his death.

(5E) In subsection (5D) above and this subsection—

"the new tenant" means—

(a) the person or persons identified in a notice of intention to retire in favour of a new tenant as the person or persons who it is desired should become the tenant of the property to which that notice relates; or

(b) the survivor or survivors of the persons so identified, whether alone or with any other person or persons;

"notice of intention to retire in favour of a new tenant" means, in the case of any property, a notice or other written intimation given to the landlord by the tenant, or (in the case of a joint tenancy or tenancy in common) all of the

PART V

tenants, of the property indicating, in whatever terms, his or their wish that one or more persons identified in the notice or intimation should become the tenant of the property;

"the retiring tenant's tenancy" means the tenancy of the person or persons giving the notice of intention to retire in favour of a new tenant;

"the tenant's retirement in favour of the new tenant" means—

(a) the assignment, or (in Scotland) assignation, of the retiring tenant's tenancy to the new tenant in circumstances such that the tenancy is or becomes binding on the landlord and the new tenant as landlord and tenant respectively; or

(b) the grant of a tenancy of the property which is the subject of the retiring tenant's tenancy, or of any property comprising the whole or part of that property, to the new tenant and the acceptance of that tenancy by him;

and, except in Scotland, "grant" and "acceptance" in paragraph (b) above respectively include the deemed grant, and the deemed acceptance, of a tenancy under or by virtue of any enactment."

(3) In consequence of subsection (2) above, subsection (2A) of that section (which made, in relation to Scotland, provision which is superseded by the subsection (5A) inserted by subsection (2) above) shall cease to have effect.

(4) For the removal of any doubt, the following subsection shall be inserted in section 124A (provisions applying to agricultural property relief where there is a transfer within seven years of death) after subsection (7)—

"(7A) The provisions of this Chapter for the reduction of value transferred shall be disregarded in any determination for the purposes of this section of whether there is a potentially exempt or chargeable transfer in any case."

(5) Subsection (2) above—

(a) so far as relating to subsections (5A) to (5C) of section 116 of the Inheritance Tax Act 1984, has effect in any case where the death of the tenant or, as the case may be, the sole surviving tenant, occurs on or after 1st September 1995; and

1984 c. 51.

(b) so far as relating to subsections (5D) and (5E) of that section, has effect in any case where the death of the transferor occurs on or after 1st September 1995.

(6) Subsection (3) above has effect in any case where the death of the tenant or, as the case may be, the sole surviving tenant, occurs on or after 1st September 1995.

(7) Subsection (4) above has effect in relation to any transfer of value on or after 28th November 1995.

PART VI

STAMP DUTY AND STAMP DUTY RESERVE TAX

Stamp duty

Transfers of securities to members of electronic transfer systems etc.

186.—(1) Stamp duty shall not be chargeable on an instrument effecting a transfer of securities if the transferee is a member of an electronic transfer system and the instrument is in a form which will, in accordance with the rules of the system, ensure that the securities are changed from being held in certificated form to being held in uncertificated form so that title to them may become transferable by means of the system.

(2) In this section—

"certificated form" has the same meaning as in the relevant regulations;

"electronic transfer system" means a system and procedures which, in accordance with the relevant regulations, enable title to securities to be evidenced and transferred without a written instrument;

"member", in relation to an electronic transfer system, means a person who is permitted by the operator of the system to transfer by means of the system title to securities held by him in uncertificated form;

"operator" means a person approved by the Treasury under the relevant regulations as operator of an electronic transfer system;

"the relevant regulations" means regulations under section 207 of the Companies Act 1989 (transfer without written instrument); 1989 c. 40.

"securities" means stock or marketable securities;

"uncertificated form" has the same meaning as it has in the relevant regulations.

(3) This section applies in relation to instruments executed on or after 1st July 1996.

(4) This section shall be construed as one with the Stamp Act 1891. 1891 c. 39.

Stamp duty reserve tax

Territorial scope of the tax. 1986 c. 41.

187.—(1) In section 86 of the Finance Act 1986 (introduction) after subsection (3) there shall be added—

"(4) Stamp duty reserve tax shall be chargeable in accordance with the provisions of this Part of this Act—

(a) whether the agreement, transfer, issue or appropriation in question is made or effected in the United Kingdom or elsewhere, and

(b) whether or not any party is resident or situate in any part of the United Kingdom."

(2) The amendment made by subsection (1) above shall have effect—

(a) in relation to an agreement, if—

(i) the agreement is conditional and the condition is satisfied on or after 1st July 1996; or

(ii) the agreement is not conditional and is made on or after that date; and

(b) in relation to a transfer, issue or appropriation made or effected on or after that date.

Removal of the two month period. 1986 c. 41.

188.—(1) In section 87 of the Finance Act 1986 (the principal charge) in subsection (2) (tax charged on the expiry of the period of two months beginning with the relevant day unless the first and second conditions are fulfilled before that period expires) the following shall be omitted—

(a) the words "the expiry of the period of two months beginning with", and

(b) the words from "unless" to the end.

(2) In section 88 of that Act (special cases) in subsection (1) (which provides for instruments on which stamp duty is not chargeable by virtue of certain enactments to be disregarded for the purposes of section 87(4) and (5)) before paragraph (a) there shall be inserted—

1963 c. 25. "(aa) section 65(1) of the Finance Act 1963 (renounceable letters of allotment etc),

1963 c. 22 (N.I.). (ab) section 14(1) of the Finance Act (Northern Ireland) 1963 (renounceable letters of allotment etc.),".

(3) Subsections (2) and (3) of that section (which are superseded by subsection (2) above) shall cease to have effect.

(4) In section 92(1) of that Act (repayment or cancellation of tax where the conditions in section 87(4) and (5) are shown to have been fulfilled after the expiry of the period of two months beginning with the relevant day but before the expiry of six years so beginning)—

(a) for "after the expiry of the period of two months (beginning with the relevant day, as defined in section 87(3))" there shall be substituted "on or after the relevant day (as defined in section 87(3))"; and

(b) for "(so beginning)" there shall be substituted "(beginning with that day)".

(5) The amendments made by this section shall have effect in relation to an agreement to transfer securities if—

(a) the agreement is conditional and the condition is satisfied on or after 1st July 1996; or

(b) the agreement is not conditional and is made on or after that date.

Transfers to members of electronic transfer systems etc.

189.—(1) In section 88 of the Finance Act 1986 (special cases) after subsection (1) there shall be inserted—

"(1A) An instrument on which stamp duty is not chargeable by virtue of section 186 of the Finance Act 1996 (transfers of securities to members of electronic transfer systems etc) shall be disregarded in construing section 87(4) and (5) above unless—

(a) the transfer is made by a stock exchange nominee; and

(b) the maximum stamp duty chargeable on the instrument, apart from section 186 of the Finance Act 1996, would be 50p;

and in this subsection "stock exchange nominee" means a person designated for the purposes of section 127 of the Finance Act 1976 as a nominee of The Stock Exchange by an order made by the Secretary of State under subsection (5) of that section." 1976 c. 40.

(2) This section has effect in relation to an agreement to transfer securities if an instrument is executed on or after 1st July 1996 in pursuance of the agreement.

Transfers between associated bodies. 1986 c. 41.

190.—(1) In section 88 of the Finance Act 1986 (special cases) after subsection (1A) there shall be inserted—

"(1B) An instrument on which stamp duty is not chargeable by virtue of section 42 of the Finance Act 1930 or section 11 of the Finance Act (Northern Ireland) 1954 (transfer between associated bodies corporate) shall be disregarded in construing section 87(4) and (5) above in any case where— 1930 c. 28. 1954 c. 23 (N.I.).

(a) the property mentioned in section 42(2)(a) of the Finance Act 1930 or, as the case may be, section 11(2)(a) of the Finance Act (Northern Ireland) 1954 consists of chargeable securities of any particular kind acquired in the period of two years ending with the day on which the instrument was executed; and

(b) the body corporate from which the conveyance or transfer there mentioned is effected acquired the chargeable securities—

(i) in a transaction which was given effect by an instrument of transfer on which stamp duty was not chargeable by virtue of section 81 above;

(ii) in pursuance of an agreement to transfer securities as regards which section 87 above did not apply by virtue of section 89 below; or

(iii) in circumstances with regard to which the charge to stamp duty or stamp duty reserve tax was treated as not arising by virtue of regulations under section 116 or 117 of the Finance Act 1991." 1991 c. 31.

(2) At the end of that section there shall be added—

"(4) For the purposes of subsection (1B) above, if the securities mentioned in paragraph (a) of that subsection cannot (apart from this subsection) be identified, securities shall be taken as follows, that is to say, securities of the same kind acquired later in the period of two years there mentioned (and not taken under this subsection for the purposes of any earlier instrument) shall be taken before securities acquired earlier in that period.

(5) If, in a case where subsection (4) above applies, some, but not all, of the securities taken in accordance with that subsection were acquired as mentioned in paragraph (b) of subsection (1B) above by the body corporate mentioned in that paragraph, the stamp duty reserve tax chargeable under section 87 above by virtue of

subsection (1B) above shall not exceed the tax that would have been so chargeable had the agreement to transfer the securities related only to such of the securities so taken as were so acquired.

(6) Where a person enters into an agreement for securities to be transferred to him or his nominee, the securities shall be treated for the purposes of subsections (1B)(a) and (4) above as acquired by that person at the time when he enters into the agreement, unless the agreement is conditional, in which case they shall be taken to be acquired by him when the condition is satisfied."

1930 c. 28. 1954 c. 23 (N.I.).

(3) This section has effect where the instrument on which stamp duty is not chargeable by virtue of section 42 of the Finance Act 1930 or section 11 of the Finance Act (Northern Ireland) 1954 is executed on or after 4th January 1996 in pursuance of an agreement to transfer securities made on or after that date.

Stock lending and collateral security arrangements.

1986 c. 41.

191.—(1) After section 89A of the Finance Act 1986 (exceptions from section 87 for public issues) there shall be inserted—

"Section 87: exceptions for stock lending and collateral security arrangements.

89B.—(1) Where a person (P) has contracted to sell chargeable securities of a particular kind in the ordinary course of his business as a market maker in chargeable securities of that kind and, to enable him to fulfil the contract, he enters into an arrangement under which—

(a) another person (Q) is to transfer chargeable securities to P or his nominee, and

(b) in return, chargeable securities of the same kind and amount are to be transferred (whether or not by P or his nominee) to Q or his nominee,

section 87 above shall not apply as regards an agreement to transfer chargeable securities which is made for the purpose of performing the obligation to transfer chargeable securities described in paragraph (a) or (b) above.

(2) Where the arrangement mentioned in subsection (1) above is also one under which—

(a) an amount of chargeable securities of some other kind is to be transferred by P or his nominee to Q or his nominee by way of security for the performance of the obligation described in paragraph (b) of that subsection, and

(b) on performance of that obligation, the securities mentioned in paragraph (a) above, or chargeable securities of the same kind and amount as those securities, are to be transferred to P or his nominee,

section 87 above shall also not apply as regards an agreement to transfer chargeable securities which is made for the purpose of performing the obligation to transfer chargeable securities described in paragraph (a) or (b) above.

(3) Where, to enable Q to make the transfer to P or his nominee which is mentioned in paragraph (a) of subsection (1) above, Q enters into an arrangement under which—

(a) another person (R) is to transfer chargeable securities to Q or his nominee, and

(b) in return, chargeable securities of the same kind and amount are to be transferred (whether or not by Q or his nominee) to R or his nominee,

section 87 above shall not apply as regards an agreement to transfer chargeable securities which is made for the purpose of performing the obligation to transfer chargeable securities described in paragraph (a) or (b) above.

(4) Where the arrangement mentioned in subsection (3) above is also one under which—

(a) an amount of chargeable securities of some other kind is to be transferred by Q or his nominee to R or his nominee by way of security for the performance of the obligation described in paragraph (b) of that subsection, and

(b) on performance of that obligation, the securities mentioned in paragraph (a) above, or chargeable securities of the same kind and amount as those securities, are to be transferred to Q or his nominee,

section 87 above shall also not apply as regards an agreement to transfer chargeable securities which is made for the purpose of performing the obligation to transfer chargeable securities described in paragraph (a) or (b) above.

(5) For the purposes of this section a person is a market maker in chargeable securities of a particular kind if he—

(a) holds himself out at all normal times in compliance with the rules of The Stock Exchange as willing to buy and sell chargeable securities of that kind at a price specified by him, and

(b) is recognised as doing so by The Stock Exchange.

(6) The Treasury may by regulations provide that for subsection (5) above (as it has effect for the time being) there shall be substituted a subsection containing a different definition of a market maker for the purposes of this section.

(7) Regulations under subsection (6) above shall apply in relation to any agreement to transfer chargeable securities in pursuance of an arrangement entered into on or after such day after 1st July 1996 as is specified in the regulations.

(8) The power to make regulations under subsection (6) above shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of the House of Commons."

(2) This section applies in relation to agreements to transfer chargeable securities in pursuance of an arrangement entered into on or after 1st July 1996.

Repayment or cancellation of tax.

1986 c. 41.

192.—(1) In consequence of section 188(1) above, subsections (4), (5) and (8) of section 87 of the Finance Act 1986 (exemption from stamp duty reserve tax where an instrument is executed etc) shall cease to have effect.

(2) In section 88 of that Act (which provides for instruments on which stamp duty is not chargeable by virtue of certain enactments to be disregarded for the purposes of section 87(4) and (5)) in subsections (1), (1A) and (1B) for "section 87(4) and (5) above" there shall be substituted "section 92(1A) and (1B) below".

(3) In section 92 of that Act (repayment or cancellation of tax) in subsection (1) (which refers to the conditions in section 87(4) and (5))—

(a) for "section 87(4) and (5)" there shall be substituted "subsections (1A) and (1B) below"; and

(b) for "the following provisions of this section shall apply" there shall be substituted "subsections (2) to (4A) of this section shall apply".

(4) After that subsection, there shall be inserted—

"(1A) The first condition is that an instrument is (or instruments are) executed in pursuance of the agreement and the instrument transfers (or the instruments between them transfer) to B or, as the case may be, to his nominee all the chargeable securities to which the agreement relates.

(1B) The second condition is that the instrument (or each instrument) transferring the chargeable securities to which the agreement relates is duly stamped in accordance with the enactments relating to stamp duty if it is an instrument which, under those enactments, is chargeable with stamp duty or otherwise required to be stamped."

(5) At the end of that section there shall be added—

"(6) In this section "the enactments relating to stamp duty" means the Stamp Act 1891 and any enactment which amends or is required to be construed together with that Act."

1891 c. 39.

(6) The amendments made by this section shall have effect in relation to an agreement to transfer securities if—

(a) the agreement is conditional and the condition is satisfied on or after 1st July 1996; or

(b) the agreement is not conditional and is made on or after that date.

Depositary receipts.

193.—(1) Section 93 of the Finance Act 1986 (depositary receipts) shall be amended in accordance with the following provisions of this section.

(2) In subsection (1) (charge to stamp duty reserve tax where certain things are done in pursuance of an arrangement) in paragraph (b) (transfer or issue to, or appropriation by, a person falling within subsection (3))—

(a) after "transferred or issued to" there shall be inserted "the person mentioned in paragraph (a) above or"; and

(b) for "such a person" there shall be substituted "the person mentioned in paragraph (a) above or a person falling within subsection (3) below".

(3) In subsection (6) (payment by instalments) in paragraph (d) (instrument received by person falling within subsection (3)) for "subsection (3)" there shall be substituted "subsection (2) or (3)".

(4) This section has effect—

(a) so far as relating to the charge to tax under section 93(1) of the Finance Act 1986, where securities are transferred, issued or appropriated on or after 1st July 1996 (whenever the arrangement was made); 1986 c. 41.

(b) so far as relating to the charge to tax under section 93(10) of that Act, in relation to instalments payable on or after 1st July 1996.

Rates of charge expressed as percentages.

194.—(1) In section 87 of the Finance Act 1986, in subsection (6) (which specifies the rate at which stamp duty reserve tax under that section is charged) for "50p for every £100 or part of £100" there shall be substituted "0.5 per cent."

(2) In section 93 of that Act (depositary receipts)—

(a) in subsection (4) (rate of charge) for "£1.50 for every £100 or part of £100" there shall be substituted "1.5 per cent.";

(b) in subsection (5) (which applies subsection (4) with modifications in certain cases where the securities are transferred by a chargeable instrument) for the words from "as if "£1.50" read" onwards there shall be substituted "as if "1.5 per cent." read "1 per cent.""; and

(c) in subsection (10) (payment in instalments etc) in paragraph (b), for "£1.50 for every £100 or part of £100" there shall be substituted "1.5 per cent. of the amount".

(3) Section 94(8) of that Act (which defines "the day of The Stock Exchange reforms" for the purposes of section 93(5) and which becomes unnecessary in consequence of the amendment made by subsection (2)(b) above) shall be omitted.

(4) In section 96 of that Act (clearance services)—

(a) in subsection (2) (rate of charge) for "£1.50 for every £100 or part of £100" there shall be substituted "1.5 per cent.";

(b) in subsection (3) (which applies subsection (2) with modifications in certain cases where the securities are transferred by a chargeable instrument) for the words from "as if "£1.50" read" onwards there shall be substituted "as if "1.5 per cent." read "1 per cent.""; and

(c) in subsection (8) (payment in instalments etc) in paragraph (b), for "£1.50 for every £100 or part of £100" there shall be substituted "1.5 per cent. of the amount".

(5) Section 96(12) of that Act (which defines "the day of The Stock Exchange reforms" for the purposes of subsection (3) and which becomes unnecessary in consequence of the amendment made by subsection (4)(b) above) shall be omitted.

(6) In section 99 of that Act (interpretation) after subsection (12) there shall be added—

"(13) Where the calculation of any tax in accordance with the provisions of this Part results in an amount which is not a multiple of one penny, the amount so calculated shall be rounded to the nearest penny, taking any ½p as nearest to the next whole penny above."

(7) Subsections (1) to (5) above have effect in accordance with the following provisions of this subsection, that is to say—

(a) in relation to the charge to tax under section 87 of the Finance Act 1986, subsection (1) above applies where— 1986 c. 41.

(i) the agreement to transfer is conditional and the condition is satisfied on or after 1st July 1996; or

(ii) the agreement is not conditional and is made on or after 1st July 1996;

(b) in relation to the charge to tax under section 93(1) of that Act, paragraphs (a) and (b) of subsection (2) above apply where securities are transferred, issued or appropriated on or after 1st July 1996 (whenever the arrangement was made) and subsection (3) above has effect accordingly;

(c) in relation to the charge to tax under section 93(10) of that Act, paragraph (c) of subsection (2) above applies in relation to instalments payable on or after 1st July 1996;

(d) in relation to the charge to tax under section 96(1) of that Act, paragraphs (a) and (b) of subsection (4) above apply where securities are transferred or issued on or after 1st July 1996 (whenever the arrangement was made) and subsection (5) above has effect accordingly;

(e) in relation to the charge to tax under section 96(8) of that Act, paragraph (c) of subsection (4) above applies in relation to instalments payable on or after 1st July 1996.

Regulations concerning administration: sub-delegation to the Board.

195. In section 98 of the Finance Act 1986 (Treasury regulations with respect to administration etc) after subsection (1) there shall be inserted—

"(1A) The power conferred on the Treasury by subsection (1) above includes power to make provision conferring or imposing on the Board functions which involve the exercise of a discretion."

Clearance services

Election by operator for alternative system of charge.

196.—(1) In section 70 of the Finance Act 1986 (clearance services) in subsection (1) (which, subject to subsection (9), makes provision with respect to stamp duty on transfers into clearance services) after "Subject to subsection (9)" there shall be inserted "and section 97A".

(2) In section 96 of that Act (clearance services) in subsection (1) (which, subject to subsection (5) and section 97, provides for stamp duty reserve tax to be chargeable on transfers into clearance services) for "section 97" there shall be substituted "sections 97 and 97A".

(3) After section 97 of that Act (exceptions) there shall be inserted—

"Clearance services: election for alternative system of charge.

97A.—(1) A person whose business is or includes the provision of clearance services for the purchase and sale of chargeable securities or relevant securities (an "operator") may, with the approval of the Board, elect that stamp duty and stamp duty reserve tax shall be chargeable in accordance with this section in connection with those clearance services.

(2) An election under subsection (1) above—

(a) shall come into force on such date as may be notified to the operator by the Board in giving their approval; and

(b) shall continue in force unless and until it is terminated in accordance with the following provisions of this section.

(3) If and so long as an election under subsection (1) above is in force, stamp duty or stamp duty reserve tax (as the case may require) shall, in connection with the clearance services to which the election relates, be chargeable in relation to—

(a) a transfer or issue falling within section 70(1) or 96(1) above,

(b) an agreement falling within section 90(4) above by virtue of section 96(1) above, or

(c) an agreement falling within section 90(5) above,

as it would be chargeable apart from sections 70, 90(4) and (5) and 96 above.

(4) Where stamp duty or stamp duty reserve tax is chargeable by virtue of subsection (3) above in relation to a transfer, issue or agreement, sections 70, 90(4) and (5) and 96 above shall not have effect in relation to that transfer, issue or agreement.

(5) Nothing in subsection (3) or (4) above affects the application of section 70 or 96 above in relation to a transfer falling within section 70(1) or 96(1) above by the operator or his nominee to, or to a nominee of, another operator in relation to whom no election under subsection (1) above is for the time being in force.

(6) The Board may require the operator, as a condition of the approval of his election under subsection (1) above, to make and maintain such arrangements as they may consider satisfactory—

(a) for the collection of stamp duty reserve tax chargeable in accordance with this section, and

(b) for complying, or securing compliance, with the provisions of this Part and of regulations under section 98 below, so far as relating to such tax.

(7) Where the operator is not resident in the United Kingdom and has no branch or agency in the United Kingdom, the Board may require him, as a condition of

the approval of his election under subsection (1) above, to appoint and, so long as the election remains in force, maintain a tax representative.

(8) A person shall not be an operator's tax representative under this section unless that person—

(a) has a business establishment in the United Kingdom, and

(b) is approved by the Board.

(9) A person who is at any time an operator's tax representative under this section—

(a) shall be entitled to act on the operator's behalf for the purposes of stamp duty and stamp duty reserve tax in connection with the clearance services to which the operator's election under subsection (1) above relates,

(b) shall secure (where appropriate by acting on the operator's behalf) the operator's compliance with and discharge of the obligations and liabilities to which the operator is subject, in connection with the clearance services to which the operator's election under subsection (1) above relates, by virtue of legislation relating to stamp duty or stamp duty reserve tax (including obligations and liabilities arising before he became the operator's tax representative), and

(c) shall be personally liable in respect of any failure to secure the operator's compliance with or discharge of any such obligation or liability, and in respect of anything done for purposes connected with acting on the operator's behalf,

as if the obligations and liabilities imposed on the operator were imposed jointly and severally on the tax representative and the operator.

(10) An election under subsection (1) above may be terminated—

(a) by not less than thirty days' notice given by the operator to the Board or by the Board to the operator; or

(b) if there is or has been a breach of a condition of the approval of the election imposed by virtue of subsection (6) or (7) above, by a notice—

(i) given by the Board to the operator,

(ii) taking effect on the giving of the notice or at such later time as may be specified in the notice, and

(iii) stating that it is given by reason of the breach of condition.

(11) Where an election under subsection (1) above is terminated, section 96 above shall have effect as if chargeable securities of the same amounts and kinds as are, immediately before the termination, held by the

operator or his nominee in connection with the provision of the clearance services, had, immediately after the termination, been transferred to the operator or, as the case may be, to the nominee by a transfer falling within subsection (1) of that section.

(12) In this section "relevant securities" has the same meaning as in section 70 above."

(4) Section 97(2) of that Act (no charge to tax under section 96 on transfers to a stock exchange nominee or to, or to a nominee of, a recognised investment exchange or recognised clearing house) shall not have effect in relation to any transfer effected on or after 1st July 1996.

(5) In section 99(10) of that Act (interpretation of "chargeable securities" in sections 93, 94 and 96) for "and 96" there shall be substituted ", 96 and 97A".

(6) Subsections (1), (2), (3) and (5) above shall come into force on 1st July 1996.

PART VII

MISCELLANEOUS AND SUPPLEMENTAL

Miscellaneous: indirect taxation

Setting of rates of interest.

197.—(1) The rate of interest applicable for the purposes of an enactment to which this section applies shall be the rate which for the purposes of that enactment is provided for by regulations made by the Treasury under this section.

(2) This section applies to—

(a) paragraphs 7 and 9 of Schedule 6 to the Finance Act 1994 (interest payable to or by the Commissioners of Customs and Excise in connection with air passenger duty); 1994 c. 9.

(b) paragraphs 21 and 22 of Schedule 7 to that Act (interest on amounts of insurance premium tax and on amounts payable by the Commissioners in respect of that tax);

(c) sections 74 and 78 of the Value Added Tax Act 1994 (interest on VAT recovered or recoverable by assessment and interest payable in cases of official error); and 1994 c. 23.

(d) paragraphs 26 and 29 of Schedule 5 to this Act (interest payable to or by the Commissioners in connection with landfill tax).

(3) Regulations under this section may—

(a) make different provision for different enactments or for different purposes of the same enactment,

(b) either themselves specify a rate of interest for the purposes of an enactment or make provision for any such rate to be determined, and to change from time to time, by reference to such rate or the average of such rates as may be referred to in the regulations,

(c) provide for rates to be reduced below, or increased above, what they otherwise would be by specified amounts or by reference to specified formulae,

PART VII

(d) provide for rates arrived at by reference to averages or formulae to be rounded up or down,

(e) provide for circumstances in which changes of rates of interest are or are not to take place, and

(f) provide that changes of rates are to have effect for periods beginning on or after a day determined in accordance with the regulations in relation to interest running from before that day, as well as in relation to interest running from, or from after, that day.

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

(5) Where—

(a) regulations under this section provide, without specifying the rate determined in accordance with the regulations, for a new method of determining the rate applicable for the purposes of any enactment, or

(b) the rate which, in accordance with regulations under this section, is the rate applicable for the purposes of any enactment changes otherwise than by virtue of the making of regulations specifying a new rate,

the Commissioners of Customs and Excise shall make an order specifying the new rate and the day from which, in accordance with the regulations, it has effect.

(6) The words "the rate applicable under section 197 of the Finance Act 1996" shall be substituted—

(a) for the words "the specified rate" in each of paragraphs 7(1) and (3) and 9(1) of Schedule 6 to the Finance Act 1994 (air passenger duty); 1994 c. 9.

(b) for the words "the prescribed rate" in each of sub-paragraphs (1) and (3) of paragraph 21 of Schedule 7 to that Act (insurance premium tax);

(c) for the words from "such rate" onwards in sub-paragraph (2) of paragraph 22 of that Schedule; and

(d) in the Value Added Tax Act 1994— 1994 c. 23.

(i) for the words "the prescribed rate" in each of subsections (1), (2) and (4) of section 74, and

(ii) for the words from "such rates" onwards in subsection (3) of section 78.

(7) Subsections (1) and (6) above shall have effect for periods beginning on or after such day as the Treasury may by order made by statutory instrument appoint and shall have effect in relation to interest running from before that day, as well as in relation to interest running from, or from after, that day; and different days may be appointed under this subsection for different purposes.

Miscellaneous: direct taxation

Banks.

198. Schedule 37 to this Act (which re-defines "bank" for certain purposes, and makes related amendments) shall have effect.

PART VII

Quotation or listing of securities.

199. Schedule 38 to this Act (which contains amendments of enactments referring to the quotation or listing of securities) shall have effect.

Domicile for tax purposes of overseas electors.

200.—(1) In determining—

(a) for the purposes of inheritance tax, income tax or capital gains tax where a person is domiciled at any time on or after 6th April 1996, or

(b) for the purposes of section 267(1)(a) of the Inheritance Tax Act 1984 (deemed UK domicile for three years after ceasing to be so domiciled) where a person was domiciled at any time on or after 6th April 1993, 1984 c. 51.

there shall be disregarded any relevant action taken by that person (whether before, on or after that date) in connection with electoral rights.

(2) Relevant action is taken by a person in connection with electoral rights where—

(a) he does anything with a view to, or in connection with, being registered as an overseas elector; or

(b) when registered as an overseas elector, he votes in any election at which he is entitled to vote by virtue of being so registered.

(3) For the purposes of this section, a person is registered as an overseas elector if he is—

(a) registered in any register mentioned in section 12(1) of the Representation of the People Act 1983 (right to be registered of persons entitled to vote at parliamentary elections) on account of any entitlement to vote conferred on him by section 1 of the Representation of the People Act 1985 (extension of parliamentary franchise to certain non-resident British citizens); or 1983 c. 2. 1985 c. 50.

(b) registered under section 3 of that Act of 1985 (certain non-resident peers entitled to vote at European Parliamentary elections).

(4) Nothing in subsection (1) above prevents regard being had, in determining the domicile of a person at any time, to any relevant action taken by him in connection with electoral rights if—

(a) his domicile at that time falls to be determined for the purpose of ascertaining his or any other person's liability to any of the taxes mentioned in subsection (1)(a) above; and

(b) the person whose liability is being ascertained wishes regard to be had to that action;

and a person's domicile determined in accordance with any such wishes shall be taken to have been so determined for the purpose only of ascertaining the liability in question.

Enactment of Inland Revenue concessions.

201. Schedule 39 to this Act has effect for the purpose of enacting certain extra-statutory concessions relating to income tax, corporation tax, capital gains tax, and stamp duty.

PART VII

Miscellaneous: other matters

Gilt stripping.
1942 c. 21.

202.—(1) In section 47 of the Finance Act 1942 (Treasury regulations with respect to the transfer and registration of Government stock), after paragraph (bb) of subsection (1) there shall be inserted the following paragraphs—

"(bc) for the exchange of any such stock and bonds (whenever issued) for strips thereof;

(bd) for exchanges by which such strips (whether deriving from the same security or from different securities) are consolidated into a single security of a description so specified;".

(2) After subsection (1A) of that section (transfer of deceased persons' stocks and bonds) there shall be inserted the following subsections—

"(1B) In this section 'strip', in relation to any stock or bond, means a security issued under the National Loans Act 1968 which—
1968 c. 13.

(a) is issued for the purpose of representing the right to, or of securing—

(i) a payment corresponding to a payment of interest or principal remaining to be made under the stock or bond, or

(ii) two or more payments each corresponding to a different payment remaining to be so made;

(b) is issued in conjunction with the issue of one or more other securities which, together with that security, represent the right to, or secure, payments corresponding to every payment remaining to be made under the stock or bond; and

(c) is not itself a security that represents the right to, or secures, payments corresponding to a part of every payment so remaining.

(1C) For the purposes of subsection (1B) of this section, where the balance has been struck for a dividend on any stock or bond, any payment to be made in respect of that dividend shall, at times falling after that balance has been struck, be treated as not being a payment remaining to be made under the stock or bond.

(1D) Without prejudice to the generality of the powers conferred by the preceding provisions of this section (but subject to subsection (1E) of this section), regulations made by virtue of paragraph (bc) or (bd) of subsection (1) of this section may—

(a) provide, for the purpose of authorising the making of exchanges, for any stock or bonds to be treated as issued on such terms as may be specified in the regulations;

(b) contain such provision as the Treasury think fit about the circumstances in which and the conditions subject to which exchanges may be effected; and

(c) contain any such provision as could be contained in rules made under section 14(3) of the National Loans Act 1968 (Treasury rules as to exchange of securities).

(1E) Regulations made by virtue of subsection (1)(bc) or (bd) of this section shall not make provision for the exchange of any stock

or bonds, or of any strips, in any cases other than those where the exchange is at the request of the holder or in accordance with an order made by a court.

(1F) Regulations under this section may make different provision for different cases and contain such exceptions and exclusions as the Treasury think fit; and the powers of the Treasury to make regulations under this section are without prejudice to any of their powers under the National Loans Act 1968." 1968 c. 13.

(3) After section 2 of the National Debt (Stockholders Relief) Act 1892 (date for striking balance for a dividend on stock) there shall be inserted the following section— 1892 c. 39.

"Payment of dividend on stock stripped after balance struck.

2A.—(1) Where—

(a) any stock is exchanged for strips of that stock, and

(b) that exchange takes place after the balance has been struck for a dividend on that stock but before the day on which that dividend is payable,

any person who would have been entitled to that dividend but for the exchange shall remain entitled to that dividend notwithstanding the exchange.

(2) The Treasury may by order made by statutory instrument provide that for the purposes of this section and section 47(1C) of the Finance Act 1942, the balance for any dividend on any stock is to be deemed to be struck at a time which, by such a period as is specified in the order, precedes the time when the balance is actually struck. 1942 c. 21.

(3) A period specified in an order under subsection (2) above shall not exceed 7 days; and an order made under that subsection may make different provision for different cases.

(4) In this section 'strip', in relation to any stock, has the meaning given by section 47 of the Finance Act 1942."

(4) In section 16 of the National Loans Act 1968 (supplemental provisions as to national debt), after subsection (4) there shall be inserted the following subsection—

"(4A) In subsections (3) and (4) above the references to stock or registered bonds issued under this Act include references to a strip (within the meaning of section 47 of the Finance Act 1942) of any stock or bond (whether the stock or bond is issued under this Act or otherwise)."

(5) The Treasury may by regulations make provision for securing that enactments and subordinate legislation which—

(a) apply in relation to government securities or to any description of such securities, or

PART VII

(b) for any other purpose refer (in whatever terms) to such securities or to any description of them,

have effect with such modifications as the Treasury may think appropriate in consequence of the making of any provision or arrangements for, or in connection with, the issue or transfer of strips of government securities or the consolidation of such strips into other securities.

(6) Regulations under subsection (5) above may—

(a) impose a charge to income tax, corporation tax, capital gains tax, inheritance tax, stamp duty or stamp duty reserve tax;

(b) include provision applying generally to, or to any description of, enactments or subordinate legislation;

(c) make different provision for different cases; and

(d) contain such incidental, supplemental, consequential and transitional provision as the Treasury think appropriate.

(7) The power to make regulations under subsection (5) above shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of the House of Commons.

(8) Schedule 40 to this Act (which makes provision in relation to strips for taxation purposes) shall have effect.

(9) The enactments that may be modified by regulations under this section shall include section 95 above and the enactments contained in Schedule 40 to this Act.

(10) In this section—

"government securities" means any securities included in Part I of Schedule 11 to the Finance Act 1942;

1942 c. 21.

"modifications" includes amendments, additions and omissions; and

"subordinate legislation" has the same meaning as in the Interpretation Act 1978;

1978 c. 30.

and expressions used in this section and in section 47 of the Finance Act 1942 have the same meanings in this section as in that section.

Modification of the Agriculture Act 1993.

1993 c. 37.

203.—(1) Part I of Schedule 2 to the Agriculture Act 1993 (taxation provisions applying to the reorganisation of the milk marketing boards) shall have effect, and be deemed always to have had effect, in accordance with subsections (2) to (4) below where—

(a) any approved scheme has made provision as to the functions of a milk marketing board in the period after the transfers taking effect on the vesting day under section 11 of that Act;

(b) regulations have been made by virtue of section 14(2) of that Act (provision following re-organisation) for giving effect to that provision; and

(c) a transaction is or has been entered into by that board in pursuance of any obligation under those regulations to carry out those functions so far as they relate to a subsidiary of the board.

(2) For the purposes of that Part of that Schedule—

(a) anything done by way of entering into the transaction, or for the purpose of carrying it out, shall be deemed to have been done under and in accordance with the scheme; and

(b) the terms and other provisions having effect in relation to that transaction by virtue of anything contained in, or anything done in exercise of powers conferred by, any regulations under section 14(2) of the Agriculture Act 1993 shall be deemed to be terms for which the scheme provided or, as the case may be, to be provisions of the scheme. 1993 c. 37.

(3) Sub-paragraph (1) of paragraph 16 of Schedule 2 to the Agriculture Act 1993 (distributions) shall have effect, and be deemed always to have had effect, in a case where the terms and provisions mentioned in subsection (2)(b) above involved or involve—

(a) the issue or transfer of any shares in, or securities of, any body,

(b) the conferring of any right to a distribution out of the assets of any body,

(c) the conferring of any right to, or to acquire, shares in any body, or

(d) the transfer to any person of any property or rights of a milk marketing board, or of the subsidiary of such a board,

as if the references to the vesting day in paragraphs (a), (c), (d) and (e) of that sub-paragraph were references to the day on which the winding up of the board is completed.

(4) Sub-paragraph (4) of paragraph 31 of Schedule 2 to the Agriculture Act 1993 (condition to be satisfied if body to be qualifying body by virtue of sub-paragraph (1)(c)) shall have effect, and be deemed always to have had effect, as if—

(a) the reference, in relation to a company, to 90 per cent. of its ordinary share capital were a reference to 70 per cent. of its ordinary share capital; and

(b) the references to shares having been issued to any person included references to their having been allotted to that person.

(5) Paragraph 1 of Schedule 2 to the Agriculture Act 1993 (tax continuity with successor bodies) shall have effect, and be deemed to have had effect, in relation to any relevant transfer after 31st December 1995 to a society registered under the Industrial and Provident Societies Act 1965 of— 1965 c.12.

(a) a trade, or part of a trade, of a milk marketing board, or

(b) any property, rights or liabilities of such a board,

as it has effect in relation to any transfer under section 11 of that Act to a qualifying body.

(6) Paragraphs 16, 20, 25, 26, 28 and 29 of Schedule 2 to the Agriculture Act 1993 shall have effect, and be deemed to have had effect, in relation to any relevant transfer after 31st December 1995 of assets of a milk marketing board to a society registered under the Industrial and Provident Societies Act 1965 as if—

(a) the terms and other provisions of the transaction for effecting the transfer were contained in an approved scheme;

(b) the society were a relevant successor of that board; and

(c) references in those paragraphs to the vesting day were references to the day on which the winding up of the board is completed.

PART VII

(7) For the purposes of subsections (5) and (6) above, a transfer of anything to a society registered under the Industrial and Provident Societies Act 1965 is a relevant transfer if— 1965 c. 12.

(a) it is a transfer in pursuance of regulations made by virtue of section 14(2) of the Agriculture Act 1993; 1993 c. 37.

(b) it is not a transfer of shares in a subsidiary of a milk marketing board; and

(c) the condition mentioned in sub-paragraph (5) of paragraph 31 of Schedule 2 to that Act would have been met in relation to that society if the provision made as to the persons to whom the membership of the society is open were contained in an approved scheme providing for the transfer.

(8) Paragraph 20 of Schedule 2 to the Agriculture Act 1993 (treatment of acquisition of certain shares and securities) shall not apply, and shall be deemed never to have applied, in relation to the acquisition of any security after 31st December 1995 if the indebtedness acknowledged by that security does not fall, for the purposes of the Taxation of Chargeable Gains Act 1992, to be treated as a debt on a security (as defined in section 132 of that Act of 1992). 1992 c. 12.

(9) For the purposes of Chapter II of Part IV of this Act, so far as it has effect for any accounting period ending after 31st March 1996 in relation to any creditor relationship represented by a debenture issued on or after 31st December 1995, paragraph 25 of Schedule 2 to the Agriculture Act 1993 shall have effect as if sub-paragraph (2)(a) of that paragraph (deemed consideration for issue of debenture issued under approved scheme) were omitted.

(10) For the purposes of the Taxation of Chargeable Gains Act 1992, where any debenture to which paragraph 25 of Schedule 2 to the Agriculture Act 1993 applies has been or is issued at any time after 31st December 1995, the indebtedness acknowledged by that debenture shall be deemed (where that would not otherwise be the case) to be, and always to have been, a debt on a security (as defined in section 132 of that Act of 1992).

(11) Expressions used in this section and in Part I of the Agriculture Act 1993 have the same meanings in this section as in that Part.

Supplemental

Interpretation. 1988 c. 1.

204. In this Act "the Taxes Act 1988" means the Income and Corporation Taxes Act 1988.

Repeals.

205.—(1) The enactments mentioned in Schedule 41 to this Act (which include spent provisions) are hereby repealed to the extent specified in the third column of that Schedule.

(2) The repeals specified in that Schedule have effect subject to the commencement provisions and savings contained in, or referred to, in the notes set out in that Schedule.

Short title.

206. This Act may be cited as the Finance Act 1996.

SCHEDULES

SCHEDULE 1

Section 6.

MIXING OF REBATED OIL

The following is the Schedule which shall be inserted after Schedule 2 to the Hydrocarbon Oil Duties Act 1979— 1979 c. 5.

"SCHEDULE 2A

MIXING OF REBATED OIL

PART I

LIGHT OIL

Converting unleaded petrol into leaded petrol

1.—(1) A mixture which is leaded petrol is produced in contravention of this paragraph if such a mixture is produced by—

(a) adding lead to unleaded petrol in respect of which a rebate has been allowed under subsection (1) of section 13A of this Act at the rate given by subsection (1A)(a) of that section;

(b) adding lead to unleaded petrol in respect of which a rebate has been allowed under subsection (1) of that section at the rate given by subsection (1A)(b) of that section; or

(c) adding lead to a mixture of unleaded petrol of a description mentioned in paragraph (a) above and unleaded petrol of a description mentioned in paragraph (b) above.

(2) In sub-paragraph (1) above the reference to adding lead to unleaded petrol includes a reference to adding leaded petrol to unleaded petrol.

(3) This paragraph is subject to any direction given under paragraph 3 below.

Adding octane enhancers to low octane unleaded petrol

2.—(1) A mixture which is super-unleaded petrol is produced in contravention of this paragraph if such a mixture is produced by adding an octane enhancer to unleaded petrol in respect of which a rebate has been allowed under subsection (1) of section 13A of this Act at the rate given by subsection (1A)(b) of that section.

(2) For the purposes of sub-paragraph (1) above 'super-unleaded petrol' means unleaded petrol—

(a) whose research octane number is not less than 96; and

(b) whose motor octane number is not less than 86.

(3) Subsection (1C) of section 13A applies for the purposes of this paragraph as it applies for the purposes of that section.

(4) This paragraph is subject to any direction given under paragraph 3 below.

Power to create exceptions

3. The Commissioners may give a direction that, in such description of circumstances as may be specified in the direction, a mixture is not produced in contravention of paragraph 1 above or (as the case may be) paragraph 2 above.

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PART II

HEAVY OIL

Mixing partially rebated heavy oil with unrebated heavy oil

4. A mixture of heavy oils is produced in contravention of this paragraph if such a mixture is produced by mixing—

(a) gas oil in respect of which a rebate has been allowed under section 11(1)(b) of this Act; and

(b) heavy oil in respect of which, on its delivery for home use, a declaration was made that it was intended for use as fuel for a road vehicle.

Mixing fully rebated heavy oil with unrebated heavy oil

5. A mixture of heavy oils is produced in contravention of this paragraph if such a mixture is produced by mixing—

(a) heavy oil which is neither fuel oil nor gas oil and in respect of which a rebate has been allowed under section 11(1)(c) of this Act; and

(b) heavy oil in respect of which, on its delivery for home use, a declaration was made that it was intended for use as fuel for a road vehicle.

Mixing fully rebated heavy oil with partially rebated heavy oil

6. A mixture of heavy oils is produced in contravention of this paragraph if such a mixture is produced by mixing—

(a) heavy oil which is neither fuel oil nor gas oil and in respect of which a rebate has been allowed under section 11(1)(c) of this Act; and

(b) gas oil in respect of which a rebate has been allowed under section 11(1)(b) of this Act.

Complex mixtures of heavy oils

7. A mixture of heavy oils is produced in contravention of this paragraph if such a mixture is produced in contravention of more than one paragraph of paragraphs 4 to 6 above.

PART III

RATES OF DUTY, ETC.

Rate for mixtures of light oil

8.—(1) Subject to paragraph 10 below, duty under section 20AAA(1) of this Act shall be charged at the following rates.

(2) In the case of a mixture produced in contravention of paragraph 1 above, the rate is the rate for light oil in force at the time that the mixture is produced.

(3) In the case of a mixture produced in contravention of paragraph 2 above, the rate is the rate produced by deducting from the rate for light oil in force at the time the mixture is produced the rate of rebate which at that time is in force under section 13A(1A)(a) of this Act.

(4) In this paragraph 'the rate for light oil' means the rate given in the case of light oil by section 6(1) of this Act.

Rate for mixtures of heavy oil

9.—(1) Subject to paragraph 10 below, duty charged under subsection (2) of section 20AAA of this Act shall be charged at the rate for heavy oil in force at the time when the mixture is supplied as mentioned in that subsection.

(2) In this paragraph 'the rate for heavy oil' means the rate given in the case of heavy oil by section 6(1) of this Act.

Credit for duty paid on ingredients of mixture

10. Where duty is charged under section 20AAA of this Act in respect of any mixture, the amount of duty produced by applying paragraph 8 or 9 above shall be reduced by the amount of any duty under section 6 of this Act which the Commissioners are satisfied has been paid in respect of any ingredient of the mixture.

Interpretation

11. In this Schedule—

'fuel oil' and 'gas oil' have the same meanings as in section 11 of this Act;

'leaded petrol' and 'unleaded petrol' shall be construed in accordance with section 13A of this Act."

SCHEDULE 2

Section 23.

VEHICLE LICENSING AND REGISTRATION

1. In this Schedule "the 1994 Act" means the Vehicle Excise and Registration Act 1994. 1994 c. 22.

Vehicle licences

2.—(1) Section 7 of the 1994 Act (issue of vehicle licences) shall be amended in accordance with this paragraph.

(2) After subsection (3) there shall be inserted the following subsections—

"(3A) A person applying for a licence shall not be required to make a declaration specified for the purposes of subsection (1)(a) if he agrees to comply with such conditions as may be specified in relation to him by the Secretary of State.

(3B) The conditions which may be specified under subsection (3A) include a condition that particulars for the time being specified for the purposes of subsection (1)(b) are furnished by being transmitted to the Secretary of State by such electronic means as he may specify."

(3) Sub-paragraph (2) above applies to applications made on or after the day on which this Act is passed.

(4) In subsection (6)—

(a) after "may provide for—" there shall be inserted the following paragraph—

"(aa) the return of any vehicle licence which is damaged or contains any particulars which have become illegible or inaccurate,";

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(b) in paragraph (a), after "or damaged", there shall be inserted "or which contains any particulars which have become illegible or inaccurate"; and

(c) at the end of paragraph (b) there shall be inserted "in any of those circumstances".

Trade licences

3. In section 11 of the 1994 Act (trade licences), after subsection (1) there shall be inserted the following subsection—

"(1A) The power to prescribe conditions under subsection (1) includes, in particular, the power to prescribe conditions which are to be complied with after the licence is issued."

Registration regulations

4.—(1) Subsection (1) of section 22 of the 1994 Act (registration regulations) shall be amended in accordance with this paragraph.

(2) In paragraph (d), after "a person by", there shall be inserted ", through".

(3) In paragraph (dd), after "a person by", there shall be inserted "or through".

(4) At the end of paragraph (h) there shall be inserted "or which contain any particulars which have become illegible or inaccurate".

(5) After paragraph (h) there shall be inserted the following paragraph—

"(i) provide for a fee of such amount as appears to the Secretary of State to be reasonable to be paid on the issue of new registration documents in any of the circumstances mentioned in paragraph (h)."

5. In subsection (1B)(a) of section 22 of the 1994 Act, for "the other person there mentioned or to the Secretary of State or to both;" there shall be substituted "another person there mentioned or to the Secretary of State or to another such person and to the Secretary of State;".

6. After subsection (1B) of section 22 of the 1994 Act there shall be inserted the following subsection—

"(1C) Regulations under subsection (1)(e) may, in particular, provide that registration documents need not be issued in respect of the registration of a vehicle until the vehicle has been inspected by a person specified by the Secretary of State."

7. After subsection (1C) of section 22 of the 1994 Act there shall be inserted the following subsections—

"(1D) The Secretary of State may by regulations require a person—

(a) who surrenders a vehicle licence under section 10(2),

(b) who does not renew a vehicle licence for a vehicle kept by him, or

(c) who keeps an unlicensed vehicle at any place in the United Kingdom,

to furnish such particulars and make such declarations as may be prescribed by the regulations, and to do so at such times and in such manner as may be so prescribed.

(1E) For the purposes of subsection (1D)(b) a person shall be regarded as not renewing a vehicle licence for a vehicle kept by him if—

(a) he keeps a vehicle for which a vehicle licence is in force, and

(b) he does not, at such time as may be prescribed by the regulations or within such period as may be so prescribed, take out a vehicle licence to have effect from the expiry of the vehicle licence mentioned in paragraph (a).

(1F) For the purposes of subsection (1D)(c) a vehicle is unlicensed if no vehicle licence is in force for the vehicle.

(1G) Regulations under subsection (1D) may make such transitional provision as appears to the Secretary of State to be appropriate."

Surrender of licences: repayments

8. In section 19 of the 1994 Act (surrender of licences), after subsection (2), there shall be inserted the following subsection—

"(3) Subsection (1) does not apply if the holder of the licence does not comply with regulations made by virtue of section 22(1D)(a)."

Offences

9.—(1) In section 29 of the 1994 Act (penalty for using or keeping unlicensed vehicle), at the beginning of subsection (3) there shall be inserted "Subject to subsection (3A)", and after subsection (3) there shall be inserted the following subsection—

"(3A) In the case of a person who—

(a) has provided the Secretary of State with a declaration or statement (in pursuance of regulations under section 22) that the vehicle will not during a period specified in the declaration or statement be used or kept on a public road, and

(b) commits an offence under subsection (1) within a period prescribed by regulations,

subsection (3) applies as if the reference in paragraph (a) to level 3 were a reference to level 4."

(2) This paragraph applies in relation to offences committed on or after the day on which this Act is passed.

10. In section 33 of the 1994 Act (not exhibiting licence), after subsection (3) there shall be inserted the following subsection—

"(4) The Secretary of State may make regulations prohibiting a person from exhibiting on a vehicle in respect of which excise duty is chargeable anything—

(a) which is intended to be, or

(b) which could reasonably be,

mistaken for a licence which is for, or in respect of, the vehicle and which is for the time being in force."

11.—(1) Section 45 of the 1994 Act (false or misleading declarations and information) shall be amended in accordance with this paragraph.

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

"(2A) A person who makes a declaration or statement which—

(a) is required to be made in respect of a vehicle by regulations under section 22, and

(b) to his knowledge is either false or in any material respect misleading,

is guilty of an offence."

SCH. 2

(3) In subsection (3) (offence of furnishing false or misleading particulars), in paragraph (a), after "required by" there shall be inserted "virtue of".

Offences: information and admissions

12. After section 46 of the 1994 Act there shall be inserted the following section—

"Duty to give information: offences under regulations.

46A.—(1) Subsection (2) applies where it appears to the Secretary of State—

(a) that a person is a person by, through or to whom a vehicle has been sold or disposed of and that he has failed to comply with regulations made by virtue of section 22(1)(d) requiring him to furnish particulars prescribed by the regulations;

(b) that a person is a person by or through whom a vehicle has been sold or disposed of and that he has failed to comply with regulations made by virtue of section 22(1)(dd) requiring him to furnish a document prescribed by the regulations; or

(c) that a person is a person who is surrendering a vehicle licence, or who is not renewing a vehicle licence for a vehicle kept by him or who is keeping an unlicensed vehicle and that he has failed to comply with regulations made by virtue of section 22(1D) requiring him to furnish particulars or make a declaration prescribed by the regulations.

(2) The Secretary of State may serve a notice on the person in question requiring him to give the Secretary of State such information as it in his power to give—

(a) as to the identity of any person who is keeping a specified vehicle or who has kept it at a specified time or during a specified period;

(b) as to the identity of any person by, through or to whom a specified vehicle has been sold or disposed of at a specified time or during a specified period; or

(c) which may lead to the identification of a person falling within paragraph (a) or (b).

(3) A person who fails to comply with a notice under subsection (2) is guilty of an offence.

(4) A person guilty of an offence under subsection (3) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(5) In this section 'specified' means specified in a notice under subsection (2)."

13. After section 51 of the 1994 Act there shall be inserted the following section—

"Admissions: offences under regulations.

51A.—(1) Subsection (2) applies in relation to any proceedings in England, Wales or Northern Ireland against a person for an offence on the grounds that—

(a) a vehicle has been sold or disposed of by, through or to him and he has failed to furnish particulars prescribed by regulations made by virtue of section 22(1)(d);

(b) a vehicle has been sold or disposed of by or through

him and he has failed to furnish a document prescribed by regulations made by virtue of section 22(1)(dd); or

(c) he has surrendered, or not renewed, a vehicle licence, or is keeping an unlicensed vehicle, and has failed to furnish any particulars or make a declaration prescribed by regulations made by virtue of section 22(1D).

(2) If—

(a) it is appropriately proved that there has been served on the accused by post a requirement under section 46A to give information as to the identity of the person keeping the vehicle at a particular time, and

(b) a statement in writing is produced to the court purporting to be signed by the accused that he was keeping the vehicle at that time,

the court may accept the statement as evidence that the accused was keeping the vehicle at that time.

(3) In subsection (2) 'appropriately proved' has the same meaning as in section 51."

Proceedings in respect of offences

14.—(1) In—

(a) section 47(1) and (2) of the 1994 Act (institution and conduct of proceedings in England and Wales or Northern Ireland), and

(b) section 48(3) of the 1994 Act (proceedings in Scotland),

after "section 29, 34" there shall in each case be inserted ", 35A".

(2) In section 55(1) of the 1994 Act (guilty plea by absent accused), for paragraphs (a) and (b) there shall be substituted "an offence under section 29 or 35A".

(3) This paragraph applies in relation to proceedings commenced on or after the day on which this Act is passed.

Compounding of offences

15. In section 59 of the 1994 Act (regulations: offences), after subsection (5), there shall be inserted the following subsection—

"(6) The Secretary of State may, if he sees fit, compound any proceedings for an offence—

(a) under subsection (1), or

(b) under regulations under section 24 or 28."

Regulations

16. In section 57(1) of the 1994 Act (regulations generally), the words "(other than sections 7(2) and (3), 8, 26, 27, 52 and 54)" shall be omitted.

Section 26.

SCHEDULE 3

VALUE ADDED TAX: FISCAL AND OTHER WAREHOUSING

1994 c. 23.

1. In subsection (1) of section 6 of the Value Added Tax Act 1994, for the words "section 18" there shall be substituted the words "sections 18, 18B and 18C".

2. In subsection (1) of section 7 of the Value Added Tax Act 1994, for the words "sections 14 and 18" there shall be substituted the words "sections 14, 18 and 18B".

3. In subsection (1) of section 12 of the Value Added Tax Act 1994, for the words "section 18" there shall be substituted "sections 18 and 18B".

4. In subsection (1) of section 13 of the Value Added Tax Act 1994, for the words "section 18" there shall be substituted "sections 18 and 18B".

5. The following sections shall be inserted in the Value Added Tax Act 1994 after section 18.

"Fiscal warehousing.

18A.—(1) The Commissioners may, if it appears to them proper, upon application approve any registered person as a fiscal warehousekeeper; and such approval shall be subject to such conditions as they shall impose.

(2) Subject to those conditions and to regulations made under section 18F such a person shall be entitled to keep a fiscal warehouse.

(3) "Fiscal warehouse" means such place in the United Kingdom in the occupation or under the control of the fiscal warehousekeeper, not being retail premises, as he shall notify to the Commissioners in writing; and such a place shall become a fiscal warehouse on receipt by the Commissioners of that notification or on the date stated in it as the date from which it is to have effect, whichever is the later, and, subject to subsection (6) below, shall remain a fiscal warehouse so long as it is in the occupation or under the control of the fiscal warehousekeeper or until he shall notify the Commissioners in writing that it is to cease to be a fiscal warehouse.

(4) The Commissioners may in considering an application by a person to be a fiscal warehousekeeper take into account any matter which they consider relevant, and may without prejudice to the generality of that provision take into account all or any one or more of the following—

(a) his record of compliance and ability to comply with the requirements of this Act and regulations made hereunder;

(b) his record of compliance and ability to comply with the requirements of the customs and excise Acts (as defined in the Management Act) and regulations made thereunder;

(c) his record of compliance and ability to comply with Community customs provisions;

(d) his record of compliance and ability to comply with the requirements of other member States relating to VAT and duties equivalent to duties of excise;

(e) if the applicant is a company the records of compliance and ability to comply with the matters set out at (a) to (d) above of its directors, persons connected with its directors, its managing officers, any shadow directors or any of those persons, and, if it is a close company, the records of compliance and ability to comply with the matters set out at (a) to (d) above of the beneficial owners of the shares of the company or any of them; and

(f) if the applicant is an individual the records of compliance and ability to comply with the matters set out at (a) to (d) above of any company of which he is or has been a director, managing officer or shadow director or, in the case of a close company, a shareholder or the beneficial owner of shares,

and for the purposes of paragraphs (e) and (f) "connected" shall have the meaning given by section 24(7), "managing officer" the meaning given by section 61(6), "shadow director" the meaning given by section 741(2) of the Companies Act 1985 and "close company" the meaning given by the Taxes Act. 1985 c. 6.

(5) Subject to subsection (6) below, a person approved under subsection (1) shall remain a fiscal warehousekeeper until he ceases to be a registered person or until he shall notify the Commissioners in writing that he is to cease to be a fiscal warehousekeeper.

(6) The Commissioners may if they consider it appropriate from time to time—

(a) impose conditions on a fiscal warehousekeeper in addition to those conditions, if any, which they imposed under subsection (1), and vary or revoke any conditions previously imposed;

(b) withdraw approval of any person as a fiscal warehousekeeper, and

(c) withdraw fiscal warehouse status from any premises.

(7) Any application by or on behalf of a person to be a fiscal warehousekeeper shall be in writing in such form as the Commissioners may direct and shall be accompanied by such information as they shall require.

(8) Any approval by the Commissioners under subsection (1) above, and any withdrawal of approval or other act by them under subsection (6) above, shall be notified by them to the fiscal warehousekeeper in writing and shall take effect on such notification being made or on any later date specified for the purpose in the notification.

(9) Without prejudice to the provisions of section 43 concerning liability for VAT, in subsections (1) and (2) above "registered person" includes any body corporate which under that section is for the time being treated as a member of a group.

Fiscally warehoused goods: relief.

18B.—(1) Subsections (3) and (4) below apply where—

(a) there is an acquisition of goods from another member State;

(b) those goods are eligible goods;

(c) either—

(i) the acquisition takes place while the goods are subject to a fiscal warehousing regime; or

(ii) after the acquisition but before the supply, if any, of those goods which next occurs, the acquirer causes the goods to be placed in a fiscal warehousing regime; and

(d) the acquirer, not later than the time of the acquisition, prepares and keeps a certificate that the goods are subject to a fiscal warehousing regime, or (as the case may be) that he will cause paragraph (c)(ii) above to be satisfied; and the certificate shall be in such form and be kept for such period as the Commissioners may by regulations specify.

(2) Subsections (3) and (4) below also apply where—

(a) there is a supply of goods;

(b) those goods are eligible goods;

(c) either—

(i) that supply takes place while the goods are subject to a fiscal warehousing regime; or

(ii) after that supply but before the supply, if any, of those goods which next occurs, the person to whom the former supply is made causes the goods to be placed in a fiscal warehousing regime;

(d) in a case falling within paragraph (c)(ii) above, the person to whom the supply is made gives the supplier, not later than the time of the supply, a certificate in such form as the Commissioners may by regulations specify that he will cause paragraph (c)(ii) to be satisfied; and

(e) the supply is not a retail transaction.

(3) The acquisition or supply in question shall be treated for the purposes of this Act as taking place outside the United Kingdom if any subsequent supply of those goods is while they are subject to the fiscal warehousing regime.

(4) Where subsection (3) does not apply and the acquisition or supply in question falls, for the purposes of this Act, to be treated as taking place in the United Kingdom, that acquisition or supply shall be treated for the purposes of this Act as taking place when the goods are removed from the fiscal warehousing regime.

(5) Where—

(a) subsection (4) above applies to an acquisition or a supply,

(b) the acquisition or supply is taxable and not zero-rated, and

(c) the acquirer or supplier is not a taxable person but would be were it not for paragraph 1(9) of Schedule 1, paragraph 1(7) of Schedule 2 and paragraph 1(6) of Schedule 3, or any of those provisions,

VAT shall be chargeable on that acquisition or supply notwithstanding that the acquirer or the supplier is not a taxable person.

(6) In this section "eligible goods" means goods—

(a) of a description falling within Schedule 5A;

(b) upon which any import duties, as defined in article 4(10) of the Community Customs Code of 12th October 1992 (Council Regulation (EEC) No.2913/92), either have been paid or have been deferred under article 224 of that Code or regulations made under section 45 of the Management Act;

(c) (in the case of goods imported from a place outside the member States) upon which any VAT chargeable under section 1(1)(c) has been either paid or deferred in accordance with Community customs provisions, and

(d) (in the case of goods subject to a duty of excise) upon which that duty has been either paid or deferred under section 127A of the Management Act.

(7) For the purposes of this section, apart from subsection (4), an acquisition or supply shall be treated as taking place at the material time for the acquisition or supply.

(8) The Treasury may by order vary Schedule 5A by adding to or deleting from it any goods or varying any description of any goods.

Warehouses and fiscal warehouses: services.

18C.—(1) Where—

(a) a taxable person makes a supply of specified services;

(b) those services are wholly performed on or in relation to goods while those goods are subject to a warehousing or fiscal warehousing regime;

(c) (except where the services are the supply by an occupier of a warehouse or a fiscal warehousekeeper of warehousing or fiscally warehousing the goods) the person to whom the supply is made gives the supplier a certificate, in such a form as the Commissioners may by regulations specify, that the services are so performed;

(d) the supply of services would (apart from this section) be taxable and not zero-rated; and

(e) the supplier issues to the person to whom the supply is made an invoice of such a description as the Commissioners may by regulations prescribe,

his supply shall be zero-rated.

(2) If a supply of services is zero-rated under subsection (1) above ("the zero-rated supply of services") then, unless there is a supply of the goods in question the material time for which is—

(a) while the goods are subject to a warehousing or fiscal warehousing regime, and

(b) after the material time for the zero-rated supply of services,

subsection (3) below shall apply.

(3) Where this subsection applies—

(a) a supply of services identical to the zero-rated supply of services shall be treated for the purposes of this Act as being, at the time the goods are removed from the warehousing or fiscal warehousing regime or (if earlier) at the duty point, both made (for the purposes

of his business) to the person to whom the zero-rated supply of services was actually made and made by him in the course or furtherance of his business,

(b) that supply shall have the same value as the zero-rated supply of services,

(c) that supply shall be a taxable (and not a zero-rated) supply, and

(d) VAT shall be charged on that supply even if the person treated as making it is not a taxable person.

(4) In this section "specified services" means—

(a) services of an occupier of a warehouse or a fiscal warehousekeeper of keeping the goods in question in a warehousing or fiscal warehousing regime;

(b) in relation to goods subject to a warehousing regime, services of carrying out on the goods operations which are permitted to be carried out under Community customs provisions or warehousing regulations as the case may be; and

(c) in relation to goods subject to a fiscal warehousing regime, services of carrying out on the goods any physical operations (other than any prohibited by regulations made under section 18F), for example, and without prejudice to the generality of the foregoing words, preservation and repacking operations.

Removal from warehousing: accountability.

18D.—(1) This section applies to any supply to which section 18B(4) or section 18C(3) applies (supply treated as taking place on removal or duty point) and any acquisition to which section 18B(5) applies (acquisition treated as taking place on removal where acquirer not a taxable person).

(2) Any VAT payable on the supply or acquisition shall (subject to any regulations under subsection (3) below) be paid—

(a) at the time when the supply or acquisition is treated as taking place under the section in question; and

(b) by the person by whom the goods are removed or, as the case may be, together with the excise duty, by the person who is required to pay that duty.

(3) The Commissioners may by regulations make provision for enabling a taxable person to pay the VAT he is required to pay by virtue of subsection (2) above at a time later than that provided by that subsection; and they may make different provisions for different descriptions of taxable persons and for different descriptions of goods and services.

Deficiency in fiscally warehoused goods.

18E.—(1) This section applies where goods have been subject to a fiscal warehousing regime and, before being lawfully removed from the fiscal warehouse, they are found to be missing or deficient.

(2) In any case where this section applies, unless it is shown to the satisfaction of the Commissioners that the absence of or deficiency in the goods can be accounted for by natural waste or other legitimate cause, the Commissioners may require the fiscal warehousekeeper to pay immediately in respect of the missing goods or of the whole or any part of the deficiency, as they see fit, the VAT that would have been chargeable.

(3) In subsection (2) "VAT that would have been chargeable" means VAT that would have been chargeable on a supply of the missing goods, or the amount of goods by which the goods are deficient, taking place at the time immediately before the absence arose or the deficiency occurred, if the value of that supply were the open market value; but where that time cannot be ascertained to the Commissioners' satisfaction, that VAT shall be the greater of the amounts of VAT which would have been chargeable on a supply of those goods—

(a) if the value of that supply were the highest open market value during the period (the relevant period) commencing when the goods were placed in the fiscal warehousing regime and ending when the absence or deficiency came to the notice of the Commissioners, or

(b) if the rate of VAT chargeable on that supply were the highest rate chargeable on a supply of such goods during the relevant period and the value of that supply were the highest open market value while that rate prevailed.

(4) This section has effect without prejudice to any penalty incurred under any other provision of this Act or regulations made under it.

Sections 18A to 18E: supplementary.

18F.—(1) In sections 18A to 18E and this section—

"duty point" has the meaning given by section 18(6);

"eligible goods" has the meaning given by section 18B(6);

"fiscal warehouse" means a place notified to the Commissioners under section 18A(3) and from which such status has not been withdrawn;

"fiscal warehousekeeper" means a person approved under section 18A(1);

"material time"—

(a) in relation to any acquisition or supply the time of which is determined in accordance with regulations under section 6(14) or 12(3), means such time as may be prescribed for the purpose of this section by those regulations;

(b) in relation to any other acquisition, means the time when the goods reach the destination to which they are despatched from the member State in question;

(c) in relation to any other supply of goods, means the time when the supply would be treated as taking place in accordance with subsection (2) of section 6 if paragraph (c) of that subsection were omitted; and

(d) in relation to any other supply of services, means the time when the services are performed;

"warehouse", except in the expression "fiscal warehouse", has the meaning given by section 18(6);

"warehousing regulations" has the same meaning as in the Management Act.

(2) Any reference in sections 18A to 18E or this section to goods being subject to a fiscal warehousing regime is, subject to any regulations made under subsection (8)(e) below, a reference

to eligible goods being kept in a fiscal warehouse or being transferred between fiscal warehouses in accordance with such regulations; and any reference to the removal of goods from a fiscal warehousing regime shall be construed accordingly.

(3) Subject to subsection (2) above, any reference in sections 18C and 18D to goods being subject to a warehousing regime or to the removal of goods from a warehousing regime shall have the same meaning as in section 18(7).

(4) Where as a result of an operation on eligible goods subject to a fiscal warehousing regime they change their nature but the resulting goods are also eligible goods, the provisions of sections 18B to 18E and this section shall apply as if the resulting goods were the original goods.

(5) Where as a result of an operation on eligible goods subject to a fiscal warehousing regime they cease to be eligible goods, on their ceasing to be so sections 18B to 18E shall apply as if they had at that time been removed from the fiscal warehousing regime; and for that purpose the proprietor of the goods shall be treated as if he were the person removing them.

(6) Where—

(a) any person ceases to be a fiscal warehousekeeper; or

(b) any premises cease to have fiscal warehouse status,

sections 18B to 18E and this section shall apply as if the goods of which he is the fiscal warehousekeeper, or the goods in the fiscal warehouse, as the case may be, had at that time been removed from the fiscal warehousing regime; and for that purpose the proprietor of the goods shall be treated as if he were the person removing them.

(7) The Commissioners may make regulations governing the deposit, keeping, securing and treatment of goods in a fiscal warehouse, and the removal of goods from a fiscal warehouse.

(8) Regulations may, without prejudice to the generality of subsection (7) above, include provisions—

(a) in relation to—

(i) goods which are, have been or are to be subject to a fiscal warehousing regime,

(ii) other goods which are, have been or are to be kept in fiscal warehouses,

(iii) fiscal warehouse premises, and

(iv) fiscal warehousekeepers and their businesses,

as to the keeping, preservation and production of records and the furnishing of returns and information by fiscal warehousekeepers and any other persons;

(b) requiring goods deposited in a fiscal warehouse to be produced to or made available for inspection by an authorised person on request by him;

(c) prohibiting the carrying out on fiscally warehoused goods of such operations as they may prescribe;

(d) regulating the transfer of goods from one fiscal warehouse to another;

(e) concerning goods which, though kept in a fiscal warehouse, are not eligible goods or are not intended by a relevant person to be goods in respect of which reliefs are to be enjoyed under sections 18A to 18E and this section;

(f) prohibiting the fiscal warehousekeeper from allowing goods to be removed from the fiscal warehousing regime without payment of any VAT payable under section 18D on or by reference to that removal and, if in breach of that prohibition he allows goods to be so removed, making him liable for the VAT jointly and severally with the remover,

and may contain such incidental or supplementary provisions as the Commissioners think necessary or expedient.

(9) Regulations may make different provision for different cases, including different provision for different fiscal warehousekeepers or descriptions of fiscal warehousekeeper, for fiscal warehouses of different descriptions or for goods of different classes or descriptions or of the same class or description in different circumstances."

6. In subsection (1) of section 20 of the Value Added Tax Act 1994, there shall be inserted at the beginning the words "Subject to section 18C,". 1994 c. 23.

7. In section 30 of the Value Added Tax Act 1994 the following subsection shall be added after subsection (8)—

"(8A) Regulations may provide for the zero-rating of supplies of goods, or of such goods as may be specified in regulations, in cases where—

(a) the Commissioners are satisfied that the supply in question involves both—

(i) the removal of the goods from a fiscal warehousing regime within the meaning of section 18F(2); and

(ii) their being placed in a warehousing regime in another member State, or in such member State or States as may be prescribed, where that regime is established by provisions of the law of that member State corresponding, in relation to that member State, to the provisions of sections 18A and 18B; and

(b) such other conditions, if any, as may be specified in the regulations or the Commissioners may impose are fulfilled.",

and in subsection (10) for the words "subsection (8) or (9)" there shall be substituted the words "subsection (8), (8A) or (9)" and for the words "subsection (6), (8) or (9)", there shall be substituted the words "subsection (6), (8), (8A) or (9)".

8.—(1) Section 62 of the Value Added Tax Act 1994 shall be amended as follows.

(2) In paragraph (a) of subsection (1), after the words "a person" there shall be inserted the words "by whom one or more acquisitions or", the words "or" at the end of sub-paragraph (i) and "and" at the end of sub-paragraph (ii) shall be omitted and the following additional sub-paragraphs shall be inserted—

"(iii) prepares a certificate in accordance with section 18B(1)(d) or gives a supplier a certificate in accordance with section 18B(2)(d); or

(iv) gives the supplier a certificate in accordance with section 18C(1)(c); and".

SCH. 3

(3) In the passage following paragraph (b) of subsection (1) and in subsections (3) and (4), after the word "giving" wherever it appears there shall be inserted the words "or preparing".

(4) In subsection (3) after the words "gave" and "given" there shall be inserted in each case the words "or prepared".

1994 c. 23.

9. In subsection (1) of section 69 of the Value Added Tax Act 1994 after paragraph (f) the following shall be added—

"; or

(g) section 18A in the form of a condition imposed by the Commissioners under subsection (1) or (6) of that section,".

10. In section 73 of the Value Added Tax Act 1994 the following subsections shall be added after subsection (7)—

"(7A) Where a fiscal warehousekeeper has failed to pay VAT required by the Commissioners under section 18E(2), the Commissioners may assess to the best of their judgment the amount of that VAT due from him and notify it to him.

(7B) Where it appears to the Commissioners that goods have been removed from a warehouse or fiscal warehouse without payment of the VAT payable under section 18(4) or section 18D on that removal, they may assess to the best of their judgment the amount of VAT due from the person removing the goods or other person liable and notify it to him."

11. In sections 73(9) and 76(5) of the Value Added Tax Act 1994 for the words "or (7)" there shall be substituted ", (7), (7A) or (7B)".

12. In section 83 of the Value Added Tax Act 1994 the following paragraph shall be added after paragraph (d)—

"(da) a decision of the Commissioners under section 18A—

(i) as to whether or not a person is to be approved as a fiscal warehousekeeper or the conditions from time to time subject to which he is so approved;

(ii) for the withdrawal of any such approval; or

(iii) for the withdrawal of fiscal warehouse status from any premises;",

and in paragraph (p)(ii) for "subsection (7)" there shall be substituted "subsections (7), (7A) or (7B)".

13. In paragraph 1 of Schedule 1 to the Value Added Tax Act 1994, the following sub-paragraph shall be added after sub-paragraph (8)—

"(9) In determining the value of a person's supplies for the purposes of sub-paragraph (1) or (2) above, supplies to which section 18B(4) (last acquisition or supply of goods before removal from fiscal warehousing) applies and supplies treated as made by him under section 18C(3) (self-supply of services on removal of goods from warehousing) shall be disregarded.".

14. In paragraph 1 of Schedule 2 to the Value Added Tax Act 1994, the following sub-paragraph shall be added after sub-paragraph (6)—

"(7) For the purposes of sub-paragraphs (1) and (2) above supplies to which section 18B(4) (last acquisition or supply of goods before removal from fiscal warehousing) applies shall be disregarded.".

SCH. 3

15. In paragraph 1 of Schedule 3 to the Value Added Tax Act 1994, the following sub-paragraph shall be added after sub-paragraph (5)— 1994 c. 23.

"(6) In determining the value of a person's acquisitions for the purposes of sub-paragraph (1) or (2) above, acquisitions to which section 18(B)(4) (last acquisition or supply of goods before removal from fiscal warehousing) applies shall be disregarded.".

16. In paragraph 8(1) of Schedule 11 to the Value Added Tax Act 1994 after the words "another member State" there shall be inserted the words ", or in the possession of a fiscal warehousekeeper,".

17. In paragraph 10(2) of Schedule 11 to the Value Added Tax Act 1994, after the words "on those premises" there shall be inserted the words ", or that any premises are used as a fiscal warehouse,".

18. The following Schedule shall be added to the Value Added Tax Act 1994.

"SCHEDULE 5A Section 18B.

GOODS ELIGIBLE TO BE FISCALLY WAREHOUSED

Description of goods	*Combined nomenclature code of the European Communities*
Tin	8001
Copper	7402
	7403
	7405
	7408
Zinc	7901
Nickel	7502
Aluminium	7601
Lead	7801
Indium	ex 811291
	ex 811299
Cereals	1001 to 1005
	1006: unprocessed rice only
	1007 to 1008
Oil seeds and oleaginous fruit	1201 to 1207
Coconuts, Brazil nuts and cashew nuts	0801
Other nuts	0502
Olives	071120
Grains and seeds (including soya beans)	1201 to 1207
Coffee, not roasted	0901 11 00
	0901 12 00
Tea	0902
Cocoa beans, whole or broken, raw or roasted	1801
Raw sugar	1701 11
	1701 12
Rubber, in primary forms or in plates, sheets or strip	4001
	4002
Wool	5101
Chemicals in bulk	Chapters 28 and 29
Mineral oils (including propane and butane; also including crude petroleum oils)	2709
	2710
	2711 12
	2711 13
Silver	7106
Platinum (palladium, rhodium)	7110 11 00
	7110 21 00
	7110 31 00
Potatoes	0701

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Vegetable oils and fats and their fractions, whether or not refined, but not chemically modified	1507 to 1515"

Section 31.

SCHEDULE 4

VALUE ADDED TAX: ANTI-AVOIDANCE PROVISIONS

The following is the Schedule which shall be inserted after Schedule 9 to the 1994 c. 23. Value Added Tax Act 1994—

"SCHEDULE 9A

ANTI-AVOIDANCE PROVISIONS: GROUPS

Power to give directions

1.—(1) Subject to paragraph 2 below, the Commissioners may give a direction under this Schedule if, in any case—

(a) a relevant event has occurred;

(b) the condition specified in sub-paragraph (3) below is fulfilled;

(c) that condition would not be fulfilled apart from the occurrence of that event; and

(d) in the case of an event falling within sub-paragraph (2)(b) below, the transaction in question is not a supply which is the only supply by reference to which the case falls within paragraphs (a) to (c) above.

(2) For the purposes of this Schedule, a relevant event occurs when a body corporate—

(a) begins to be, or ceases to be, treated as a member of a group; or

(b) enters into any transaction.

(3) The condition mentioned in sub-paragraph (1) above is that—

(a) there has been, or will or may be, a taxable supply on which VAT has been, or will or may be, charged otherwise than by reference to the supply's full value;

(b) there is at least a part of the supply which is not or, as the case may be, would not be zero-rated; and

(c) the charging of VAT on the supply otherwise than by reference to its full value gives rise or, as the case may be, would give rise to a tax advantage.

(4) For the purposes of this paragraph the charging of VAT on a supply ('the undercharged supply') otherwise than by reference to its full value shall be taken to give rise to a tax advantage if, and only if, a person has become entitled—

(a) to credit for input tax allowable as attributable to that supply or any part of it, or

(b) in accordance with regulations under section 39, to any repayment in respect of that supply or any part of it.

(5) The cases where a person shall be taken for the purposes of sub-paragraph (4) above to have become entitled to a credit for input tax allowable as attributable to the undercharged supply, or to a part of it, shall include any case where—

(a) a person has become entitled to a credit for any input tax on the supply to him, or the acquisition or importation by him, of any goods or services; and

(b) whatever the supplies to which the credit was treated as attributable when the entitlement to it arose, those goods or services are used by him in making the undercharged supply, or a part of it.

(6) For the purposes of sub-paragraphs (4) and (5) above where—

(a) there is a supply of any of the assets of a business of a person ('the transferor') to a person to whom the whole or any part of that business is transferred as a going concern ('the transferee'), and

(b) that supply is treated, in accordance with an order under section 5(3), as being neither a supply of goods nor a supply of services,

the question, so far as it falls to be determined by reference to those assets, whether a credit for input tax to which any person has become entitled is one allowable as attributable to the whole or any part of a supply shall be determined as if the transferor and the transferee were the same person.

(7) Where, in a case to which sub-paragraph (6) above applies, the transferor himself acquired any of the assets in question by way of a supply falling within paragraphs (a) and (b) of that sub-paragraph, that sub-paragraph shall have the effect, as respects the assets so acquired, of requiring the person from whom those assets were acquired to be treated for the purposes of sub-paragraphs (4) and (5) above as the same person as the transferor and the transferee, and so on in the case of any number of successive supplies falling within those paragraphs.

(8) For the purposes of this paragraph any question—

(a) whether any credit for input tax to which a person has become entitled was, or is to be taken to have been, a credit allowable as attributable to the whole or any part of a supply, or

(b) whether any repayment is a repayment in respect of the whole or any part of a supply,

shall be determined, in relation to a supply of a right to goods or services or to a supply of goods or services by virtue of such a right, as if the supply of the right and supplies made by virtue of the right were a single supply of which the supply of the right and each of those supplies constituted different parts.

(9) References in this paragraph to the full value of a supply are references to the amount which (having regard to any direction under paragraph 1 of Schedule 6) would be the full value of that supply for the purposes of the charge to VAT if that supply were not a supply falling to be disregarded, to any extent, in pursuance of section 43(1)(a).

(10) References in this paragraph to the supply of a right to goods or services include references to the supply of any right, option or priority with respect to the supply of goods or services, and to the supply of an interest deriving from any right to goods or services.

Restrictions on giving directions

2. The Commissioners shall not give a direction under this Schedule by reference to a relevant event if they are satisfied that—

(a) the change in the treatment of the body corporate, or

(b) the transaction in question,

had as its main purpose or, as the case may be, as each of its main purposes a genuine commercial purpose unconnected with the fulfilment of the condition specified in paragraph 1(3) above.

Form of directions under Schedule

3.—(1) The directions that may be given by the Commissioners under this Schedule are either—

(a) a direction relating to any supply of goods or services that has been made, in whole or in part, by one body corporate to another; or

(b) a direction relating to a particular body corporate.

(2) A direction under this Schedule relating to a supply shall require it to be assumed (where it would not otherwise be the case) that, to the extent described in the direction, the supply was not a supply falling to be disregarded in pursuance of section 43(1)(a).

(3) A direction under this Schedule relating to a body corporate shall require it to be assumed (where it would not otherwise be the case) that, for such period (comprising times before the giving of the direction or times afterwards or both) as may be described in the direction, the body corporate—

(a) did not fall to be treated, or is not to be treated, as a member of a group, or of a particular group so described; or

(b) fell to be treated, or is to be treated, as a member of any group so described of which, for that period, it was or is eligible to be a member.

(4) Where a direction under this Schedule requires any assumptions to be made, then—

(a) so far as the assumptions relate to times on or after the day on which the direction is given, this Act shall have effect in relation to such times in accordance with those assumptions; and

(b) paragraph 6 below shall apply for giving effect to those assumptions in so far as they relate to earlier times.

(5) A direction falling within sub-paragraph (3)(b) above may identify in relation to any times or period the body corporate which is to be assumed to have been, or to be, the representative member of the group at those times or for that period.

(6) A direction under this Schedule may vary the effect of a previous direction under this Schedule.

(7) The Commissioners may at any time, by notice in writing to the person to whom it was given, withdraw a direction under this Schedule.

(8) The refusal or non-refusal by the Commissioners of an application under section 43 shall not prejudice the power of the Commissioners to give a direction under this Schedule requiring any case to be assumed to be what it would have been had the application not been refused or, as the case may be, had it been refused.

Time limit on directions

4.—(1) A direction under this Schedule shall not be given more than six years after whichever is the later of—

(a) the occurrence of the relevant event by reference to which it is given; and

(b) the time when the relevant entitlement arose.

(2) A direction under this Schedule shall not be given by reference to a relevant event occurring on or before 28th November 1995.

(3) Subject to sub-paragraphs (1) and (2) above, a direction under this Schedule—

(a) may be given by reference to a relevant event occurring before the coming into force of this Schedule; and

(b) may require assumptions to be made in relation to times (including times before 29th November 1995) falling before the occurrence of the relevant event by reference to which the direction is given, or before the relevant entitlement arose.

(4) For the purposes of this paragraph the reference, in relation to the giving of a direction, to the relevant entitlement is a reference to the entitlement by reference to which the requirements of paragraph 1(4) above are taken to be satisfied for the purposes of that direction.

Manner of giving directions

5.—(1) A direction under this Schedule relating to a supply may be given to—

(a) the person who made the supply to which the direction relates; or

(b) any body corporate which, at the time when the direction is given, is the representative member of a group of which that person was treated as being a member at the time of the supply.

(2) A direction under this Schedule relating to a body corporate ('the relevant body') may be given to that body or to any body corporate which at the time when the direction is given is, or in pursuance of the direction is to be treated as, the representative member of a group of which the relevant body—

(a) is treated as being a member;

(b) was treated as being a member at a time to which the direction relates; or

(c) is to be treated as being, or having been, a member at any such time.

(3) A direction given to any person under this Schedule shall be given to him by notice in writing.

(4) A direction under this Schedule must specify the relevant event by reference to which it is given.

Assessment in consequence of a direction

6.—(1) Subject to sub-paragraph (3) below, where—

(a) a direction is given under this Schedule, and

(b) there is an amount of VAT ('the unpaid tax') for which a relevant person would have been liable before the giving of the direction if the facts had accorded with the assumptions specified in the direction,

the Commissioners may, to the best of their judgement, assess the amount of unpaid tax as tax due from the person to whom the direction was given or another relevant person and notify their assessment to that person.

(2) In sub-paragraph (1) above the reference to an amount of VAT for which a person would, on particular assumptions, have been liable before the giving of a direction under this Schedule is a reference to the aggregate of the following—

(a) any amount of output tax which, on those assumptions but not otherwise, would have been due from a relevant person at the end of a prescribed accounting period ending before the giving of the direction;

(b) the amount of any credit for input tax to which a relevant person is treated as having been entitled at the end of such an accounting period but to which he would not have been entitled on those assumptions; and

(c) the amount of any repayment of tax made to a relevant person in accordance with regulations under section 39 but to which he would not have been entitled on those assumptions.

(3) Where any assessment falls to be made under this paragraph in a case in which the Commissioners are satisfied that the actual revenue loss is less than the unpaid tax, the total amount to be assessed under this paragraph shall not exceed what appears to them, to the best of their judgement, to be the amount of that loss.

(4) For the purposes of the making of an assessment under this paragraph in relation to any direction, the actual revenue loss shall be taken to be equal to the amount of the unpaid tax less the amount given by aggregating the amounts of every entitlement—

(a) to credit for input tax, or

(b) to a repayment in accordance with regulations under section 39,

which (whether as an entitlement of the person in relation to whom the assessment is made or as an entitlement of any other person) would have arisen on the assumptions contained in the direction, but not otherwise.

(5) An assessment under this paragraph relating to a direction may be notified to the person to whom that direction is given by being incorporated in the same notice as that direction.

(6) An assessment under this paragraph shall not be made—

(a) more than one year after the day on which the direction to which it relates was given, or

(b) in the case of any direction that has been withdrawn.

(7) Where an amount has been assessed on any person under this paragraph and notified to him—

(a) that amount shall be deemed (subject to the provisions of this Act as to appeals) to be an amount of VAT due from him;

(b) that amount may be recovered accordingly, either from that person or, in the case of a body corporate that is for the time being treated as a member of a group, from the representative member of that group; and

(c) to the extent that more than one person is liable by virtue of any assessment under this paragraph in respect of the same amount of unpaid tax, those persons shall be treated as jointly and severally liable for that amount.

(8) Sub-paragraph (7) above does not have effect if or to the extent that the assessment in question has been withdrawn or reduced.

(9) Sections 74 and 77(6) apply in relation to assessments under this paragraph as they apply in relation to assessments under section 73 but as if the reference in subsection (1) of section 74 to the reckonable date were a reference to the date on which the assessment is notified.

(10) Where by virtue of sub-paragraph (9) above any person is liable to interest under section 74—

(a) section 76 shall have effect in relation to that liability with the omission of subsections (2) to (6); and

(b) section 77, except subsection (6), shall not apply to an assessment of the amount due by way of interest;

and (without prejudice to the power to make assessments for interest for later periods) the interest to which any assessment made under section 76 by virtue of paragraph (a) above may relate shall be confined to interest for a period of no more than two years ending with the time when the assessment to interest is made.

(11) In this paragraph 'a relevant person', in relation to a direction, means—

(a) the person to whom the direction is given;

(b) the body corporate which was the representative member of any group of which that person was treated as being, or in pursuance of the direction is to be treated as having been, a member at a time to which the assumption specified in the direction relates; or

(c) any body corporate which, in pursuance of the direction, is to be treated as having been the representative member of such a group.

Interpretation of Schedule etc.

7.—(1) References in this Schedule to being treated as a member of a group and to being eligible to be treated as a member of a group shall be construed in accordance with section 43.

(2) For the purposes of this Schedule the giving of any notice or notification to any receiver, liquidator or person otherwise acting in a representative capacity in relation to another shall be treated as the giving of a notice or, as the case may be, notification to the person in relation to whom he so acts."

SCHEDULE 5

Section 60.

LANDFILL TAX

PART I

INFORMATION

General

1.—(1) Every person who is concerned (in whatever capacity) with any landfill disposal shall furnish to the Commissioners such information relating to the disposal as the Commissioners may reasonably require.

(2) The information mentioned in sub-paragraph (1) above shall be furnished within such time and in such form as the Commissioners may reasonably require.

Records

2.—(1) Regulations may require registrable persons to make records.

(2) Regulations under sub-paragraph (1) above may be framed by reference to such records as may be stipulated in any notice published by the Commissioners in pursuance of the regulations and not withdrawn by a further notice.

(3) Regulations may—

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(a) require registrable persons to preserve records of a prescribed description (whether or not the records are required to be made in pursuance of regulations) for such period not exceeding six years as may be specified in the regulations;

(b) authorise the Commissioners to direct that any such records need only be preserved for a shorter period than that specified in the regulations;

(c) authorise a direction to be made so as to apply generally or in such cases as the Commissioners may stipulate.

(4) Any duty under regulations to preserve records may be discharged by the preservation of the information contained in them by such means as the Commissioners may approve; and where that information is so preserved a copy of any document forming part of the records shall (subject to the following provisions of this paragraph) be admissible in evidence in any proceedings, whether civil or criminal, to the same extent as the records themselves.

(5) The Commissioners may, as a condition of approving under sub-paragraph (4) above any means of preserving information contained in any records, impose such reasonable requirements as appear to them necessary for securing that the information will be as readily available to them as if the records themselves had been preserved.

(6) A statement contained in a document produced by a computer shall not by virtue of sub-paragraph (4) above be admissible in evidence—

(a) in criminal proceedings in England and Wales, except in accordance with sections 69 and 70 of the Police and Criminal Evidence Act 1984 and Part II of the Criminal Justice Act 1988;

1984 c. 60.
1988 c. 33.

(b) in civil proceedings in Scotland, except in accordance with sections 5 and 6 of the Civil Evidence (Scotland) Act 1988;

1988 c. 32.

(c) in criminal proceedings in Scotland, except in accordance with Schedule 8 to the Criminal Procedure (Scotland) Act 1995;

1995 c. 46.

(d) in civil proceedings in Northern Ireland, except in accordance with sections 2 and 3 of the Civil Evidence Act (Northern Ireland) 1971;

1971 c. 36 (N.I.).

(e) in criminal proceedings in Northern Ireland, except in accordance with Article 68 of the Police and Criminal Evidence (Northern Ireland) Order 1989 and Part II of the Criminal Justice (Evidence, Etc.) (Northern Ireland) Order 1988.

S.I.1989/1341 (N.I.12).
S.I.1988/1847 (N.I.17).

(7) In the case of civil proceedings in England and Wales to which sections 5 and 6 of the Civil Evidence Act 1968 apply, a statement contained in a document produced by a computer shall not be admissible in evidence by virtue of sub-paragraph (4) above except in accordance with those sections.

1968 c. 64.

Documents

3.—(1) Every person who is concerned (in whatever capacity) with any landfill disposal shall upon demand made by an authorised person produce or cause to be produced for inspection by that person any documents relating to the disposal.

(2) Where, by virtue of sub-paragraph (1) above, an authorised person has power to require the production of any documents from any person, he shall have the like power to require production of the documents concerned from any other person who appears to the authorised person to be in possession of them; but where any such other person claims a lien on any document produced by him, the production shall be without prejudice to the lien.

(3) The documents mentioned in sub-paragraphs (1) and (2) above shall be produced—

(a) at such place as the authorised person may reasonably require, and

(b) at such time as the authorised person may reasonably require.

(4) An authorised person may take copies of, or make extracts from, any document produced under sub-paragraph (1) or (2) above.

(5) If it appears to him to be necessary to do so, an authorised person may, at a reasonable time and for a reasonable period, remove any document produced under sub-paragraph (1) or (2) above and shall, on request, provide a receipt for any document so removed; and where a lien is claimed on a document produced under sub-paragraph (2) above the removal of the document under this sub-paragraph shall not be regarded as breaking the lien.

(6) Where a document removed by an authorised person under sub-paragraph (5) above is reasonably required for any purpose he shall, as soon as practicable, provide a copy of the document, free of charge, to the person by whom it was produced or caused to be produced.

(7) Where any documents removed under the powers conferred by this paragraph are lost or damaged the Commissioners shall be liable to compensate their owner for any expenses reasonably incurred by him in replacing or repairing the documents.

PART II

POWERS

Entry and inspection

4. For the purpose of exercising any powers under this Part of this Act an authorised person may at any reasonable time enter and inspect premises used in connection with the carrying on of a business.

Entry and search

5.—(1) Where—

(a) a justice of the peace is satisfied on information on oath that there is reasonable ground for suspecting that a fraud offence which appears to be of a serious nature is being, has been or is about to be committed on any premises or that evidence of the commission of such an offence is to be found there, or

(b) in Scotland a justice, within the meaning of section 307 of the Criminal Procedure (Scotland) Act 1995, is satisfied by evidence on oath as mentioned in paragraph (a) above, 1995 c. 46.

he may issue a warrant in writing authorising any authorised person to enter those premises, if necessary by force, at any time within one month from the time of the issue of the warrant and search them.

(2) A person who enters the premises under the authority of the warrant may—

(a) take with him such other persons as appear to him to be necessary;

(b) seize and remove any documents or other things whatsoever found on the premises which he has reasonable cause to believe may be required as evidence for the purposes of proceedings in respect of a fraud offence which appears to him to be of a serious nature;

(c) search or cause to be searched any person found on the premises whom he has reasonable cause to believe to be in possession of any such documents or other things;

but no woman or girl shall be searched except by a woman.

(3) The powers conferred by a warrant under this paragraph shall not be exercisable—

(a) by more than such number of authorised persons as may be specified in the warrant,

(b) outside such times of day as may be so specified, or

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(c) if the warrant so provides, otherwise than in the presence of a constable in uniform.

(4) An authorised person seeking to exercise the powers conferred by a warrant under this paragraph or, if there is more than one such authorised person, that one of them who is in charge of the search shall provide a copy of the warrant endorsed with his name as follows—

(a) if the occupier of the premises concerned is present at the time the search is to begin, the copy shall be supplied to the occupier;

(b) if at that time the occupier is not present but a person who appears to the authorised person to be in charge of the premises is present, the copy shall be supplied to that person;

(c) if neither paragraph (a) nor paragraph (b) above applies, the copy shall be left in a prominent place on the premises.

(5) In this paragraph "a fraud offence" means an offence under any provision of paragraph 15(1) to (5) below.

Arrest

6.—(1) Where an authorised person has reasonable grounds for suspecting that a fraud offence has been committed he may arrest anyone whom he has reasonable grounds for suspecting to be guilty of the offence.

(2) In this paragraph "a fraud offence" means an offence under any provision of paragraph 15(1) to (5) below.

Order for access to recorded information etc.

7.—(1) Where, on an application by an authorised person, a justice of the peace or, in Scotland, a justice (within the meaning of section 307 of the Criminal Procedure (Scotland) Act 1995) is satisfied that there are reasonable grounds for believing— 1995 c. 46.

(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 with 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 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 to 5 above.

Removal of documents etc.

8.—(1) An authorised person who removes anything in the exercise of a power conferred by or under paragraph 5 or 7 above shall, if so requested by a person showing himself—

(a) to be the occupier of premises from which it was removed, or

(b) to have had custody or control of it immediately before the removal,

provide that person with a record of what he removed.

(2) The authorised person shall provide the record within a reasonable time from the making of the request for it.

(3) Subject to sub-paragraph (7) below, if a request for permission to be allowed access to anything which—

(a) has been removed by an authorised person, and

(b) is retained by the Commissioners for the purposes of investigating an offence,

is made to the officer in overall charge of the investigation by a person who had custody or control of the thing immediately before it was so removed or by someone acting on behalf of such a person, the officer shall allow the person who made the request access to it under the supervision of an authorised person.

(4) Subject to sub-paragraph (7) below, if a request for a photograph or copy of any such thing is made to the officer in overall charge of the investigation by a person who had custody or control of the thing immediately before it was so removed, or by someone acting on behalf of such a person, the officer shall—

(a) allow the person who made the request access to it under the supervision of an authorised person for the purpose of photographing it or copying it, or

(b) photograph or copy it, or cause it to be photographed or copied.

(5) Subject to sub-paragraph (7) below, where anything is photographed or copied under sub-paragraph (4)(b) above the officer shall supply the photograph or copy, or cause it to be supplied, to the person who made the request.

(6) The photograph or copy shall be supplied within a reasonable time from the making of the request.

(7) There is no duty under this paragraph to allow access to, or to supply a photograph or copy of, anything if the officer in overall charge of the investigation for the purposes of which it was removed has reasonable grounds for believing that to do so would prejudice—

(a) that investigation,

(b) the investigation of an offence other than the offence for the purposes of the investigation of which the thing was removed, or

(c) any criminal proceedings which may be brought as a result of the investigation of which he is in charge or any such investigation as is mentioned in paragraph (b) above.

(8) Any reference in this paragraph to the officer in overall charge of the investigation is a reference to the person whose name and address are endorsed on the warrant concerned as being the officer so in charge.

9.—(1) Where, on an application made as mentioned in sub-paragraph (2) below, the appropriate judicial authority is satisfied that a person has failed to comply with a requirement imposed by paragraph 8 above, the authority may order that person to comply with the requirement within such time and in such manner as may be specified in the order.

(2) An application under sub-paragraph (1) above shall be made—

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(a) in the case of a failure to comply with any of the requirements imposed by sub-paragraphs (1) and (2) of paragraph 8 above, by the occupier of the premises from which the thing in question was removed or by the person who had custody or control of it immediately before it was so removed, and

(b) in any other case, by the person who had such custody or control.

(3) In this paragraph "the appropriate judicial authority" means—

(a) in England and Wales, a magistrates' court;

(b) in Scotland, the sheriff;

(c) in Northern Ireland, a court of summary jurisdiction, as defined in Article 2(2)(a) of the Magistrates' Court (Northern Ireland) Order 1981.

S.I. 1981/1675 (N.I.26).

(4) In England and Wales and Northern Ireland, an application for an order under this paragraph shall be made by way of complaint; and sections 21 and 42(2) of the Interpretation Act (Northern Ireland) 1954 shall apply as if any reference in those provisions to any enactment included a reference to this paragraph.

1954 c. 33 (N.I.).

Power to take samples

10.—(1) An authorised person, if it appears to him necessary for the protection of the revenue against mistake or fraud, may at any time take, from material which he has reasonable cause to believe is intended to be, is being, or has been disposed of as waste by way of landfill, such samples as he may require with a view to determining how the material ought to be or to have been treated for the purposes of tax.

(2) Any sample taken under this paragraph shall be disposed of in such manner as the Commissioners may direct.

PART III

RECOVERY

General

11. Tax due from any person shall be recoverable as a debt due to the Crown.

Preferential and preferred debts

1986 c. 45.

12.—(1) In the Insolvency Act 1986, in section 386(1) (preferential debts) the words "landfill tax," shall be inserted after "insurance premium tax," and in Schedule 6 (categories of preferential debts) the following paragraph shall be inserted after paragraph 3A—

"3B. Any landfill tax which is referable to the period of 6 months next before the relevant date (which period is referred to below as "the 6-month period").

For the purposes of this paragraph—

(a) where the whole of the accounting period to which any landfill tax is attributable falls within the 6-month period, the whole amount of that tax is referable to that period; and

(b) in any other case the amount of any landfill tax which is referable to the 6-month period is the proportion of the tax which is equal to such proportion (if any) of the accounting period in question as falls within the 6-month period;

and references here to accounting periods shall be construed in accordance with Part III of the Finance Act 1996."

(2) In the Bankruptcy (Scotland) Act 1985, Schedule 3 (preferred debts) shall be amended as mentioned in sub-paragraphs (3) and (4) below. 1985 c. 66.

(3) In paragraph 2 the following sub-paragraph shall be inserted after sub-paragraph (1A)—

"(1B) Any landfill tax which is referable to the period of six months next before the relevant date."

(4) The following shall be inserted after paragraph 8A—

"Periods to which landfill tax referable

8B.—(1) For the purpose of paragraph 2(1B) of Part I of this Schedule—

(a) where the whole of the accounting period to which any landfill tax is attributable falls within the period of six months next before the relevant date ("the relevant period"), the whole amount of that tax shall be referable to the relevant period; and

(b) in any other case the amount of any landfill tax which shall be referable to the relevant period shall be the proportion of the tax which is equal to such proportion (if any) of the accounting period in question as falls within the relevant period.

(2) In sub-paragraph (1) above "accounting period" shall be construed in accordance with Part III of the Finance Act 1996."

(5) In the Insolvency (Northern Ireland) Order 1989, in Article 346(1) (preferential debts) the words "landfill tax" shall be inserted after "insurance premium tax" and in Schedule 4 (categories of preferential debts) the following paragraph shall be inserted after paragraph 3A— S.I. 1989/2405 (N.I. 19).

"3B. Any landfill tax which is referable to the period of 6 months next before the relevant date (which period is referred to below as "the 6-month period").

For the purposes of this paragraph—

(a) where the whole of the accounting period to which any landfill tax is attributable falls within the 6-month period, the whole amount of that tax is referable to that period; and

(b) in any other case the amount of any landfill tax which is referable to the 6-month period is the proportion of the tax which is equal to such proportion (if any) of the accounting period in question as falls within the 6-month period;

and references here to accounting periods shall be construed in accordance with Part III of the Finance Act 1996."

Distress and diligence

13.—(1) Regulations may make provision in respect of England and Wales and Northern Ireland—

(a) for authorising distress to be levied on the goods and chattels of any person refusing or neglecting to pay any tax due from him or any amount recoverable as if it were tax due from him;

(b) for the disposal of any goods or chattels on which distress is levied in pursuance of the regulations;

(c) for the imposition and recovery of costs, charges, expenses and fees in connection with anything done under the regulations.

(2) 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,

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(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 (3) below, of the amount remaining due and unpaid.

(3) The diligences referred to in sub-paragraph (2) 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.

(4) Subject to sub-paragraph (5) 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.

(5) 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.

(6) Regulations may make provision for anything which the Commissioners may do under sub-paragraphs (2) to (5) above to be done by an officer of the Commissioners holding such rank as the regulations may specify.

Recovery of overpaid tax

14.—(1) Where a person has paid an amount to the Commissioners by way of tax which was not tax due to them, they shall be liable to repay the amount to him.

(2) The Commissioners shall only be liable to repay an amount under this paragraph on a claim being made for the purpose.

(3) It shall be a defence, in relation to a claim under this paragraph, that repayment of an amount would unjustly enrich the claimant.

(4) No amount may be claimed under this paragraph after the expiry of six years from the date on which it was paid.

(5) A claim under this paragraph shall be made in such form and manner and shall be supported by such documentary evidence as may be prescribed by regulations.

(6) Except as provided by this paragraph, the Commissioners shall not be liable to repay an amount paid to them by way of tax by virtue of the fact that it was not tax due to them.

PART IV

CRIMINAL PENALTIES

Criminal offences

15.—(1) A person is guilty of an offence if—

(a) being a registrable person, he is knowingly concerned in, or in the taking of steps with a view to, the fraudulent evasion of tax by him or another registrable person, or

(b) not being a registrable person, he is knowingly concerned in, or in the taking of steps with a view to, the fraudulent evasion of tax by a registrable person.

(2) Any reference in sub-paragraph (1) above to the evasion of tax includes a reference to the obtaining of a payment under regulations under section 51(2)(c) or (d) or (f) of this Act.

(3) A person is guilty of an offence if with the requisite intent—

(a) he produces, furnishes or sends, or causes to be produced, furnished or sent, for the purposes of this Part of this Act any document which is false in a material particular, or

(b) he otherwise makes use for those purposes of such a document;

and the requisite intent is intent to deceive or to secure that a machine will respond to the document as if it were a true document.

(4) A person is guilty of an offence if in furnishing any information for the purposes of this Part of this Act he makes a statement which he knows to be false in a material particular or recklessly makes a statement which is false in a material particular.

(5) A person is guilty of an offence by virtue of this sub-paragraph if his conduct during any specified period must have involved the commission by him of one or more offences under the preceding provisions of this paragraph; and the preceding provisions of this sub-paragraph apply whether or not the particulars of that offence or those offences are known.

(6) A person is guilty of an offence if—

(a) he enters into a taxable landfill contract, or

(b) he makes arrangements for other persons to enter into such a contract,

with reason to believe that tax in respect of the disposal concerned will be evaded.

(7) A person is guilty of an offence if he carries out taxable activities without giving security (or further security) he has been required to give under paragraph 31 below.

(8) For the purposes of this paragraph a taxable landfill contract is a contract under which there is to be a taxable disposal.

Criminal penalties

16.—(1) A person guilty of an offence under paragraph 15(1) above is liable—

(a) on summary conviction, to a penalty of the statutory maximum or of three times the amount of the tax, whichever is the greater, or to imprisonment for a term not exceeding six months or to both;

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

(2) The reference in sub-paragraph (1) above to the amount of the tax shall be construed, in relation to tax itself or a payment falling within paragraph 15(2) above, as a reference to the aggregate of—

(a) the amount (if any) falsely claimed by way of credit, and

(b) the amount (if any) by which the gross amount of tax was falsely understated.

(3) A person guilty of an offence under paragraph 15(3) or (4) above is liable—

(a) on summary conviction, to a penalty of the statutory maximum (or, where sub-paragraph (4) below applies, to the alternative penalty there specified if it is greater) or to imprisonment for a term not exceeding six months or to both;

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

(4) Where—

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(a) the document referred to in paragraph 15(3) above is a return required under this Part of this Act, or

(b) the information referred to in paragraph 15(4) above is contained in or otherwise relevant to such a return,

the alternative penalty is a penalty equal to three times the aggregate of the amount (if any) falsely claimed by way of credit and the amount (if any) by which the gross amount of tax was understated.

(5) A person guilty of an offence under paragraph 15(5) above is liable—

(a) on summary conviction, to a penalty of the statutory maximum (or, if greater, three times the amount of any tax that was or was intended to be evaded by his conduct) or to imprisonment for a term not exceeding six months or to both;

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

and paragraph 15(2) and sub-paragraph (2) above shall apply for the purposes of this sub-paragraph as they apply respectively for the purposes of paragraph 15(1) and sub-paragraph (1) above.

(6) A person guilty of an offence under paragraph 15(6) above is liable on summary conviction to a penalty of level 5 on the standard scale or three times the amount of the tax, whichever is the greater.

(7) A person guilty of an offence under paragraph 15(7) above is liable on summary conviction to a penalty of level 5 on the standard scale.

(8) In this paragraph—

(a) "credit" means credit for which provision is made by regulations under section 51 of this Act;

(b) "the gross amount of tax" means the total amount of tax due before taking into account any deduction for which provision is made by regulations under section 51(2) of this Act.

Criminal proceedings etc.

1979 c. 2.

17. Sections 145 to 155 of the Customs and Excise Management Act 1979 (proceedings for offences, mitigation of penalties and certain other matters) shall apply in relation to offences under paragraph 15 above and penalties imposed under paragraph 16 above as they apply in relation to offences and penalties under the customs and excise Acts as defined in that Act.

PART V

CIVIL PENALTIES

Evasion

18.—(1) Where—

(a) for the purpose of evading tax, a registrable person does any act or omits to take any action, and

(b) his conduct involves dishonesty (whether or not it is such as to give rise to criminal liability),

he is liable to a penalty equal to the amount of tax evaded, or (as the case may be) sought to be evaded, by his conduct; but this is subject to sub-paragraph (7) below.

(2) The reference in sub-paragraph (1)(a) above to evading tax includes a reference to obtaining a payment under regulations under section 51(2)(c) or (d) or (f) of this Act in circumstances where the person concerned is not entitled to the sum.

(3) The reference in sub-paragraph (1) above to the amount of tax evaded or sought to be evaded is a reference to the aggregate of—

(a) the amount (if any) falsely claimed by way of credit, and

(b) the amount (if any) by which the gross amount of tax was falsely understated.

(4) In this paragraph—

(a) "credit" means credit for which provision is made by regulations under section 51 of this Act;

(b) "the gross amount of tax" means the total amount of tax due before taking into account any deduction for which provision is made by regulations under section 51(2) of this Act.

(5) Statements made or documents produced by or on behalf of a person shall not be inadmissible in any such proceedings as are mentioned in sub-paragraph (6) below by reason only that it has been drawn to his attention—

(a) that, in relation to tax, the Commissioners may assess an amount due by way of a civil penalty instead of instituting criminal proceedings and, though no undertaking can be given as to whether the Commissioners will make such an assessment in the case of any person, it is their practice to be influenced by the fact that a person has made a full confession of any dishonest conduct to which he has been a party and has given full facilities for investigation, and

(b) that the Commissioners or, on appeal, an appeal tribunal have power under paragraph 25 below to reduce a penalty under this paragraph,

and that he was or may have been induced thereby to make the statements or produce the documents.

(6) The proceedings referred to in sub-paragraph (5) above are—

(a) any criminal proceedings against the person concerned in respect of any offence in connection with or in relation to tax, and

(b) any proceedings against him for the recovery of any sum due from him in connection with or in relation to tax.

(7) Where, by reason of conduct falling within sub-paragraph (1) above, a person is convicted of an offence (whether under this Part of this Act or otherwise) that conduct shall not also give rise to liability to a penalty under this paragraph.

19.—(1) Where it appears to the Commissioners—

(a) that a body corporate is liable to a penalty under paragraph 18 above, and

(b) that the conduct giving rise to that penalty is, in whole or in part, attributable to the dishonesty of a person who is, or at the material time was, a director or managing officer of the body corporate (a named officer),

the Commissioners may serve a notice under this paragraph on the body corporate and on the named officer.

(2) A notice under this paragraph shall state—

(a) the amount of the penalty referred to in sub-paragraph (1)(a) above (the basic penalty), and

(b) that the Commissioners propose, in accordance with this paragraph, to recover from the named officer such portion (which may be the whole) of the basic penalty as is specified in the notice.

(3) Where a notice is served under this paragraph, the portion of the basic penalty specified in the notice shall be recoverable from the named officer as if he

were personally liable under paragraph 18 above to a penalty which corresponds to that portion; and the amount of that penalty may be assessed and notified to him accordingly under paragraph 32 below.

(4) Where a notice is served under this paragraph—

(a) the amount which, under paragraph 32 below, may be assessed as the amount due by way of penalty from the body corporate shall be only so much (if any) of the basic penalty as is not assessed on and notified to a named officer by virtue of sub-paragraph (3) above, and

(b) the body corporate shall be treated as discharged from liability for so much of the basic penalty as is so assessed and notified.

(5) No appeal shall lie against a notice under this paragraph as such but—

(a) where a body corporate is assessed as mentioned in sub-paragraph (4)(a) above, the body corporate may require a review of the Commissioners' decision as to its liability to a penalty and as to the amount of the basic penalty as if it were specified in the assessment;

(b) where an assessment is made on a named officer by virtue of sub-paragraph (3) above, the named officer may require a review of the Commissioners' decision that the conduct of the body corporate referred to in sub-paragraph (1)(b) above is, in whole or in part, attributable to his dishonesty and of their decision as to the portion of the penalty which the Commissioners propose to recover from him;

(c) sections 55 and 56 of this Act shall apply accordingly.

(6) In this paragraph a "managing officer", in relation to a body corporate, means any manager, secretary or other similar officer of the body corporate or any person purporting to act in any such capacity or as a director; and where the affairs of a body corporate are managed by its members, this paragraph shall apply in relation to the conduct of a member in connection with his functions of management as if he were a director of the body corporate.

Misdeclaration or neglect

20.—(1) Where, for an accounting period—

(a) a return is made which understates a person's liability to tax or overstates his entitlement to credit, or

(b) an assessment is made which understates a person's liability to tax and, at the end of the period of 30 days beginning on the date of the assessment, he has not taken all such steps as are reasonable to draw the understatement to the attention of the Commissioners,

the person concerned is liable, subject to sub-paragraphs (3) and (4) below, to a penalty equal to 5 per cent. of the amount of the understatement of liability or (as the case may be) overstatement of entitlement.

(2) Where—

(a) a return for an accounting period overstates or understates to any extent a person's liability to tax or his entitlement to credit, and

(b) that return is corrected, in such circumstances and in accordance with such conditions as may be prescribed by regulations, by a return for a later accounting period which understates or overstates, to the corresponding extent, that liability or entitlement,

it shall be assumed for the purposes of this paragraph that the statement made by each such return is a correct statement for the accounting period to which the return relates.

(3) Conduct falling within sub-paragraph (1) above shall not give rise to liability to a penalty under this paragraph if the person concerned furnishes full information with respect to the inaccuracy concerned to the Commissioners—

(a) at a time when he has no reason to believe that enquiries are being made by the Commissioners into his affairs, so far as they relate to tax, and

(b) in such form and manner as may be prescribed by regulations or specified by the Commissioners in accordance with provision made by regulations.

(4) Where, by reason of conduct falling within sub-paragraph (1) above—

(a) a person is convicted of an offence (whether under this Part of this Act or otherwise), or

(b) a person is assessed to a penalty under paragraph 18 above,

that conduct shall not also give rise to liability to a penalty under this paragraph.

(5) In this paragraph "credit" means credit for which provision is made by regulations under section 51 of this Act.

Registration

21.—(1) A person who fails to comply with section 47(3) of this Act is liable to a penalty equal to 5 per cent. of the relevant tax or, if it is greater or the circumstances are such that there is no relevant tax, to a penalty of £250; but this is subject to sub-paragraph (4) below.

(2) In sub-paragraph (1) above "relevant tax" means the tax (if any) for which the person concerned is liable for the period which—

(a) begins on the date with effect from which he is, in accordance with section 47 of this Act, required to be registered, and

(b) ends on the date on which the Commissioners received notification of, or otherwise became aware of, his liability to be registered.

(3) A person who fails to comply with section 47(4) of this Act is liable to a penalty of £250.

(4) Where, by reason of conduct falling within sub-paragraph (1) above—

(a) a person is convicted of an offence (whether under this Part of this Act or otherwise), or

(b) a person is assessed to a penalty under paragraph 18 above,

that conduct shall not also give rise to liability to a penalty under this paragraph.

Information

22.—(1) If a person—

(a) fails to comply with any provision of paragraph 1 or 3 above, or

(b) fails to make records as required by any provision of regulations made under paragraph 2 above,

he is liable to a penalty of £250; but this is subject to sub-paragraph (4) below.

(2) Where—

(a) a penalty (an initial penalty) is imposed on a person under sub-paragraph (1) above, and

(b) the failure which led to the initial penalty continues after its imposition,

he is (subject to sub-paragraph (4) below) liable to a further penalty of £20 for each day during which (or any part of which) the failure continues after the day on which the initial penalty was imposed.

(3) A person who fails to preserve records in compliance with any provision of regulations made under paragraph 2 above (read with that paragraph and any direction given under the regulations) is liable to a penalty of £250; but this is subject to sub-paragraph (4) below.

(4) Where by reason of a failure falling within sub-paragraph (1) or (3) above—

(a) a person is convicted of an offence (whether under this Part of this Act or otherwise), or

(b) a person is assessed to a penalty under paragraph 18 above,

that failure shall not also give rise to liability to a penalty under this paragraph.

Breach of regulations

23.—(1) Where regulations made under this Part of this Act impose a requirement on any person, they may provide that if the person fails to comply with the requirement he shall be liable to a penalty of £250; but this is subject to sub-paragraphs (2) and (3) below.

(2) Where by reason of any conduct—

(a) a person is convicted of an offence (whether under this Part of this Act or otherwise), or

(b) a person is assessed to a penalty under paragraph 18 above,

that conduct shall not also give rise to liability to a penalty under the regulations.

(3) Sub-paragraph (1) above does not apply to any failure mentioned in paragraph 22 above.

Walking possession agreements

24.—(1) This paragraph applies where—

(a) in accordance with regulations under paragraph 13(1) above a distress is authorised to be levied on the goods and chattels of a person (a person in default) who has refused or neglected to pay any tax due from him or any amount recoverable as if it were tax due from him, and

(b) the person levying the distress and the person in default have entered into a walking possession agreement.

(2) For the purposes of this paragraph a walking possession agreement is an agreement under which, in consideration of the property distrained upon being allowed to remain in the custody of the person in default and of the delaying of its sale, the person in default—

(a) acknowledges that the property specified in the agreement is under distraint and held in walking possession, and

(b) undertakes that, except with the consent of the Commissioners and subject to such conditions as they may impose, he will not remove or allow the removal of any of the specified property from the premises named in the agreement.

(3) If the person in default is in breach of the undertaking contained in a walking possession agreement, he is liable to a penalty equal to half of the tax or other amount referred to in sub-paragraph (1)(a) above.

(4) This paragraph does not extend to Scotland.

Mitigation of penalties

25.—(1) Where a person is liable to a penalty under this Part of this Schedule the Commissioners or, on appeal, an appeal tribunal may reduce the penalty to such amount (including nil) as they think proper.

(2) Where the person concerned satisfies the Commissioners or, on appeal, an appeal tribunal that there is a reasonable excuse for any breach, failure or other conduct, that is a factor which (among other things) may be taken into account under sub-paragraph (1) above.

(3) In the case of a penalty reduced by the Commissioners under sub-paragraph (1) above an appeal tribunal, on an appeal relating to the penalty, may cancel the whole or any part of the reduction made by the Commissioners.

PART VI

INTEREST

Interest on under-declared tax

26.—(1) Sub-paragraph (2) below applies where—

(a) under section 50(1) of this Act the Commissioners assess an amount of tax due from a registrable person for an accounting period and notify it to him, and

(b) the assessment is made on the basis that the amount (the additional amount) is due from him in addition to any amount shown in a return made in relation to the accounting period.

(2) The additional amount shall carry interest for the period which—

(a) begins with the day after that on which the person is required by provision made under section 49 of this Act to pay tax due from him for the accounting period, and

(b) ends with the day before the relevant day.

(3) For the purposes of sub-paragraph (2) above the relevant day is the earlier of—

(a) the day on which the assessment is notified to the person;

(b) the day on which the additional amount is paid.

(4) Sub-paragraph (5) below applies where under section 50(2) of this Act the Commissioners assess an amount as being tax due from a registrable person for an accounting period and notify it to him.

(5) The amount shall carry interest for the period which—

(a) begins with the day after that on which the person is required by provision made under section 49 of this Act to pay tax due from him for the accounting period, and

(b) ends with the day before the relevant day.

(6) For the purposes of sub-paragraph (5) above the relevant day is the earlier of—

(a) the day on which the assessment is notified to the person;

(b) the day on which the amount is paid.

(7) Interest under this paragraph shall be payable at the rate applicable under section 197 of this Act.

(8) Interest under this paragraph shall be paid without any deduction of income tax.

(9) Sub-paragraph (10) below applies where—

(a) an amount carries interest under this paragraph (or would do so apart from that sub-paragraph), and

(b) all or part of the amount turns out not to be due.

(10) In such a case—

(a) the amount or part (as the case may be) shall not carry interest under this paragraph and shall be treated as never having done so, and

(b) all such adjustments as are reasonable shall be made, including adjustments by way of repayment by the Commissioners where appropriate.

Interest on unpaid tax etc.

27.—(1) Sub-paragraph (2) below applies where—

(a) a registrable person makes a return under provision made under section 49 of this Act (whether or not he makes it at the time required by such provision), and

(b) the return shows that an amount of tax is due from him for the accounting period in relation to which the return is made.

(2) The amount shall carry interest for the period which—

(a) begins with the day after that on which the person is required by provision made under section 49 of this Act to pay tax due from him for the accounting period, and

(b) ends with the day before that on which the amount is paid.

(3) Sub-paragraph (4) below applies where—

(a) under section 50(1) of this Act the Commissioners assess an amount of tax due from a registrable person for an accounting period and notify it to him, and

(b) the assessment is made on the basis that no return required by provision made under section 49 of this Act has been made by the person in relation to the accounting period.

(4) The amount shall carry interest for the period which—

(a) begins with the day after that on which the person is required by provision made under section 49 of this Act to pay tax due from him for the accounting period, and

(b) ends with the day before that on which the amount is paid.

(5) Sub-paragraph (6) below applies where—

(a) under section 50(1) of this Act the Commissioners assess an amount of tax due from a registrable person for an accounting period and notify it to him, and

(b) the assessment (the supplementary assessment) is made on the basis that the amount (the additional amount) is due from him in addition to any amount shown in a return, or in any previous assessment, made in relation to the accounting period.

(6) The additional amount shall carry interest for the period which—

(a) begins with the day on which the supplementary assessment is notified to the person, and

(b) ends with the day before that on which the additional amount is paid.

(7) Sub-paragraph (8) below applies where under section 50(2) of this Act the Commissioners assess an amount as being tax due from a registrable person for an accounting period and notify it to him.

(8) The amount shall carry interest for the period which—

(a) begins with the day on which the assessment is notified to the person, and

(b) ends with the day before that on which the amount is paid.

(9) Sub-paragraph (10) below applies where under paragraph 32 below the Commissioners—

(a) assess an amount due from a person by way of penalty under Part V of this Schedule and notify it to him, or

(b) assess an amount due from a person by way of interest under paragraph 26 above and notify it to him.

(10) The amount shall carry interest for the period which—

(a) begins with the day on which the assessment is notified to the person, and

(b) ends with the day before that on which the amount is paid.

(11) Interest under this paragraph shall be compound interest calculated—

(a) at the penalty rate, and

(b) with monthly rests;

and the penalty rate is the rate found by taking the rate at which interest is payable under paragraph 26 above and adding 10 percentage points to that rate.

(12) Interest under this paragraph shall be paid without any deduction of income tax.

(13) Where—

(a) the Commissioners assess and notify an amount as mentioned in sub-paragraph (5)(a) or (7) or (9)(a) or (b) above,

(b) they also specify a date for the purposes of this sub-paragraph, and

(c) the amount concerned is paid on or before that date,

the amount shall not carry interest by virtue of sub-paragraph (6) or (8) or (10) above (as the case may be).

(14) Sub-paragraph (15) below applies where—

(a) an amount carries interest under this paragraph (or would do so apart from that sub-paragraph), and

(b) all or part of the amount turns out not to be due.

(15) In such a case—

(a) the amount or part (as the case may be) shall not carry interest under this paragraph and shall be treated as never having done so, and

(b) all such adjustments as are reasonable shall be made, including adjustments by way of repayment by the Commissioners where appropriate.

28.—(1) Where a person is liable to pay interest under paragraph 27 above the Commissioners or, on appeal, an appeal tribunal may reduce the amount payable to such amount (including nil) as they think proper.

(2) Where the person concerned satisfies the Commissioners or, on appeal, an appeal tribunal that there is a reasonable excuse for the conduct giving rise to the liability to pay interest, that is a factor which (among other things) may be taken into account under sub-paragraph (1) above.

(3) In the case of interest reduced by the Commissioners under sub-paragraph (1) above an appeal tribunal, on an appeal relating to the interest, may cancel the whole or any part of the reduction made by the Commissioners.

Interest payable by Commissioners

29.—(1) Where, due to an error on the part of the Commissioners, a person—

(a) has paid to them by way of tax an amount which was not tax due and which they are in consequence liable to repay to him,

(b) has failed to claim payment of an amount to the payment of which he was entitled in pursuance of provision made under section 51(2)(c) or (d) or (f) of this Act, or

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(c) has suffered delay in receiving payment of an amount due to him from them in connection with tax,

then, if and to the extent that they would not be liable to do so apart from this paragraph, they shall (subject to the following provisions of this paragraph) pay interest to him on that amount for the applicable period.

(2) The applicable period, in a case falling within sub-paragraph (1)(a) above, is the period—

(a) beginning with the date on which the payment is received by the Commissioners, and

(b) ending with the date on which they authorise payment of the amount on which the interest is payable.

(3) The applicable period, in a case falling within sub-paragraph (1)(b) or (c) above, is the period—

(a) beginning with the date on which, apart from the error, the Commissioners might reasonably have been expected to authorise payment of the amount on which the interest is payable, and

(b) ending with the date on which they in fact authorise payment of that amount.

(4) In determining the applicable period for the purposes of this paragraph, there shall be left out of account any period referable to the raising and answering of any reasonable enquiry relating to any matter giving rise to, or otherwise connected with, the person's entitlement to interest under this paragraph.

(5) In determining for the purposes of sub-paragraph (4) above whether any period is referable to the raising and answering of such an enquiry as is there mentioned, there shall be taken to be so referable any period which begins with the date on which the Commissioners first consider it necessary to make such an enquiry and ends with the date on which the Commissioners—

(a) satisfy themselves that they have received a complete answer to the enquiry, or

(b) determine not to make the enquiry or (if they have made it) not to pursue it further;

but excluding so much of that period as may be prescribed by regulations.

(6) For the purposes of sub-paragraph (5) above it is immaterial—

(a) whether any enquiry is in fact made;

(b) whether any enquiry is or might have been made of the person referred to in sub-paragraph (1) above or of an authorised person or of some other person.

(7) The Commissioners shall only be liable to pay interest under this paragraph on a claim made in writing for that purpose.

(8) No claim shall be made under this paragraph after the expiry of six years from the date on which the claimant discovered the error or could with reasonable diligence have discovered it.

(9) Any reference in this paragraph to receiving a payment from the Commissioners includes a reference to the discharge, by way of set-off, of their liability to make it.

(10) Interest under this paragraph shall be payable at the rate applicable under section 197 of this Act.

30.—(1) Where—

(a) any interest is payable by the Commissioners to a person on a sum due to him under this Part of this Act, and

(b) he is a person to whom regulations under section 51 of this Act apply,

the interest shall be treated as an amount to which he is entitled by way of credit in pursuance of the regulations.

(2) Sub-paragraph (1) above shall be disregarded for the purpose of determining a person's entitlement to interest or the amount of interest to which he is entitled.

PART VII

MISCELLANEOUS

Security for tax

31. Where it appears to the Commissioners requisite to do so for the protection of the revenue they may require a registrable person, as a condition of his carrying out taxable activities, to give security (or further security) of such amount and in such manner as they may determine for the payment of any tax which is or may become due from him.

Assessments to penalties etc.

32.—(1) Where a person is liable—

(a) to a penalty under Part V of this Schedule, or

(b) for interest under paragraph 26 or 27 above,

the Commissioners may, subject to sub-paragraph (2) below, assess the amount due by way of penalty or interest (as the case may be) and notify it to him accordingly; and the fact that any conduct giving rise to a penalty under Part V of this Schedule may have ceased before an assessment is made under this paragraph shall not affect the power of the Commissioners to make such an assessment.

(2) In the case of the penalties and interest referred to in the following paragraphs of this sub-paragraph, the assessment under this paragraph shall be of an amount due in respect of the accounting period which in the paragraph concerned is referred to as the relevant period—

(a) in the case of a penalty under paragraph 18 above relating to the evasion of tax, and in the case of interest under paragraph 27 above on an amount due by way of such a penalty, the relevant period is the accounting period for which the tax evaded was due;

(b) in the case of a penalty under paragraph 18 above relating to the obtaining of a payment under regulations under section 51(2)(c) or (d) or (f) of this Act, and in the case of interest under paragraph 27 above on an amount due by way of such a penalty, the relevant period is the accounting period in respect of which the payment was obtained;

(c) in the case of interest under paragraph 26 above, and in the case of interest under paragraph 27 above on an amount due by way of interest under paragraph 26 above, the relevant period is the accounting period in respect of which the tax was due;

(d) in the case of interest under paragraph 27 above on an amount of tax, the relevant period is the accounting period in respect of which the tax was due.

(3) In a case where the amount of any penalty or interest falls to be calculated by reference to tax which was not paid at the time it should have been and that tax cannot be readily attributed to any one or more accounting periods, it shall be treated for the purposes of this Part of this Act as tax due for such period or periods as the Commissioners may determine to the best of their judgment and notify to the person liable for the tax and penalty or interest.

(4) Where a person is assessed under this paragraph to an amount due by way of any penalty or interest falling within sub-paragraph (2) above and is also

assessed under subsection (1) or (2) of section 50 of this Act for the accounting period which is the relevant period under sub-paragraph (2) above, the assessments may be combined and notified to him as one assessment, but the amount of the penalty or interest shall be separately identified in the notice.

(5) Sub-paragraph (6) below applies in the case of an amount due by way of interest under paragraph 27 above.

(6) Where this sub-paragraph applies in the case of an amount—

(a) a notice of assessment under this paragraph shall specify a date, being not later than the date of the notice, to which the amount of interest which is assessed is calculated, and

(b) if the interest continues to accrue after that date, a further assessment or further assessments may be made under this paragraph in respect of amounts which so accrue.

(7) If, within such period as may be notified by the Commissioners to the person liable for the interest under paragraph 27 above, the amount referred to in paragraph 27(2), (4), (6), (8) or (10) above (as the case may be) is paid, it shall be treated for the purposes of paragraph 27 above as paid on the date specified as mentioned in sub-paragraph (6)(a) above.

(8) Where an amount has been assessed and notified to any person under this paragraph it shall be recoverable as if it were tax due from him unless, or except to the extent that, the assessment has subsequently been withdrawn or reduced.

(9) Subsection (8) of section 50 of this Act shall apply for the purposes of this paragraph as it applies for the purposes of that section.

Assessments: time limits

33.—(1) Subject to the following provisions of this paragraph, an assessment under—

(a) any provision of section 50 of this Act, or

(b) paragraph 32 above,

shall not be made more than six years after the end of the accounting period concerned or, in the case of an assessment under paragraph 32 above of an amount due by way of a penalty which is not a penalty referred to in sub-paragraph (2) of that paragraph, six years after the event giving rise to the penalty.

(2) Subject to sub-paragraph (5) below, an assessment under paragraph 32 above of—

(a) an amount due by way of any penalty referred to in sub-paragraph (2) of that paragraph, or

(b) an amount due by way of interest,

may be made at any time before the expiry of the period of two years beginning with the time when the amount of tax due for the accounting period concerned has been finally determined.

(3) In relation to an assessment under paragraph 32 above, any reference in sub-paragraph (1) or (2) above to the accounting period concerned is a reference to that period which, in the case of the penalty or interest concerned, is the relevant period referred to in sub-paragraph (2) of that paragraph.

(4) Subject to sub-paragraph (5) below, if tax has been lost—

(a) as a result of conduct falling within paragraph 18(1) above or for which a person has been convicted of fraud, or

(b) in circumstances giving rise to liability to a penalty under paragraph 21 above,

an assessment may be made as if, in sub-paragraph (1) above, each reference to six years were a reference to twenty years.

(5) Where after a person's death the Commissioners propose to assess an amount as due by reason of some conduct of the deceased—

(a) the assessment shall not be made more than three years after the death, and

(b) if the circumstances are as set out in sub-paragraph (4) above, the modification of sub-paragraph (1) above contained in that sub-paragraph shall not apply but any assessment which (from the point of view of time limits) could have been made immediately after the death may be made at any time within three years after it.

Supplementary assessments

34. If, otherwise than in circumstances falling within subsection (5)(b) of section 50 of this Act, it appears to the Commissioners that the amount which ought to have been assessed in an assessment under any provision of that section or under paragraph 32 above exceeds the amount which was so assessed, then—

(a) under the like provision as that assessment was made, and

(b) on or before the last day on which that assessment could have been made,

the Commissioners may make a supplementary assessment of the amount of the excess and shall notify the person concerned accordingly.

Disclosure of information

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

(a) the Secretary of State,

(b) the Environment Agency,

(c) the Scottish Environment Protection Agency,

(d) the Department of the Environment for Northern Ireland,

(e) a district council in Northern Ireland, or

(f) an authorised officer of any person (a principal) mentioned in paragraphs (a) to (e) above,

for the purpose of assisting the principal concerned in the performance of the principal's duties.

(2) Notwithstanding any such obligation as is mentioned in sub-paragraph (1) above, any person mentioned in sub-paragraph (1)(a) to (f) above may disclose information to the Commissioners or to an authorised officer of the Commissioners for the purpose of assisting the Commissioners in the performance of duties in relation to tax.

(3) Information that has been disclosed to a person by virtue of this paragraph shall not be disclosed by him except—

(a) to another person to whom (instead of him) disclosure could by virtue of this paragraph have been made, or

(b) for the purpose of any proceedings connected with the operation of any provision of, or made under, any enactment in relation to the environment or to tax.

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(4) References in the preceding provisions of this paragraph to an authorised officer of any person (the principal) are to any person who has been designated by the principal as a person to and by whom information may be disclosed by virtue of this paragraph.

(5) The Secretary of State shall notify the Commissioners in writing of the name of any person designated by the Secretary of State under sub-paragraph (4) above.

(6) No charge may be made for a disclosure made by virtue of this paragraph.

The register: publication

36.—(1) The Commissioners may publish, by such means as they think fit, information which—

(a) is derived from the register kept under section 47 of this Act, and

(b) falls within any of the descriptions set out below.

(2) The descriptions are—

(a) the names of registered persons;

(b) the addresses of any sites or other premises at which they carry on business;

(c) the registration numbers assigned to them in the register;

(d) the fact (where it is the case) that the registered person is a body corporate which under section 59 of this Act is treated as a member of a group;

(e) the names of the other bodies corporate treated under that section as members of the group;

(f) the addresses of any sites or other premises at which those other bodies carry on business.

(3) Information may be published in accordance with this paragraph notwithstanding any obligation not to disclose the information that would otherwise apply.

Evidence by certificate etc.

37.—(1) A certificate of the Commissioners—

(a) that a person was or was not at any time registered under section 47 of this Act,

(b) that any return required by regulations made under section 49 of this Act has not been made or had not been made at any time, or

(c) that any tax shown as due in a return made in pursuance of regulations made under section 49 of this Act, or in an assessment made under section 50 of this Act, has not been paid,

shall be sufficient evidence of that fact until the contrary is proved.

(2) A photograph of any document furnished to the Commissioners for the purposes of this Part of this Act and certified by them to be such a photograph shall be admissible in any proceedings, whether civil or criminal, to the same extent as the document itself.

(3) Any document purporting to be a certificate under sub-paragraph (1) or (2) above shall be taken to be such a certificate until the contrary is proved.

Service of notices etc.

38. Any notice, notification or requirement to be served on, given to or made of any person for the purposes of this Part of this Act may be served, given or made by sending it by post in a letter addressed to that person at his last or usual residence or place of business.

39.—(1) This paragraph applies to directions, specifications and conditions which the Commissioners or an authorised person may give or impose under any provision of this Part.

(2) A direction, specification or condition given or imposed by the Commissioners may be withdrawn or varied by them.

(3) A direction, specification or condition given or imposed by an authorised person may be withdrawn or varied by him or by another authorised person.

(4) No direction, specification or condition shall have effect as regards any person it is intended to affect unless—

(a) a notice containing it is served on him, or

(b) other reasonable steps are taken with a view to bringing it to his attention.

(5) No withdrawal or variation of a direction, specification or condition shall have effect as regards any person the withdrawal or variation is intended to affect unless—

(a) a notice containing the withdrawal or variation is served on him, or

(b) other reasonable steps are taken with a view to bringing the withdrawal or variation to his attention.

No deduction of penalties or interest

40. In section 827 of the Taxes Act 1988 (no deduction for penalties etc.) the following subsection shall be inserted after subsection (1B)—

"(1C) Where a person is liable to make a payment by way of—

(a) penalty under Part V of Schedule 5 to the Finance Act 1996 (landfill tax), or

(b) interest under paragraph 26 or 27 of that Schedule,

the payment shall not be allowed as a deduction in computing any income, profits or losses for any tax purposes."

Destination of receipts

41. All money and securities for money collected or received for or on account of the tax shall—

(a) if collected or received in Great Britain, be placed to the general account of the Commissioners kept at the Bank of England under section 17 of the Customs and Excise Management Act 1979; 1979 c. 2.

(b) if collected or received in Northern Ireland, be paid into the Consolidated Fund of the United Kingdom in such manner as the Treasury may direct.

Set-off of amounts

42.—(1) Regulations may make provision in relation to any case where—

(a) a person is under a duty to pay to the Commissioners at any time an amount or amounts in respect of landfill tax, and

(b) the Commissioners are under a duty to pay to that person at the same time an amount or amounts in respect of any tax (or taxes) under their care and management.

(2) The regulations may provide that if the total of the amount or amounts mentioned in sub-paragraph (1)(a) above exceeds the total of the amount or amounts mentioned in sub-paragraph (1)(b) above, the latter shall be set off against the former.

(3) The regulations may provide that if the total of the amount or amounts mentioned in sub-paragraph (1)(b) above exceeds the total of the amount or amounts mentioned in sub-paragraph (1)(a) above, the Commissioners may set off the latter in paying the former.

(4) The regulations may provide that if the total of the amount or amounts mentioned in sub-paragraph (1)(a) above is the same as the total of the amount or amounts mentioned in sub-paragraph (1)(b) above no payment need be made in respect of the former or the latter.

(5) The regulations may include provision treating any duty to pay mentioned in sub-paragraph (1) above as discharged accordingly.

(6) References in sub-paragraph (1) above to an amount in respect of a particular tax include references not only to an amount of tax itself but also to other amounts such as interest and penalty.

(7) In this paragraph "tax" includes "duty".

43.—(1) Regulations may make provision in relation to any case where—

(a) a person is under a duty to pay to the Commissioners at any time an amount or amounts in respect of any tax (or taxes) under their care and management, and

(b) the Commissioners are under a duty to pay to that person at the same time an amount or amounts in respect of landfill tax.

(2) The regulations may provide that if the total of the amount or amounts mentioned in sub-paragraph (1)(a) above exceeds the total of the amount or amounts mentioned in sub-paragraph (1)(b) above, the latter shall be set off against the former.

(3) The regulations may provide that if the total of the amount or amounts mentioned in sub-paragraph (1)(b) above exceeds the total of the amount or amounts mentioned in sub-paragraph (1)(a) above, the Commissioners may set off the latter in paying the former.

(4) The regulations may provide that if the total of the amount or amounts mentioned in sub-paragraph (1)(a) above is the same as the total of the amount or amounts mentioned in sub-paragraph (1)(b) above no payment need be made in respect of the former or the latter.

(5) The regulations may include provision treating any duty to pay mentioned in sub-paragraph (1) above as discharged accordingly.

(6) References in sub-paragraph (1) above to an amount in respect of a particular tax include references not only to an amount of tax itself but also to other amounts such as interest and penalty.

(7) In this paragraph "tax" includes "duty".

Amounts shown as tax on invoices

44.—(1) Where—

(a) a registrable person issues an invoice showing an amount as tax chargeable on an event, and

(b) no tax is in fact chargeable on the event,

an amount equal to the amount shown as tax shall be recoverable from the person as a debt due to the Crown.

(2) Where—

(a) a registrable person issues an invoice showing an amount as tax chargeable on a taxable disposal, and

(b) the amount shown as tax exceeds the amount of tax in fact chargeable on the disposal,

an amount equal to the excess shall be recoverable from the person as a debt due to the Crown.

(3) References in this paragraph to an invoice are to any invoice, whether or not it is a landfill invoice within the meaning of section 61 of this Act.

Adjustment of contracts

45.—(1) This paragraph applies where—

(a) material undergoes a landfill disposal,

(b) a payment falls to be made under a disposal contract relating to the material, and

(c) after the making of the contract there is a change in the tax chargeable on the landfill disposal.

(2) In such a case the amount of any payment mentioned in sub-paragraph (1)(b) above shall be adjusted, unless the disposal contract otherwise provides, so as to reflect the tax chargeable on the landfill disposal.

(3) For the purposes of this paragraph a disposal contract relating to material is a contract providing for the disposal of the material, and it is immaterial—

(a) when the contract was made;

(b) whether the contract also provides for other matters;

(c) whether the contract provides for a method of disposal and (if it does) what method it provides for.

(4) The reference in sub-paragraph (1) above to a change in the tax chargeable is a reference to a change—

(a) to or from no tax being chargeable, or

(b) in the amount of tax chargeable.

46.—(1) This paragraph applies where—

(a) work is carried out under a construction contract,

(b) as a result of the work, material undergoes a landfill disposal,

(c) the contract makes no provision as to the disposal of such material, and

(d) the contract was made on or before 29th November 1994 (when the proposal to create tax was announced).

(2) In such a case the amount of any payment which falls to be made—

(a) under the construction contract, and

(b) in respect of the work,

shall be adjusted, unless the contract otherwise provides, so as to reflect the tax (if any) chargeable on the disposal.

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(3) For the purposes of this paragraph a construction contract is a contract under which all or any of the following work is to be carried out—

(a) the preparation of a site;

(b) demolition;

(c) building;

(d) civil engineering.

Adjustment of rent etc.

47.—(1) This paragraph applies where—

(a) an agreement with regard to any sum payable in respect of the use of land (whether the sum is called rent or royalty or otherwise) provides that the amount of the sum is to be calculated by reference to the turnover of a business,

(b) the agreement was made on or before 29th November 1994 (when the proposal to create tax was announced), and

(c) the circumstances are such that (had the agreement been made after that date) it can reasonably be expected that it would have provided that tax be ignored in calculating the turnover.

(2) In such a case the agreement shall be taken to provide that tax be ignored in calculating the turnover.

Section 73.

SCHEDULE 6

TAXATION OF SAVINGS AT THE LOWER RATE

The Taxes Management Act 1970 (c. 9)

1. In section 86 of the Taxes Management Act 1970 (interest on tax assessed in addition to deducted tax etc.), so far as it has effect without the substitutions made by paragraph 23 of Schedule 19 to the Finance Act 1994 and section 110 of the Finance Act 1995, in subsection (2)(b) after "the basic rate" there shall be inserted "or the lower rate".

1994 c. 9.
1995 c. 4.

The Taxes Act 1988

2. In section 4(2) of the Taxes Act 1988 (meaning of "relevant year of assessment" for the purposes of deductions etc.), for "subsection (1) above" there shall be substituted "this section".

3. In section 5(4) of that Act (time when tax in addition to deducted tax etc. becomes due), after "basic rate" there shall be inserted "or the lower rate".

4.—(1) Subject to sub-paragraph (2) below, in subsection (1)(b) of section 51B of that Act (periodic returns of tax on gilts), for "basic rate" there shall be substituted "lower rate".

(2) Sub-paragraph (1) above has effect for the purposes only of the exercise on or after the day on which this Act is passed of the Treasury's power to make regulations under that section; but that power may be exercised on or after that day for the purpose of making provision, with retrospective effect, on the basis that the assumption to be applied in relation to all payments made on or after 6th April 1996 was an assumption that such payments bear tax at the lower rate.

5. In paragraph (c) of section 246D(2) of that Act (application of section 207A to certain foreign income dividends), for the words from "as income" to the end of the paragraph there shall be substituted "(without prejudice to paragraph (a) above) as if it were income to which section 1A applies;".

6. In section 249(4)(c) of that Act (application of section 207A), for the words from "as income" to "but" there shall be substituted "(without prejudice to paragraph (a) above) as if it were income to which section 1A applies, but".

7.—(1) In subsection (2)(b)(ii) of section 326B of that Act (loss of exemption for TESSAs), for the words from "basic rate on" to the end of the sub-paragraph there shall be substituted "applicable rate on any interest or bonus paid on the account before that time;".

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

"(2A) In subsection (2)(b)(ii) above 'the applicable rate' means—

(a) in the case of interest or bonus paid before 6th April 1996, the basic rate for the year of assessment in which the payment was made; and

(b) in any other case, the lower rate for the year of assessment in which it was made."

(3) This paragraph has effect as respects withdrawals on or after 6th April 1996.

8. In section 350 of that Act (charge to tax where payments made subject to deduction), in subsection (1) for "basic rate" there shall be substituted "applicable rate"; and after that subsection there shall be inserted the following subsection—

"(1A) In subsection (1) above 'the applicable rate' means the rate which is applicable to the payment under section 4."

9. In section 421(1)(c) of that Act (application of section 207A), for the words from "as income" to "but" there shall be substituted "(without prejudice to paragraph (b) above) as if it were income to which section 1A applies, but".

10.—(1) In section 468 of that Act (authorised unit trusts to be subject to corporation tax), the following subsection shall be inserted after subsection (1)—

"(1A) In relation to any authorised unit trust the rate of corporation tax for the financial year 1996 and subsequent financial years shall be deemed to be the rate at which income tax at the lower rate is charged for the year of assessment which begins on 6th April in the financial year concerned."

(2) Sub-paragraph (1) above has effect in relation to any accounting period ending after 31st March 1996.

(3) Sections 468E and 468EE of that Act (rate of corporation tax on authorised unit trusts) shall not apply in relation to any accounting period ending after 31st March 1996 except so far as those sections relate to the financial year 1995.

11.—(1) In section 468L of that Act (interest distributions), after subsection (1) there shall be inserted the following subsection—

"(1A) For the purposes of this Chapter no amount shall be shown as so available unless the authorised unit trust in question satisfies the qualifying investments test throughout the distribution period."

(2) After subsection (7) of that section there shall be inserted the following subsections—

"(8) For the purposes of this section an authorised unit trust satisfies the qualifying investments test throughout a distribution period ('the relevant period') if at all times in that period, the market value of the qualifying investments exceeds 60 per cent. of the market value of all the investments of that trust.

(9) Subject to subsection (13) below, in this section 'qualifying investments', in relation to an authorised unit trust, means the investments of that trust which are of any of the following descriptions—

(a) money placed at interest;

(b) securities;

(c) shares in a building society;

(d) qualifying entitlements to a share in the investments of another authorised unit trust.

(10) For the purposes of subsection (9) above an entitlement to a share in the investments of another authorised unit trust is a qualifying entitlement at any time in the relevant period if, and only if, the other authorised unit trust would itself (on the relevant assumption) satisfy the qualifying investments test throughout that period.

(11) For the purposes of subsection (10) above the relevant assumption is that the only investments of the other authorised unit trust which are to be regarded as qualifying investments are those falling within paragraphs (a) to (c) of subsection (9) above.

(12) In this section 'security' does not include shares in a company; and references in this section to investments of an authorised unit trust are references to investments subject to the trusts of that authorised unit trust but do not include references to cash awaiting investment.

(13) The Treasury may by order amend subsection (9) above so as to extend or restrict the descriptions of investments of an authorised unit trust that are qualifying investments.

(14) An order made by the Treasury under subsection (13) above may—

(a) make different provision for different cases; and

(b) contain such incidental, supplemental, consequential and transitional provision as the Treasury may think fit;

and, without prejudice to the generality of paragraph (b) above, such an order may make such incidental modifications of subsection (11) above as the Treasury may think fit."

(3) This paragraph has effect in relation to distribution periods ending on or after 1st April 1996.

12. In section 469(2) of that Act (taxation of income of unauthorised unit trusts), after the words "unit holders)", in the first place where they occur, there shall be inserted "and, in the case of income to which section 1A applies, chargeable to income tax at the basic rate, instead of at the lower rate".

13. In sections 549(2), 686(1), 699(2) and 819(2) of that Act (which refer to income tax being chargeable at the lower rate in accordance with section 207A), for "section 207A" there shall be substituted "section 1A".

14.—(1) In paragraph (a)(i) of subsection (2) of section 582 of that Act (funding bonds), for "basic" there shall be substituted "applicable".

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

"(2A) In subsection (2) above 'the applicable rate', in relation to a year of assessment, means whichever of the basic rate and the lower rate for that year is the rate at which the person by or through whom the bonds are issued would have had to deduct income tax from the amount of interest in question if that amount had been actually paid by or through him."

15. In section 686 of that Act (liability to additional rate in the case of trustees of discretionary trusts), after subsection (2A) there shall be inserted the following subsection—

"(2B) For the purposes of subsection (2A) above where the income tax borne by any income arising to trustees is limited in accordance with section 128 of the Finance Act 1995 (limit on income chargeable on non-residents), the income arising to the trustees which shall be taken not to bear tax by reason wholly or partly of their not having been resident in the United Kingdom shall include so much of any income arising to them as— 1995 c. 4.

(a) is excluded income within the meaning of that section; and

(b) is not income which is treated for the purposes of subsection (1)(b) of that section as income the tax on which is deducted at source."

16. In Part XV of that Act (settlements), at the end of Chapter IC there shall be inserted the following Chapter—

"CHAPTER ID

TRUST MANAGEMENT EXPENSES

Disregard of expenses where beneficiary non-resident.

689A.—(1) This section applies where—

(a) there is income ('the distributed income') arising to trustees in any year of assessment which (before being distributed) is income of a person ('the beneficiary') other than the trustees;

(b) the trustees have any expenses in that year ('the management expenses') which are properly chargeable to that income or would be so chargeable but for any express provisions of the trust; and

(c) the beneficiary is not liable to income tax on an amount of the distributed income ('the untaxed income') by reason wholly or partly of—

(i) his not having been resident in the United Kingdom, or

(ii) his being deemed under any arrangements under section 788, or any arrangements having effect by virtue of that section, to have been resident in a territory outside the United Kingdom.

(2) Where this section applies, there shall be disregarded in computing the income of the beneficiary for the purposes of the Income Tax Acts such part of the management expenses as bears the same proportion to all those expenses as the untaxed income bears to the distributed income.

(3) For the purpose of computing the proportion mentioned in subsection (2) above, the amounts of the distributed income and of the untaxed income shall not, in either case, include so much (if any) of the income as is equal to the amount of income tax, or of any foreign tax, chargeable on the trustees (by way of deduction or otherwise) in respect of that income.

(4) In subsection (3) above, 'foreign tax' means any tax which is—

(a) of a similar character to income tax; and

(b) imposed by the laws of a territory outside the United Kingdom.

(5) For the purposes of this section, where the income tax chargeable on any person is limited in accordance with section 128 of the Finance Act 1995 (limit on income chargeable on non-residents), the income of that person on which he is not liable to tax by reason of not having been resident in the United Kingdom shall be taken to include so much of any income of his as—

1995 c. 4.

(a) is excluded income within the meaning of that section; and

(b) is not income which is treated for the purposes of subsection (1)(b) of that section as income the tax on which is deducted at source.

Order in which expenses to be set against income.

689B.—(1) The expenses of any trustees in any year of assessment, so far as they are properly chargeable to income (or would be so chargeable but for any express provisions of the trust), shall be treated—

(a) as set against so much (if any) of any income as is income falling within subsection (2) or (3) below before being set against other income; and

(b) as set against so much (if any) of any income as is income falling within subsection (2) below before being set against income falling within subsection (3) below.

(2) Income falls within this subsection if it is—

(a) so much of the income of the trustees as is income the amount or value of which is determined in accordance with section 233(1A);

(b) income which is treated as having arisen to the trustees by virtue of section 246D(4) or 249(6); or

(c) income which is treated as received by the trustees by virtue of section 421(1)(a).

(3) Income falls within this subsection if it is income to which section 1A applies but which does not fall within subsection (2) above.

(4) This section has effect—

(a) subject to sections 686(2A) and 689A, but

(b) notwithstanding anything in section 1A(5) and (6)."

17. In section 698A of that Act (taxation at the lower rate of the income of beneficiaries)—

(a) in subsection (1), for the words from "section 207A" to the end there shall be substituted "section 1A shall have effect as if that income were income to which that section applies."; and

(b) in subsection (2), for the words from "section 207A" to the end there shall be substituted "section 1A shall have effect as if the payment made to the trustee were income of the trustee to which that section applies."

18.—(1) In subsection (1) of section 737 of that Act (deductions from manufactured payments), after "shall apply" there shall be inserted "(subject to subsection (1A) below)", and for subsection (1A) of that section there shall be substituted the following subsection—

"(1A) The deduction of tax which is deemed to have been made under subsection (1) above shall be taken to have been made at the lower rate as if the deemed annual payment were income to which section 1A applied; and—

(a) the reference to the applicable rate in subsection (1) of section 350, so far as it has effect by virtue of subsection (1) above, and

(b) Schedule 16, so far as it so has effect,

shall be construed accordingly."

(2) This paragraph has effect in relation to payments on or after 6th April 1996.

19. In section 737C(6) of that Act (computation of amount of deemed manufactured interest), for "basic" there shall be substituted "lower".

20. In section 743(1) of that Act (supplemental provisions relating to transfers of assets abroad)—

(a) after the words "the basic rate", in the first place where they occur, there shall be inserted "or the lower rate"; and

(b) for "income that has borne tax at the basic rate", there shall be substituted "any income to the extent that it has borne tax at that rate".

21. In section 789(2) of that Act (old double taxation relief agreements), for "to bear income tax at the basic rate and" there shall be substituted "—

(a) to bear income tax at the basic rate or, where that income is income to which section 1A applies, at the lower rate; and

(b)".

22. In paragraph (a) of section 821(1) of that Act (under-deductions from payments made before passing of annual Act to be charged under Case VI of Schedule D), for the words from "under Schedule D in respect" to the end of the paragraph there shall be substituted "under Case III of Schedule D in respect of those payments; and".

23. In section 822(1) of that Act (over-deductions from interest on loan capital etc. made before the passing of annual Act where basic rate for the year is lower than in the previous year), for "basic rate lower" there shall be substituted "lower rate less".

24. In section 835(6)(a) of that Act (estimating total income), after "basic rate" there shall be inserted "or the lower rate".

25.—(1) In Schedule 3 to that Act (public revenue dividends etc.)—

(a) in paragraph 1(c), for "basic" there shall be substituted "lower";

(b) in paragraph 6A—

(i) in sub-paragraph (1), for "applicable" there shall be substituted "lower"; and

(ii) sub-paragraph (4) shall cease to have effect.

(2) This paragraph has effect in relation to payments made on or after 6th April 1996 and before the day on which this Act is passed.

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The Finance Act 1989 (c. 26)

26.—(1) In section 88(1) of the Finance Act 1989 (rate of corporation tax on policy holders' fraction of profits to be equal to the basic rate), after "subsection (2)" there shall be inserted "and section 88A".

(2) After section 88 of that Act there shall be inserted the following section—

"Lower corporation tax rate on certain insurance company profits.

88A.—(1) Subject to subsection (2) below, in the case of a company carrying on basic life assurance and general annuity business, the rate of corporation tax chargeable for any financial year on so much of the company's BLAGAB profits for any accounting period as represents the company's lower rate income for the period shall be deemed to be the rate at which income tax at the lower rate is charged for the year of assessment which begins on 6th April in the financial year concerned.

(2) Subsection (1) above does not apply in relation to profits charged under Case I of Schedule D.

(3) In this section, references to a company's lower rate income for any accounting period are references to so much of the income and gains of its basic life assurance and general annuity business for the period as consists in income of any of the following descriptions—

(a) income falling within paragraph (a) of Case III of Schedule D, as that Case applies for the purposes of corporation tax;

(b) purchased life annuities to which section 656 of the Taxes Act 1988 applies or to which that section would apply but for section 657(2)(a) of that Act;

(c) any such dividends or other distributions of a company not resident in the United Kingdom as would be chargeable under Schedule F if the company were resident in the United Kingdom;

(d) so much of—

(i) any dividend distribution (within the meaning of section 468J of the Taxes Act 1988), or

(ii) any foreign income distribution (within the meaning of section 468K of that Act),

as is deemed by subsection (2) of section 468Q of that Act (or by that subsection as applied by section 468R(2) of that Act) to be an annual payment.

(4) Where for any period—

(a) an insurance company's basic life assurance and general annuity business is mutual business,

(b) the policy holders' share of the company's relevant profits is equal to all those profits, or

(c) the policy holders' share of the company's relevant profits is more than the company's BLAGAB profits,

the amount to be taken for the purposes of this section as the amount of the company's BLAGAB profits for that period representing its lower rate income for that period shall be the amount equal to the applicable proportion of its BLAGAB profits.

(5) Where subsection (4) above does not apply in the case of an insurance company for any period, the amount to be taken for the purposes of this section as the amount of the company's

BLAGAB profits for the period representing its lower rate income for that period shall be the amount produced by multiplying the following, that is to say—

(a) the applicable proportion of those profits; and

(b) the fraction given by dividing the policy holders' share of the relevant profits of the company for the period by its BLAGAB profits for that period.

(6) For the purposes of this section the applicable proportion of a company's BLAGAB profits for any period is the amount which bears the same proportion to those profits as the aggregate amount of the company's lower rate income for that period bears to the total income and gains for that period of the company's basic life assurance and general annuity business.

(7) For the purposes of this section, the BLAGAB profits of a company for an accounting period are the income and gains of the company's basic life assurance and general annuity business reduced by the aggregate amount of—

(a) any non-trading deficit on the company's loan relationships,

(b) expenses of management falling to be deducted under section 76 of the Taxes Act 1988, and

(c) charges on income,

so far as referable to the company's basic life assurance and general annuity business.

(8) Section 88(3) above applies for the purposes of this section as it applies for the purposes of section 88(1) above."

(3) In section 89 of that Act (meaning of "policy holders' share" of profits), in subsection (1)—

(a) for "section 88" there shall be substituted "sections 88 and 88A";

(b) after "life assurance business" there shall be inserted "or, as the case may be, basic life assurance and general annuity business"; and

(c) for "the business" there shall be substituted "its life assurance business";

and in subsection (2), in each of paragraphs (b) and (c), for "the business" there shall be substituted "the company's life assurance business".

(4) This paragraph shall have effect for the financial year 1996 and subsequent financial years.

The Taxation of Chargeable Gains Act 1992 (c. 12)

27. In section 4(3A) of the Taxation of Chargeable Gains Act 1992 (disregard of income chargeable at lower rate in accordance with section 207A of the Taxes Act 1988), for "section 207A" there shall be substituted "section 1A".

Commencement of Schedule

28. Subject to any express provisions as to commencement that are contained in the preceding provisions of this Schedule, this Schedule has effect for the year 1996-97 and subsequent years of assessment.

Section 79.

SCHEDULE 7

TRANSFER OF CHARGE UNDER SCHEDULE C TO SCHEDULE D

Amendments of the Taxes Act 1988

1. The Taxes Act 1988 shall be amended in accordance with paragraphs 2 to 28 below.

2. In section 1(1) (the charge to income tax), for "Schedules A, C, D, E and F" there shall be substituted "Schedules A, D, E and F".

3. Section 17 (Schedule C) shall be omitted.

4.—(1) In section 18 (Schedule D), in subsection (1), in paragraph (b) of Schedule D, for "not charged under Schedule A, C or E" there shall be substituted "not charged under Schedule A or E".

(2) In subsection (3) of that section—

(a) in Case III, in paragraph (c) for the words from "except income charged under Schedule C" to the end of the paragraph there shall be substituted "from securities which is payable out of the public revenue of the United Kingdom or Northern Ireland";

(b) in Case IV, the words "except such income as is charged under Schedule C" shall be omitted; and

(c) in Case VI, for "Schedule A, C or E" there shall be substituted "Schedule A or E".

(3) Immediately before subsection (4) of section 18, there shall be inserted the following subsections—

"(3B) The references in Case IV of Schedule D to income arising from securities out of the United Kingdom, and in Case V of Schedule D to income arising from possessions out of the United Kingdom, shall be taken, in the case of relevant foreign holdings, to include references to the following—

(a) any proceeds of such a sale or other realisation of coupons for foreign dividends as is effected by a bank in the United Kingdom which pays the proceeds over or carries them into an account;

(b) any proceeds of a sale of such coupons to a dealer in coupons in the United Kingdom by a person who is not a bank or another dealer in coupons.

(3C) In this section 'relevant foreign holdings' means—

(a) any securities issued by or on behalf of a government or a public or local authority in a country outside the United Kingdom; or

(b) any shares or securities issued by or on behalf of a body of persons not resident in the United Kingdom;

and 'securities' here includes loan stock and similar securities.

(3D) In this section 'foreign dividends' means—

(a) in relation to relevant foreign holdings falling within subsection (3C)(a) above, interest or annual payments payable out of the revenue of the government or authority in question; and

(b) in relation to relevant foreign holdings falling within subsection (3C)(b) above, any dividends, interest or annual payments payable in respect of the holdings in question.

(3E) In this section—

(a) 'bank' has the meaning given by section 840A; and

(b) references to coupons include, in relation to any foreign dividends, warrants for and bills of exchange purporting to be drawn or made in payment of those dividends."

(4) In subsection (5) of that section, for "Part IV contains" there shall be substituted "Parts III and IV contain".

5. In section 19(1), in paragraph 2 of Schedule E, for the words "under Schedule C" there shall be substituted "under paragraph (c) of Case III of Schedule D".

6. For the heading to Part III there shall be substituted the following heading—

"GOVERNMENT SECURITIES"

7. Section 44 (mode of charge of tax under Schedule C) shall be omitted.

8. Section 45 (interpretation of Part III) shall be omitted.

9. Section 48 (securities of foreign states) shall be omitted.

10. In section 49 (stock and dividends in name of Treasury etc.), after subsection (2) there shall be inserted the following subsection—

"(3) In this section 'dividends' means any interest, public annuities, dividends or shares of annuities."

11. In sections 50(1) and 51A(1) (which provide for interest on certain securities to be paid without deduction of tax), the words "but shall be chargeable to tax under Case III of Schedule D" shall in each case be omitted.

12. Section 52 (taxation of interest on converted securities and interest which becomes subject to deduction) shall be omitted.

13. Section 123 (foreign dividends) shall be omitted.

14. In section 124—

(a) in subsection (6) (definitions in connection with quoted Eurobonds), the definitions of "recognised clearing system" and "relevant foreign securities", and the word "and" immediately preceding those definitions, and

(b) subsection (7),

shall be omitted.

15. In section 322(1) (consular officers and employees), the words "and he shall be treated as not resident in the United Kingdom for the purposes of sections 48 and 123(4)" shall be omitted.

16. In section 398 (transactions in deposits with and without certificates or in debts), in paragraph (b), the words "C or" shall be omitted.

17. In section 468M(4) (meaning of "eligible income" in connection with interest distributions of authorised unit trusts), for paragraphs (c) to (e) there shall be substituted the following paragraph—

"(cc) any foreign dividends (as defined by section 18(3D)) and any proceeds falling within section 18(3B)(a) or (b);".

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18. In section 474 (treatment of tax-free income), subsections (1) and (3) shall be omitted.

19.—(1) In section 505 (exemptions for charities), in subsection (1), in paragraph (c), sub-paragraph (i) shall be omitted.

(2) For paragraph (d) of that subsection there shall be substituted the following paragraph—

"(d) exemption from tax under Schedule D in respect of public revenue dividends on securities which are in the name of trustees, to the extent that the dividends are applicable and applied only for the repair of—

(i) any cathedral, college, church or chapel, or

(ii) any building used only for the purposes of divine worship;".

(3) After that subsection there shall be inserted the following subsection—

"(1A) In subsection (1)(d) above 'public revenue dividends' means—

(a) income from securities which is payable out of the public revenue of the United Kingdom or Northern Ireland;

(b) income from securities issued by or on behalf of a government or a public or local authority in a country outside the United Kingdom."

20.—(1) In section 512 (exemption from income tax for Atomic Energy Authority and National Radiological Protection Board)—

(a) in subsection (1)(a), for "Schedules A and C" there shall be substituted "Schedule A"; and

(b) in subsection (1)(b), after "annual payment" there shall be inserted "or in respect of public revenue dividends".

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

"(3) In subsection (1) above 'public revenue dividends' means—

(a) income from securities which is payable out of the public revenue of the United Kingdom or Northern Ireland;

(b) income from securities issued by or on behalf of a government or a public or local authority in a country outside the United Kingdom."

21.—(1) In section 516 (government securities held by non-resident central banks), in subsection (1), for "dividends (within the meaning of Schedule C) paid out of the public revenue of the United Kingdom where they are" there shall be substituted "income from securities which is payable out of the public revenue of the United Kingdom and which is".

(2) In subsection (2) of that section, for "such dividends" there shall be substituted "such income".

22. In section 582A (designated international organisations), subsection (3) shall be omitted.

23. In section 730 (transfers of income arising from securities)—

(a) in subsections (2), (4)(b) and (6), for "under Schedule C or under section 123(3)", and

(b) in subsection (8), for "under Schedule C or section 123(3)",

there shall in each case be substituted "by virtue of section 18(3B)".

24. In section 828(2) (orders and regulations not required to be made by statutory instrument), for "section 124(6) or 841(1)(b) or paragraph 15(4) of Schedule 3" there shall be substituted "section 841(1)(b) or 841A".

25. In section 832(1) (interpretation of the Tax Acts), the definition of "recognised clearing system" shall be omitted.

26. After section 841 there shall be inserted the following section—

"Recognised clearing systems.

841A.—(1) In the Tax Acts, 'recognised clearing system' means any system for clearing—

(a) quoted Eurobonds (as defined by section 124), or

(b) relevant foreign holdings (as defined by section 18(3C)),

which is for the time being designated for the purposes of this section as a recognised clearing system by an order made by the Board.

(2) An order under this section—

(a) may contain such transitional and other supplemental provision as appears to the Board to be necessary or expedient; and

(b) may be varied or revoked by a subsequent order."

27. Schedule 3 (machinery for payment of income tax under Schedule C and, in certain cases, Schedule D) shall be omitted.

28.—(1) In Schedule 23A (manufactured dividends and interest), in paragraph 1(1) (definitions)—

(a) in paragraph (b) of the definition of "overseas securities", and

(b) in the definition of "United Kingdom securities",

for "Eurobonds held in a recognised clearing system, within the meaning of section 124" there shall be substituted "Eurobonds (as defined by section 124) held in a recognised clearing system".

(2) In paragraph 4(8) of that Schedule, for paragraphs (a) to (d) there shall be substituted the following paragraphs—

"(b) a foreign dividend (as defined by section 18(3D)), or

(c) interest on a quoted Eurobond (as defined by section 124) held in a recognised clearing system,".

Other amendments

29. In the Table in section 98 of the Taxes Management Act 1970 (penalties in respect of certain information provisions)— 1970 c. 9.

(a) in the first column, the entry relating to paragraph 13(1) of Schedule 3 to the Taxes Act 1988, and

(b) in the second column, the entry relating to paragraph 6C of that Schedule,

shall be omitted.

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1989 c. 26. 30. In section 178(2)(m) of the Finance Act 1989 (provisions to which power to set rates of interest applies), the words "and paragraph 6B of Schedule 3 to" shall be omitted.

1995 c. 4. 31. In section 128 of the Finance Act 1995 (limit on income chargeable on non-residents: income tax), in subsection (3)(a), the words "Schedule C," shall be omitted.

Commencement, etc.

32. Subject to paragraphs 33 and 34 below, this Schedule has effect—

(a) for the purposes of income tax, for the year 1996-97 and subsequent years of assessment;

(b) for the purposes of corporation tax, for accounting periods ending after 31st March 1996.

Position of paying and collecting agents

33.—(1) Subject to the following provisions of this paragraph and paragraph 34 below—

(a) nothing in section 79 of this Act or this Schedule shall affect the obligations of any person under Schedule 3, in relation to times to which this paragraph applies, to set apart, retain or pay any amount of tax; and

(b) Schedule 3 shall have effect accordingly in relation to amounts set apart, retained or paid in pursuance of those obligations.

(2) The repeal of Schedule 3 shall not affect the operation of paragraph 6B of that Schedule in relation to any amount—

(a) which became due and payable in relation to a transaction occurring before the day on which this Act was passed; but

(b) which remains unpaid at any time on or after that day.

(3) The Board may by regulations make provision with respect to returns to be made for the quarter which includes both times before the day on which this Act was passed and times on and after that day.

(4) Regulations under sub-paragraph (3) above may, in particular, provide
1970 c. 9. that section 98 of the Taxes Management Act 1970 shall have effect as if it included a reference in the second column of the Table to any specified provision of the regulations.

(5) In this paragraph "Schedule 3" means Schedule 3 to the Taxes Act 1988.

Position of taxpayers

34.—(1) Transitional payments of tax made on a person's behalf in relation to times to which this paragraph applies shall be treated as made only for the purpose of being applied in the discharge of that person's liability to tax charged under Schedule D.

(2) If a transitional payment of tax has been made on a person's behalf, but it appears to the Board that—

(a) that person was not liable to tax, or

(b) the sum paid exceeded his liability,

the Board shall make or allow such repayments, adjustments or set-offs against unpaid tax as they think appropriate.

(3) In this paragraph "transitional payment of tax" means a payment to which paragraph 33 above applies.

Times to which paragraphs 33 and 34 apply

35. Paragraphs 33 and 34 above apply in relation to times falling—

(a) within a year of assessment or an accounting period mentioned in paragraph 32 above, but

(b) before the day on which this Act was passed.

SCHEDULE 8

Section 83.

LOAN RELATIONSHIPS: CLAIMS RELATING TO DEFICITS

Claim to set off deficit against other profits for the deficit period

1.—(1) This paragraph applies where a claim is made under section 83(2)(a) of this Act for the whole or any part of the deficit to be set off against profits of any description for the deficit period.

(2) Subject to the following provisions of this paragraph—

(a) the amount to which the claim relates shall be set off against the profits of the company for the deficit period that are identified in the claim; and

(b) those profits shall be treated as reduced accordingly.

(3) Any reduction by virtue of sub-paragraph (2) above shall be made—

(a) after relief has been given for any loss incurred in a trade in an earlier accounting period; and

(b) before any relief is given against profits for that period either—

(i) under section 393A(1) of the Taxes Act 1988 (trading losses set against profits for the same or preceding accounting periods); or

(ii) by virtue of any claim made, in respect of a deficit for a subsequent period, under section 83(2)(c) of this Act.

(4) Relief shall not be given by virtue of a claim under section 83(2)(a) of this Act against any ring fence profits of the company within the meaning of Chapter V of Part XII of the Taxes Act 1988 (petroleum extraction activities).

Claim to treat deficit as eligible for group relief

2.—(1) This paragraph applies where the company makes a claim under section 83(2)(b) of this Act for the whole or any part of the deficit to be treated as eligible for group relief.

(2) The amount to which the claim relates shall be treated as if, for the purposes of subsection (1) of section 403 of the Taxes Act 1988 (group relief for trades)—

(a) it were a loss incurred in the deficit period by a company carrying on a trade; and

(b) the exclusions in subsection (2) of that section did not apply.

Claim to carry back deficit to previous accounting periods

3.—(1) This paragraph applies where a claim is made under section 83(2)(c) of this Act for the whole or any part of the deficit to be carried back to be set off against profits for earlier accounting periods.

(2) The claim shall have effect only if it relates to an amount that is equal to whichever is smaller of the following amounts, that is to say—

(a) so much of that deficit as is neither—

(i) an amount in relation to which a claim is made under subsection (2)(a) or (b) of section 83 of this Act, nor

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(ii) an amount excluded by virtue of subsection (4) of that section from the amounts in relation to which claims may be made under subsection (2) of that section;

and

(b) the total amount of the profits available for relief under this paragraph.

(3) Where the claim has effect, the amount to which the claim relates shall be set off against the profits available for relief under this paragraph—

(a) by treating those profits as reduced accordingly; and

(b) to the extent that those profits are profits for more than one accounting period, by applying the relief to profits for a later period before setting off any remainder of the amount to which the claim relates against profits for an earlier period.

(4) Subject to sub-paragraph (5) below, the profits available for relief under this paragraph are the amounts which, for accounting periods ending within the permitted period, would be taken—

(a) apart from any relief under this paragraph, and

(b) after the giving of every relief which under sub-paragraph (6) below falls to be given in priority to relief under this paragraph,

to be chargeable under Case III of Schedule D as profits and gains arising from the company's loan relationships.

(5) Where any accounting period begins before the beginning of the permitted period but ends in the course of it—

(a) any amount chargeable in respect of that accounting period under Case III of Schedule D as profits and gains of the company's loan relationships shall be apportioned according to the proportions of the accounting period falling before and after the beginning of the permitted period; and

(b) the amount attributable, on that apportionment, to before the beginning of the permitted period shall not be available for relief under this paragraph.

(6) The reliefs which fall to be given in priority to relief under this paragraph in respect of any loss are—

(a) any relief in respect of a loss or deficit incurred or treated as incurred in an accounting period before the deficit period;

(b) any relief under section 338 of the Taxes Act 1988 (charges on income) in respect of payments made wholly and exclusively for the purposes of a trade;

(c) where the company is an investment company for the purposes of Part IV of that Act—

1990 c. 1.

(i) any allowance under section 28 of the Capital Allowances Act 1990 (machinery and plant of investment companies);

(ii) any deduction in respect of management expenses under section 75 of the Taxes Act 1988; and

(iii) any relief under section 338 of the Taxes Act 1988 in respect of payments made wholly and exclusively for the purposes of its business;

(d) any relief under section 393A of the Taxes Act 1988 (trading losses set against profits of the same or any preceding accounting periods); and

(e) any relief in pursuance of a claim under section 83(2)(a) or (b) of this Act.

(7) In this paragraph "the permitted period" means the period of three years immediately preceding the beginning of the deficit period so far as that three year period falls after 31st March 1996.

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CHAPTER 8

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Claim to carry forward deficit to next accounting period

4.—(1) This paragraph applies where a claim is made under section 83(2)(d) of this Act for the whole or any part of the deficit to be carried forward and set against non-trading profits for the next accounting period.

(2) The amount to which the claim relates shall be set off against the non-trading profits of the company for the accounting period immediately following the deficit period, and those profits shall be treated as reduced accordingly.

(3) In this paragraph "non-trading profits", in relation to a company, means so much of any profits of the company (of whatever description) as do not consist in trading income for the purposes of section 393A of the Taxes Act 1988 (setting-off of trading losses against profits of the same or an earlier period).

Construction of Schedule

5. In this Schedule "the deficit" and "the deficit period" shall be construed by reference to section 83(1) of this Act.

SCHEDULE 9

Section 84.

LOAN RELATIONSHIPS: SPECIAL COMPUTATIONAL PROVISIONS

Distributions

1. The credits and debits to be brought into account for the purposes of this Chapter shall not include any credits or debits relating to any amount falling, when paid, to be treated as a distribution.

Late interest

2.—(1) This paragraph applies for the purpose of bringing debits into account for the purposes of this Chapter in respect of a debtor relationship of a company where an authorised accruals basis of accounting is used as respects that relationship in pursuance of section 87 of this Act.

(2) If—

(a) interest payable under that relationship is not paid within the period of twelve months following the end of the accounting period in which it would (apart from this paragraph) be treated as accruing, and

(b) credits representing the full amount of the interest are not for any accounting period brought into account for the purposes of this Chapter in respect of the corresponding creditor relationship,

then debits relating to that interest shall be brought into account on the assumption that the interest does not accrue until it is paid.

Options etc.

3.—(1) This paragraph applies for determining the credits and debits to be brought into account for any accounting period in accordance with an authorised accruals basis of accounting, where—

(a) the answer to the question whether any amount will become due under a loan relationship after the end of that period,

(b) the amount which will become due under a loan relationship after the end of that period, or

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(c) the time after the end of that period when an amount will become due under a loan relationship,

depends on the exercise of an option by a party to the relationship or an associate of his, or is otherwise under the control of such a party or an associate of his.

(2) It shall be assumed that the party or his associate will exercise his power to determine whether and on what date any amount will become due in the manner which (apart from taxation) appears, as at the end of the accounting period in question, to be the most advantageous to that party.

(3) In this paragraph "associate" has the meaning given for the purposes of Part XI of the Taxes Act 1988 by section 417(3) and (4) of that Act.

Foreign exchange gains and losses

4.—(1) The credits and debits to be brought into account for the purposes of this Chapter shall be computed disregarding so much of any authorised accounting method as, by requiring the translation or conversion of amounts from one currency into another, has the effect that credits and debits produced by that method include sums in which profits, gains or losses arising from fluctuations in the value of a currency are to any extent represented.

(2) This paragraph is without prejudice to the provisions of Chapter II of Part II of the Finance Act 1993 (exchange gains and losses).

1993 c. 34.

Bad debt etc.

5.—(1) In determining the credits and debits to be brought into account in accordance with an accruals basis of accounting, a departure from the assumption in the case of the creditor relationships of a company that every amount payable under those relationships will be paid in full as it becomes due shall be allowed (subject to paragraph 6 below) to the extent only that—

(a) a debt is a bad debt;

(b) a doubtful debt is estimated to be bad; or

(c) a liability to pay any amount is released.

(2) Such a departure shall be made only where the accounting arrangements allowing the departure also require appropriate adjustments, in the form of credits, to be made if the whole or any part of an amount taken or estimated to represent an amount of bad debt is paid or otherwise ceases to be an amount in respect of which such a departure is allowed.

(3) Where—

(a) a liability to pay any amount under a debtor relationship of a company is released, and

(b) the release takes place in an accounting period for which an authorised accruals basis of accounting is used as respects that relationship,

no credit in respect of the release shall be required to be brought into account in the case of that company if the release is part of a relevant arrangement or compromise (within the meaning given by section 74(2) of the Taxes Act 1988) or the relationship is one as respects which section 87 of this Act requires the use of an authorised accruals basis of accounting.

Bad debt etc. where parties have a connection

6.—(1) This paragraph applies where for any accounting period section 87 of this Act requires an authorised accruals basis of accounting to be used as respects a creditor relationship of a company.

(2) The credits and debits which for that period are to be brought into account for the purposes of this Chapter in accordance with that accounting method shall be computed subject to sub-paragraphs (3) to (6) below.

(3) The assumption that every amount payable under the relationship will be paid in full shall be applied as if no departure from that assumption were authorised by virtue of paragraph 5 above except where it is allowed by sub-paragraph (4) below.

(4) A departure from that assumption shall be allowed in relation to a liability to pay any amount to the company ("the creditor company") under the creditor relationship where—

(a) in consideration of, or of any entitlement to, any shares forming part of the ordinary share capital of the company on whom the liability would otherwise have fallen, the creditor company treats the liability as discharged; and

(b) the condition specified in sub-paragraph (5) below is satisfied.

(5) That condition is that there would be no connection between the two companies for the accounting period in which that consideration is given if the question whether there is such a connection for that period fell to be determined, in accordance with section 87 of this Act, by reference only to times before the creditor company acquired possession of, or any entitlement to, the shares in question.

(6) Where the company ceases in the accounting period in question to be a party to the relationship—

(a) the debits brought into account for that period in respect of that relationship shall not (subject to sub-paragraph (7) below) be more than they would have been had the company not ceased to be a party to the relationship; and

(b) the credits brought into account for that period in respect of the relationship shall not (subject to that sub-paragraph) be less than they would have been in those circumstances.

(7) In determining for the purposes of sub-paragraph (6) above the debits and credits that would have been brought into account if a company had not ceased to be a party to a loan relationship, no account shall be taken of any amounts that would have accrued at times after it ceased to be a party to the relationship.

Writing-off of government investments

7.—(1) Where any government investment in a company is written off by the release of a liability to pay any amount under a debtor relationship of the company, no credit shall be required, in the case of that company, to be brought into account for the purposes of this Chapter in respect of that release.

(2) Subsections (7) and (8) of section 400 of the Taxes Act 1988 shall apply, as they apply for the purposes of that section, for construing the reference in sub-paragraph (1) above to the writing-off of a government investment.

Restriction on writing off overseas sovereign debt etc.

8.—(1) This paragraph applies for the purposes of the use, as respects any loan relationship of a company and in conformity with paragraph 5 above, of an authorised accruals basis of accounting.

(2) Where the company is one to which a relevant overseas debt is owed, the debits and credits to be brought into account on that basis for the purposes of this Chapter shall be determined, for any accounting period of the company, on the assumption that it is not permissible for more than the relevant percentage of the debt to be estimated to be bad.

(3) For the purposes of this paragraph the relevant percentage of a debt for any accounting period of a company is (subject to sub-paragraph (4) below) such

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percentage (which may be zero) as may be determined, by reference to the position at the end of the relevant period of account, in accordance with regulations made by the Treasury.

(4) Where, apart from this sub-paragraph, the relevant percentage of a debt for any accounting period is more than the adjusted base percentage of that debt for that period, the relevant percentage of the debt for that period shall be taken to be equal to its adjusted base percentage for that period.

(5) For the purposes of this paragraph the adjusted base percentage of a debt for any accounting period shall be calculated by—

(a) taking the percentage which, in accordance with section 88B of the Taxes Act 1988 and any regulations made under that section, was or (assuming the debt to have been a debt of the company at the end of the base period) would have been the base percentage for that debt; and

(b) increasing that base percentage by five percentage points for every complete year (except the first) between—

(i) the time by reference to which the base percentage was, or would have been, determined, and

(ii) the end of the relevant period of account.

(6) In this paragraph "the relevant period of account", in relation to any accounting period of a company, means the period of account ending with that accounting period or, if a period of account does not end with that accounting period, the last period of account of the company to end before the end of that accounting period.

(7) In this paragraph "relevant overseas debt" means any debt which—

(a) satisfies one of the conditions specified in sub-paragraph (8) below; but

(b) is neither interest on a debt nor a debt which represents the consideration for the provision of goods or services.

(8) Those conditions are—

(a) that the debt is owed by an overseas State authority; or

(b) that payment of the debt is guaranteed by an overseas State authority; or

(c) that the debt is estimated to be bad for the purposes of this Chapter wholly or mainly because due payment is or may be prevented, restricted or subjected to conditions—

(i) by virtue of any law of a State or other territory outside the United Kingdom or any act of an overseas State authority; or

(ii) under any agreement entered into in consequence or anticipation of such a law or act.

(9) In this paragraph "overseas State authority" means—

(a) a State or other territory outside the United Kingdom;

(b) the government of such a State or territory;

(c) the central bank or other monetary authority of such a State or territory;

(d) a public or local authority in such a State or territory; or

(e) a body controlled by such a State, territory, government, bank or authority;

and for this purpose "controlled" shall be construed in accordance with section 840 of the Taxes Act 1988.

(10) The Treasury shall not make any regulations under this paragraph unless a draft of them has been laid before and approved by a resolution of the House of Commons.

Further restriction on bringing into account losses on overseas sovereign debt etc.

9.—(1) This paragraph applies where—

(a) for an accounting period in which a company ceases to be a party to a loan relationship ("the loss period") any amount falls for the purposes of this Chapter to be brought into account in respect of that relationship in accordance with an authorised accruals basis of accounting;

(b) by the bringing into account of that amount in that period a loss incurred in connection with a relevant overseas debt falling within sub-paragraph (2) below is treated for the purposes of this Chapter as arising in that period;

(c) the amount of the loss is greater than 5 per cent. of the debt; and

(d) the loss is not one incurred on a disposal of the debt to an overseas State authority in a case in which the State or territory by reference to which it is an overseas State authority is the same as that by reference to which the debt is a relevant overseas debt.

(2) A relevant overseas debt falls within this sub-paragraph if—

(a) a deduction has been made in respect of the debt in accordance with section 74(1)(j) of the Taxes Act 1988 for any period of account of the company ending before 1st April 1996;

(b) any debit relating to the debt has been brought into account for the purposes of this Chapter in accordance with so much of any authorised accruals basis of accounting as relates to the matters mentioned in paragraph 5(1)(a) to (c) above; or

(c) the debt is one acquired by the company on or after 20th March 1990 for a consideration greater than the price which it might reasonably have been expected to fetch on a sale in the open market at the time of acquisition.

(3) Where this paragraph applies, the amounts brought into account for the purposes of this Chapter in the loss period shall be such as to secure that only so much of the loss as does not exceed 5 per cent. of the debt is treated for the purposes of this Chapter as arising in the loss period; but sub-paragraph (4) below applies as respects further parts of that loss until the loss is exhausted.

(4) A part of the loss may, in accordance with sub-paragraph (5) below, be brought into account for the purposes of this Chapter in the form of a debit for any accounting period after the loss period ("a subsequent period").

(5) The amount of the debit brought into account under sub-paragraph (4) above for any subsequent period shall not exceed such amount as, together with any parts of the loss which for earlier periods have been represented by—

(a) the amount of the loss treated as arising in the loss period in accordance with sub-paragraph (3) above, or

(b) debits brought into account in accordance with this sub-paragraph,

is equal to 5 per cent. of the debt for each complete year that has elapsed between the beginning of the loss period and the end of the subsequent period.

(6) In this paragraph "overseas State authority" and "relevant overseas debt" have the same meanings as in paragraph 8 above.

(7) References in this paragraph to a loss do not include so much of any loss as falls to be disregarded for the purposes of this Chapter by virtue of paragraph 10 below or to any loss incurred before 1st April 1996.

Imported losses etc.

10.—(1) This paragraph applies in the case of a company ("the chargeable company") for an accounting period ("the loss period") where—

(a) an authorised accruals basis of accounting is used as respects a loan relationship of that company for the loss period;

(b) in accordance with that basis of accounting there is an amount which would fall (apart from this paragraph) to be brought into account for the purposes of this Chapter in respect of that relationship;

(c) by the bringing into account of that amount in that period a loss incurred in connection with that loan relationship would be treated for the purposes of this Chapter as arising in that period; and

(d) that loss is referable in whole or in part to a time when the relationship was not subject to United Kingdom taxation.

(2) The amounts brought into account for the purposes of this Chapter in the loss period shall be such as to secure that no part of the loss that is referable to a time when the relationship was not subject to United Kingdom taxation shall be treated for the purposes of this Chapter as arising in the loss period or any other accounting period of the chargeable company.

(3) For the purposes of this paragraph a loss is referable to a time when a relationship is not subject to United Kingdom taxation to the extent that, at the time to which the loss is referable, the chargeable company would not have been chargeable to tax in the United Kingdom on any profits or gains arising from the relationship.

(4) Sub-paragraph (3) above shall have effect where the chargeable company was not a party to the relationship at the time to which the loss is referable as if the reference to that company were a reference to the person who at that time was in the same position as respects the relationship as is subsequently held by the chargeable company.

Transactions not at arm's length

11.—(1) Subject to sub-paragraphs (2) and (3) below, where—

(a) debits or credits in respect of a loan relationship of a company fall to be brought into account for the purposes of this Chapter in accordance with an authorised accounting method,

(b) those debits or credits relate to amounts arising from, or incurred for the purposes of, a related transaction, and

(c) that transaction is not a transaction at arm's length,

the debits or credits given by that method shall be determined on the assumption that the transaction was entered into on the terms on which it would have been entered into between independent persons.

(2) Sub-paragraph (1) above shall not apply to debits arising from the acquisition of rights under a loan relationship where those rights are acquired for less than market value.

(3) Sub-paragraph (1) above does not apply—

(a) in the case of any related transaction between two companies that are members of the same group; or

(b) in relation to a member of a group of companies, in the case of any transaction which is part of a series of transactions having the same effect as a related transaction between two members of the same group.

(4) In this paragraph "related transaction" has the same meaning as in section 84 of this Act.

(5) Section 170 of the Taxation of Chargeable Gains Act 1992 (groups etc.) shall apply for the interpretation of this paragraph as it applies for the interpretation of sections 171 to 181 of that Act. 1992 c. 12.

Continuity of treatment: groups etc.

12.—(1) Subject to paragraph 15 below, this paragraph applies where, as a result of—

(a) a related transaction between two members of the same group of companies,

(b) a series of transactions having the same effect as a related transaction between two companies each of which has been a member of the same group at any time in the course of that series of transactions,

(c) the transfer between two companies of the whole or part of the long term business of any insurance company in accordance with a scheme sanctioned by a court under Part I of Schedule 2C to the Insurance Companies Act 1982, or 1982 c. 50.

(d) any transfer between two companies which is a qualifying overseas transfer within the meaning of paragraph 4A of Schedule 19AC to the Taxes Act 1988 (transfer of business of overseas life insurance company),

one of those companies ("the transferee company") directly or indirectly replaces the other ("the transferor company") as a party to a loan relationship.

(2) The credits and debits to be brought into account for the purposes of this Chapter in the case of the two companies shall be determined as follows—

(a) the transaction, or series of transactions, by virtue of which the replacement takes place shall be disregarded except for the purpose of identifying the company in whose case any debit or credit not relating to that transaction, or those transactions, is to be brought into account; and

(b) the transferor company and the transferee company shall be deemed (except for that purpose) to be the same company.

(3) This paragraph does not apply by virtue of sub-paragraph (1)(a) or (b) above in relation to any transfer of an asset, or of any rights under or interest in an asset, where the asset was within one of the categories set out in section 440(4)(a) to (e) of the Taxes Act 1988 (assets held for certain categories of long term business) either immediately before the transfer or immediately afterwards.

(4) This paragraph does not apply by virtue of sub-paragraph (1)(c) or (d) above in relation to any transfer of an asset, or of any rights under or interest in an asset, where—

(a) the asset was within one of the categories set out in section 440(4) of the Taxes Act 1988 immediately before the transfer; and

(b) is not within that category immediately afterwards.

(5) For the purposes of sub-paragraph (4) above, where one of the companies is an overseas life insurance company an asset shall be taken to be within the same category both immediately before the transfer and immediately afterwards if it—

(a) was within one category immediately before the transfer; and

(b) is within the corresponding category immediately afterwards.

(6) References in this paragraph to one company replacing another as a party to a loan relationship shall include references to a company becoming a party to any loan relationship under which its rights are equivalent to those of the other company under a loan relationship of which that other company has previously ceased to be a party.

(7) For the purposes of sub-paragraph (6) above a person's rights under a loan relationship are equivalent to rights under another such relationship if they entitle the holder of an asset representing the relationship—

(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 assets, in the form in which they are held or in the manner in which they can be transferred.

(8) Sub-paragraphs (4) and (5) of paragraph 11 above have effect for the purposes of this paragraph as they have effect for the purposes of that paragraph.

(9) In this paragraph "overseas life insurance company" has the same meaning as in Chapter I of Part XII of the Taxes Act 1988.

Loan relationships for unallowable purposes

13.—(1) Where in any accounting period a loan relationship of a company has an unallowable purpose, the debits which, for that period fall, in the case of that company, to be brought into account for the purposes of this Chapter shall not include so much of the debits given by the authorised accounting method used as respects that relationship as, on a just and reasonable apportionment, is attributable to the unallowable purpose.

(2) For the purposes of this paragraph a loan relationship of a company shall be taken to have an unallowable purpose in an accounting period where the purposes for which, at times during that period, the company—

(a) is a party to the relationship, or

(b) enters into transactions which are related transactions by reference to that relationship,

include a purpose ("the unallowable purpose") which is not amongst the business or other commercial purposes of the company.

(3) For the purposes of this paragraph the business and other commercial purposes of a company do not include the purposes of any part of its activities in respect of which it is not within the charge to corporation tax.

(4) For the purposes of this paragraph, where one of the purposes for which a company—

(a) is a party to a loan relationship at any time, or

(b) enters into a transaction which is a related transaction by reference to any loan relationship of the company,

is a tax avoidance purpose, that purpose shall be taken to be a business or other commercial purpose of the company only where it is not the main purpose, or one of the main purposes, for which the company is a party to the relationship at that time or, as the case may be, for which the company enters into that transaction.

(5) The reference in sub-paragraph (4) above to a tax avoidance purpose is a reference to any purpose that consists in securing a tax advantage (whether for the company or any other person).

(6) In this paragraph—

"related transaction" has the same meaning as in section 84 of this Act; and

"tax advantage" has the same meaning as in Chapter I of Part XVII of the Taxes Act 1988 (tax avoidance).

Debits and credits treated as relating to capital expenditure

14.—(1) This paragraph applies where any debit or credit given by an authorised accounting method for any accounting period in respect of a loan relationship of a company is allowed by normal accountancy practice to be treated, in the accounts of the company, as an amount brought into account in determining the value of a fixed capital asset or project.

(2) Notwithstanding the application to it of the treatment allowed by normal accountancy practice, the debit or credit shall be brought into account for the purposes of corporation tax, for the accounting period for which it is given, in the same way as a debit or credit which, in accordance with normal accountancy practice, is brought into account in determining the company's profit or loss for that period.

Repo transactions and stock-lending

15.—(1) In determining the debits and credits to be brought into account for the purposes of this Chapter in respect of any loan relationship, it shall be assumed that a disposal or acquisition to which this paragraph applies is not a related transaction for the purposes of section 84 of this Act.

(2) This paragraph applies to any such disposal or acquisition of rights or liabilities under the relationship as is made in pursuance of any repo or stock-lending arrangements.

(3) In this paragraph "repo or stock-lending arrangements" means any arrangements consisting in or involving an agreement or series of agreements under which provision is made—

(a) for the transfer from one person to another of any rights under that relationship; and

(b) for the transferor, or a person connected with him, subsequently to be or become entitled, or required—

(i) to have the same or equivalent rights transferred to him; or

(ii) to have rights in respect of benefits accruing in respect of that relationship on redemption.

(4) For the purposes of sub-paragraph (3) above rights under a loan relationship are equivalent to rights under another such relationship if they entitle the holder of an asset representing the relationship—

(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 assets, in the form in which they are held or in the manner in which they can be transferred.

(5) Nothing in this paragraph shall prevent any redemption or discharge of rights or liabilities under a loan relationship to which any repo or stock-lending arrangements relate from being treated for the purposes of this Chapter as a related transaction (within the meaning of section 84 of this Act).

(6) This paragraph is without prejudice to section 730A(2) and (6) of the Taxes Act 1988 (deemed payments of loan interest in the case of the sale and re-purchase of securities).

(7) Section 839 of the Taxes Act 1988 (connected persons) applies for the purposes of this paragraph.

Imputed interest

16.—(1) This paragraph applies where, in pursuance of sections 770 to 772 of the Taxes Act 1988 (transactions at an undervalue or overvalue), as those sections have effect by virtue of section 773(4) of that Act, any amount falls to be treated as interest payable under a loan relationship of a company.

(2) Those sections shall have effect, notwithstanding the provisions of any authorised accounting method, so as to require credits or debits relating to the deemed interest to be brought into account for the purposes of this Chapter to the same extent as they would be in the case of an actual amount of interest accruing or becoming due and payable under the loan relationship in question.

Discounted securities where companies have a connection

17.—(1) This paragraph applies as respects any accounting period ("the relevant period") where—

(a) a debtor relationship of a company ("the issuing company") is represented by a relevant discounted security issued by that company;

(b) the benefit of that security is available to another company at any time in that period;

(c) for that period there is a connection between the issuing company and the other company; and

(d) credits representing the full amount of the discount that is referable to that period are not for any accounting period brought into account for the purposes of this Chapter in respect of the corresponding creditor relationship.

(2) The debits falling in the case of the issuing company to be brought into account for the purposes of this Chapter in respect of the loan relationship shall be adjusted so that every debit relating to the amount of the discount that is referable to the relevant period is brought into account for the accounting period in which the security is redeemed, instead of for the relevant period.

(3) References in this paragraph to the amount of the discount that is referable to the relevant period are references to the amount relating to the difference between—

(a) the issue price of the security, and

(b) the amount payable on redemption,

which (apart from this paragraph) would for the relevant period be brought into account for the purposes of this Chapter in the case of the issuing company.

(4) In this paragraph "relevant discounted security" has the same meaning as in Schedule 13 to this Act; and the provisions of that Schedule shall apply for the purposes of this paragraph for determining the difference between the issue price of a security and the amount payable on redemption as they apply for the purposes of paragraph 3(3) of that Schedule.

(5) For the purposes of this paragraph there is a connection between one company and another for the relevant period if (subject to the following provisions of this paragraph)—

(a) there is a time in that period, or in the period of two years before the beginning of that period, when one of the companies has had control of the other; or

(b) there is a time in that period, or in those two years, when both the companies have been under the control of the same person.

(6) Two companies which have at any time been under the control of the same person shall not, by virtue of that fact, be taken for the purposes of this paragraph to be companies between whom there is a connection if the person was the Crown, a Minister of the Crown, a government department, a Northern Ireland department, a foreign sovereign power or an international organisation.

(7) Section 88 of this Act shall apply for the purposes of this paragraph in the case of a debtor relationship of a company represented by a relevant discounted security as it would apply for the purposes of section 87 of this Act in the case of the corresponding creditor relationship of the company holding that security and, accordingly, as if—

(a) the reference to section 87 of this Act in section 88(4)(b) were a reference to this paragraph; and

(b) section 88(5) were omitted.

(8) For the purposes of this paragraph the benefit of a security is available to a company if—

(a) that security, or any entitlement to rights attached to it, is beneficially owned by that company; or

(b) that company is indirectly entitled, by reference to a series of loan transactions, to the benefit of any rights attached to the security.

(9) Subsections (2) to (6) of section 416 of the Taxes Act 1988 (meaning of "control") shall apply for the purposes of this paragraph as they apply for the purposes of Part XI of that Act.

Discounted securities of close companies

18.—(1) This paragraph applies for any accounting period where—

(a) a debtor relationship of a close company is represented by a relevant discounted security issued by the company; and

(b) at any time in or before that period that security has been beneficially owned by a person who at the time was—

(i) a participator in the company;

(ii) an associate of such a participator; or

(iii) a company of which such a participator has control.

(2) The debits falling in the case of the company to be brought into account for the purposes of this Chapter in respect of the loan relationship shall be adjusted so that no amount is brought into account in respect of the difference between—

(a) the issue price of the security, and

(b) the amount payable on redemption,

for any accounting period before that in which the security is redeemed.

(3) In this paragraph "relevant discounted security" has the same meaning as in Schedule 13 to this Act; and the provisions of that Schedule shall apply for the purposes of this paragraph for determining the difference between the issue price of a security and the amount payable on redemption as they apply for the purposes of paragraph 3(3) of that Schedule.

(4) In this paragraph—

"associate" has the meaning given in section 417(3) and (4) of the Taxes Act 1988;

"control" shall be construed in accordance with section 416(2) to (6) of that Act; and

"participator" means a person who, by virtue of section 417 of that Act, is a participator in the company for the purposes of Part XI of that Act, other than a person who is a participator for those purposes by virtue only of his holding a relevant discounted security issued by the company.

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(5) In determining whether a person who carries on a business of banking is a participator in a company for the purposes of this paragraph, there shall be disregarded any securities of the company acquired by him in the ordinary course of his business.

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SCHEDULE 10

LOAN RELATIONSHIPS: COLLECTIVE INVESTMENT SCHEMES

Investment trusts

1.—(1) This paragraph applies for the purposes of the application of this Chapter in relation to investment trusts and venture capital trusts.

(2) If the Treasury by order approve the use of an accounting method for the creditor relationships of investment trusts or venture capital trusts—

(a) that method, instead of any method for which section 85 of this Act provides, shall be used as respects the creditor relationships of the trusts for which it is approved; and

(b) this Chapter shall have effect (subject to the provisions of the order) as if the accounting method were, for the purposes for which it is approved, an authorised accruals basis of accounting.

(3) Where an approval is given under this paragraph, it must be an approval of one of the following—

(a) the use of an accruals basis of accounting appearing to the Treasury to be recognised by normal accounting practice for use in the case of investment trusts;

(b) the use, with such modifications as may be provided for in the order, of an accruals basis of accounting appearing to them to be so recognised; or

(c) the use, with such modifications as may be so provided for, of an accounting method which, apart from the order, would be an authorised accruals basis of accounting.

(4) An order under this paragraph may provide for any approval of the use (with or without modifications) of a basis of accounting recognised by normal accounting practice to have effect in relation to accounting periods beginning before the time as from which the use of that method is recognised and before the making of the order.

Authorised unit trusts

2.—(1) The provisions of this Chapter so far as they relate to the creditor relationships of a company shall not apply for the purposes of corporation tax in computing the profits or losses of an authorised unit trust.

(2) For the purposes of corporation tax the profits and gains, and losses, that are to be taken to arise from the creditor relationships of an authorised unit trust shall be computed—

(a) in accordance with the provisions applicable, in the case of unauthorised unit trusts, for the purposes of income tax; and

(b) as if the provisions so applicable had effect in relation to an accounting period of an authorised unit trust as they have effect, in the case of unauthorised unit trusts, in relation to a year of assessment.

(3) In relation to the first accounting period of any authorised unit trust to end after 31st March 1996, the reference in sub-paragraph (2)(a) above to the provisions applicable for the purposes of income tax is a reference to the provisions so applicable for the year 1996-97.

(4) In this paragraph "unauthorised unit trust" means the trustees of any unit trust scheme which is not an authorised unit trust but is a unit trust scheme for the purposes of section 469 of the Taxes Act 1988.

Distributing offshore funds

3. For the purposes of paragraph 5(1) of Schedule 27 to the Taxes Act 1988 (computation of UK equivalent profit), the assumptions to be made in determining what, for any period, would be the total profits of an offshore fund are to include an assumption that paragraph 2 above applies in the case of that offshore fund as it applies in the case of any authorised unit trust.

Company holdings in unit trusts and offshore funds

4.—(1) This paragraph applies for the purposes of corporation tax in relation to any company where—

(a) at any time in an accounting period that company holds any of the following ("a relevant holding"), that is to say, any rights under a unit trust scheme or any relevant interests in an offshore fund; and

(b) there is a time in that period when that scheme or fund fails to satisfy the non-qualifying investments test.

(2) The Corporation Tax Acts shall have effect for that accounting period in accordance with sub-paragraphs (3) and (4) below as if the relevant holding were rights under a creditor relationship of the company.

(3) An accruals basis of accounting shall not be used for the purposes of this Chapter as respects the company's relevant holdings.

(4) The authorised mark to market basis of accounting used for any accounting period as respects a relevant holding shall not be taken, for the purposes of this Chapter, to require the bringing into account of any credit relating to any distributions of an authorised unit trust which become due and payable in that period other than interest distributions within the meaning of section 468L(3) of the Taxes Act 1988.

Holding becoming or ceasing to be paragraph 4 holding

5.—(1) Section 116 of the 1992 Act (reorganisations etc. involving qualifying corporate bonds) shall have effect in accordance with the assumptions for which this paragraph provides if—

(a) a relevant holding is held by a company both at the end of one accounting period and at the beginning of the next; and

(b) paragraph 4 above applies to that holding for one of those periods but not for the other.

(2) Where—

(a) the accounting period for which paragraph 4 above applies to the relevant holding is the second of the periods mentioned in sub-paragraph (1) above, and

(b) the first of those periods is not a period ending on 31st March 1996 or a period at the end of which there is deemed under section 212 of the 1992 Act to have been a disposal of the relevant holding,

the holding shall be assumed to have become a holding to which paragraph 4 above applies for the second of those periods in consequence of the occurrence, at the end of the first period, of a transaction such as is mentioned in section 116(1) of that Act.

(3) In relation to the transaction that is deemed to have occurred as mentioned in sub-paragraph (2) above—

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(a) the relevant holding immediately before the beginning of the second accounting period shall be assumed to be the old asset for the purposes of section 116 of the 1992 Act; and

(b) the relevant holding immediately after the beginning of that period shall be assumed for those purposes to be the new asset.

(4) Where the accounting period for which paragraph 4 above applies to the relevant holding is the first of the periods mentioned in sub-paragraph (1) above, then, for the purposes of the 1992 Act—

(a) the holding shall be assumed to have become a holding to which paragraph 4 above does not apply for the second of those periods in consequence of the occurrence at the beginning of the second of those periods of a transaction such as is mentioned in section 116(1) of that Act;

(b) the relevant holding immediately before the beginning of that second period shall be assumed, in relation to that transaction, to be the old asset for the purposes of section 116 of the 1992 Act; and

(c) the relevant holding immediately after the beginning of that period shall be assumed, in relation to that transaction, to be the new asset for those purposes.

1992 c. 12.

(5) In this paragraph "the 1992 Act" means the Taxation of Chargeable Gains Act 1992.

Opening valuation of paragraph 4 holding

6. Where—

(a) paragraph 5(2) above applies in the case of any relevant holding of a company, and

(b) for the purpose of bringing amounts into account for the purposes of this Chapter on the mark to market basis used for that period in pursuance of paragraph 4 above, an opening valuation of the holding falls to be made as at the beginning of that period,

the value of that asset at the beginning of that period shall be taken for the purpose of the opening valuation to be equal to whatever, in relation to a disposal immediately before the end of the previous accounting period, would have been taken to be the market value of the holding for the purposes of the Taxation of Chargeable Gains Act 1992.

Meaning of offshore funds

7.—(1) For the purposes of paragraph 4 above an interest is a relevant interest in an offshore fund if—

(a) it is a material interest in an offshore fund for the purposes of Chapter V of Part XVII of the Taxes Act 1988; or

(b) it would be such an interest if the assumption mentioned in sub-paragraph (2) below were made.

(2) That assumption is that the unit trust schemes and arrangements referred to in paragraphs (b) and (c) of subsection (1) of section 759 of the Taxes Act 1988 are not limited to those which are also collective investment schemes.

Non-qualifying investments test

8.—(1) For the purposes of paragraph 4 above a unit trust scheme or offshore fund fails to satisfy the non-qualifying investments test at any time when the market value of the qualifying investments exceeds 60 per cent. of the market value of all the investments of the scheme or fund.

(2) Subject to sub-paragraph (8) below, in this paragraph "qualifying investments", in relation to a unit trust scheme or offshore fund, means investments of the scheme or fund which are of any of the following descriptions—

(a) money placed at interest;

(b) securities;

(c) shares in a building society;

(d) qualifying holdings in a unit trust scheme or an offshore fund.

(3) For the purposes of sub-paragraph (2) above a holding in a unit trust scheme or offshore fund is a qualifying holding at any time if—

(a) at that time, or

(b) at any other time in the same accounting period,

that scheme or fund would itself fail (even on the relevant assumption) to satisfy the non-qualifying investments test.

(4) For the purposes of sub-paragraph (3) above the relevant assumption is that investments of the scheme or fund are qualifying investments in relation to that scheme or fund only if they fall within paragraphs (a) to (c) of sub-paragraph (2) above.

(5) References in this paragraph to investments of a unit trust scheme or offshore fund are references, as the case may be—

(a) to investments subject to the trusts of the scheme, or

(b) to assets of the fund,

but in neither case do they include references to cash awaiting investment.

(6) References in this paragraph to a holding—

(a) in relation to a unit trust scheme, are references to an entitlement to a share in the investments of the scheme; and

(b) in relation to an offshore fund, are references to shares in any company by which that fund is constituted or any entitlement to a share in the investments of the fund.

(7) In this paragraph "security" does not include shares in a company.

(8) The Treasury may by order amend this paragraph so as to extend or restrict the descriptions of investments of a unit trust scheme or offshore fund that are qualifying investments for the purposes of this paragraph.

Powers to make orders

9.—(1) An order made by the Treasury under any provision of this Schedule may—

(a) make different provision for different cases; and

(b) contain such incidental, supplemental, consequential and transitional provision as the Treasury may think fit.

(2) Without prejudice to the generality of sub-paragraph (1) above, an order under paragraph 8(8) above may make such incidental modifications of paragraph 8(4) above as the Treasury may think fit.

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SCHEDULE 11

LOAN RELATIONSHIPS: SPECIAL PROVISIONS FOR INSURERS

PART I

INSURANCE COMPANIES

I minus E basis

1.—(1) Nothing in this Chapter shall be construed as preventing profits and gains arising from loan relationships of an insurance company from being included, where—

(a) the relationship is referable to any life assurance business or capital redemption business carried on by the company, and

(b) that business is business in respect of which the I minus E basis is applied,

in profits and gains on which the company is chargeable to tax in accordance with that basis.

(2) Where, for any accounting period, the I minus E basis is applied in respect of any life assurance business or capital redemption business carried on by an insurance company, the effect of applying that basis shall be—

(a) that none of the credits or debits falling for the purposes of this Chapter to be brought into account in respect of loan relationships of the company that are referable to that business shall be brought into account as mentioned in section 82(2) of this Act; but

(b) that (subject to the following provisions of this Schedule) all those credits and debits shall, instead, be brought into account, in applying that basis to that business, as non-trading credits or, as the case may be, non-trading debits;

and the reference in paragraph 2(1) below to non-trading credits and non-trading debits shall be construed accordingly.

Rules for different categories of business

2.—(1) Where an insurance company carries on basic life assurance and general annuity business or capital redemption business or both of them, a separate computation, using only the non-trading credits and non-trading debits referable to the business in question, shall be made for the purposes of this Chapter in relation to that business or, as the case may be, in relation to each of them.

(2) References in any enactment to the computation of any profits of an insurance company in accordance with the provisions of the Taxes Act 1988 applicable to Case I of Schedule D shall have effect as if those provisions included the provisions of this Chapter but, in accordance with sub-paragraph (3) below, only to the extent that they relate to the bringing into account in accordance with section 82(2) of this Act of credits and debits in respect of a company's debtor relationships.

(3) Where an insurance company carries on—

(a) life assurance business or any category of life assurance business, or

(b) capital redemption business,

the credits and debits referable to that business, or category of business, that are given by this Chapter in respect of creditor relationships of the company shall be disregarded for the purposes of any computations falling to be made, in relation to that business or category of business, in accordance with provisions applicable to Case I of Schedule D.

(4) Accordingly (and notwithstanding section 80(5) of this Act), the amounts which are to be brought into account in any computations such as are mentioned in sub-paragraph (3) above shall be determined under the provisions applicable apart from this Chapter.

(5) To the extent that any profits of an insurance company in respect of any business or category of business fall to be computed in accordance with provisions applicable to Case I of Schedule D the credits and debits referable to that business or category of business that fall to be disregarded under sub-paragraph (3) above shall also be disregarded in any computations falling to be made for the purposes of this Chapter otherwise than in accordance with sub-paragraph (1) above.

Apportionments

3. Where—

(a) any creditor relationship of an insurance company is represented by an asset which is an asset of a fund of the company or is linked to any category of insurance business, and

(b) any question arises for the purposes of the Corporation Tax Acts as to the extent to which credits or debits given for the purposes of this Chapter in respect of that relationship are referable to any category of the company's long term business,

section 432A of the Taxes Act 1988 (apportionment of insurance companies' income) shall have effect in relation to the credits and debits so given in respect of that relationship as it has effect in relation to the income arising from an asset.

Treatment of deficit

4.—(1) Where, in the case of any insurance company, a non-trading deficit on its loan relationships is produced for any accounting period ("the deficit period") by any separate computation made under paragraph 2 above for—

(a) basic life assurance and general annuity business, or

(b) capital redemption business,

the following provisions of this paragraph shall apply in relation to that deficit, instead of section 83 of, and Schedule 8 to, this Act.

(2) On a claim made by the company in relation to the whole or any part of the deficit—

(a) the amount to which the claim relates shall be set off against any net income and gains of the deficit period referable to the relevant category of business and arising or accruing otherwise than in respect of loan relationships; and

(b) the amount of the net income and gains against which it is set off shall be treated as reduced accordingly;

and any such reductions shall be made before any deduction by virtue of section 76 of the Taxes Act 1988 of any expenses of management.

(3) Subject to the following provisions of this paragraph, on a claim made by the company in relation to the whole or any part of so much (if any) of the deficit as exceeds the amount of the net income and gains for the deficit period that are referred to in sub-paragraph (2)(a) above, the amount to which the claim relates shall be—

(a) carried back to the three immediately preceding accounting periods; and

(b) in accordance with sub-paragraph (5) below, set against the eligible profits of the company for those periods.

(4) If the whole or any amount of the deficit is not set off under sub-paragraph (2) or (3) above, so much of it as is not set off shall be—

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(a) carried forward to the accounting period immediately following the deficit period; and

(b) treated for the purposes of the Corporation Tax Acts (including the following provisions of this paragraph) as an amount to be included in the company's expenses of management for the period following the deficit period.

(5) Subject to sub-paragraph (6) below, where, in pursuance of a claim under sub-paragraph (3) above, any amount falls to be carried back to be set off against the eligible profits of the company for the three accounting periods preceding the deficit period, that amount shall be set off against those profits as follows, that is to say—

(a) the amount shall be applied, up to the limit for the first set-off period, in reducing the company's eligible profit for that period;

(b) any remainder of that amount after the limit for the first set-off period is reached shall be applied, up to the limit for the second set-off period, in reducing the company's eligible profit for the second set-off period; and

(c) any remainder of that amount after the limit for the second set-off period has been reached shall be applied, up to the limit for the third set-off period, in reducing the company's eligible profit for the third set-off period.

(6) No reduction shall be made in pursuance of any such claim in a company's eligible profit for any accounting period ending before 1st April 1996.

(7) For the purposes of this paragraph the eligible profit of the company for an accounting period is the amount (if any) which, in pursuance of any separate computation made for that period for the relevant category of business, is chargeable to tax for that period under Case III of Schedule D as profits and gains arising from the company's loan relationships.

(8) For the purposes of this paragraph—

(a) the first set-off period is the accounting period immediately preceding the deficit period,

(b) the second set-off period is the accounting period immediately preceding the first set-off period,

(c) the third set-off period is the accounting period immediately preceding the second set-off period, and

(d) the limit for a set-off period is the amount equal to the adjusted amount of the company's eligible profit for that period.

(9) In sub-paragraph (8) above, the reference to the adjusted amount of a company's eligible profit for a set-off period is a reference to so much (if any) of the company's eligible profit for that period as remains after reducing it by an amount equal to the unused part of the relevant deductions for that period.

(10) For the purposes of sub-paragraph (9) above the unused part of the relevant deductions for any set-off period is the amount (if any) by which the aggregate of—

(a) so much of the amount of any deductions for the set-off period by virtue of section 76 of the Taxes Act 1988 as is referable to the relevant category of business, and

(b) so much of the aggregate of the deductions made in the case of the company in respect of charges on income for that period as is so referable,

exceeds the aggregate of the amounts referable to the relevant category of business that could for that period be applied in making deductions by virtue of that section, or in respect of charges on income, if the eligible profit of the company for that period were disregarded.

(11) In sub-paragraph (10) above, the references, in relation to a claim under sub-paragraph (3) above ("the relevant claim"), to deductions by virtue of section 76 of the Taxes Act 1988 for a set-off period are references to the deductions by way of management expenses that would have fallen to be made by virtue of that section for that period if—

(a) no account were taken of either—

(i) the relevant claim; or

(ii) any claim under sub-paragraph (3) above relating to a deficit for an accounting period after the deficit period;

but

(b) there were made all such adjustments required by virtue of any sum having been carried back to that set-off period—

(i) under the Corporation Tax Acts, but

(ii) otherwise than in pursuance of the relevant claim or of any other such claim as is mentioned in paragraph (a) above.

(12) Where—

(a) in pursuance of a claim under sub-paragraph (3) above any amount is set-off against the eligible profit of a company for any set-off period, and

(b) there is a section 76(5) amount for that period which is attributable to that claim,

that section 76(5) amount shall not be carried forward by virtue of section 75(3) of the Taxes Act 1988 but, if that set-off period is the first or second set-off period, sub-paragraph (13) below shall apply to that amount instead.

(13) Where this sub-paragraph applies to a section 76(5) amount for any set-off period, the amount available in accordance with sub-paragraph (5) above to be carried back from that set-off period to be set off against eligible profits of previous set-off periods (or, as the case may be, against the eligible profit of the previous set-off period) shall be treated as increased by an amount equal to the amount to which this sub-paragraph applies.

(14) In relation to any claim under sub-paragraph (3) above, the amount which for any set-off period is, for the purposes of this paragraph, to be taken to be the section 76(5) amount attributable to that claim is the amount (if any) by which the amount specified in paragraph (a) below is exceeded by the amount specified in paragraph (b) below, that is to say—

(a) the amount that would have fallen to be carried forward by virtue of section 75(3) of the Taxes Act 1988 if the claim had not been made; and

(b) the amount which, after the making of the claim, would have fallen to be carried forward to a subsequent period by virtue of section 75(3) of that Act if sub-paragraphs (12) and (13) above, so far as they relate to that claim, were to be disregarded.

(15) A claim for the purposes of sub-paragraph (2) or (3) above must be made within the period of two years immediately following the end of the deficit period or within such further period as the Board may allow.

(16) In this paragraph—

"net income and gains" has the meaning given by subsection (1) of section 76 of the Taxes Act 1988; and

"the relevant category of business", in relation to a deficit, means the category of business in relation to which the deficit was produced.

Election for accruals basis for long term business assets

5.—(1) Subject to sub-paragraphs (3) to (6) below, sub-paragraph (2) below applies for any accounting period to so much of any creditor relationship of an insurance company as—

(a) for the whole or any part of that period is an asset within one of the categories set out in section 440(4)(d) and (e) of the Taxes Act 1988 (assets held for certain categories of long term business); and

(b) is an asset in relation to which an election under this paragraph is made by the company for that period.

(2) Where—

(a) this sub-paragraph applies for any accounting period to any asset, and

(b) apart from this paragraph, a mark to market basis of accounting would have had to be used for the purposes of this Chapter as respects that asset for the whole or any part of that period,

this Chapter shall have effect as if an authorised accruals basis of accounting had to be used for the purposes of this Chapter as respects that asset for that period or part.

(3) Sub-paragraph (2) above shall not apply to any holding to which paragraph 4(3) of Schedule 10 to this Act applies.

(4) An election under this paragraph shall not be made except by notice in writing given to an officer of the Board not more than three months after the end of the accounting period to which the election relates.

(5) An election under this paragraph shall be irrevocable, and shall not be varied, once it has been made.

(6) An election shall not be made under this paragraph for any accounting period ending after 31st March 1998.

(7) The Treasury may, if they think fit, by order—

(a) amend sub-paragraph (6) above to substitute a later date for the date for the time being specified in that sub-paragraph; or

(b) repeal that sub-paragraph.

Interpretation of Part I

6. In this Part of this Schedule—

"basic life assurance and general annuity business" and "long term business" have the same meanings as in Chapter I of Part XII of the Taxes Act 1988;

"capital redemption business" means any capital redemption business, within the meaning of section 458 of that Act, which is business to which that section applies;

"the I minus E basis" means the basis commonly so called (under which a company carrying on life assurance business or capital redemption business is charged to tax on that business otherwise than under Case I of Schedule D);

"life assurance business" includes any annuity business within the meaning of Chapter I of Part XII of that Act.

PART II

CORPORATE MEMBERS OF LLOYD'S

7.—(1) This Chapter does not apply as respects any loan relationship of a corporate member of Lloyd's in so far as rights or liabilities making up that relationship, or any securities representing them, are—

(a) assets forming part of that member's premiums trust fund; or

(b) liabilities attached to that fund.

(2) Section 230 of the Finance Act 1994 (interpretation of provisions applying to corporate members of Lloyd's) shall apply for the purposes of this paragraph as it applies for the purposes of Chapter V of Part IV of that Act. 1994 c. 9.

SCHEDULE 12

Section 101.

MEANING OF DEBT CONTRACT OR OPTION

The section inserted after section 150 of the Finance Act 1994 by section 101(3) of this Act is as follows—

"Debt contracts and options.

150A.—(1) A contract is a debt contract for the purposes of this Chapter if, not being an interest rate contract or option or a currency contract or option—

(a) it is a contract under which, whether unconditionally or subject to conditions being fulfilled, a qualifying company has any entitlement, or is subject to any duty, to become a party to a loan relationship; and

(b) the only transfers of money or money's worth for which the contract provides (apart from those that will be made under the loan relationship) are payments falling within subsection (5) below and payments falling within section 151 below.

(2) A contract is also a debt contract for the purposes of this Chapter if, not being a debt contract by virtue of subsection (1) above or an interest rate contract or option or a currency contract or option—

(a) it is a contract under which, whether unconditionally or subject to conditions being fulfilled, a qualifying company has any entitlement, or is subject to any duty, to become treated as a person with rights and liabilities corresponding to those of a party to a loan relationship; and

(b) the only transfers of money or money's worth for which the contract provides are payments falling within subsection (6) below and payments falling within section 151 below.

(3) In this section references to an entitlement to become a party to a loan relationship, or to a duty to become such a party, shall be taken to include references, in relation to a specified loan relationship, to either of the following, namely—

(a) an entitlement or, as the case may be, a duty to become a party to an equivalent relationship; and

(b) an entitlement or, as the case may be, a duty relating to the making of any one or more such payments as fall within subsection (5) below.

(4) Subsection (3) above shall apply in relation to references in this section to an entitlement or a duty to become treated as a person with rights and liabilities corresponding to those of a party to a loan relationship as it applies to references to an entitlement or, as the case may be, a duty to become such a party.

(5) The payments falling within this subsection are—

(a) a payment of an amount representing the price for becoming a party to the relationship;

(b) a payment of an amount determined by reference to the value at any time of the money debt by reference to which the relationship subsists;

(c) a settlement payment of an amount determined by reference to the difference at specified times between—

(i) the price for becoming a party to the relationship; and

(ii) the value of the money debt by reference to which the relationship subsists, or (if the relationship were in existence) would subsist.

(6) A payment falls within this subsection if it is a settlement payment of an amount determined by reference to the difference at specified times between—

(a) the price for becoming treated as a person with rights and liabilities corresponding to those of a party to a relationship; and

(b) the value of the money debt by reference to which the relationship subsists or (if the relationship existed) would subsist.

(7) Each of the following, namely—

(a) an option to enter into a contract which would be a debt contract, and

(b) an option to enter into such an option,

is a debt option for the purposes of this Chapter if the only transfers of money or money's worth for which the option provides are payments falling within section 151 below.

(8) For the purposes of this Chapter where any contract contains both—

(a) provisions under which, whether unconditionally or subject to conditions being fulfilled, a qualifying company has any entitlement, or is subject to any duty, to become a party to a loan relationship, and

(b) any provisions that have effect otherwise than for the purposes of or in relation to the provisions conferring that entitlement or imposing that duty,

the provisions mentioned in paragraph (a) above, together with the other contents of that contract so far as they are attributable on a just and reasonable basis to the provisions mentioned in that paragraph, shall be treated as a separate contract.

(9) For the purposes of this Chapter where—

(a) any attribution of the contents of a contract falls to be made between provisions falling within paragraph (a) of subsection (8) above and provisions falling within paragraph (b) of that subsection, and

(b) that contract provides for the making of any payment constituting a transfer of money or money's worth which cannot be attributed to the provisions falling within only one of those paragraphs,

that payment shall be treated as apportioned between the provisions falling within each of those paragraphs in such manner as may be just and reasonable.

(10) Expressions used in this section and in Chapter II of Part IV of the Finance Act 1996 have the same meanings in this section as in that Chapter; but references in this section to a loan relationship do not include—

(a) any loan relationship represented by an asset to which section 92 of that Act (convertible securities) applies; or

(b) any loan relationship to which section 93 of that Act (securities indexed to chargeable assets) applies.

(11) For the purposes of this section and, so far as it relates to a debt contract or option, of section 151 below the transfer of money's worth having a value of any amount shall be treated as the payment of that amount."

SCHEDULE 13

Section 102.

DISCOUNTED SECURITIES: INCOME TAX PROVISIONS

Charge to tax on realised profit comprised in discount

1.—(1) Where a person realises the profit from the discount on a relevant discounted security, he shall be charged to income tax on that profit under Case III of Schedule D or, where the profit arises from a security out of the United Kingdom, under Case IV of that Schedule.

(2) For the purposes of this Schedule a person realises the profit from the discount on a relevant discounted security where—

(a) he transfers such a security or becomes entitled, as the person holding the security, to any payment on its redemption; and

(b) the amount payable on the transfer or redemption exceeds the amount paid by that person in respect of his acquisition of the security.

(3) For the purposes of this Schedule the profit shall be taken—

(a) to be equal to the amount of the excess reduced by the amount of any relevant costs; and

(b) to arise, for the purposes of income tax, in the year of assessment in which the transfer or redemption takes place.

(4) In this paragraph "relevant costs", in relation to a security that is transferred or redeemed, are all the following costs—

(a) the costs incurred in connection with the acquisition of the security by the person making the transfer or, as the case may be, the person entitled to a payment on the redemption; and

(b) the costs incurred by that person in connection with the transfer or redemption of the security;

and for the purposes of this Schedule costs falling within paragraph (a) above shall not be regarded as amounts paid in respect of the acquisition of a security.

Realised losses on discounted securities

2.—(1) Subject to the following provisions of this Schedule, where—

(a) a person sustains a loss in any year of assessment from the discount on a relevant discounted security, and

(b) makes a claim for the purposes of this paragraph before the end of twelve months from the 31st January next following that year of assessment,

that person shall be entitled to relief from income tax on an amount of the claimant's income for that year equal to the amount of the loss.

(2) For the purposes of this Schedule a person sustains a loss from the discount on a relevant discounted security where—

(a) he transfers such a security or becomes entitled, as the person holding the security, to any payment on its redemption; and

(b) the amount paid by that person in respect of his acquisition of the security exceeds the amount payable on the transfer or redemption.

(3) For the purposes of this Schedule the loss shall be taken—

(a) to be equal to the amount of the excess increased by the amount of any relevant costs; and

(b) to be sustained for the purposes of this Schedule in the year of assessment in which the transfer or redemption takes place.

(4) Sub-paragraph (4) of paragraph 1 above applies for the purposes of this paragraph as it applies for the purposes of that paragraph.

Meaning of "relevant discounted security"

3.—(1) Subject to sub-paragraph (2) and paragraph 14(1) below, in this Schedule "relevant discounted security" means any security which (whenever issued) is such that—

(a) taking the security as at the time of its issue, and

(b) assuming redemption in accordance with its terms,

the amount payable on redemption is an amount involving a deep gain or might be an amount which would involve such a gain.

(2) The following are not relevant discounted securities for the purposes of this Schedule—

(a) shares in a company;

(b) gilt-edged securities that are not strips;

(c) excluded indexed securities;

(d) life assurance policies;

(e) capital redemption policies (within the meaning of Chapter II of Part XIII of the Taxes Act 1988); and

(f) subject to paragraph 10 below, securities issued (at whatever time) under the same prospectus as other securities which have been issued previously but (disregarding that paragraph) are not themselves relevant discounted securities.

(3) For the purposes of this Schedule the amount payable on redemption of a security involves a deep gain if—

(a) the issue price is less than the amount so payable; and

(b) the amount by which it is less represents more than the relevant percentage of the amount so payable.

(4) In this paragraph "the relevant percentage", in relation to the amount payable on redemption of a security, means—

(a) the percentage figure equal, in a case where the period between the date of issue and the date of redemption is less than thirty years, to one half of the number of years between those dates; and

(b) in any other case, 15 per cent.;

and for the purposes of this paragraph the fraction of a year to be used for the purposes of paragraph (a) above in a case where the period mentioned in that paragraph is not a number of complete years shall be calculated by treating each complete month, and any remaining part of a month, in that period as one twelfth of a year.

(5) References in this paragraph to redemption—

(a) do not include references to any redemption which may be made before maturity otherwise than at the option of the holder of the security; but

(b) in the case of a security that is capable of redemption at the option of the holder before maturity, shall have effect as references to the earliest occasion on which the holder of the security may require the security to be redeemed.

(6) For the purposes of this paragraph the amount payable on redemption shall not be taken to include any amount payable on that occasion by way of interest.

Meaning of "transfer"

4.—(1) Subject to sub-paragraph (2) below, in this Schedule references to a transfer, in relation to a security, are references to any transfer of the security by way of sale, exchange, gift or otherwise.

(2) Where an individual who is entitled to a relevant discounted security dies, then for the purposes of this Schedule—

(a) he shall be treated as making a transfer of the security immediately before his death;

(b) he shall be treated as obtaining in respect of the transfer an amount equal to the market value of the security at the time of the transfer; and

(c) his personal representatives shall be treated as acquiring the security for that amount on his death.

(3) For the purposes of this Schedule a transfer or acquisition of a security made in pursuance of an agreement shall be deemed to take place at the time when the agreement is made, if the person to whom the transfer is made, or who makes the acquisition, becomes entitled to the security at that time.

(4) If an agreement is conditional, whether on the exercise of an option or otherwise, it shall be taken for the purposes of this paragraph to be made when the condition is satisfied (whether by the exercise of the option or otherwise).

(5) This paragraph is without prejudice to paragraph 14(2) to (4) below.

Redemption to include conversion

5.—(1) This paragraph applies where a relevant discounted security is extinguished by being converted, in pursuance of rights conferred by the security, into shares in a company or into any other securities (including other relevant discounted securities).

(2) For the purposes of this Schedule the conversion shall be deemed—

(a) to constitute the redemption of the security which is extinguished; and

(b) to involve a payment on redemption of an amount equal to whatever, at the time of the conversion, is the market value of the shares or other securities into which the security in question is converted.

(3) This paragraph does not apply to an exchange to which paragraph 14 below applies.

Trustees and personal representatives

6.—(1) Where, on a transfer or redemption of a security by trustees, an amount is treated as income chargeable to tax by virtue of this Schedule—

(a) that amount shall be taken for the purposes of Chapters IA and IB of Part XV of the Taxes Act 1988 (settlements: liability of settlor etc.) to be income arising—

(i) under the settlement of which the trustees are trustees; and

(ii) from that security;

(b) that amount shall be taken for the purposes of Chapter IC of Part XV of that Act (settlements: liability of trustees) to be income arising to the trustees; and

(c) to the extent that tax on that amount is charged on the trustees, the rate at which it is chargeable shall be taken (where it would not otherwise be the case) to be the rate applicable to trusts for the year of assessment in which the transfer or redemption is made.

(2) Where the trustees are trustees of a scheme to which section 469 of the Taxes Act 1988 (unauthorised unit trusts) applies, sub-paragraph (1) above shall not apply if or to the extent that the amount is treated as income in the accounts of the scheme.

(3) Without prejudice to paragraph 12 below, paragraphs 1(1) and 2(1) above do not apply in the case of—

(a) any transfer of a security for the time being held under a settlement the trustees of which are not resident in the United Kingdom; or

(b) any redemption of a security which is so held immediately before its redemption.

(4) Relief shall not be given to trustees under paragraph 2 above except from income tax on income chargeable under paragraph 1 above.

(5) Sub-paragraph (6) below applies where, in the case of any trustees, the amount mentioned in paragraph (a) below exceeds in any year of assessment the amount mentioned in paragraph (b) below, that is to say—

(a) the aggregate amount of the losses in respect of which relief from income tax may be given to the trustees for that year under paragraph 2 above (including any amount treated as such a loss by virtue of that sub-paragraph); and

(b) the income of those trustees chargeable for that year to tax under paragraph 1 above.

(6) Subject to paragraph 7(2) below, the excess shall for the purposes of this Schedule be—

(a) carried forward to the immediately following year of assessment; and

(b) in relation to the year to which it is carried forward, treated as if it were a loss sustained in that year by the trustees from a discount on a relevant discounted security.

(7) Where a relevant discounted security is transferred by personal representatives to a legatee, they shall be treated for the purposes of this Schedule as obtaining in respect of the transfer an amount equal to the market value of the security at the time of the transfer.

(8) In this paragraph "legatee" includes any person taking (whether beneficially or as trustee) under a testamentary disposition or on an intestacy or

partial intestacy, including any person taking by virtue of an appropriation by the personal representatives in or towards satisfaction of a legacy or other interest or share in the deceased's property.

Treatment of losses where income exempt

7.—(1) Where—

(a) on the transfer or redemption of any relevant discounted security, a loss is sustained from the discount on that security, and

(b) if the person sustaining that loss had realised a profit from that discount on that transfer or redemption, the profit would have been an exempt profit for the year of assessment in which the loss is sustained,

relief shall not be given to that person under paragraph 2 above in respect of that loss except from income tax on income chargeable for that year under paragraph 1 above.

(2) No part of any loss to which sub-paragraph (1) above applies shall be carried forward under paragraph 6(6) above.

(3) The reference in sub-paragraph (1) above to an exempt profit for a year of assessment is a reference to any income for that year which—

(a) is eligible for relief from tax by virtue of section 505(1) of the Taxes Act 1988, or would be so eligible but for section 505(3) of that Act (charities); or

(b) is eligible for relief from tax by virtue of section 592(2), 608(2)(a), 613(4), 614(2), (3), (4) or (5), 620(6) or 643(2) of that Act (pension scheme funds etc.).

(4) Where a loss to which sub-paragraph (1) above applies is sustained in a case in which the profit mentioned in paragraph (b) of that sub-paragraph would be eligible for relief under section 592(2) of the Taxes Act 1988—

(a) relief shall be given under paragraph 2 above in accordance with sub-paragraph (1) above before any computation is made under paragraph 7 of Schedule 22 to that Act, and

(b) that paragraph 7 shall have effect, accordingly, so that the amount of income to which the specified percentage is applied by virtue of sub-paragraph (3)(a) of that paragraph is reduced by the amount of the relief.

Transfers between connected persons

8.—(1) This paragraph applies where a relevant discounted security is transferred from one person to another and they are connected with each other.

(2) For the purposes of this Schedule—

(a) the person making the transfer shall be treated as obtaining in respect of it an amount equal to the market value of the security at the time of the transfer; and

(b) the person to whom the transfer is made shall be treated as paying in respect of his acquisition of the security an amount equal to that market value.

(3) Section 839 of the Taxes Act 1988 (connected persons) shall apply for the purposes of this paragraph.

Other transactions deemed to be at market value

9.—(1) This paragraph applies where a relevant discounted security is transferred from one person to another in a case in which—

(a) the transfer is made for a consideration which consists of or includes consideration not in money or money's worth; or

(b) the transfer is made otherwise than by way of a bargain made at arm's length.

(2) For the purposes of this Schedule—

(a) the person making the transfer shall be treated as obtaining in respect of it an amount equal to the market value of the security at the time of the transfer, and

(b) the person to whom the transfer is made shall be treated as paying in respect of his acquisition of the security an amount equal to that market value.

Issue of securities in separate tranches

10.—(1) In a case where—

(a) none of the securities issued on the occasion of the original issue of securities under a particular prospectus would be a relevant discounted security apart from this paragraph,

(b) some of the securities subsequently issued under the prospectus would be relevant discounted securities apart from paragraph 3(2)(f) above, and

(c) there is a time (whether before, at or after the beginning of the year 1996-97) when the aggregate nominal value as at that time of the securities falling within paragraph (b) above exceeds the aggregate nominal value as at that time of the securities which have been issued under the prospectus and do not fall within that paragraph,

sub-paragraph (2) below shall apply in relation to every security which has been or is issued under the prospectus at any time (whether before, at or after the time mentioned in paragraph (c) above).

(2) As regards any event occurring in relation to the security after the time mentioned in sub-paragraph (1)(c) above, this Schedule shall have effect as if the security—

(a) were a relevant discounted security; and

(b) had been acquired as such (whatever the time of its acquisition).

(3) For the purposes of sub-paragraph (2) above events, in relation to a security, include anything constituting a transfer, redemption or acquisition for the purposes of this Schedule.

Accrued income scheme

11. In a case where—

(a) paragraph 1 or 2 above applies on the transfer of any security, and

(b) apart from this paragraph, the transfer would be a transfer for the purposes of sections 710 to 728 of the Taxes Act 1988,

the transfer shall be treated as if it were not a transfer for those purposes.

Assets transferred abroad

12. For the purposes of sections 739 and 740 of the Taxes Act 1988 (prevention of avoidance of tax by transfer of assets abroad), where a person resident or domiciled outside the United Kingdom realises a profit from the discount on a relevant discounted security, that profit shall be taken to be income of that person.

Excluded indexed securities

13.—(1) For the purposes of this Schedule a security is an excluded indexed security if the amount payable on redemption is linked to the value of chargeable assets.

(2) For the purposes of this paragraph an amount is linked to the value of chargeable assets if, in pursuance of any provision having effect for the purposes of the security, it is equal to an amount determined by applying a relevant percentage change in the value of chargeable assets to the amount for which the security was issued.

(3) In sub-paragraph (2) above the reference to a relevant percentage change in the value of chargeable assets is a reference to the amount of the percentage change (if any) over the relevant period in the value of chargeable assets of any particular description or in any index of the value of any such assets.

(4) In sub-paragraph (3) above "the relevant period" means—

(a) the period between the time of the issue of the security and its redemption; or

(b) any other period in which almost all of that period is comprised and which differs from that period exclusively for purposes connected with giving effect to a valuation in relation to rights or liabilities under the security.

(5) If—

(a) there is a provision which, in the case of the amount payable on the redemption of any security, falls within sub-paragraph (2) above,

(b) that provision is made subject to any other provision applying to the determination of that amount,

(c) that other provision is to the effect only that that amount must not be less than a specified percentage of the amount for which the security is issued, and

(d) the specified percentage is not more than 10 per cent.,

that other provision shall be disregarded in determining for the purposes of this paragraph whether the amount payable on redemption is linked to the value of chargeable assets.

(6) For the purposes of this paragraph an asset is a chargeable asset in relation to any security if any gain accruing to a person on a disposal of that asset would, on the assumptions specified in sub-paragraph (7) below, be a chargeable gain for the purposes of the Taxation of Chargeable Gains Act 1992. 1992 c. 12.

(7) Those assumptions are—

(a) where it is not otherwise the case, that the asset is an asset of the person in question and that that person does not have the benefit of any exemption conferred by section 100 of that Act of 1992 (exemption for authorised unit trusts etc.);

(b) that the asset is not one the disposal of which by that person would fall to be treated for the purposes of income tax as a disposal in the course of a trade, profession or vocation carried on by that person; and

(c) that chargeable gains that might accrue under section 116(10) of that Act are to be disregarded.

(8) For the purposes of this paragraph neither—

(a) the retail prices index, nor

(b) any similar general index of prices published by the government of any territory or by the agent of any such government,

shall be taken to be an index of the value of chargeable assets.

Gilt strips

14.—(1) Every strip is a relevant discounted security for the purposes of this Schedule.

(2) For the purposes of this Schedule, where a person exchanges a gilt-edged security for strips of that security, the person who receives the strips in the exchange shall be deemed to have paid, in respect of his acquisition of each strip, the amount which bears the same proportion to the market value of the security as is borne by the market value of the strip to the aggregate of the market values of all the strips received in exchange for the security.

(3) For the purposes of this Schedule, where strips are consolidated into a single gilt-edged security by being exchanged by any person for that security, each of the strips shall be deemed to have been redeemed at the time of the exchange by the payment to that person of the amount equal to its market value.

(4) A person who holds a strip on the 5th April in any year of assessment, and who (apart from this sub-paragraph) does not transfer or redeem it on that day, shall be deemed for the purposes of this Schedule—

(a) to have transferred that strip on that day;

(b) to have received in respect of that transfer an amount equal to the strip's market value on that day; and

(c) to have re-acquired the strip on the next day on payment of an amount equal to the amount for which it is deemed to have been disposed of on the previous day;

and the deemed transfer and re-acquisition shall be assumed for the purposes of paragraphs 1 and 2 above to be transactions in connection with which no relevant costs are incurred.

(5) Without prejudice to the generality of any power conferred by section 202 of this Act, the Treasury may by regulations provide that this Schedule is to have effect with such modifications as they may think fit in relation to any relevant discounted security which is a strip.

(6) Regulations made by the Treasury under this paragraph may—

(a) make provision for the purposes of sub-paragraphs (2) to (4) above as to the manner of determining the market value at any time of any security;

(b) make different provision for different cases; and

(c) contain such incidental, supplemental, consequential and transitional provision as the Treasury may think fit.

(7) References in sub-paragraphs (2) and (3) above to the market value of a security given or received in exchange for another are references to its market value at the time of the exchange.

General interpretation

15.—(1) In this Schedule—

"deep gain" shall be construed in accordance with paragraph 3(3) above;

"excluded indexed security" has the meaning given by paragraph 13 above;

1992 c. 12. "market value" (except in paragraph 14 above) has the same meaning as in the Taxation of Chargeable Gains Act 1992;

"relevant discounted security" has the meaning given by paragraphs 3 and 14(1) above;

1942 c. 21. "strip" means anything which, within the meaning of section 47 of the Finance Act 1942, is a strip of a gilt-edged security.

(2) Where a person, having acquired and transferred any security, subsequently re-acquires it, references in this Schedule to his acquisition of the security shall have effect, in relation to—

(a) the transfer by him of that security, or

(b) the redemption of the security in a case where he becomes entitled to any amount on its redemption,

as references to his most recent acquisition of the security before the transfer or redemption in question.

Application of Schedule for income tax purposes only

16.—(1) This Schedule does not apply for the purposes of corporation tax.

(2) Sub-paragraph (1) above is without prejudice to any enactment not contained in this Schedule by virtue of which the definition of a relevant discounted security, or any other provision of this Schedule, is applied for the purposes of corporation tax.

SCHEDULE 14

Section 104.

LOAN RELATIONSHIPS: MINOR AND CONSEQUENTIAL AMENDMENTS

The Taxes Management Act 1970 (c. 9)

1.—(1) In subsection (4A) of section 87A of the Taxes Management Act 1970 (interest on overdue corporation tax)—

(a) in paragraph (a), for the words from "a relievable amount" to the end of the paragraph there shall be substituted "a non-trading deficit on the company's loan relationships,"; and

(b) in paragraph (b), for the words from "subsection (5)" to "subsection (10) of that section)" there shall be substituted "section 83(2)(c) of the Finance Act 1996 or paragraph 4(3) of Schedule 11 to that Act the whole or part of the deficit for the later period is set off against profits".

(2) In subsection (4B) of that section, for the words "section 131(5) or (6) of the Finance Act 1993", in each place where they occur, there shall be substituted "section 83(2)(c) of the Finance Act 1996 or paragraph 4(3) of Schedule 11 to that Act".

The Inheritance Tax Act 1984 (c. 51)

2.—(1) In section 174(1)(b) of the Inheritance Tax Act 1984 (unpaid tax relating to deep discount securities deemed to be transferred on death), for the words from "paragraph 4" onwards there shall be substituted "Schedule 13 to the Finance Act 1996 (discounted securities) on a transfer which is treated as taking place by virtue of paragraph 4(2) of that Schedule."

(2) This paragraph applies in relation to deaths on or after 6th April 1996.

The Airports Act 1986 (c. 31)

3. In section 77 of the Airports Act 1986 (taxation provisions), for subsection (3) there shall be substituted the following subsection—

"(3) For the purposes of Part VI of the Income and Corporation Taxes Act 1988 (company distributions) and Chapter II of Part IV of the Finance Act 1996 (loan relationships), any debentures of the company issued in pursuance of section 4 shall be treated as having been issued for new consideration equal to the principal sum payable under the debenture." 1988 c. 1.

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The Gas Act 1986 (c. 44)

4. In section 60 of the Gas Act 1986 (taxation provisions), for subsection (3) there shall be substituted the following subsection—

1988 c. 1.

"(3) For the purposes of Part VI of the Income and Corporation Taxes Act 1988 (company distributions) and Chapter II of Part IV of the Finance Act 1996 (loan relationships), any debentures issued in pursuance of section 51 above shall be treated as having been issued for new consideration equal to the principal sum payable under the debenture."

The Taxes Act 1988

5. In section 18 of the Taxes Act 1988 (Schedule D), the following subsection shall be inserted after subsection (3)—

"(3A) For the purposes of corporation tax subsection (3) above shall have effect as if the following Case were substituted for Cases III and IV, that is to say—

'Case III: tax in respect of—

(a) profits and gains which, as profits and gains arising from loan relationships, are to be treated as chargeable under this Case by virtue of Chapter II of Part IV of the Finance Act 1996;

(b) any annuity or other annual payment which—

(i) is payable (whether inside or outside the United Kingdom and whether annually or at shorter or longer intervals) in respect of anything other than a loan relationship; and

(ii) is not a payment chargeable under Schedule A;

(c) any discount arising otherwise than in respect of a loan relationship;'

and as if Case V did not include tax in respect of any income falling within paragraph (a) of the substituted Case III."

6. In section 56 of that Act (transactions in deposits with or without certificates or in debts), after subsection (4) there shall be inserted the following subsections—

"(4A) This section and section 56A shall not apply for the purposes of corporation tax except in relation to rights in existence before 1st April 1996.

(4B) For the purposes of corporation tax, where any profits or gains arising from the disposal or exercise of a right in existence before 1st April 1996 are, or (if there were any) would be, chargeable under this section, nothing in Chapter II of Part IV of the Finance Act 1996 (loan relationships) shall require any amount relating to that disposal, or to the exercise of that right, to be brought into account for the purposes of that Chapter."

7. In section 70(3) of that Act (extension of Cases IV and V of Schedule D to non-resident companies), for "Cases IV and V" there shall be substituted "Cases III and V".

8. In section 75 of that Act (expenses of management), after subsection (1) there shall be inserted the following subsection—

"(1A) The expenses of management of a company shall not include any expenses in relation to which a debit falls to be brought into account for the purposes of Chapter II of Part IV of the Finance Act 1996 (loan relationships) in computing the amount from which sums disbursed as expenses of management are deductible."

9. In section 77 of that Act (incidental costs of obtaining loan finance), after subsection (7) there shall be inserted the following subsection—

"(8) This section shall not apply for the purposes of corporation tax."

10.—(1) Section 78 of that Act (discounted bills of exchange) shall cease to have effect except in relation to bills of exchange drawn before 1st April 1996.

(2) Where any bill so drawn is paid on or after 1st April 1996—

(a) the amount which subsection (2) of that section provides to be treated as a deduction against total profits and as a charge on income shall (instead of being so treated) be brought into account for the purposes of this Chapter as a non-trading debit; and

(b) that amount shall be the only amount brought into account for the purposes of this Chapter in respect of the discount in question.

11.—(1) In section 209 of that Act (meaning of "distribution"), after subsection (3) there shall be inserted the following subsection—

"(3A) Where any security of a company is issued at a premium representing new consideration—

(a) the references in subsection (2)(d), (da) and (e) above to so much of any distribution as represents, or is an amount representing, the principal secured by a security shall be construed, in relation to a distribution in respect of the security issued at a premium, as references to the aggregate of—

(i) so much of the distribution as represents, or is an amount representing, that principal, and

(ii) so much of it as represents, or is an amount representing, the premium;

and

(b) the reference in subsection (2)(d) above to so much of any distribution as represents a reasonable commercial return for the use of the principal secured by a security shall be construed, in relation to a distribution in respect of the security issued at a premium, as a reference to the aggregate of—

(i) so much of the distribution as represents a reasonable commercial return for the use of that principal, and

(ii) so much of it as (when regard is had to the extent to which distributions represent the premium) represents a reasonable commercial return for the use of the premium."

(2) Sub-paragraph (1) above does not apply to distributions made before 1st April 1996.

12.—(1) In subsection (2) of section 242 of that Act (set off of losses against surplus franked investment income), for paragraph (f) there shall be substituted—

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"(f) the setting of amounts against profits in pursuance of a claim under section 83 of the Finance Act 1996 (non-trading deficits on loan relationships) or paragraph 4 of Schedule 11 to that Act (deficits of insurance companies)."

(2) In subsection (8) of that section, for paragraph (e) there shall be substituted the following paragraph—

"(e) if and so far as the purpose for which the claim is made is the setting of an amount against profits in pursuance of a claim under—

(i) section 83 of the Finance Act 1996 (non-trading deficits on loan relationships), or

(ii) paragraph 4 of Schedule 11 to that Act (deficits of insurance companies),

the time limit that by virtue of subsection (6) of that section or sub-paragraph (15) of that paragraph would be applicable to such a claim."

13.—(1) In subsection (4) of section 247 of that Act (payments between companies), for "for corporation tax charges on income of the payer company" there shall be substituted "deductible payments in relation to the payer company for the purposes of corporation tax".

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

"(4A) The reference in subsection (4) above to a payment which is a deductible payment in relation to a company for the purposes of corporation tax is a reference to any payment which is—

(a) a charge on income of that company for those purposes; or

(b) a payment of interest in relation to which a debit falls to be brought into account in the case of that company for the purposes of Chapter II of Part IV of the Finance Act 1996 (loan relationships)."

14.—(1) In subsection (2)(b) of section 337 of that Act (deduction of yearly interest etc. in computing income), for "yearly interest, annuity or other annual payment" there shall be substituted "annuity or other annual payment which is not interest".

(2) Subsection (3) of that section (deduction of yearly interest payable to a bank) shall cease to have effect.

15. After section 337 of that Act there shall be inserted the following section—

"Interest payable by companies.

337A. No deduction shall be made in respect of interest in computing a company's income from any source except in accordance with Chapter II of Part IV of the Finance Act 1996 (loan relationships)."

16.—(1) Section 338 of that Act (charges on income) shall be amended as follows.

(2) In subsection (3)—

(a) in paragraph (a), for the words from "any yearly interest" to "annual payment" there shall be substituted "any annuity or annual payment payable otherwise than in respect of any of the company's loan relationships"; and

(b) the words from "and" at the end of paragraph (a) to the end of the subsection shall be omitted.

(3) In subsection (4), paragraphs (b) and (c) shall be omitted.

(4) In subsection (5)(a), the words ", not being interest," shall be omitted.

(5) Subsection (6) shall cease to have effect.

17. Sections 338A, 340 and 341 of that Act (charges on income to include certain loans to buy land, provisions relating to interest payable to non-residents and provisions relating to payments between related companies) shall cease to have effect.

18. In section 349(2) of that Act (deductions from interest payments), after "Schedule D" there shall be inserted "(as that Schedule has effect apart from the modification made for the purposes of corporation tax by section 18(3A))".

19. In section 400 of that Act (writing-off of government investment), after subsection (9) of that section there shall be inserted the following subsection—

"(9A) Nothing in section 80(5) of the Finance Act 1996 (matters to be brought into account in the case of loan relationships only under Chapter II of Part IV of that Act) shall be construed as preventing this section from applying where a government investment in a body corporate is written off by the extinguishment, in whole or in part, of any liability under a loan relationship."

20.—(1) In section 401 of that Act (relief for pre-trading expenditure), after subsection (1) there shall be inserted the following subsections—

"(1AA) Subsection (1) above shall not apply to any expenditure in relation to which any debit falls, or (but for subsection (1AB) below) would fall, to be brought into account for the purposes of Chapter II of Part IV of the Finance Act 1996 (loan relationships).

(1AB) Where, in the case of any company—

(a) a non-trading debit is given for any accounting period for the purposes of Chapter II of Part IV of the Finance Act 1996 (loan relationships), and

(b) an election for the purposes of this section is made by that company with respect to that debit within the period of 2 years beginning with the end of that accounting period,

that debit shall not be brought into account for the purposes of that Chapter as a non-trading debit for that period, but subsection (1AC) below shall apply instead.

(1AC) If a company—

(a) begins to carry on a trade within the period of seven years after the end of the accounting period for which a non-trading debit is given for the purposes of Chapter II of Part IV of the Finance Act 1996 (loan relationships),

(b) that debit is such that, if it had been given for the accounting period in which the company begins to carry on that trade, it would have been brought into account by reference to that trade in accordance with section 82(2) of that Act (trading debits and credits), and

(c) an election is or has been made with respect to that debit under subsection (1AB) above,

that debit shall be treated for the purposes of that Chapter as if it were a debit for the accounting period in which the company begins to carry on the trade and shall be brought into account for that period in accordance with section 82(2) of that Act."

(2) Subsection (1A) of that section shall cease to have effect.

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21.—(1) In subsection (6) of section 404 of that Act (dual resident trading companies treated as investing companies)—

(a) in paragraph (a), after sub-paragraph (i) there shall be inserted the following sub-paragraph—

"(ia) making payments in relation to which, being payments under loan relationships, any debits fall to be brought into account for the purposes of Chapter II of Part IV of the Finance Act 1996;"

(b) in paragraph (c)(i), for "amount" there shall be substituted "aggregate of the debits relating to interest on the company's debtor relationships that fall to be brought into account for the purposes of Chapter II of Part IV of the Finance Act 1996 and the amounts";

(c) in paragraph (c)(ii), for "those charges include" there shall be substituted "that aggregate includes"; and

(d) in paragraph (c)(iii), for "the paying of those charges" there shall be substituted "the payment by the company of interest under its debtor relationships and of amounts treated as charges on income".

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

"(7) In this section 'debtor relationship' has the same meaning as in Chapter II of Part IV of the Finance Act 1996."

22.—(1) In subsection (1)(b) of section 407 of that Act (relationship between group relief and other relief), after "338(1)" there shall be inserted "of this Act or by virtue of section 83 of, or paragraph 4 of Schedule 11 to, the Finance Act 1996 (non-trading deficits)".

(2) In subsection (2) of that section, for paragraph (c) and the words after that paragraph there shall be substituted the following paragraph—

"(c) relief in pursuance of a claim under section 83(2) of, or paragraph 4 of Schedule 11 to, the Finance Act 1996 (non-trading deficits) in respect of any deficit for a deficit period after the accounting period the profits of which are being computed."

23.—(1) Where this Chapter has effect in relation to any accounting period in relation to which section 434A of that Act (computation of losses and limitation on relief) has effect without any of the amendments made by paragraph 2 of Schedule 31 to this Act, subsection (2) of that section of that Act shall have effect in relation to that period with the following amendments, that is to say—

(a) in paragraph (b), for "amount of interest and annuities treated as charges" there shall be substituted "aggregate amount treated as a charge", and at the end there shall be inserted "and"; and

(b) after that paragraph there shall be inserted the following paragraph—

"(c) any relevant non-trading deficit for that period on the company's debtor relationships."

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

"(2A) The reference in subsection (2)(c) above to a relevant non-trading deficit for any period on a company's debtor relationships is a reference to the non-trading deficit on the company's loan relationships which would be produced by any separate computation made under paragraph 2 of Schedule 11 to the Finance Act 1996 for the company's basic life assurance and general annuity business if credits and debits given in respect of the company's creditor relationships (within the meaning of Chapter II of Part IV of that Act) were disregarded."

(3) In subsection (3) of that section (losses not allowable against policy holders' share of relevant profits), for the words from "under" to the end of paragraph (b) there shall be substituted—

"(a) under Chapter II (loss relief) or Chapter IV (group relief) of Part X, or

(b) in respect of any amount representing a non-trading deficit on the company's loan relationships that has been computed otherwise than by reference to debits and credits referable to that business,".

24. Where this Chapter has effect in relation to any accounting period in relation to which section 434B of that Act (treatment of interest and annuities in the case of insurance companies) has effect without the amendments made by section 165 of this Act, that section of that Act shall have effect in relation to that period as if the words "interest or", in each place where they occur, were omitted.

25. In section 440 of that Act (transfer of assets between categories of business of insurance companies), after subsection (2) there shall be inserted the following subsection—

"(2A) Where under subsection (1) or (2) above there is a deemed disposal and re-acquisition of any asset representing a loan relationship of a company, any authorised accounting method used as respects that asset for the purposes of Chapter II of Part IV of the Finance Act 1996 shall be applied as respects that asset as if the asset that is deemed to be disposed of and the asset that is deemed to be re-acquired were different assets."

26. In section 468L(5) of that Act (interest distributions), for the words from the beginning to "complied with" there shall be substituted "Nothing in subsection (2) above or Chapter II of Part IV of the Finance Act 1996 (loan relationships) shall require any amount relating to an interest distribution to be brought into account for the purposes of that Chapter otherwise than by virtue of paragraph 4(4) of Schedule 10 to that Act; but the interest distributions of an authorised unit trust for a distribution period".

27.—(1) In subsection (2) of section 475 of that Act (relief in relation to tax free Treasury securities in respect of borrowed money), for paragraph (b) there shall be substituted the following paragraph—

"(b) shall not be brought into account by way of any debit given for the purposes of Chapter II of Part IV of the Finance Act 1996 (loan relationships)."

(2) In subsection (4) of that section, for the words from "and is not" onwards there shall be substituted "or to be brought into account by way of a debit given for the purposes of Chapter II of Part IV of the Finance Act 1996 (loan relationships)."

28.—(1) In subsection (3) of section 477A of that Act (building societies: regulations for deducting tax), for paragraph (a) there shall be substituted the following paragraphs—

"(a) liability to pay the dividends or interest shall be treated for the purposes of Chapter II of Part IV of the Finance Act 1996 as a liability arising under a loan relationship of the building society;

(aa) if the dividends or interest are payable to a company, they shall be treated for those purposes as payable to that company in pursuance of a right arising under a loan relationship of that company;".

(2) Subsections (3A) to (3C) of that section shall cease to have effect.

29. Sections 484 and 485 of that Act (savings banks: exemption from tax) shall cease to have effect.

30. In section 486 of that Act (industrial and provident societies)—

(a) in subsection (1), for the words from "and, subject to subsection (7)" onwards there shall be substituted "but interest payable by such a society (whether as share interest or loan interest) shall be treated for the purposes of corporation tax as interest under a loan relationship of the society."; and

(b) in subsection (7), for the words from "not be deductible" onwards there shall be substituted "not be brought into account in that period for the purposes of Chapter II of Part IV of the Finance Act 1996 (loan relationships)."

31.—(1) In subsection (1) of section 487 of that Act (credit unions), for paragraph (b) there shall be substituted the following paragraph—

"(b) no credits shall be brought into account for the purposes of Chapter II of Part IV of the Finance Act 1996 in respect of any loan relationship of a credit union as respects which a member of the union stands in the position of a debtor as respects the debt in question."

(2) In subsection (3) of that section—

(a) for "No share interest, loan interest or annuity or other annual payment" there shall be substituted "An annuity or other annual payment (not being a payment of share interest or loan interest) which is"; and

(b) after "shall" there shall be inserted "not".

(3) After that subsection there shall be inserted the following subsection—

"(3A) No debits shall be brought into account for the purposes of Chapter II of Part IV of the Finance Act 1996 in respect of any loan relationship of a credit union as respects which a member of the union stands in the position of a creditor as respects the debt in question."

32.—(1) In subsection (1) of section 494 of that Act (charges on income and ring fence profits), after "Section 338" there shall be inserted "of this Act and Chapter II of Part IV of the Finance Act 1996 (loan relationships)".

(2) For the first sentence of subsection (2) of that section there shall be substituted the following—

"(2) Debits shall not be brought into account for the purposes of Chapter II of Part IV of the Finance Act 1996 in respect of any loan relationship of a company in any manner that results in a reduction of what would otherwise be the company's ring fence profits except—

(a) to the extent that the loan relationship is in respect of money borrowed by the company which has been—

(i) used to meet expenditure incurred by the company in carrying on oil extraction activities or in acquiring oil rights otherwise than from a connected person; or

(ii) appropriated to meeting expenditure to be so incurred by the company;

(b) in the case of debits falling to be brought into account by virtue of subsection (4) of section 84 of that Act in respect of a loan relationship that has not been entered into, to the extent that the relationship would have been one entered into for the purpose of borrowing money to be used or appropriated as mentioned in paragraph (a) above;

(c) in the case of debits in respect of a loan relationship deemed to exist for the purposes of section 100 of that Act, to the extent that the payment of interest under that relationship is expenditure incurred as mentioned in sub-paragraph (i) of paragraph (a) above; and

(d) in the case of debits in respect of a debtor relationship of the company which is a creditor relationship of a company associated with the company, to the extent that (subject always to paragraph (a) above) the debit does not exceed what, having regard to—

(i) all the terms on which the money was borrowed, and

(ii) the standing of the borrower,

would be the debit representing a reasonable commercial rate of return on the money borrowed.

In this subsection 'debtor relationship' and 'creditor relationship' have the same meanings as in Chapter II of Part IV of the Finance Act 1996, and references to a loan relationship, in relation to the borrowing of money, do not include references to any loan relationship deemed to exist for the purposes of section 100 of that Act."

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

"(2A) Where any debit—

(a) falls to be brought into account for the purposes of Chapter II of Part IV of the Finance Act 1996 in respect of any loan relationship of a company, but

(b) in accordance with subsection (2) above cannot be brought into account in a manner that results in any reduction of what would otherwise be the company's ring fence profits,

then (notwithstanding anything in section 82(2) of that Act) that debit shall be brought into account for those purposes as a non-trading debit."

(4) For subsection (4) of that section (charges on income), there shall be substituted the following subsections—

"(4) Subsection (7) of section 403 shall have effect as if the reference in that subsection to the profits of the surrendering company for an accounting period did not include the relevant part of the company's ring fence profits for that period.

(5) For the purposes of subsection (4) above the relevant part of a company's ring fence profits for an accounting period are—

(a) if for that period—

(i) there are no charges on income paid by the company that are allowable under section 338, or

(ii) the only charges on income so allowable are charges to which subsection (3) above applies,

all the company's ring fence profits; and

(b) in any other case, so much of its ring fence profits as exceeds the amount of the charges on income paid by the company as are so allowable for that period and are not charges to which subsection (3) above applies."

33. In section 587A of that Act (extra return on new issues of securities), in subsection (1), after paragraph (e) there shall be inserted the following—

"but this section shall not apply for the purposes of corporation tax, except where the issue of the new securities was before 1st April 1996."

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34. In section 614 of that Act (exemptions and reliefs in respect of income from certain pension funds etc.), after subsection (2) of that section there shall be inserted the following subsection—

"(2A) The reference in subsection (2) above to interest on sums forming part of a fund include references to any amount which is treated as income by virtue of paragraph 1 of Schedule 13 to the Finance Act 1996 (relevant discounted securities) and derives from any investment forming part of that fund."

35. In section 687(3) of that Act (payments under discretionary trusts), after paragraph (j) there shall be inserted the following paragraph—

"(k) the amount of any tax on an amount which is treated as income of the trustees by virtue of paragraph 1 of Schedule 13 to the Finance Act 1996 and is charged to tax at the rate applicable to trusts by virtue of paragraph 6 of that Schedule."

36. In section 710 of that Act (interpretation of sections 711 to 728), after subsection (1) there shall be inserted the following subsection—

"(1A) Sections 711 to 728 shall not apply for the purposes of corporation tax except as respects transfers of securities taking place before 1st April 1996."

37. In section 730A of that Act (treatment of price differential on repos) the following subsections shall be substituted for subsection (6)—

"(6) For the purposes of Chapter II of Part IV of the Finance Act 1996 (loan relationships)—

(a) interest deemed by virtue of subsection (2) above to be paid or received by any company shall be deemed to be interest under a loan relationship; and

(b) the debits and credits falling to be brought into account for the purposes of that Chapter so far as they relate to the deemed interest shall be those given by the use in relation to the deemed interest of an authorised accruals basis of accounting.

(6A) Any question whether debits or credits brought into account in accordance with subsection (6) above in relation to any company—

(a) are to be brought into account under section 82(2) of the Finance Act 1996 (trading loan relationships), or

(b) are to be treated as non-trading debits or credits,

shall be determined (subject to Schedule 11 to that Act (insurance companies)) according to the extent (if any) to which the company is a party to the repurchase in the course of activities forming an integral part of a trade carried on by the company."

38. In section 737(5A) of that Act (relief in respect of manufactured dividends), after "a manufactured dividend" there shall be inserted "that is not manufactured interest to which section 97 of the Finance Act 1996 applies".

39.—(1) For subsections (10) and (11) of section 768B of that Act (change in ownership of investment companies), there shall be substituted the following subsection—

"(10) Part IV of Schedule 28A shall have effect for the purpose of restricting, in a case where this section applies, the debits to be brought into account for the purposes of Chapter II of Part IV of the Finance Act 1996 (loan relationships) in respect of the company's loan relationships."

(2) In subsection (13) of that section (modified application of section 768(6)), after "company's total profits" there shall be inserted ", or the debits to be brought into account for the purposes of Chapter II of Part IV of the Finance Act 1996 in the case of a company in respect of its loan relationships,".

40. For subsections (9) and (10) of section 768C of that Act there shall be substituted the following subsection—

"(9) Part IV of Schedule 28A shall have effect for the purpose of restricting, in a case where this section applies, the debits to be brought into account for the purposes of Chapter II of Part IV of the Finance Act 1996 (loan relationships) in respect of the relevant company's loan relationships."

41. In section 795 of that Act (computation of income subject to foreign tax), after subsection (3) there shall be inserted the following subsection—

"(4) Subsections (2) and (3) above have effect for the purposes of corporation tax notwithstanding anything in section 80(5) of the Finance Act 1996 (matters to be brought into account in the case of loan relationships only under Chapter II of Part IV of that Act)."

42.—(1) In section 797 of that Act (limits on credit for foreign tax in the case of corporation tax), after subsection (3) there shall be inserted the following subsections—

"(3A) Where, in a case to which section 797A does not apply, a company has a non-trading deficit on its loan relationships for the relevant accounting period, then for the purposes of subsection (3) above that deficit shall be treated, to the extent that it is an amount to which a claim under—

(a) subsection (2)(a) of section 83 of the Finance Act 1996 (deficit set against current year profits), or

(b) paragraph 4(2) of Schedule 11 to that Act (set-off of deficits in the case of insurance companies),

relates, as an amount that can in that period be set against profits of any description but can be allocated in accordance with subsection (3) above only to the profits against which it is set off in pursuance of the claim.

(3B) For the purposes of subsection (3) above, where—

(a) section 797A does not apply in the case of any company, and

(b) any amount is carried forward to the relevant accounting period in pursuance of a claim under subsection (2)(d) of section 83 of the Finance Act 1996 or in accordance with subsection (3) of that section,

then that amount must be allocated to non-trading profits of the company for that period (so far as they are sufficient for the purpose) and cannot be allocated to any other profits."

(2) After subsection (5) of that section there shall be inserted the following subsection—

"(6) In this section 'non-trading profits' has the same meaning as in paragraph 4 of Schedule 8 to the Finance Act 1996."

43. After section 797 of that Act there shall be inserted the following section—

"Foreign tax on interest brought into account as a non-trading credit.

797A.—(1) This section applies for the purposes of any arrangements where, in the case of any company—

(a) any non-trading credit relating to an amount of interest is brought into account for the purposes of Chapter II of Part IV of the Finance Act 1996 (loan

relationships) for any accounting period ('the applicable accounting period'); and

(b) there is in respect of that amount an amount of foreign tax for which, under the arrangements, credit is allowable against United Kingdom tax computed by reference to that interest.

(2) It shall be assumed that tax chargeable under paragraph (a) of Case III of Schedule D on the profits and gains arising for the applicable accounting period from the company's loan relationships falls to be computed on the actual amount of its non-trading credits for that period, and without any deduction in respect of non-trading debits.

(3) Section 797(3) shall have effect (subject to subsection (7) below) as if—

(a) there were for the applicable accounting period an amount equal to the adjusted amount of the non-trading debits falling to be brought into account by being set against profits of the company for that period of any description; and

(b) different parts of that amount might be set against different profits.

(4) For the purposes of this section, the adjusted amount of a company's non-trading debits for any accounting period is the amount equal, in the case of that company, to the aggregate of the non-trading debits given for that period for the purposes of Chapter II of Part IV of the Finance Act 1996 (loan relationships) less the aggregate of the amounts specified in subsection (5) below.

(5) Those amounts are—

(a) so much of any non-trading deficit for the applicable accounting period as is an amount to which a claim under subsection (2)(b), (c) or (d) of section 83 of the Finance Act 1996 or paragraph 4(3) of Schedule 11 to that Act (group relief and transfer to previous or subsequent period of deficits) relates;

(b) so much of any non-trading deficit for that period as falls to be carried forward to a subsequent period in accordance with subsection (3) of that section or paragraph 4(4) of that Schedule; and

(c) any amount carried forward to the applicable accounting period in pursuance of a claim under section 83(2)(d) of that Act.

(6) Section 797(3) shall have effect as if any amount specified in subsection (5)(c) above were an amount capable of being allocated only to any non-trading profits of the company.

(7) Where—

(a) the company has a non-trading deficit for the applicable accounting period,

(b) the amount of that deficit exceeds the aggregate of the amounts specified in subsection (5) above, and

(c) in pursuance of a claim under—

(i) subsection (2)(a) of section 83 of the Finance Act 1996 (deficit set against current year profits), or

(ii) paragraph 4(2) of Schedule 11 to that Act (set-off of deficits in the case of insurance companies),

the excess falls to be set off against profits of any description,

section 797(3) shall have effect as if non-trading debits of the company which in aggregate are equal to the amount of the excess were required to be allocated to the profits against which they are set off in pursuance of the claim.

(8) In this section 'non-trading profits' has the same meaning as in paragraph 4 of Schedule 8 to the Finance Act 1996."

44.—(1) In section 798 of that Act (interest on certain overseas loans), after subsection (2) there shall be inserted the following subsection—

"(2A) For the purposes of corporation tax, this section shall apply only where the expenditure referred to in subsection (1)(b) above falls, in the case of the lender, to be brought into account for the purposes of Chapter II of Part IV of the Finance Act 1996 (loan relationships) in accordance with section 82(2) of that Act (trading debits and credits)."

(2) After subsection (3) of that section (deemed increase of interest) there shall be inserted the following subsection—

"(3A) Subsection (3) above has effect for the purposes of corporation tax notwithstanding anything in section 80(5) of the Finance Act 1996 (matters to be brought into account in the case of loan relationships only under Chapter II of Part IV of that Act)."

45. In section 807 of that Act (sale of securities with or without accrued interest), after subsection (5) there shall be inserted the following subsection—

"(6) This section does not apply for the purposes of corporation tax."

46. After section 807 of that Act there shall be inserted the following section—

"Disposals and acquisitions of company loan relationships with or without interest.

807A.—(1) This Part shall have effect for the purposes of corporation tax in relation to any company as if tax falling within subsection (2) below were to be disregarded.

(2) Tax falls within this subsection in relation to a company to the extent that it is—

(a) tax under the law of a territory outside the United Kingdom; and

(b) is attributable, on a just and reasonable apportionment, to interest accruing under a loan relationship at a time when the company is not a party to the relationship.

(3) Subject to subsections (1), (4) and (5) of this section, where—

(a) any non-trading credit relating to an amount of interest under a loan relationship is brought into account for the purposes of Chapter II of Part IV of the Finance Act 1996 (loan relationships) in the case of any company,

(b) that amount falls, as a result of any related transaction, to be paid to a person other than the company, and

(c) had the company been entitled, at the time of that transaction, to receive a payment of an amount of interest equal to the amount of interest to which the non-trading credit relates, the company would have been liable in respect of the amount of interest received to an amount of tax under the law of a territory outside the United Kingdom,

credit for that amount of tax shall be allowable under section 790(4) as if that amount of tax were an amount of tax paid under the law of that territory in respect of the amount of interest to which the non-trading credit relates.

(4) Subsection (3) above does not apply in the case of a credit brought into account in accordance with paragraph 1(2) of Schedule 11 to the Finance Act 1996 (the I minus E basis).

(5) The Treasury may by regulations provide for subsection (3) above to apply—

(a) in the case of trading credits, as well as in the case of non-trading credits;

(b) in the case of any credit ('an insurance credit') in the case of which, by virtue of subsection (4) above, it would not otherwise apply.

(6) Regulations under subsection (5) above may—

(a) provide for subsection (3) above to apply in the case of a trading credit or an insurance credit only if the circumstances are such as may be described in the regulations;

(b) provide for subsection (3) above to apply, in cases where it applies by virtue of any such regulations, subject to such exceptions, adaptations or other modifications as may be specified in the regulations;

(c) make different provision for different cases; and

(d) contain such incidental, supplemental, consequential and transitional provision as the Treasury think fit.

(7) In this section—

'related transaction' has the same meaning as in section 84 of the Finance Act 1996; and

'trading credit' means any credit falling to be brought into account for the purposes of Chapter II of Part IV of the Finance Act 1996 (loan relationships) in accordance with section 82(2) of that Act."

47. In section 811 of that Act (deduction of foreign tax where no credit available), after subsection (2) there shall be inserted the following subsection—

"(3) This section has effect for the purposes of corporation tax notwithstanding anything in section 80(5) of the Finance Act 1996 (matters to be brought into account in the case of loan relationships only under Chapter II of Part IV of that Act)."

48.—(1) In subsection (7C) of section 826 of that Act (interest on tax overpaid)—

(a) in paragraph (a), for the words from "a relievable amount" to the end of the paragraph there shall be substituted "a non-trading deficit on the company's loan relationships,";

(b) in paragraph (b), for the words from "subsection (5)" to "subsection (10) of that section)" there shall be substituted "section 83(2)(c) of the Finance Act 1996 or paragraph 4(3) of Schedule 11 to that Act the whole or part of the deficit for the later period is set off against profits"; and

(c) in the words after paragraph (c), for "subsection (5) or (6) (as the case may be) of that section" there shall be substituted "section 83(2)(c) of that Act or, as the case may be, paragraph 4(3) of Schedule 11 to that Act".

(2) In subsection (7CA) of that section, for the words "section 131(5) or (6) of the Finance Act 1993", in each place where they occur, there shall be substituted "section 83(2)(c) of the Finance Act 1996 or paragraph 4(3) of Schedule 11 to that Act".

49. In subsection (1) of section 834 of that Act (definitions for the purposes of the Corporation Tax Acts), after the definition of "group relief" there shall be inserted the following definitions—

"'loan relationship' has the same meaning as it has for the purposes of Chapter II of Part IV of the Finance Act 1996;

'non-trading deficit', in relation to a company's loan relationships, shall be construed in accordance with section 82 of the Finance Act 1996."

50. Schedule 4 to that Act (deep discount securities) shall cease to have effect.

51. In paragraph 5B(2) of Schedule 19AC to that Act (overseas life companies), the following paragraph shall be inserted after paragraph (d)—

"(e) the setting of amounts against profits under, or in pursuance of a claim under, paragraph 4 of Schedule 11 to the Finance Act 1996 (loan relationships of insurance companies)."

52.—(1) Schedule 23A to that Act (manufactured payments) shall be amended as follows.

(2) In paragraph 3 (manufactured interest on UK securities), after sub-paragraph (4) there shall be inserted the following sub-paragraph—

"(5) Without prejudice to section 97 of the Finance Act 1996 (manufactured interest), the references in this paragraph to all the purposes of the Tax Acts do not include the purposes of Chapter II of Part IV of that Act (loan relationships)."

(3) In paragraph 3A(3) (gilt-edged securities)—

(a) for "Sub-paragraph (4)" there shall be substituted "Sub-paragraphs (4) and (5)"; and

(b) for "it applies" there shall be substituted "they apply".

(4) In paragraph 4 (manufactured interest on overseas dividends), after sub-paragraph (8) there shall be inserted the following sub-paragraph—

"(9) Without prejudice to section 97 of the Finance Act 1996 (manufactured interest), the references in this paragraph to all the purposes of the Tax Acts do not include the purposes of Chapter II of Part IV of that Act (loan relationships)."

(5) In paragraph 5 (dividends and interest passing through the market), in sub-paragraphs (2)(b) and (4)(b), at the end there shall be inserted, in each case, "and shall also be treated, in the case of interest the recipient of which is a company, as if for the purposes of Chapter II of Part IV of the Finance Act 1996 it were interest under a loan relationship to which the company is a party".

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(6) In paragraph 6 (unapproved manufactured payments), sub-paragraphs (3), (4), (6) and (7) shall cease to have effect.

(7) In paragraph 7 (irregular manufactured payments), after sub-paragraph (1) there shall be inserted the following sub-paragraph—

"(1A) Sub-paragraph (1) above does not apply in the case of the amount of any manufactured interest or manufactured overseas dividend which falls in accordance with section 97 of the Finance Act 1996 to be treated for the purposes of Chapter II of Part IV of that Act as interest under a loan relationship."

53. In Schedule 26 to that Act (controlled foreign companies), in paragraph 1(3), the word "and" shall be inserted at the end of paragraph (e), and after that paragraph there shall be inserted the following paragraph—

"(f) any non-trading deficit on its loan relationships."

54.—(1) In paragraph 6 of Schedule 28A to that Act (amounts in issue for the purposes of section 768B of that Act), after sub-paragraph (d) there shall be inserted the following sub-paragraphs—

"(da) the amount (if any) of the adjusted Case III profits and gains or non-trading deficit of the company for that accounting period;

(db) the amount of any non-trading debit (other than one within sub-paragraph (dc) or (dd) below) that falls to be brought into account for that accounting period for the purposes of Chapter II of Part IV of the Finance Act 1996 (loan relationships) in respect of any debtor relationship of the company;

(dc) the amount of any non-trading debit given for that accounting period by section 83(3) of the Finance Act 1996 (carried forward deficit not set off against profits);

(dd) the amount of any non-trading debit given for that accounting period by paragraph 13 of Schedule 15 to the Finance Act 1996 (transitional adjustment for past interest) in respect of any debtor relationship of the company;".

(2) In Part II of that Schedule, after paragraph 6 there shall be inserted the following paragraph—

"6A. For the purposes of paragraph 6(da) above, the amount for any accounting period of the adjusted Case III profits and gains or non-trading deficit of a company is the amount which, as the case may be, would be—

(a) the amount of the profits and gains chargeable under Case III of Schedule D as profits and gains arising from the company's loan relationships, or

(b) the amount of the company's non-trading deficit on those relationships for that period,

if, in computing that amount, amounts for that period falling within paragraph 6(db) to (dd) above were disregarded."

(3) In paragraph 7(1) of that Schedule (apportionment for the purposes of section 768B)—

(a) in paragraph (b), after "in paragraph 6(c) above," there shall be inserted "or in the case of the non-trading debit mentioned in paragraph 6(dc) above,";

(b) in paragraph (c), after "6(d)" there shall be inserted ", (da)"; and

(c) after paragraph (c) there shall be inserted the following paragraphs—

"(d) in the case of any such debit as—

(i) is mentioned in paragraph 6(db) above,

(ii) falls to be brought into account for the purposes of Chapter II of Part IV of the Finance Act 1996 in accordance with an authorised accruals basis of accounting, and

(iii) so falls to be brought into account otherwise than on the assumption, specified in paragraph 2(2) of Schedule 9 to that Act, that the interest to which it relates does not accrue until it is paid,

by reference to the time of accrual of the amount to which the debit relates;

(e) in the case of any such debit as—

(i) is mentioned in paragraph 6(db) above,

(ii) falls to be brought into account for the purposes of Chapter II of Part IV of the Finance Act 1996 in accordance with an authorised accruals basis of accounting, and

(iii) so falls to be brought into account on the assumption mentioned in paragraph (d)(iii) above,

by apportioning the whole amount of the debit to the first part of the accounting period being divided;

(f) in the case of any such debit as is mentioned in paragraph 6(dd) above, by apportioning the whole amount of the debit to the first part of the accounting period being divided."

(4) For Part IV of that Schedule (excess overdue interest) there shall be substituted the following Part—

"PART IV

DISALLOWED DEBITS

9.—(1) This paragraph has effect in a case to which section 768B applies for determining the debits to be brought into account for the purposes of Chapter II of Part IV of the Finance Act 1996 (loan relationships) for—

(a) the accounting period beginning immediately after the change in the ownership of the company; and

(b) any subsequent accounting period.

(2) The debits so brought into account shall not include the debits falling within paragraph 11 below to the extent (if at all) that the aggregate of—

(a) the amount of those debits, and

(b) the amount of any debits falling within that paragraph which have been brought into account for the purposes of that Chapter for any previous accounting period ending after the change in the ownership,

exceeds the profits for the accounting period ending with the change in the ownership.

(3) The reference in sub-paragraph (2) above to the profits is a reference to 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.

10.—(1) This paragraph has effect in a case to which section 768C applies for determining the debits to be brought into account for the purposes of Chapter II of Part IV of the Finance Act 1996 (loan relationships) for—

(a) the accounting period beginning immediately after the change in the ownership of the relevant company; and

(b) any subsequent accounting period.

(2) The debits so brought into account for any such accounting period shall not include the debits falling within paragraph 11 below to the extent (if at all) that the amount of those debits exceeds the modified total profits for the accounting period.

(3) The reference in sub-paragraph (2) above to the modified total profits for an accounting period is a reference to the total profits for that period—

(a) reduced, if that period is the period in which the relevant gain accrues, by an amount equal to the amount of the total profits for that period which represents the relevant gain; and

(b) 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, other than any reduction by virtue of paragraph 1(2) of Schedule 8 to the Finance Act 1996.

(4) Where by virtue of sub-paragraph (2) above a debit is to any extent not brought into account for an accounting period, that debit may (to that extent) be brought into account for the next accounting period, but this is subject to the application of sub-paragraphs (1) to (3) above to that next accounting period.

11.—(1) A debit falls within this paragraph if it is a non-trading debit which—

(a) falls to be brought into account for the purposes of Chapter II of Part IV of the Finance Act 1996 in accordance with an authorised accruals basis of accounting;

(b) so falls to be brought into account on the assumption, specified in sub-paragraph (2) of paragraph 2 of Schedule 9 to that Act, that the interest to which it relates does not accrue until it is paid; and

(c) apart from that sub-paragraph, would have fallen to be brought into account for those purposes for an accounting period ending before or with the change in the ownership of the company or, as the case may be, the relevant company.

(2) The debits that fall within this paragraph also include—

(a) any non-trading debit given by section 83(3) of the Finance Act 1996 (carried forward deficit from previous period not set off against non-trading profits of current period) for the post-change accounting period;

(b) any non-trading debit given by paragraph 13 of Schedule 15 to the Finance Act 1996 (transitional adjustment for past interest) in respect of any debtor relationship of the company or, as the case may be, the relevant company.

(3) The debits that fall within this paragraph also include any non-trading debit which—

(a) is not such a debit as is mentioned in sub-paragraph (1) or (2) above;

(b) is a debit in respect of a debtor relationship of the company or, as the case may be, the relevant company;

(c) falls to be brought into account for the purposes of Chapter II of Part IV of the Finance Act 1996 in accordance with an authorised accruals basis of accounting; and

(d) relates to an amount that accrued before the change in the ownership of that company.

(4) In this paragraph 'post-change accounting period' means the accounting period beginning immediately after the change in the ownership of the company or, as the case may be, the relevant company.

12. Expressions used both in this Part of this Schedule and in Chapter II of Part IV of the Finance Act 1996 have the same meanings in this Part of this Schedule as in that Chapter."

(5) In paragraph 13(1) of that Schedule (amounts in issue for the purposes of section 768C of that Act), after paragraph (e) there shall be inserted the following paragraphs—

"(ea) the amount (if any) of the adjusted Case III profits and gains or non-trading deficit of the company for that accounting period;

(eb) the amount of any non-trading debit (other than one within paragraph (ec) or (ed) below) that falls to be brought into account for that accounting period for the purposes of Chapter II of Part IV of the Finance Act 1996 (loan relationships) in respect of any debtor relationship of the company;

(ec) the amount of any non-trading debit given for that accounting period by section 83(3) of the Finance Act 1996 (carried forward deficit not set off against profits);

(ed) the amount of any non-trading debit given for that accounting period by paragraph 13 of Schedule 15 to the Finance Act 1996 (transitional adjustment for past interest) in respect of any debtor relationship of the company;".

(6) In Part V of that Schedule, after paragraph 13 there shall be inserted the following paragraph—

"13A. Paragraph 6A above shall apply for the purposes of paragraph 13(1)(ea) above as it applies for the purposes of paragraph 6(da) above."

(7) In paragraph 16(1) of that Schedule (apportionment for the purposes of section 768C)—

(a) in paragraph (b), after "in paragraph 13(1)(d) above," there shall be inserted "or in the case of the non-trading debit mentioned in paragraph 13(1)(ec) above,";

(b) in paragraph (c), after "13(1)(e)" there shall be inserted ", (ea)"; and

(c) after paragraph (c) there shall be inserted the following paragraphs—

"(d) in the case of any such debit as—

(i) is mentioned in paragraph 13(1)(eb) above,

(ii) falls to be brought into account for the purposes of Chapter II of Part IV of the Finance Act 1996 in accordance with an authorised accruals basis of accounting, and

(iii) so falls to be brought into account otherwise than on the assumption, specified in paragraph 2(2) of Schedule 9 to that Act, that the interest to which it relates does not accrue until it is paid,

by reference to the time of accrual of the amount to which the debit relates;

(e) in the case of any such debit as—

(i) is mentioned in paragraph 13(1)(eb) above,

(ii) falls to be brought into account for the purposes of Chapter II of Part IV of the Finance Act 1996 in accordance with an authorised accruals basis of accounting, and

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(iii) so falls to be brought into account on the assumption mentioned in paragraph (d)(iii) above,

by apportioning the whole amount of the debit to the first part of the accounting period being divided;

(f) in the case of any such debit as is mentioned in paragraph 13(1)(ed) above, by apportioning the whole amount of the debit to the first part of the accounting period being divided."

The British Steel Act 1988 (c. 35)

55. In section 11 of the British Steel Act 1988 (taxation provisions), for subsection (7) there shall be substituted the following subsection—

1988 c. 1.

"(7) For the purposes of Part VI of the Income and Corporation Taxes Act 1988 (company distributions) and Chapter II of Part IV of the Finance Act 1996 (loan relationships), any debentures issued in pursuance of section 3 above shall be treated as having been issued for new consideration equal to the principal sum payable under the debenture."

The Finance Act 1989 (c. 26)

56. In section 88(3) of the Finance Act 1989 (relevant profits of company), the following paragraph shall be inserted before paragraph (a)—

"(aa) amounts falling in respect of any non-trading deficits on the company's loan relationships to be brought into account in that period in accordance with paragraph 4 of Schedule 11 to the Finance Act 1996,".

57. Schedule 11 to that Act (deep gain securities) shall cease to have effect.

The Finance Act 1990 (c. 29)

58. Schedule 10 to the Finance Act 1990 (convertible securities) shall cease to have effect.

The Taxation of Chargeable Gains Act 1992 (c. 12)

59. In section 108(1) of the Taxation of Chargeable Gains Act 1992 (meaning of relevant securities), after paragraph (a) there shall be inserted the following paragraph—

"(aa) qualifying corporate bonds;".

60.—(1) Section 116 of that Act (reorganisations, conversions and reconstructions) shall be amended as follows.

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

"(4A) In determining for the purposes of subsections (1) to (4) above, as they apply for the purposes of corporation tax—

(a) whether sections 127 to 130 would apply in any case, and

(b) what, in a case where they would apply, would constitute the original shares and the new holding,

it shall be assumed that every asset representing a loan relationship of a company is a security within the meaning of section 132."

(3) After subsection (8) there shall be inserted the following subsection—

"(8A) Where subsection (6) above applies for the purposes of corporation tax in a case where the old asset consists of a qualifying corporate bond, Chapter II of Part IV of the Finance Act 1996 (loan relationships) shall have effect so as to require such debits and credits to be

brought into account for the purposes of that Chapter in relation to the relevant transaction as would have been brought into account if the transaction had been a disposal of the old asset at the market value mentioned in that subsection."

(4) After subsection (15) there shall be inserted the following subsection—

"(16) This section has effect for the purposes of corporation tax notwithstanding anything in section 80(5) of the Finance Act 1996 (matters to be brought into account in the case of loan relationships only under Chapter II of Part IV of that Act)."

61.—(1) In section 117 of that Act (meaning of "qualifying corporate bond"), before subsection (1) there shall be inserted the following subsection—

"(A1) For the purposes of corporation tax 'qualifying corporate bond' means (subject to sections 117A and 117B below) any asset representing a loan relationship of a company; and for purposes other than those of corporation tax references to a qualifying corporate bond shall be construed in accordance with the following provisions of this section."

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

"(2AA) For the purposes of this section 'corporate bond' also includes any asset which is not included in the definition in subsection (1) above and which is a relevant discounted security for the purposes of Schedule 13 to the Finance Act 1996."

(3) After subsection (6A) of that section there shall be inserted the following subsections—

"(6B) An excluded indexed security issued on or after 6th April 1996 is not a corporate bond for the purposes of this section; and an excluded indexed security issued before that date shall be taken to be such a bond for the purposes of this section only if—

(a) it would be so taken apart from this subsection; and

(b) the question whether it should be so taken arises for the purposes of section 116(10).

(6C) In subsection (6B) above 'excluded indexed security' has the same meaning as in Schedule 13 to the Finance Act 1996 (relevant discounted securities)."

(4) After subsection (8) of that section there shall be inserted the following subsection—

"(8A) A corporate bond falling within subsection (2AA) above is a qualifying corporate bond whatever its date of issue."

62. After section 117 of that Act there shall be inserted the following sections—

"Assets that are not qualifying corporate bonds for corporation tax purposes.

117A.—(1) An asset to which this section applies is not a qualifying corporate bond for the purposes of corporation tax in relation to any disposal of that asset.

(2) This section applies to any asset representing a loan relationship of a company where—

(a) subsection (3) or (4) below applies to the asset; and

(b) it is held in exempt circumstances.

(3) This subsection applies to an asset if—

(a) the settlement currency of the debt to which it relates is a currency other than sterling; and

(b) that debt is not a debt on a security.

(4) This subsection applies to an asset if the debt to which it relates is a debt on a security and is in a foreign currency.

(5) For the purposes of subsection (4) above a debt is a debt in a foreign currency if it is—

(a) a debt expressed in a currency other than sterling;

(b) a debt the amount of which in sterling falls at any time to be determined by reference to the value at that time of a currency other than sterling; or

(c) subject to subsection (6) below, a debt as respects which provision is made for its conversion into, or redemption in, a currency other than sterling.

(6) A debt is not a debt in a foreign currency for those purposes by reason only that provision is made for its redemption on payment of an amount in a currency other than sterling equal, at the rate prevailing at the date of redemption, to a specified amount in sterling.

(7) The provisions specified in subsection (8) below, so far as they require a disposal to be treated as a disposal on which neither a gain nor a loss accrues, shall not apply to any disposal of an asset to which this section applies.

(8) The provisions referred to in subsection (7) above are—

(a) sections 139, 140A, 171 and 172 of this Act; and

(b) section 486(8) of the Taxes Act.

1993 c. 34.

(9) Paragraph 3 of Schedule 17 to the Finance Act 1993 shall have effect for construing the reference in subsection (2)(b) above to exempt circumstances as if references to a currency were references to the debt to which the relationship relates.

(10) In this section 'security' includes a debenture that is deemed to be a security for the purposes of section 251 by virtue of subsection (6) of that section.

Holdings in unit trusts and offshore funds excluded from treatment as qualifying corporate bonds.

117B.—(1) For the purposes of corporation tax an asset to which this section applies is not a qualifying corporate bond in relation to any disposal of that asset in an accounting period for which that asset falls, under paragraph 4 of Schedule 10 to the Finance Act 1996 (holdings in unit trusts and offshore funds), to be treated as a right under a creditor relationship of a company.

(2) This section applies to an asset which is comprised in a relevant holding (within the meaning of paragraph 4 of Schedule 10 to the Finance Act 1996) if—

(a) it is denominated in a currency other than sterling; and

(b) it is held in exempt circumstances.

(3) For the purposes of this section—

(a) a unit in a unit trust scheme, or

(b) a right (other than a share in a company) which constitutes a relevant interest in an offshore fund,

shall be taken to be denominated in a currency other than sterling if the price at which it may be acquired from, or disposed of to, persons concerned in the management of the trust or fund is fixed by those persons in a currency other than sterling.

(4) For the purposes of this section shares constituting a relevant interest in an offshore fund shall be taken to be denominated in a currency other than sterling if their nominal value is expressed in such a currency.

(5) The provisions specified in subsection (6) below, so far as they require a disposal to be treated as a disposal on which neither a gain nor a loss accrues, shall not apply to any disposal in relation to which this section applies.

(6) The provisions referred to in subsection (5) above are—

(a) sections 139, 140A, 171 and 172 of this Act; and

(b) section 486(8) of the Taxes Act.

(7) Paragraph 3 of Schedule 17 to the Finance Act 1993 shall have effect for construing the reference in subsection (2)(b) above to exempt circumstances as if references to a currency were references to the asset in question. 1993 c. 34.

(8) Paragraph 7 of Schedule 10 to the Finance Act 1996 shall apply for construing any reference in this section to a relevant interest in an offshore fund as it applies for the purposes of paragraph 4 of that Schedule."

63. In section 212 of that Act (annual deemed disposal of holdings of unit trusts), after subsection (2) there shall be inserted the following subsection—

"(2A) Subsection (1) above shall not apply to assets falling by virtue of paragraph 4 of Schedule 10 to the Finance Act 1996 (company holdings in unit trusts) to be treated for the accounting period in question as representing rights under a creditor relationship of the company."

64. In section 251 of that Act (exclusion for debts that are not debts on a security), after subsection (6) there shall be inserted the following subsections—

"(7) Where any instrument specified in subsection (8) below is not a security (as defined in section 132), that instrument shall be deemed to be such a security for the purposes of this section, other than the purposes of determining what is or is not an allowable loss in any case.

(8) The instruments mentioned in subsection (7) above are—

(a) any instrument that would fall to be treated for the purposes of this Act as an asset representing a loan relationship of a company if the provisions of sections 92(4) and 93(4) of the Finance Act 1996 (convertible securities and assets linked to the value of chargeable assets) were disregarded; or

(b) any instrument which (even apart from those provisions) is not a loan relationship of a company but which would be a relevant discounted security for the purposes of Schedule 13 to that Act if paragraph 3(2)(c) of that Schedule (excluded indexed securities) were omitted."

65. In section 253(3) of that Act (relief for loans to traders), in the words after paragraph (c), at the beginning there shall be inserted—

"then, to the extent that that amount is not an amount which, in the case of the claimant, falls to be brought into account as a debit given for the purposes of Chapter II of Part IV of the Finance Act 1996 (loan relationships),".

SCH. 14

66.—(1) In section 254 of that Act (relief for debts on qualifying corporate bonds), in subsection (1)(c), after "bond" there shall be inserted "but is not a relevant discounted security for the purposes of Schedule 13 to the Finance Act 1996".

(2) After subsection (12) of that section there shall be inserted the following subsection—

"(13) This section does not apply for the purposes of corporation tax."

The Finance Act 1993 (c. 34)

67. In section 127 of the Finance Act 1993 (accrual of amounts where debts vary), after subsection (1) there shall be inserted the following subsections—

"(1A) For the purposes of this section if, in the case of any debt—

(a) an amount in respect of any discount or premium relating to that debt is treated, on an accruals basis of accounting, as accruing at any time for the purposes of Chapter II of Part IV of the Finance Act 1996 (loan relationships), or

(b) any such amount would be treated as so accruing if the authorised method of accounting used for those purposes as respects the loan relationship relating to that debt were an accruals basis of accounting, instead of a mark to market basis,

then, for the purposes of this section, there shall be deemed to be such a variation at that time of the nominal amount of the debt outstanding as is specified in subsection (1B) below.

(1B) That variation is—

(a) if the amount mentioned in paragraph (a) or (b) of subsection (1A) above relates to a discount, a variation that increases the nominal amount of the debt outstanding by the amount so mentioned; and

(b) if the amount so mentioned relates to a premium, a variation that decreases the nominal amount of the debt outstanding by the amount so mentioned."

68.—(1) In subsection (2) of section 129 of that Act (non-trading exchange gains), for the words after paragraph (b) there shall be substituted—

"and the rule in section 130(1) below shall apply."

(2) In subsection (4) of that section (non-trading exchange losses), for the words after paragraph (b) there shall be substituted—

"and the rule in section 130(2) below shall apply."

(3) Subsections (5) and (6) of that section (computation of net exchange gains or net exchange losses) shall cease to have effect.

(4) In subsection (7)(b) of that section (no gain or loss accruing on a right by virtue of a debt to receive income), for "(whether interest, dividend or otherwise)" there shall be substituted "that is not interest falling to be brought into account for the purposes of Chapter II of Part IV of the Finance Act 1996 (loan relationships) as interest accruing, or (according to the authorised method of accounting used) becoming due and payable, in an accounting period ending after 31st March 1996".

69. For sections 130 to 133 of that Act (charge to tax of non-trading gains and treatment of losses), there shall be substituted the following section—

"Non-trading gains and losses.

130.—(1) Where a company is treated by virtue of section 129 above as receiving any amount in an accounting period, that amount shall be brought into account for that accounting period as if it were a non-trading credit falling for the purposes

of Chapter II of Part IV of the Finance Act 1996 (loan relationships) to be brought into account in respect of a loan relationship of the company.

(2) Where a company is treated by virtue of section 129 above as incurring any loss in an accounting period, the amount of the loss shall be brought into account for that accounting period as if it were a non-trading debit falling for the purposes of Chapter II of Part IV of the Finance Act 1996 to be brought into account in respect of a loan relationship of the company."

70.—(1) For subsection (4) of section 153 of that Act (qualifying assets and liabilities) there shall be substituted the following subsection—

"(4) A right to settlement under a qualifying debt is not a qualifying asset where the company having the right holds an asset representing the debt and that asset is—

(a) an asset to which section 92 of the Finance Act 1996 applies (convertible securities); or

(b) an asset representing a loan relationship to which section 93 of that Act (relationships linked to the value of chargeable assets) applies."

(2) Subsection (6) of that section shall cease to have effect.

71. In section 154 of that Act (definitions connected with assets), after subsection (12) there shall be inserted the following subsection—

"(12A) So much of any asset as consists in a right to receive interest as respects which any sums fall to be brought into account for the purposes of Chapter II of Part IV of the Finance Act 1996 (loan relationships) shall be taken to be an asset to which the company became entitled at the following time (instead of the time for which subsection (12) above provides), that is to say—

(a) where the sums fall to be brought into account for the purposes of that Chapter in accordance with an authorised accruals basis of accounting, the time when the interest is taken for those purposes to have accrued, and

(b) where the sums fall to be brought into account for the purposes of that Chapter in accordance with an authorised mark to market basis of accounting, the time when the interest is taken for those purposes to have become due and payable."

72. In section 155 of that Act (definitions connected with liabilities), after subsection (11) there shall be inserted the following subsection—

"(11A) So much of any liability consisting in a liability to pay interest as respects which debits fall to be brought into account for the purposes of Chapter II of Part IV of the Finance Act 1996 (loan relationships) shall be taken to be a liability to which the company became subject at the following time (instead of at the time for which subsection (11) above provides), that is to say—

(a) where the debits fall to be brought into account for the purposes of that Chapter in accordance with an authorised accruals basis of accounting, the time when the interest is taken for those purposes to have accrued, and

(b) where the debits fall to be brought into account for the purposes of that Chapter in accordance with an authorised mark to market basis of accounting, the time when the interest is taken for those purposes to have become due and payable."

SCH. 14

73.—(1) For subsections (5) to (9) of section 159 of that Act (basic valuation where accrued income scheme applies) there shall be substituted the following subsection—

"(5) Where—

(a) a company becomes entitled, on any transfer by virtue of which it becomes a party to a loan relationship, to a right of settlement under a qualifying debt on a security, and

(b) that transfer is a transfer with accrued interest,

the basic valuation of that right shall be found by taking the consideration for the company's becoming entitled to the right and then deducting the amount of the accrued interest the right to which is transferred."

(2) This paragraph does not apply in relation to transfers before 1st April 1996.

74. In section 167 of that Act (orders and regulations relating to exchange gains and losses), after subsection (5) there shall be inserted the following subsections—

"(5A) Without prejudice to the generality of any power of the Treasury to amend regulations made under this Chapter, every such power shall include power to make such modifications of any regulations so made as the Treasury consider appropriate in consequence of the provisions of Chapter II of Part IV of the Finance Act 1996 (loan relationships).

(5B) The power to make any such modifications as are mentioned in subsection (5A) above shall be exercisable so as to apply those modifications in relation to any accounting period of a company ending on or after 1st April 1996."

The Finance Act 1994 (c. 9)

75. In section 160 of the Finance Act 1994 (treatment of non-trading profits and losses on interest rate and currency contracts), for subsections (2) to (4) there shall be substituted the following subsections—

"(2) Any amount which for the purposes of this section is treated as a non-trading profit of a company for any accounting period shall be brought into account for that accounting period as if it were a non-trading credit falling to be brought into account for the purposes of Chapter II of Part IV of the Finance Act 1996 in respect of a loan relationship of the company.

(2A) Any amount which for the purposes of this section is treated as a non-trading loss of a company for any accounting period shall be brought into account for that accounting period as if it were a non-trading debit falling to be brought into account for the purposes of Chapter II of Part IV of the Finance Act 1996 in respect of a loan relationship of the company."

76.—(1) In subsection (9) of section 167 of that Act (factors to be taken into account when adjusting transactions not at arm's length), before the word "and" at the end of paragraph (b) there shall be inserted the following paragraph—

"(ba) in a case where the qualifying contract is a debt contract or option, the amount of the debt by reference to which any loan relationship that would have been involved would have subsisted, and any terms as to repayment, redemption or interest that, in the case of that debt or any asset representing it, would have been involved;".

(2) In paragraph (c) of that subsection, for "either" there shall be substituted "any such".

77. In section 173(5)(a) of that Act (references to the purposes of the Chapter), for the words from "subsections (5)" to "losses)" there shall be substituted "Chapter II of Part IV of the Finance Act 1996 (loan relationships), so far as that Chapter is applied by virtue of section 160(2) or (2A) above,".

78.—(1) In subsection (1) of section 177 of that Act (interpretation)—

(a) in the definition of "commencement day", after the words "'commencement day'" there shall be inserted "—

(a) for the purposes of this Chapter as it has effect in relation to any debt contract or option, means (subject to paragraph 25 of Schedule 15 to the Finance Act 1996) 1st April 1996; and

(b) for all other purposes";

and

(b) after the definitions of "currency contract" and "currency option" there shall be inserted—

"'debt contract' and 'debt option' shall be construed in accordance with section 150A above;".

(2) In subsection (2)(a) of that section (time when company becomes entitled to a contract), for "or a currency contract or option," there shall be substituted "a currency contract or option or a debt contract or option".

79. For paragraphs 1 and 2 of Schedule 18 to that Act (special provision with respect to financial instruments for insurance companies) there shall be substituted the following paragraphs—

"Application of insurance companies provisions relating to loan relationships

1.—(1) Part I of Schedule 11 to the Finance Act 1996 (special provision with respect to loan relationships for insurance companies) shall have effect (subject to sub-paragraph (2) below) in relation to qualifying contracts as it has effect in relation to loan relationships which are creditor relationships within the meaning of Chapter II of Part IV of that Act.

(2) That Part of that Schedule shall have effect in its application in relation to qualifying contracts, as if—

(a) references to section 82(2) of the Finance Act 1996 were references to section 159 of this Act, and

(b) references to credits and debits given by Chapter II of Part IV of that Act in respect of a loan relationship were references, respectively, to the profits and losses deriving from the contract.

1A.—(1) Where the I minus E basis is applied for any accounting period in respect of the life assurance business or capital redemption business of any insurance company, this Chapter shall have effect for that period in relation to contracts and options held for the purposes of that business as if the words in subsection (10) of section 150A from 'but references' onwards were omitted.

(2) Expressions used in sub-paragraph (1) above and in Part I of Schedule 11 to the Finance Act 1996 have the same meanings in this paragraph as in that Part of that Schedule."

Section 105.

SCHEDULE 15

LOAN RELATIONSHIPS: SAVINGS AND TRANSITIONAL PROVISIONS

PART I

CORPORATION TAX

Application and interpretation of Part I

1.—(1) This Part of this Schedule has effect for the purposes of corporation tax.

(2) In this Part of this Schedule—

1992 c. 12.

"the 1992 Act" means the Taxation of Chargeable Gains Act 1992;

"continuing loan relationship", in relation to any company, means any loan relationship to which the company was a party both immediately before and on 1st April 1996;

"first relevant accounting period", in relation to a company, means the first accounting period of the company to end after 31st March 1996; and

"transitional accounting period", in relation to a company, means any accounting period of the company beginning before and ending on or after 1st April 1996.

(3) Any question as to whether, or to what extent, credits or debits falling to be brought into account for the purposes of this Chapter by virtue of this Part of this Schedule are referable to any category of an insurance company's long term business shall be determined according to any apportionment in relation to the loan relationship in question which is made for the company's first relevant accounting period.

(4) In this Part of this Schedule references to this Chapter include references to any repeals having effect for the purposes of this Chapter.

Loan relationships terminated before 1st April 1996

2. Subject to paragraph 13(6) below, the amounts which are to be brought into account for the purposes of corporation tax in any transitional accounting period of a company by reference to any loan relationship to which it was a party only at a time before 1st April 1996—

(a) shall not be computed in accordance with this Chapter; but

(b) shall, instead, be computed as they would be for an accounting period ending on 31st March 1996.

Basic rules for transitional accounting periods

3.—(1) This paragraph applies as respects any continuing loan relationship of a company.

(2) In a transitional accounting period an amount accruing before 1st April 1996 in respect of a continuing loan relationship (whether it accrues as a right or liability) shall be brought into account for the purposes of this Chapter in accordance with an authorised accruals basis of accounting only if it is an amount accruing as interest.

(3) In a transitional accounting period an amount becoming due and payable before 1st April 1996 in respect of a continuing loan relationship shall be brought into account for the purposes of this Chapter in accordance with an authorised mark to market basis of accounting only if it is an amount becoming so due and payable as interest.

(4) Except where sub-paragraph (6) below applies and subject to the following provisions of this Part of this Schedule, any opening valuation that is to be made

for the purpose of bringing amounts into account for the purposes of this Chapter in a transitional accounting period on a mark to market basis of accounting shall be made as at 1st April 1996, instead of as at any earlier time.

(5) Where any opening valuation is made in accordance with sub-paragraph (4) above for any transitional accounting period—

(a) that valuation, and

(b) any closing valuation made as at the end of that period for the purposes mentioned in that sub-paragraph,

shall each be made disregarding any amount of interest that has accrued in respect of any part of that period.

(6) This sub-paragraph applies in the case of a continuing loan relationship if, apart from this Chapter—

(a) a mark to market basis of accounting would have been used, in the case of the relationship, for the purpose of bringing amounts into account in the transitional accounting period; and

(b) on that basis, an opening valuation as respects the relationship would have fallen to be made for that purpose as at a time before 1st April 1996.

(7) Notwithstanding anything in sub-paragraph (2) or (3) above, where—

(a) there is an amount that accrued or became due and payable before 1st April 1996 in respect of a continuing loan relationship of a company,

(b) that amount is not interest, and

(c) that amount would, apart from this Chapter, have been brought into account for the purposes of corporation tax in the accounting period in which it accrued or, as the case may be, became due and payable,

that amount shall be brought into account in that period for the purposes of corporation tax to the same extent as it would have been so brought into account apart from this Chapter and shall not otherwise be brought into account by virtue of the application in relation to times on or after 1st April 1996 of any authorised accounting method.

Application of accruals basis to pre-commencement relationships

4. Subject to the following provisions of this Schedule, any question for the purposes of this Chapter as to the amounts which are to be treated (in accordance with an authorised accruals basis of accounting) as accruing to a company on or after 1st April 1996 shall be determined by applying that basis of accounting for determining, first, what amounts had accrued before that date.

Adjustments in respect of pre-commencement trading relationships

5.—(1) This paragraph applies in the case of any continuing loan relationship of a company as respects which any amounts would have been brought into account for the purposes of corporation tax in computing the profits or losses of the company from any trade carried on by it if—

(a) the company had ceased to be a party to the relationship on 31st March 1996; and

(b) where it is not otherwise the case, an accounting period of the company had ended on that date.

(2) Where there is a difference between—

(a) the notional closing value of the relationship as at 31st March 1996, and

(b) the adjusted closing value of that relationship as at that date,

that difference shall be brought into account as provided for in paragraph 6 below.

SCH. 15

(3) Except where sub-paragraph (4) or (6) below applies, the notional closing value as at 31st March 1996 of a loan relationship of a company shall be taken for the purposes of this paragraph to be the amount which, for the purposes of computing the profits or losses of the company from any trade carried on by it—

(a) was as at that date, or

(b) had an accounting period of the company ended on that date, would have been,

the amount falling to be brought into account as representing the value of the company's rights or liabilities under the relationship.

(4) Except where sub-paragraph (6) below applies, if no amount is given by sub-paragraph (3) above, the notional closing value as at 31st March 1996 of a loan relationship of a company shall be taken for the purposes of this paragraph to be the amount which, for the purposes of computing the profits or losses of the company from any trade carried on by it, would have been deductible as representing the cost of becoming a party to the relationship if the company had ceased to be a party to the relationship on 31st March 1996.

(5) Except where sub-paragraph (6) below applies, the adjusted closing value of that relationship as at that date shall be taken for the purposes of this paragraph to be the amount which for the purposes of this Chapter is the opening value as at 1st April 1996 of the company's rights and liabilities under the relationship.

(6) For the purposes of this paragraph where the asset representing a loan relationship of a company is a relevant qualifying asset of the company, or the liabilities of the company under the relationship are relevant liabilities—

(a) the notional closing value of the relationship as at 31st March 1996 shall be taken for the purposes of this paragraph to be the value given by paragraph 12 below as the notional closing value as at 31st March 1996 of that asset or, as the case may be, of those liabilities; and

(b) the adjusted closing value of the relationship as at 31st March 1996 shall be taken for those purposes to be the amount which is as at 1st April 1996 the opening value of the asset or liabilities for the purposes of this Chapter.

(7) For the purposes of this paragraph, where an accruals basis of accounting is used as respects a loan relationship for the first relevant accounting period of the company, the opening value as at 1st April 1996 of the company's rights and liabilities under the relationship shall be taken to be the value which (disregarding interest) is treated in accordance with paragraph 4 above as having accrued to the company before that date.

(8) In this paragraph—

"attributed amount" means any attributed gain or loss falling to be calculated in accordance with any regulations made under Schedule 16 to the Finance Act 1993 (transitional provisions for exchange gains and losses) which contain any such provision as is mentioned in paragraph 3(1) of that Schedule;

1993 c. 34.

"commencement day", in relation to a company, means its commencement day for the purposes of Chapter II of Part II of the Finance Act 1993;

"market value" has the same meaning as in the 1992 Act;

"relevant liability", in relation to a company, means any liability under a loan relationship the value of which has been determined as at the company's commencement day for the purpose of calculating any attributed amount;

"relevant qualifying asset", in relation to a company, means any qualifying asset for the purposes of Chapter II of Part II of the Finance Act 1993 the value of which has been determined as at the company's commencement day for the purpose of calculating any attributed amount.

1993 c. 34.

Method of giving effect to paragraph 5 adjustments

6.—(1) Subject to sub-paragraph (4) below, the difference mentioned in paragraph 5(2) above shall be brought into account in accordance with sub-paragraph (2) or (3) below in the accounting period in which the company ceases to be a party to the relationship.

(2) If—

(a) the relationship is a creditor relationship and the difference consists in an excess of the amount mentioned in paragraph 5(2)(b) above over the amount mentioned in paragraph 5(2)(a) above, or

(b) the relationship is a debtor relationship and the difference consists in an excess of the amount mentioned in paragraph 5(2)(a) above over the amount mentioned in paragraph 5(2)(b) above,

the difference shall be brought into account as a credit given for the purposes of this Chapter for the period mentioned in sub-paragraph (1) above.

(3) In any other case, the difference shall be brought into account as a debit given for the purposes of this Chapter for the period so mentioned.

(4) Where the company, by notice in writing given on or before 30th September 1996 to an officer of the Board, makes an election for the purposes of this sub-paragraph—

(a) sub-paragraphs (1) to (3) above shall not apply; and

(b) instead, one sixth of every credit and debit which would have fallen, in accordance with those sub-paragraphs, to be brought into account on the relevant assumption shall be brought into account for each year in the period of six years beginning with the company's first relevant accounting period;

and for this purpose "the relevant assumption" is that the company had ceased on 1st April 1996 to be a party to every one of its continuing loan relationships to which paragraph 5 above applies.

(5) Where any amount representing a fraction of a credit or debit falls to be brought into account for any year under sub-paragraph (4) above, that amount shall be—

(a) apportioned between the accounting periods beginning or ending in that year; and

(b) brought into account in the periods to which it is allocated in accordance with that apportionment.

(6) An apportionment between accounting periods of an amount to be brought into account under sub-paragraph (4) above for any year shall be made according to how much of the year is included in each period; and, if that year and the accounting period are the same, the apportionment shall be effected by the allocation of the whole amount to that accounting period.

(7) If the company ceases to be within the charge to corporation tax before the end of the six years mentioned in sub-paragraph (4)(b) above, the whole amount of the excess, so far as it has not fallen to be brought into account for an earlier accounting period, shall be brought into account as a debit or credit for the accounting period ending when the company ceases to be within that charge.

(8) Where any credit or debit falls to be brought into account under this paragraph for any accounting period for the whole or any part of which the company carries on the trade in question, the credit or debit shall be brought into

account under section 82(2) of this Act in relation to that trade; and, in any other case, it shall be brought into account as a non-trading credit or non-trading debit.

General savings for the taxation of chargeable gains

7. The amendments of the 1992 Act contained in Schedule 14 to this Act and the related repeals made by this Act—

(a) so far as they relate to section 253 of the 1992 Act, do not apply to any loan the outstanding amount of principal on which became irrecoverable before 1st April 1996;

(b) so far as they relate to section 254 of the 1992 Act, do not apply to any security whose value became negligible before 1st April 1996;

(c) so far as they relate to anything else, do not apply in relation to any disposal made, or deemed to be made, before 1st April 1996.

Transitional provision for chargeable assets held after commencement

8.—(1) This paragraph applies where—

(a) on 31st March 1996 any company ("the relevant company") held any asset representing, in whole or in part, any loan relationship to which it was a party on that date;

(b) the company did not dispose of that asset on that date and does not fall (apart from by virtue of this paragraph) to be treated for the purposes of the 1992 Act as having made a disposal of it on that date;

(c) the asset is not one to which section 92 of this Act or paragraph 15 below applies;

(d) that asset is not an asset representing a loan relationship to which section 93 of this Act applies;

(e) that asset is not a relevant qualifying asset; and

(f) a relevant event occurs.

(2) For the purposes of this paragraph a relevant event occurs on the first occasion after 31st March 1996 when the relevant company or any other company falls to be treated for the purposes of the 1992 Act as making a disposal, other than one to which section 139, 140A, 171(1) or 172 of that Act (disposals on which neither a gain nor a loss accrues) applies, of—

(a) the asset in question, so far as it has not come to be represented by an asset falling within paragraph (b) below, or

(b) any such asset as falls to be treated for the purposes of that Act as the same as that asset.

(3) The amount of any chargeable gain or allowable loss which would have been treated as accruing to the relevant company on the assumption—

(a) that it had made a disposal of the asset on 31st March 1996, and

(b) (so far as relevant for the purpose of computing the amount of that gain or loss) that the disposal had been for a consideration equal to the market value of the asset,

shall be brought into account (subject to the following provisions of this paragraph and to paragraph 9 below) as one accruing to the company ("the chargeable company") which makes the disposal constituting the relevant event, and shall be so brought into account in the accounting period in which that event occurs.

(4) The amount of the deemed chargeable gain or deemed allowable loss falling to be brought into account in accordance with sub-paragraph (3) above shall be treated as reduced by the extent (if any) to which it is, in relation to the

company, an amount that already has been, or falls to be, taken into account for the purposes of corporation tax by virtue of the use of any accruals or mark to market basis of accounting—

(a) for those purposes;

(b) as respects times before 1st April 1996; and

(c) in relation to the asset in question.

(5) To the extent that any deemed chargeable gain or deemed allowable loss falling to be brought into account under sub-paragraph (3) above includes any gain or loss deemed to accrue under section 116(10)(b) of the 1992 Act (qualifying corporate bonds acquired in a reorganisation etc.), that gain or loss shall be deemed to have accrued for the purposes of that sub-paragraph and (without prejudice to its being brought into account in accordance with that sub-paragraph) shall not be taken to accrue again on the occurrence of the relevant event or any subsequent disposal of any asset.

(6) In any case where—

(a) the relevant company is one which at any time before 1st April 1996 was not resident in the United Kingdom,

(b) the asset was held by the relevant company at such a time, and

(c) if the asset had been disposed of at that time and a gain had accrued to the relevant company on that disposal, it would not have been included in the company's chargeable profits by virtue of section 10(3) of the 1992 Act (gain on a disposal by a branch or agency of a non-resident company),

the relevant company shall be deemed for the purposes of sub-paragraph (3) above to have acquired the asset, at market value, on the first day on which any relevant gain would have been included in the company's chargeable profits for the purposes of corporation tax (whether because it is a day on which the company became resident, or the asset became situated, in the United Kingdom or for any other reason).

(7) In sub-paragraph (6) above the reference, in relation to a company, to a relevant gain is a reference to any gain which would have accrued to the company on the following assumptions, that is to say—

(a) that the relevant company disposed of the asset on the day in question;

(b) that that disposal gave rise to a gain; and

(c) that any allowable losses which might have been available for deduction under section 8(1) of, or Schedule 7A to, the 1992 Act were to be disregarded.

(8) In any case where the company acquired the asset on a disposal on which, by virtue of any enactment specified in section 35(3)(d) of the 1992 Act, neither a gain nor a loss accrued to the person making the disposal, the reference in sub-paragraph (6) or (7) above to the relevant company includes—

(a) a reference to the company from which it acquired the asset; and

(b) if that company also acquired the asset on such a disposal, a reference to the company from which the asset was acquired by that company, and so on through any number of such disposals.

(9) In any case where section 176 of the 1992 Act (depreciatory transactions within a group) would have applied in relation to the disposal referred to in sub-paragraph (3) above if that disposal had actually taken place, that section shall apply for the calculation of any deemed allowable loss to be brought into account by virtue of that sub-paragraph.

(10) For the purposes of this paragraph a company that ceases to be within the charge to corporation tax shall be deemed to make a disposal of all its assets at their market value immediately before ceasing to be within that charge.

(11) In this section—

"market value" has the same meaning as in the 1992 Act; and

"relevant qualifying asset" has the same meaning as in paragraph 5 above.

Election for alternative treatment of amounts specified in paragraph 8

9.—(1) Subject to the following provisions of this paragraph, where (apart from this paragraph) any amount representing a deemed allowable loss would fall in the case of any company to be brought into account for any accounting period in accordance with sub-paragraph (3) of paragraph 8 above, the chargeable company may elect for that amount to be brought into account for that period for the purposes of this Chapter, instead of in accordance with that sub-paragraph.

(2) An amount brought into account for the purposes of this Chapter by virtue of an election under this paragraph shall be so brought into account as a debit given for that period for the purposes of this Chapter.

(3) The question whether or not any debit brought into account for any accounting period in accordance with sub-paragraph (2) above is to be brought into account for that period as a non-trading debit shall be determined according to how other credits or debits relating to the loan relationship in question are, or (if there were any) would be, brought into account for that period.

(4) No election shall be made under this paragraph in respect of any deemed allowable loss in any case where the asset in respect of which that loss is deemed to have accrued was one which, as at 1st April 1996, either—

(a) fell in accordance with section 127 or 214(9) of the 1992 Act (equation of new holding with previous holding) to be treated as the same as an asset which was not an asset representing a loan relationship; or

(b) would have so fallen but for section 116(5) of that Act.

(5) An election shall not be made under this paragraph at any time more than two years after the occurrence of the relevant event by virtue of which the amount to which the election relates would fall to be brought into account in accordance with paragraph 8(3) above.

Adjustments of opening value for mark to market accounting in the case of chargeable assets

10.—(1) Where—

(a) a mark to market basis of accounting is used as respects any loan relationship of a company for the company's first relevant accounting period,

(b) for the purpose of bringing amounts into account for the purposes of this Chapter on that basis, an opening valuation of an asset representing that relationship falls to be made as at 1st April 1996, and

(c) that asset is a chargeable asset held by that company on 31st March 1996,

the value of that asset on 1st April 1996 shall be taken for the purpose of the opening valuation to be equal to whatever, in relation to a disposal on 31st March 1996, would have been taken to be its market value for the purposes of the 1992 Act.

(2) In this paragraph "chargeable asset", in relation to a company, means (subject to sub-paragraph (3) below) any asset in the case of which one of the following conditions is satisfied, that is to say—

(a) a gain accruing to the company on a disposal of that asset on 31st March 1996 would have fallen to be treated in relation to the company as a chargeable gain; or

(b) a chargeable gain or allowable loss would be deemed to have accrued to the company on any disposal of that asset on that date.

(3) An asset is not a chargeable asset for the purposes of this paragraph if (disregarding the provisions of this Chapter) it is an asset any disposal of which on 31st March 1996 would have fallen to be regarded for the purposes of the 1992 Act as a disposal of a qualifying corporate bond.

Other adjustments in the case of chargeable assets etc.

11.—(1) Where—

(a) an authorised accruals basis of accounting is applied as respects any continuing loan relationship of a company for the company's first relevant accounting period,

(b) an asset representing that relationship is a relevant asset or any liability under it is a relevant liability, and

(c) the relationship is not one as respects which, if the company had ceased to be a party to the relationship on 31st March 1996, any amounts would have been brought into account in computing, for an accounting period ending on or after that date, the profits or losses of the company from any trade carried on by it,

that accounting method shall be taken for the purposes of this Chapter to require the asset or liability to be given a notional closing value as at 31st March 1996 in accordance with paragraph 12 below and the following provisions of this paragraph shall apply if there is any difference in the case of that relationship between the amounts mentioned in sub-paragraph (2) below.

(2) Those amounts are—

(a) the amount which would have been brought into account as accruing in the first relevant accounting period of the company, if—

(i) the company had become a party to the loan relationship on 1st April 1996;

(ii) the opening value applicable as at that date for the purposes of an authorised accruals basis of accounting had been the notional closing value as at 31st March 1996; and

(iii) the closing value applicable as at the end of that period for the purposes of such a basis of accounting were the same as the amount given as that closing value when applying such a basis for computing the amount mentioned in paragraph (b) below;

and

(b) the amount which is in fact treated as accruing in that period in accordance with paragraph 4 above.

(3) Where the amounts mentioned in paragraphs (a) and (b) of sub-paragraph (2) above are amounts falling to be brought into account as credits, the difference between them shall be brought into account—

(a) where the amount mentioned in paragraph (a) exceeds the amount mentioned in paragraph (b), as a credit given for the purposes of this Chapter for the accounting period in which the company ceases to be a party to the relationship; and

(b) in any other case, as a debit so given.

(4) Where the amounts mentioned in paragraphs (a) and (b) of sub-paragraph (2) above are amounts falling to be brought into account as debits, the difference between them shall be brought into account—

(a) where the amount mentioned in paragraph (a) exceeds the amount mentioned in paragraph (b), as a debit given for the purposes of this Chapter for the accounting period in which the company ceases to be a party to the relationship; and

(b) in any other case, as a credit so given.

(5) Where the company ceases to be within the charge to corporation tax, it shall be deemed for the purposes of this paragraph to have ceased to be a party to the relationship in question immediately before ceasing to be within that charge.

(6) A credit or debit brought into account under this paragraph shall be brought into account as a non-trading credit or non-trading debit.

(7) In this paragraph—

"chargeable asset", in relation to a company, means (subject to sub-paragraph (8) below) any asset held by the company on 31st March 1996 in the case of which one of the following conditions is satisfied, that is to say—

(a) a gain accruing to the company on a disposal of that asset on that date would have fallen to be treated in relation to the company as a chargeable gain; or

(b) a chargeable gain or allowable loss would be deemed to have accrued to the company on any disposal of that asset on that date;

and

"relevant asset" means a chargeable asset or a relevant qualifying asset.

(8) An asset is not a chargeable asset for the purposes of this paragraph if (disregarding the provisions of this Chapter) it is an asset any disposal of which on 31st March 1996 would have fallen to be regarded for the purposes of the 1992 Act as a disposal of a qualifying corporate bond.

(9) Expressions used in this paragraph and paragraph 5 above have the same meanings in this paragraph as in that paragraph.

Notional closing values of relevant assets

12.—(1) Subject to sub-paragraph (2) below, the notional closing value as at 31st March 1996 of any relevant asset representing a loan relationship of a company, or of any relevant liability, shall be taken for the purposes of paragraphs 5 and 11 above, to be an amount equal to the following amount, that is to say—

(a) in the case of a chargeable asset, its market value on that date;

(b) in the case of a relevant qualifying asset or relevant liability, the value given to it as at the company's commencement day for the purpose of computing any attributed amount.

(2) Sub-paragraph (3) below applies where a company, by notice in writing given on or before 30th September 1996 to an officer of the Board, makes an election for the purposes of that sub-paragraph in relation to all of its relevant qualifying assets which—

(a) apart from the election, would be given a notional closing value as at 31st March 1996 by sub-paragraph (1) above; and

1993 c. 34.

(b) but for Chapter II of Part II of the Finance Act 1993 (exchange gains and losses), would be chargeable assets.

(3) Where such an election is made as respects those assets—

(a) sub-paragraph (1) above shall not apply as respects those assets; but

(b) the value of each of those assets as at 1st April 1996 shall be taken for the purposes of this Chapter to be its market value on that date.

(4) In this paragraph "chargeable asset" and "relevant asset" have the same meanings as in paragraph 11 above; and expressions used in this paragraph and paragraph 5 above have the same meanings in this paragraph as in that paragraph.

Further transitional rules for interest under loan relationships

13.—(1) Where—

(a) an amount of interest under a loan relationship of a company accrues or becomes due and payable in an accounting period ending on or after 1st April 1996, but

(b) the amount accruing or becoming due and payable has already, in the case of that company, been brought into account for the purposes of corporation tax for an old accounting period,

no credit or, as the case may be, debit relating to that amount shall be brought into account in the case of that company for the purposes of this Chapter.

(2) This Chapter shall have effect in accordance with sub-paragraphs (3) and (4) below in relation to any pre-commencement late interest, that is to say, interest which—

(a) has accrued or become due and payable in an old accounting period, but

(b) is paid in an accounting period ending on or after 1st April 1996.

(3) Where—

(a) an amount of pre-commencement late interest under a debtor relationship of a company is paid by that company,

(b) the amount paid is not interest which, in the case of that company, was brought into account for the purposes of corporation tax for any old accounting period,

(c) relief would have been allowable in respect of the amount paid if the provisions of this Chapter had not been enacted, and

(d) the amount paid is not interest in relation to which any debit falls (apart from under this sub-paragraph) to be brought into account for the purposes of this Chapter in the case of that company,

debits shall be brought into account for the purposes of this Chapter in the case of that company as if the amount paid were interest accruing, and becoming due and payable, at the time when it is paid.

(4) Where—

(a) an amount of pre-commencement late interest under a creditor relationship of a company is paid to that company,

(b) the amount paid is not interest which, in the case of that company, was brought into account for the purposes of corporation tax for any old accounting period,

(c) the amount paid is not interest in relation to which any credit falls (apart from under this sub-paragraph) to be brought into account for the purposes of this Chapter in the case of that company, and

(d) the amount paid is not an amount of interest which in relation to a transfer before 1st April 1996 was unrealised interest within the meaning of section 716 of the Taxes Act 1988,

credits shall be brought into account for the purposes of this Chapter in the case of that company as if the amount paid were interest accruing, and becoming due and payable, at the time when it is paid.

(5) Where—

(a) any interest under a debtor relationship of a company was paid by that company at a time on or after 20th December 1995 but during an old accounting period,

(b) the company was not required to make the payment at or before that time by virtue of any contractual obligation entered into by that company before 20th December 1995, and

(c) the interest paid is not interest which, if brought into account for the purposes of corporation tax in accordance with an authorised accruals basis of accounting, would fall to be so brought into account in an old accounting period,

the interest paid shall not, in the case of that company, be brought into account for the purposes of corporation tax in any old accounting period.

(6) Where on 1st April 1996 any interest under a loan relationship remains to be paid to or by a company that ceased to be a party to that relationship before that date, this Chapter (including the preceding provisions of this paragraph) shall have effect, so far as relating to interest under a loan relationship, as if the relationship were a continuing loan relationship.

(7) Sub-paragraphs (8) and (9) below apply where the accounting period for which any credits or debits relating to interest under a loan relationship are brought into account for the purposes of this Chapter is determined either—

(a) in accordance with an accruals basis of accounting, by reference to the time when by virtue of this paragraph that interest is deemed to accrue; or

(b) in accordance with a mark to market basis of accounting, by reference to the time when by virtue of this paragraph the interest is deemed to become due and payable.

(8) If—

(a) at the time when the interest in fact accrued or (as the case may be) when the interest in fact became due and payable, the company was a party to the relationship in question for the purposes of a trade carried on by it, and

(b) the credits or debits relating to that interest fall to be brought into account for an accounting period determined as mentioned in sub-paragraph (7) above which is a period for the whole or any part of which that company carries on that trade,

those credits or debits shall be so brought into account under section 82(2) of this Act.

(9) In a case not falling within sub-paragraph (8) above, credits or debits relating to any interest that fall to be brought into account for the purposes of this Chapter for an accounting period determined as mentioned in sub-paragraph (7) above shall be so brought into account as non-trading credits or, as the case may be, non-trading debits.

(10) References in this paragraph to interest under a loan relationship include references to any amounts brought into account for the purposes of corporation tax in accordance with the provisions of section 477A(3) of the Taxes Act 1988 (whether under those provisions as they had effect apart from the amendments made by this Act or under those provisions as amended by this Act).

(11) In this paragraph "old accounting period", in relation to a company, means any accounting period of that company ending before 1st April 1996.

Transitional in respect of incidental expenses already allowed

14. To the extent that any deduction in respect of any charges or expenses incurred as mentioned in section 84(3) of this Act has been made for the purposes of corporation tax in any accounting period ending before 1st April 1996, those charges or expenses shall not be included in the charges or expenses in relation to which debits may be brought into account for the purposes of this Chapter.

Holdings of unit trusts etc.

15.—(1) This paragraph applies to any asset which—

(a) is an asset of an insurance company's long term business fund (within the meaning of Chapter I of Part XII of the Taxes Act 1988) both on and immediately after 31st March 1996; and

(b) falls by virtue of paragraph 4 of Schedule 10 to this Act to be treated for a transitional accounting period of the company as representing rights under a creditor relationship of the company.

(2) Sections 212 and 213 of the 1992 Act (annual disposal of holdings of unit trusts etc.) shall have effect (without the amendment made by this Chapter) in relation to the assets to which this paragraph applies as if (where it would not otherwise be the case) 31st March 1996 were the last day of an accounting period of the company holding the asset.

(3) Nothing in this Chapter shall prejudice the effect of section 213 of the 1992 Act in relation to any disposal which (whether by virtue of sub-paragraph (2) above or otherwise) is deemed under section 212 of that Act to be made on or before 31st March 1996.

Bad debt relieved before commencement

16.—(1) This paragraph applies where—

(a) an amount becomes, or is to become, due and payable under a creditor relationship of a company in an accounting period ending on or after 1st April 1996, but

(b) by virtue of any of sub-paragraphs (i) to (iii) of section 74(1)(j) of the Taxes Act 1988 (or any enactment re-enacted in those sub-paragraphs), a deduction of an amount representing the whole or any part of the amount payable was authorised to be made, and was made, in computing for the purposes of corporation tax the profits of the company for any accounting period ending before that date.

(2) Subject to sub-paragraph (3) below, nothing in this Chapter shall require it to be assumed for the purposes of this Chapter that any part of the amount to which the deduction relates will be paid in full as it becomes due.

(3) Subject to sub-paragraph (4) below, where—

(a) the deduction relates to an amount payable under a creditor relationship of a company which has been proved or estimated to be a bad debt, but

(b) in an accounting period ending on or after 1st April 1996 the whole or any part of the liability under that relationship to pay that amount is discharged by payment,

this Chapter shall have effect, in the case of that company, as if there were a credit equal to the amount of the payment to be brought into account for the purposes of this Chapter for that period.

(4) Sub-paragraph (3) above does not apply to so much of any payment as is an amount in relation to which a credit falls to be brought into account for the purposes of this Chapter in accordance with paragraph 13(4) above.

Transitional for overseas sovereign debt etc.

17.—(1) Subject to any regulations under sub-paragraph (4) below and notwithstanding anything in the preceding provisions of this Schedule, the value which for the purposes of this Chapter is to be taken to be the value as at 1st April 1996 of a company's rights under any creditor relationship relating to a relevant overseas debt any part of which falls to be estimated as bad, is the following amount—

(a) where the company was not entitled to the debt before the end of its last period of account to end before 1st April 1996, the amount for which the company acquired those rights; and

(b) in any other case, the amount of so much of that debt as did not fall, in accordance with section 88B of the Taxes Act 1988, to be estimated as at the end of that period to be bad.

(2) Subject to any regulations under sub-paragraph (4) below, sub-paragraph (3) below shall apply where there is a loss incurred before 1st April 1996 to which section 88C of the Taxes Act 1988 has applied or applies by virtue of paragraph 2 above.

(3) Where, apart from this Chapter, any amount would have been allowed in respect of the loss as a deduction for any accounting period ending after 31st March 1996, that amount shall not be so allowed but shall, instead, be brought into account for the purposes of this Chapter as if it were a debit given for that accounting period by paragraph 9 of Schedule 9 to this Act in respect of a loss incurred on or after 1st April 1996.

(4) The Treasury may by regulations—

(a) make such transitional provision as they consider appropriate for purposes connected with the coming into force of paragraphs 8 and 9 of Schedule 9 to this Act and the repeal of sections 88A to 88C of the Taxes Act 1988 (which contained corresponding provisions); and

(b) in connection with any such provision, make such modifications of this Schedule (including sub-paragraphs (1) to (3) above) as they consider appropriate;

and regulations made by virtue of this sub-paragraph may have retrospective effect in relation to any accounting periods ending on or after 1st April 1996.

(5) The Treasury shall not make any regulations under sub-paragraph (4) above unless a draft of them has been laid before and approved by a resolution of the House of Commons.

(6) In this paragraph "relevant overseas debt" has the same meaning as in paragraphs 8 and 9 of Schedule 9 to this Act.

Transitional for accrued income scheme

18.—(1) Subject to sub-paragraph (2) below, where, apart from this Chapter, any company would be treated under subsection (2) or (4) of section 714 of the Taxes Act 1988 (treatment of deemed sums and reliefs under accrued income scheme)—

(a) as receiving any amount at the end of a period beginning before and ending on or after 1st April 1996, or

(b) as entitled to any allowance of any amount in such a period,

that amount shall be brought into account as a non-trading credit or, as the case may be, non-trading debit given for the purposes of this Chapter for the company's first relevant accounting period, instead of in accordance with that subsection.

(2) A debit in respect of an allowance relating to a security shall not, in the case of any company, be brought into account for the purposes of this Chapter in accordance with sub-paragraph (1) above if—

(a) the security was transferred to that company with accrued interest in a transitional accounting period; and

(b) for the purposes of this Chapter an authorised accruals basis of accounting is used for that period as respects the creditor relationship of the company represented by that security.

(3) Where any excess would, apart from this Chapter, be available by virtue of section 103(4) of the Finance Act 1993 (transitional provision in connection with the repeal of section 724(7) of the Taxes Act 1988) to be applied in reducing the annual profits or gains of a company (if any) for its first relevant accounting period, that excess shall be brought into account for the purposes of this Chapter in the case of that company as a non-trading debit for that period. 1993 c. 34.

(4) Subsection (6) of section 807 of the Taxes Act 1988 shall not prevent that section from having effect for an accounting period ending on or after 1st April 1996 in relation to amounts brought into account under this paragraph.

(5) The repeal by this Act of section 63 of the Finance Act 1993 (deemed transfers for the purposes of the accrued income scheme) and of enactments relating to that section shall not apply in relation to relevant days falling before 1st April 1996; but for the purposes of that section and this sub-paragraph 31st March 1996 shall be deemed (where it would not otherwise be so) to be the last day of an accounting period.

Deep discount securities

19.—(1) This Chapter shall not affect—

(a) the application of paragraph 3 of Schedule 4 to the Taxes Act 1988 (charge to tax after acquisition of deep discount securities) in relation to occasions before 1st April 1996;

(b) the application of paragraph 4 of that Schedule (charge to tax on disposal of such securities) in relation to any disposal before that date; or

(c) the application of paragraph 5 of that Schedule (relief in respect of the income element), in accordance (where applicable) with paragraphs 9 and 10 of that Schedule, in relation to income periods ending before that date.

(2) For the purposes of paragraph 5 of Schedule 4 to the Taxes Act 1988 and sub-paragraph (1)(c) above every income period current on 31st March 1996 shall be deemed to end on that date.

(3) The repeal by this Act of section 64 of the Finance Act 1993 (deemed transfers in the case of deep discount securities) and of enactments relating to that section shall not apply in relation to relevant times falling before 1st April 1996; but for the purposes of that section and this sub-paragraph 31st March 1996 shall be deemed (where it would not otherwise be so) to be the last day of an accounting period.

(4) Where—

(a) a company issued a deep discount security before 1st April 1996 which was not redeemed before that date, and

(b) there is a difference between the adjusted issue price of the security as at 31st March 1996 and the adjusted closing value of that security as at that date,

the amount of that difference shall, in the case of that company, be brought into account for the purposes of this Chapter in accordance with sub-paragraph (5) below.

(5) An amount falling to be brought into account for the purposes of this Chapter in accordance with this sub-paragraph shall be brought into account for those purposes for the accounting period in which the security is redeemed—

(a) if the adjusted issue price of the security as at 31st March 1996 is greater than the adjusted closing value of the security as at that date, as a non-trading credit; and

(b) if the adjusted closing value of the security as at that date is the greater, as a non-trading debit.

(6) Where—

(a) a company held a deep discount security on 31st March 1996,

(b) the company did not make any disposal of that security on that date,

(c) the security is not one in relation to which there is, or is deemed to be, a relevant time on that date for the purposes of section 64 of the Finance Act 1993, and

1993 c. 34.

(d) there is an amount which, if the company had made a disposal of that security on that date, would have been treated under paragraph 4 of Schedule 4 to the Taxes Act 1988 as income chargeable to tax under Case III or IV of Schedule D,

that amount shall be brought into account as a non-trading credit given for the purposes of this Chapter for the accounting period mentioned in sub-paragraph (9) below.

(7) Where—

(a) a company held a deep discount security on 31st March 1996,

(b) the conditions specified in sub-paragraph (6)(b) and (c) above are satisfied in relation to that security,

(c) the security is not an asset falling to be treated as a relevant asset of the company for the purposes of paragraph 11 above, and

(d) there is a difference between the adjusted issue price of the security as at 31st March 1996 and the adjusted closing value of that security as at that date,

the amount of that difference (in addition to any amount given by sub-paragraph (6) above) shall, in the case of that company, be brought into account for the purposes of this Chapter in accordance with sub-paragraph (8) below.

(8) An amount falling to be brought into account for the purposes of this Chapter in accordance with this sub-paragraph shall be brought into account for those purposes for the accounting period mentioned in sub-paragraph (9) below—

(a) if the adjusted issue price of the security as at 31st March 1996 is greater than the adjusted closing value of the security as at that date, as a non-trading debit; and

(b) if the adjusted closing value of the security as at that date is the greater, as a non-trading credit.

(9) That period is the accounting period in which falls whichever is the earliest of the following, that is to say—

(a) the earliest day after 31st March 1996 on which, under the terms on which the security was issued, the company holding the security is entitled to require it to be redeemed;

(b) the day on which the security is redeemed; and

(c) the day on which the company makes a disposal of that security.

(10) The repeal by this Act of the reference in any enactment to, or to any provision of, paragraph 5 of Schedule 4 to the Taxes Act 1988 shall not have effect in relation to amounts treated as paid before 1st April 1996.

(11) For the purposes of this paragraph, in relation to any company—

(a) the adjusted issue price of a deep discount security as at 31st March 1996 is whatever for the purposes of Schedule 4 to the Taxes Act 1988 would have been the adjusted issue price of that security for an income period beginning with 1st April 1996; and

(b) the adjusted closing value of a security as at 31st March 1996 is the amount which for the purposes of this Chapter is the opening value as at 1st April 1996 of the company's rights and liabilities under the loan relationship of the company that is represented by that security;

and sub-paragraph (7) of paragraph 5 above shall apply for the purposes of this sub-paragraph as it applies for the purposes of that paragraph.

(12) In this paragraph "deep discount security", "disposal" and "income period" have the same meanings as in Schedule 4 to the Taxes Act 1988.

Deep gain securities

20.—(1) This Chapter shall not affect the application of paragraph 5 of Schedule 11 to the Finance Act 1989 (charge on deep gain securities) in relation to any transfer or redemption occurring before 1st April 1996. 1989 c. 26.

(2) The repeal by this Act of section 65 of the Finance Act 1993 (deemed transfers in the case of deep gain securities) and of enactments relating to that section shall not apply in relation to relevant days falling before 1st April 1996; but for the purposes of that section and this sub-paragraph 31st March 1996 shall be deemed (where it would not otherwise be so) to be the last day of an accounting period. 1993 c. 34.

(3) Where—

(a) a company held a deep gain security on 31st March 1996,

(b) the security was not transferred or redeemed by that company on that date,

(c) the security is not one in relation to which that date is, or is deemed to be, a relevant day for the purposes of section 65 of the Finance Act 1993, and

(d) there is an amount which, if the company had made a transfer of that security on that date by selling it for its adjusted closing value, would have been treated under paragraph 5 of Schedule 11 to the Finance Act 1989 as income chargeable to tax under Case III or IV of Schedule D,

that amount shall be brought into account as a non-trading credit given for the purposes of this Chapter for the accounting period mentioned in sub-paragraph (4) below.

(4) That period is the accounting period in which falls whichever is the earliest of the following, that is to say—

(a) the earliest day after 31st March 1996 on which, under the terms on which the security was issued, the company holding the security is entitled to require it to be redeemed;

(b) the day on which the security is redeemed; and

(c) the day on which the company makes a disposal of that security.

(5) For the purposes of this paragraph the adjusted closing value of a deep gain security held by a company on 31st March 1996 shall be the amount which for the purposes of this Chapter is the opening value as at 1st April 1996 of the company's rights and liabilities under the relationship represented by that security; and sub-paragraph (7) of paragraph 5 above shall apply for the purposes of this sub-paragraph as it applies for the purposes of that paragraph.

(6) In this paragraph "deep gain security" and "transfer" have the same meanings as in Schedule 11 to the Finance Act 1989.

Convertible securities

21.—(1) This Chapter shall not affect—

1990 c. 29.

(a) the application of paragraph 12 of Schedule 10 to the Finance Act 1990 (charge in the case of convertible securities) in relation to any chargeable event occurring before 1st April 1996; or

(b) the application of paragraph 25 of that Schedule (relief in the case of convertible securities) in relation to any redemption occurring before that date.

(2) Where—

(a) a company held a qualifying convertible security on 31st March 1996,

(b) that date was not a date on which any chargeable event occurred in relation to that security, and

(c) there is an amount which, if there had been a chargeable event on that date, would have been treated under paragraph 12 of Schedule 10 to the Finance Act 1990 as income chargeable to tax under Case III or IV of Schedule D,

that amount shall be brought into account, in the case of that company, as a non-trading credit given for the purposes of this Chapter for the accounting period mentioned in sub-paragraph (3) below.

(3) That period is the accounting period in which falls whichever is the earliest of the following, that is to say—

(a) the earliest day after 31st March 1996 on which, under the terms on which the security was issued, the company holding the security is entitled to require it to be redeemed;

(b) the day on which the security is redeemed; and

(c) the day on which the company makes a disposal of that security.

(4) Where—

(a) any qualifying convertible security is redeemed, and

(b) that security is one in the case of which any amount falls to be brought into account under sub-paragraph (2) above,

an amount equal to that amount shall be brought into account, in the case of the company that issued the security, as a non-trading debit given for the purposes of this Chapter for the accounting period in which the redemption occurs.

(5) In this paragraph "chargeable event" and "qualifying convertible security" have the same meanings as in Schedule 10 to the Finance Act 1990.

Transitional and savings for Chapter II of Part II of the Finance Act 1993

1993 c. 34.

22.—(1) Chapter II of Part II of the Finance Act 1993 (exchange gains and losses) shall have effect in the case of any continuing loan relationship as follows.

(2) Subsection (1A) of section 127 of that Act (deemed variation of debt in respect of amounts accruing in respect of discounts and premiums) shall have effect in relation to the debt by reference to which the continuing loan relationship at any time subsists as if that debt is one to which the company became subject or entitled on 1st April 1996; and, accordingly, that subsection shall require the nominal amount of the debt outstanding to be treated as varied only where the time of the deemed variation is on or after 1st April 1996.

(3) Where section 127 of that Act has effect in relation to any debt by reference to which a continuing loan relationship at any time subsists, it shall so have effect, so far as the debt is one to which the company is deemed by virtue of sub-paragraph (2) above to have become subject or entitled on 1st April 1996, as if the nominal amount of the debt outstanding on that date were an amount equal to what it would have been if—

(a) sub-paragraph (2) above did not apply; and

(b) section 127(1A) of the Finance Act 1993 and the provisions to which it refers had always had effect. 1993 c. 34.

(4) The amendment by this Act of section 153(4) of the Finance Act 1993 (assets excluded from being qualifying assets) shall not apply as respects times before 1st April 1996; and, where a company holds an asset immediately before and on 1st April 1996 and that asset is one which falls to be treated as a qualifying asset by virtue of that amendment—

(a) the company shall be treated as having become entitled to that asset on that date; and

(b) the basic valuation of the asset shall be taken to be its market value on 31st March 1996 (instead of any amount given by section 159 of that Act of 1993);

and in this sub-paragraph "market value" has the same meaning as in the 1992 Act.

(5) The repeal by this Act of section 153(6) of the Finance Act 1993 (liabilities excluded from being qualifying liabilities) shall not have effect as respects times before 1st April 1996; and, where a company is subject to a liability immediately before and on 1st April 1996 and that liability is one which falls to be treated as a qualifying liability by virtue of that repeal, the company shall be treated as having become subject to that liability on that date.

(6) The repeal by this Act of paragraphs 4 to 6 of Schedule 17 to the Finance Act 1993 (exchange gains and losses) shall not have effect in relation to any disposal before 1st April 1996.

Carrying back non-trading losses against exchange profits etc.

23.—(1) Subject to sub-paragraph (2) below, for the purpose of setting any amount against exchange profits for an accounting period beginning before 1st April 1996—

(a) a claim may be made under section 131(5) or (6) of the Finance Act 1993 (treatment of exchange gains and losses) in relation to any relievable amount for an accounting period ending on or after 1st April 1996; and

(b) the provisions of sections 129 to 133 of that Act shall be deemed to have effect for the purposes of that claim without the amendments made by Schedule 14 to this Act.

(2) If any claim is made by virtue of sub-paragraph (1) above in respect of the relievable amount for an accounting period beginning on or after 1st April 1996, then an amount equal to the amount to which the claim relates shall be deemed, for the purposes of the computation falling to be made for that accounting period under section 82 of this Act, to be brought into account for that period as a non-trading credit.

(3) The references in this paragraph and paragraph 24 below to provisions of the Finance Act 1993 shall have effect as including references to those sections as applied by the provisions of Chapter II of Part IV of the Finance Act 1994. 1994 c. 9.

(4) Sub-paragraph (3) above is without prejudice to the generality of section 20(2) of the Interpretation Act 1978 (references to other enactments). 1978 c. 30.

Exchange losses etc. carried forward from before 1st April 1996

24. Where there is any amount which apart from this Chapter would fall under section 131(12) of the Finance Act 1993 (carrying forward of exchange gains and losses) to be carried forward to an accounting period ending on or after 1st April 1996, that amount shall be treated in relation to that period as an amount carried forward to that period in pursuance of section 83(3) of this Act.

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Transitional for debt contracts and options to which Chapter II of Part IV of the Finance Act 1994 is applied

25.—(1) This paragraph applies in the case of any debt contract or option held by a company both immediately before and on 1st April 1996 if (apart from this Chapter)—

(a) the contract or option is an asset in the case of which the following condition is satisfied, that is to say, a gain accruing to the company on a disposal of that asset on 31st March 1996 would have fallen to be treated as a chargeable gain in relation to the company; or

(b) had there been a disposal of that asset on 31st March 1996, amounts with respect to it would have fallen to be brought into account for any accounting period beginning before 1st April 1996 in computing any profits or gains of the company from a trade carried on by it.

1994 c. 9.

(2) Chapter II of Part IV of the Finance Act 1994 (provisions relating to certain financial instruments) shall have effect in relation to the debt contract or option as if references in that Chapter to 1st April 1996 were references to the beginning of the company's first relevant accounting period.

(3) For the accounting period mentioned in sub-paragraph (2) above, section 158(2) to (5) of that Act (adjustments for changes of basis of accounting) shall have effect in relation to the debt contract or option as if—

(a) any reference to the new basis were a reference to the basis of accounting on which, as regards the contract or option, the company's profit or loss for the accounting period so mentioned is calculated;

(b) any reference to being or not being included in amount A for a preceding accounting period were a reference to being or not being taken into account as receipts or increases in value in computing the company's profits or losses for such a period; and

(c) any reference to being or not being included in amount B for a preceding accounting period were a reference to being or not being taken into account as deductions or reductions in value in computing the company's profits or losses for such a period.

(4) Expressions used in this paragraph and in Chapter II of Part IV of the Finance Act 1994 have the same meanings in this paragraph as in that Chapter.

PART II

INCOME TAX AND CAPITAL GAINS TAX

Application and interpretation of Part II

26.—(1) This Part of this Schedule (except paragraph 29) has effect for the purposes of income tax and capital gains tax but not for the purposes of corporation tax.

(2) In this Part of this Schedule—

1992 c. 12.

"the 1992 Act" means the Taxation of Chargeable Gains Act 1992;

"market value" has the same meaning as in the 1992 Act;

1989 c. 26.

"qualifying indexed security" has the meaning given by paragraph 2 of Schedule 11 to the Finance Act 1989; and

"relevant discounted security" has the meaning given for the purposes of Schedule 13 to this Act.

(3) References in this Part of this Schedule to a disposal within marriage are references to any disposal to which section 58 of the 1992 Act applies.

Qualifying indexed securities

27.—(1) This paragraph applies where—

(a) on 5th April 1996 any person ("the relevant person") held a qualifying indexed security;

(b) that person did not dispose of that security on that date and does not fall (apart from by virtue of this paragraph) to be treated for the purposes of the 1992 Act as having made a disposal of it on that date; and

(c) a relevant event occurs.

(2) For the purposes of this paragraph a relevant event occurs on the first occasion after 5th April 1996 when the relevant person, or a person to whom that person has made a disposal of the security within marriage, falls to be treated for the purposes of the 1992 Act as making a disposal (otherwise than within marriage) which is—

(a) a disposal of the security in question; or

(b) a disposal of any such asset as falls to be treated for the purposes of that Act as the same as that security.

(3) The amount of any chargeable gain or allowable loss which would have been treated as accruing to the relevant person if—

(a) he had made a disposal of the asset on 5th April 1996, and

(b) that disposal had been for a consideration equal to the market value of the asset,

shall be brought into account as one accruing to the person who makes the disposal constituting the relevant event in the year of assessment in which that event occurs.

28. For the purposes of Schedule 13 to this Act where—

(a) a person held a qualifying indexed security both on and immediately after 5th April 1996, and

(b) that security is a relevant discounted security,

the amount which that person shall be taken to have paid in respect of his acquisition of that security on or before 5th April 1996 shall be an amount equal to its market value on that date.

29. For the purposes of paragraph 2 of Schedule 10 to this Act, paragraphs 27 and 28 above shall have effect in relation to an authorised unit trust for the first of its accounting periods to end after 31st March 1996 as if references in those paragraphs to 5th April 1996 were references to 31st March 1996.

Transitional in relation to qualifying corporate bonds

30.—(1) This paragraph applies where—

(a) any person holds any asset on and immediately after 5th April 1996;

(b) that asset is one which came to be held by that person as a result of a transaction to which section 127 of the 1992 Act applies; and

(c) that asset falls from 5th April 1996 to be treated as a relevant discounted security but is neither a qualifying indexed security nor such that it would have fallen to be treated as a qualifying corporate bond in relation to any disposal of it on that date.

(2) Section 116 of the 1992 Act (reorganisations etc. involving qualifying corporate bonds) shall have effect as if—

(a) there had been a transaction on 5th April 1996 by which the person holding the asset had disposed of it and immediately re-acquired it;

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(b) the asset re-acquired had been a qualifying corporate bond; and

(c) the transaction had been a transaction to which section 127 of the 1992 Act would have applied but for section 116(5) of that Act.

Section 114.

SCHEDULE 16

SHARE OPTION SCHEMES APPROVED BEFORE PASSING OF THIS ACT

Preliminary

1.—(1) Subject to sub-paragraphs (2) and (3) below, this Schedule applies to any share option scheme approved by the Board before the day on which this Act is passed in consequence of their being satisfied that the scheme fulfils the requirements of Part IV of Schedule 9 to the Taxes Act 1988 (as well as such requirements of Parts I and II of that Schedule as apply in relation to the scheme).

(2) This Schedule shall not apply to a share option scheme if, before the end of 1996, the grantor gives notice to the Board that it is not to apply.

(3) Where a notice is given to the Board under sub-paragraph (2) above, the scheme shall, with effect from the day on which the notice is given, cease to be approved.

Limit on aggregate value of options

2.—(1) A scheme to which this Schedule applies shall have effect, notwithstanding anything included in it to the contrary, as if it provided that no person shall, on or after the day on which this Act is passed, obtain rights under it which would, at the time they are obtained, cause the aggregate market value of the shares which that person may acquire in pursuance of rights obtained under the scheme or under any other share option scheme, not being a savings-related share option scheme, approved under Schedule 9 to the Taxes Act 1988 and established by the grantor or an associated company of the grantor (and not exercised) to exceed or further exceed £30,000.

(2) Sub-paragraph (3) of paragraph 28 of Schedule 9 to the Taxes Act 1988 (market value of shares to be calculated as at time when rights obtained etc) shall have effect for the purposes of sub-paragraph (1) above as it has effect for the purposes of sub-paragraph (1) of that paragraph.

Price at which scheme shares may be obtained

3. A scheme to which this Schedule applies shall have effect, notwithstanding anything included in it to the contrary, as if it provided that the price at which scheme shares may be acquired by the exercise of a right obtained, on or after the day on which this Act is passed, under the scheme must not be manifestly less than the market value of shares of the same class at that time or, if the Board and the grantor agree in writing, at such earlier time or times as may be provided in the agreement.

Approval of the Board to alterations

4. For the purposes of paragraph 4 of Schedule 9 to the Taxes Act 1988 (approval not to have effect from the date of any alteration in the scheme unless the Board have approved the alteration) the alterations made by paragraphs 2 and 3 above in any scheme to which this Schedule applies shall be taken to have been approved by the Board before the day on which this Act is passed.

Interpretation

5.—(1) Section 187 of the Taxes Act 1988 (interpretation of sections 185 and 186 and Schedules 9 and 10) applies for the purposes of this Schedule as it applies for the purposes of sections 185 and 186 of, and Schedules 9 and 10 to, that Act.

(2) In this Schedule "scheme shares" has the same meaning as in Part IV of Schedule 9 to the Taxes Act 1988.

SCHEDULE 17

Section 128.

(Inserted as: Schedule 1B to the Taxes Management Act 1970)

CLAIMS FOR RELIEF INVOLVING TWO OR MORE YEARS

Preliminary

1.—(1) In this Schedule—

(a) any reference to a claim includes a reference to an election or notice; and

(b) any reference to the amount in which a person is chargeable to tax is a reference to the amount in which he is so chargeable after taking into account any relief or allowance for which a claim is made.

(2) For the purposes of this Schedule, two or more claims to which this Schedule applies which are made by the same person are associated with each other in so far as the same year of assessment is the earlier year in relation to each of those claims.

(3) In sub-paragraph (2) above, any reference to claims to which this Schedule applies includes a reference to amendments and revocations to which paragraph 4 below applies.

Loss relief

2.—(1) This paragraph applies 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").

(2) Section 42(2) of this Act shall not apply in relation to the claim.

(3) The claim shall relate to the later year.

(4) Subject to sub-paragraph (5) below, the claim shall be for an amount equal to the difference between—

(a) the amount in which the person is chargeable to tax for the earlier year ("amount A"); and

(b) the amount in which he would be so chargeable on the assumption that effect could be, and were, given to the claim in relation to that year ("amount B").

(5) Where effect has been given to one or more associated claims, amounts A and B above shall each be determined on the assumption that effect could have been, and had been, given to the associated claim or claims in relation to the earlier year.

(6) Effect shall be given to the claim in relation to the later year, whether by repayment or set-off, or by an increase in the aggregate amount given by section 59B(1)(b) of this Act, or otherwise.

(7) For the purposes of this paragraph, any deduction made under section 62(2) of the 1992 Act (death: general provisions) in respect of an allowable loss shall be deemed to be made in pursuance of a claim requiring relief to be given in respect of that loss.

Relief for fluctuating profits of farming etc.

3.—(1) This paragraph applies where a person who is or has been carrying on a trade of farming or market gardening claims that subsection (2) or (3) of section 96 of the principal Act shall have effect in relation to his profits from that trade for two consecutive years of assessment ("the earlier year" and "the later year").

(2) The claim shall relate to the later year.

(3) Subject to sub-paragraph (4) below, in so far as the claim relates to the profits of the earlier year, the claim shall be for an amount equal to the difference between—

(a) the amount in which the person is chargeable to tax for the earlier year ("amount A"); and

(b) the amount in which he would be so chargeable on the assumption that effect could be, and were, given to the claim in relation to that year ("amount B").

(4) Where effect has been given to one or more associated claims, amounts A and B above shall each be determined on the assumption that effect could have been, and had been, given to the associated claim or claims in relation to the earlier year.

(5) In so far as the claim relates to the profits of the earlier year, effect shall be given to the claim in relation to the later year by an increase in the amount of tax payable or, as the case may require, in the aggregate amount given by section 59B(1)(b) of this Act.

(6) Where this paragraph applies twice in relation to the same year of assessment, the increase or reduction in the amount of tax payable for that year which is required by sub-paragraph (5) above on the earlier application shall be disregarded in determining amounts A and B above for the purposes of the later application.

Relief claimed by virtue of section 96(9)

4.—(1) This paragraph applies where—

(a) a person who claims that subsection (2) or (3) of section 96 of the principal Act shall have effect for two consecutive years of assessment ("the earlier year" and "the later year") makes or amends a claim for relief under any other provision of the Income Tax Acts for either of those years; and

(b) the making or amendment of the claim would be out of time but for subsection (9) of that section.

(2) The claim or amendment shall relate to the later year.

(3) Subject to sub-paragraph (4) below, in so far as the claim or amendment relates to income of the earlier year, the amount claimed, or (as the case may be) the increase or reduction in the amount claimed, shall be equal to the difference between—

(a) the amount in which the person is chargeable to tax for the earlier year ("amount A"); and

(b) the amount in which he would be so chargeable on the assumption that effect could be, and were, given to the claim or amendment in relation to that year ("amount B").

(4) Where effect has been given to one or more associated claims, amounts A and B above shall each be determined on the assumption that effect could have been, and had been, given to the associated claim or claims in relation to the earlier year.

(5) In so far as the claim or amendment relates to income of the earlier year, effect shall be given to the claim or amendment in relation to the later year by an increase in the amount of tax payable or, as the case may require, in the aggregate amount given by section 59B(1)(b) of this Act.

(6) In this paragraph "amend" includes revoke and "amendment" shall be construed accordingly.

Carry-back of post-cessation etc. receipts

5.—(1) This paragraph applies where a person who has received a sum to which section 108 of the principal Act applies (election for carry-back) makes an election under that section requiring tax to be charged as if the sum were received on the date on which the discontinuance took place or, as the case may be, on the last day of the period at the end of which the change of basis took place; and in this paragraph—

"the earlier year" means the year in which the sum is treated as received;

"the later year" means the year in which the sum is received.

(2) The claim shall relate to the later year.

(3) Subject to sub-paragraph (4) below, the claim shall be for an amount equal to the difference between—

(a) the amount in which the person is chargeable to tax for the earlier year ("amount A"); and

(b) the amount in which he would be so chargeable on the assumption that effect could be, and were, given to the claim in relation to that year ("amount B").

(4) Where effect has been given to one or more associated claims, amounts A and B above shall each be determined on the assumption that effect could have been, and had been, given to the associated claim or claims in relation to the earlier year.

(5) In computing amount B for the purposes of this paragraph, no further deduction or relief shall be made or given in respect of any loss or allowance deducted in pursuance of section 105 of the principal Act.

(6) Effect shall be given to the claim in relation to the later year by an increase in the amount of tax payable.

Backward spreading of certain payments

6.—(1) This paragraph applies where a person who has received a payment to which any of the following sections applies, namely—

(a) section 534 of the principal Act (relief for copyright payments etc.);

(b) section 537A of that Act (relief for payments in respect of designs); and

(c) section 538 of that Act (relief for painters, sculptors and other artists),

makes a claim under subsection (1) of that section requiring that effect be given to the following provisions of that section in connection with that payment.

(2) The claim shall relate to the year of assessment in which the payment in question is receivable ("the payment year"); and for the purposes of this sub-paragraph a payment shall be regarded as receivable in the year of assessment in computing the amount of the profits or gains of which it would, but for the relevant section, be included.

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(3) Subject to sub-paragraph (4) below, in so far as the claim relates to the profits or gains of a year of assessment earlier than the payment year ("the earlier year"), the claim shall be for an amount equal to the difference between—

(a) the amount in which the person is chargeable to tax for the earlier year ("amount A"); and

(b) the amount in which he would be so chargeable on the assumption that effect could be, and were, given to the claim or amendment in relation to that year ("amount B").

(4) Where effect has been given to one or more associated claims, amounts A and B above shall each be determined on the assumption that effect could have been, and had been, given to the associated claim or claims in relation to the earlier year.

(5) In so far as the claim relates to the profits or gains of the earlier year, effect shall be given to the claim in relation to the payment year by an increase in the amount of tax payable.

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SCHEDULE 18

OVERDUE TAX AND EXCESSIVE PAYMENTS BY THE BOARD

The Taxes Management Act 1970

1970 c. 9.

1. In section 55 of the Taxes Management Act 1970 (recovery of tax not postponed) in subsection (1) (which specifies the appeals to which section 55 applies) for paragraph (b) (assessments under section 29) there shall be substituted—

"(b) an assessment to tax made otherwise than under section 9 of this Act,".

2.—(1) Section 59A of the Taxes Management Act 1970 (payments on account of income tax) shall be amended in accordance with the following provisions of this paragraph.

(2) In subsection (2) (requirement to make payments on account and determination, subject to subsections (4) and (4A), of the amount of such payments) for "(4) and (4A)" there shall be substituted "(4) to (4B)".

(3) In subsection (4A) (determination, subject to subsections (3) and (4), of amount of payments on account in the case of late or amended assessments), after "subsections (3) and (4) above" there shall be inserted "and subsection (4B) below".

(4) After subsection (4A) there shall be inserted—

"(4B) If as regards the year immediately preceding the year of assessment the taxpayer is assessed to income tax under section 29 of this Act in any amount, then, subject to subsections (3) and (4) above and to any subsequent application of this subsection, the amount of each payment on account shall be, and shall be deemed always to have been, the total of—

(a) the amount which, immediately before the making of the assessment under section 29, is the amount of that payment, and

(b) an amount equal to 50 per cent. of the amount in which he is assessed under that assessment;

and if that assessment is varied, the amount in which he is assessed under it shall be taken for the purposes of paragraph (b) above to be the amount of the assessment as varied."

(5) In subsection (5) (adjustments to be made where subsection (4A) applies) after "subsection (4A)" there shall be inserted "or (4B)".

3.—(1) Section 86 of the Taxes Management Act 1970 (interest on overdue income tax and capital gains tax) shall be amended in accordance with the following provisions of this paragraph. 1970 c. 9.

(2) In subsection (4) (subsection (5) to apply with respect to interest in cases where taxpayer makes a claim under section 59A(3) or (4) but an amount becomes payable by him under certain provisions of section 59B) in paragraph (b), after "payable by him" there shall be inserted "(i)" and at the end of that paragraph there shall be added "or

(ii) in accordance with section 59B(6) of this Act in respect of income tax assessed under section 29 of this Act."

(3) In subsection (6) (determination of what amount is payable in accordance with section 59B(3), (4) or (5)) after "section 59B(3), (4) or (5) of this Act" there shall be inserted "or, in respect of income tax assessed under section 29 of this Act, in accordance with section 59B(6) of this Act".

4.—(1) Section 88 of the Taxes Management Act 1970 (which relates to interest on tax recovered to make good loss due to the taxpayer's fault and which is superseded by section 86 of that Act, as substituted by the Finance Act 1995) shall cease to have effect. 1995 c. 4.

(2) In consequence of the repeal of section 88 of the Taxes Management Act 1970—

(a) section 88A of that Act (determinations under section 88) shall cease to have effect;

(b) in section 91 of that Act (effect of interest on reliefs) in subsection (1)—

(i) the words "or section 88" shall cease to have effect; and

(ii) for the words "those provisions", in each place where they occur, there shall be substituted "that section"; and

(c) in section 113 of that Act (form of returns and other documents) subsection (1C) shall cease to have effect.

The Taxes Act 1988

5. In section 307 of the Taxes Act 1988 (enterprise investment scheme and business expansion scheme: withdrawal of relief) in subsection (6) (application of section 86 of the Taxes Management Act 1970 to assessments made by virtue of section 307 as if the reckonable date were as specified in that subsection) for "the reckonable date" there shall be substituted "the relevant date".

6.—(1) Section 369 of the Taxes Act 1988 (MIRAS) shall be amended in accordance with the following provisions of this paragraph.

(2) In subsection (7)—

(a) for paragraph (a) (which applies section 29(3)(c) of the Taxes Management Act 1970) there shall be substituted—

"(a) section 29(1)(c) (excessive relief) as it has effect apart from section 29(2) to (10) of that Act;";

(b) in paragraph (b) (which applies section 30 of the Taxes Management Act 1970) after the words in parentheses there shall be inserted "apart from subsection (1B)";

(c) in paragraph (c) (which applies section 88 of the Taxes Management Act 1970) for "section 88" there shall be substituted "section 86"; and

(d) in the words following paragraph (d) after "as if it had been repaid" there shall be inserted "as respects a chargeable period".

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(3) After subsection (7) there shall be inserted—

"(8) In the application of section 86 of the Management Act by virtue of subsection (7) above in relation to sums due and payable by virtue of an assessment made for the whole or part of a year of assessment ("the relevant year of assessment") under section 29(1)(c) or 30 of that Act, as applied by that subsection, the relevant date—

(a) is 1st January in the relevant year of assessment in a case where the person falling within subsection (6) above has made a relevant interim claim; and

(b) in any other case, is the later of the following dates, that is to say—

(i) 1st January in the relevant year of assessment; or

(ii) the date of the making of the payment by the Board which gives rise to the assessment.

(9) In this section—

"financial year", in relation to any person, means a financial year of that person for the purposes of the relevant regulations;

"interim claim" means an interim claim within the meaning of the relevant regulations;

"relevant interim claim" means, in relation to an assessment made for a period coterminous with, or falling wholly within, a person's financial year, an interim claim made for a period falling wholly or partly within that financial year; and

"the relevant regulations" means regulations made under section 378(3) for the purposes of subsection (6) above."

7. In section 374A of the Taxes Act 1988 (interest which never has been relevant loan interest etc) in subsection (4) (which provides for the application of the Taxes Management Act 1970 to an assessment under subsection (3) of that section as if it were an assessment to income tax and as if certain other things were the case) the words from "and as if" onwards shall be omitted.

1970 c. 9.

8. In section 375 of the Taxes Act 1988 (interest ceasing to be relevant loan interest etc) in subsection (4) (which provides for the application of the Taxes Management Act 1970 to an assessment under subsection (3) of that section as it applies by virtue of section 374A(4) to an assessment under section 374A(3)) for "as it applies, by virtue of subsection (4) of section 374A, to an assessment under subsection (3) of that section" there shall be substituted "as if it were an assessment to income tax for the year of assessment in which the deduction was made".

9. In section 412(4) of the Taxes Act 1988 (group relief: power to assess under section 412(3) is without prejudice to the making of assessments under section 29(3)(c) of the Taxes Management Act 1970) for "section 29(3)(c)" there shall be substituted "section 29(1)(c)".

10. In section 588 of the Taxes Act 1988 (training courses: employee and employer may be assessed under section 29(3) of the Taxes Management Act 1970 if employee fails to comply with conditions for relief) for "section 29(3)" there shall be substituted "section 29(1)".

11.—(1) Schedule 14 to the Taxes Act 1988 (life assurance premium relief: provisions ancillary to section 266) shall be amended in accordance with the following provisions of this paragraph.

(2) In paragraph 6(2) (which provides for the application of the Taxes Management Act 1970 to an assessment under paragraph 6 of that Schedule as if it were an assessment to tax for the year of assessment in which the relief was given and as if certain other things were the case) the words from "and as if" onwards shall be omitted. 1970 c. 9.

(3) In paragraph 7(3) (which applies specified provisions of the Taxes Management Act 1970 to the payment of a sum claimed under section 266(5)(b))—

(a) for paragraph (a) (which applies section 29(3)(c) of the Taxes Management Act 1970) there shall be substituted—

"(a) section 29(1)(c) (excessive relief) as it has effect apart from section 29(2) to (10) of that Act;";

(b) in paragraph (b) (which applies section 30 of the Taxes Management Act 1970) after the words in parentheses there shall be inserted "apart from subsection (1B)";

(c) in paragraph (c) (which applies section 88 of the Taxes Management Act 1970) for "section 88" there shall be substituted "section 86"; and

(d) for the words following paragraph (d) there shall be substituted—

"shall apply in relation to an amount which is paid to any person by the Board as an amount recoverable by virtue of section 266(5)(b) but to which that person is not entitled as if it were income tax which ought not to have been repaid and, where that amount was claimed by that person, as if it had been repaid as respects a chargeable period as a relief which was not due."

(4) After paragraph 7(3) there shall be added—

"(4) In the application of section 86 of the Management Act by virtue of sub-paragraph (3) above in relation to sums due and payable by virtue of an assessment made for the whole or part of a year of assessment ("the relevant year of assessment") under section 29(1)(c) or 30 of that Act, as applied by that sub-paragraph, the relevant date—

(a) is 1st January in the relevant year of assessment in a case where the person falling within section 266(5)(b) has made a relevant interim claim; and

(b) in any other case, is the later of the following dates, that is to say—

(i) 1st January in the relevant year of assessment; or

(ii) the date of the making of the payment by the Board which gives rise to the assessment.

(5) In this paragraph—

"financial year", in relation to any person, means a financial year of that person for the purposes of the relevant regulations;

"interim claim" means an interim claim within the meaning of the relevant regulations;

"relevant interim claim" means, in relation to an assessment made for a period coterminous with, or falling wholly within, a person's financial year, an interim claim made for a period falling wholly or partly within that financial year;

"the relevant regulations" means regulations made under sub-paragraph (1) above."

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The Finance Act 1989

1989 c. 26.

12.—(1) Section 57 of the Finance Act 1989 (medical insurance: supplementary) shall be amended in accordance with the following provisions of this paragraph.

1970 c. 9.

(2) In subsection (3) (which applies specified provisions of the Taxes Management Act 1970 to the payment of an amount claimed under section 54(6)(b))—

(a) for paragraph (a) (which applies section 29(3)(c) of the Taxes Management Act 1970) there shall be substituted—

"(a) section 29(1)(c) (excessive relief) as it has effect apart from section 29(2) to (10) of that Act;";

(b) in paragraph (b) (which applies section 30 of the Taxes Management Act 1970) after the words in parentheses there shall be inserted "apart from subsection (1B)";

(c) in paragraph (c) (which applies section 88 of the Taxes Management Act 1970) for "section 88" there shall be substituted "section 86"; and

(d) for the words following paragraph (d) there shall be substituted—

"shall apply in relation to an amount which is paid to any person by the Board as an amount recoverable by virtue of section 54(6)(b) above but to which that person is not entitled as if it were income tax which ought not to have been repaid and, where that amount was claimed by that person, as if it had been repaid as respects a chargeable period as a relief which was not due."

(3) After subsection (3) there shall be inserted—

"(3A) In the application of section 86 of the Taxes Management Act 1970 by virtue of subsection (3) above in relation to sums due and payable by virtue of an assessment made under section 29(1)(c) or 30 of that Act, as applied by that subsection, the relevant date—

(a) in a case where the person falling within section 54(6) above has made any interim claim, within the meaning of regulations made under subsection (1) and section 54(4) above, as respects some part of the year of assessment for which the assessment is made, is 1st January in that year of assessment; and

(b) in any other case, is the later of the following dates, that is to say—

(i) 1st January in the year of assessment for which the assessment is made; or

(ii) the date of the making of the payment by the Board which gives rise to the assessment."

13. In section 178 of the Finance Act 1989 (setting rates of interest) in subsection (2)(f) (which specifies the provisions of the Taxes Management Act 1970 to which the section applies) the words "88" shall be omitted.

The Finance Act 1991

1991 c. 31.

14.—(1) Section 33 of the Finance Act 1991 (vocational training) shall be amended in accordance with the following provisions of this paragraph.

(2) In subsection (3) (which applies specified provisions of the Taxes Management Act 1970 to the payment of an amount claimed under section 32(5)(b))—

(a) for paragraph (a) (which applies section 29(3)(c) of the Taxes Management Act 1970) there shall be substituted—

"(a) section 29(1)(c) (excessive relief) as it has effect apart from section 29(2) to (10) of that Act;";

(b) in paragraph (b) (which applies section 30 of the Taxes Management Act 1970) after the words in parentheses there shall be inserted "apart from subsection (1B)"; 1970 c. 9.

(c) in paragraph (c) (which applies section 88 of the Taxes Management Act 1970) for "section 88" there shall be substituted "section 86"; and

(d) for the words following paragraph (d) there shall be substituted—

"shall apply in relation to an amount which is paid to any person by the Board as an amount recoverable by virtue of section 32(5)(b) above but to which that person is not entitled as if it were income tax which ought not to have been repaid and, where that amount was claimed by that person, as if it had been repaid as respects a chargeable period as a relief which was not due."

(3) After subsection (3) there shall be inserted—

"(3A) In the application of section 86 of the Taxes Management Act 1970 by virtue of subsection (3) above in relation to sums due and payable by virtue of an assessment made under section 29(1)(c) or 30 of that Act, as applied by that subsection, the relevant date—

(a) in a case where the person falling within section 32(5) above has made any interim claim, within the meaning of regulations made under subsection (1) above, as respects some part of the year of assessment for which the assessment is made, is 1st January in that year of assessment; and

(b) in any other case, is the later of the following dates, that is to say—

(i) 1st January in the year of assessment for which the assessment is made; or

(ii) the date of the making of the payment by the Board which gives rise to the assessment."

The Taxation of Chargeable Gains Act 1992

15.—(1) Section 281 of the Taxation of Chargeable Gains Act 1992 (payment by instalments of tax on gifts) shall be amended in accordance with the following provisions of this paragraph. 1992 c. 12.

(2) In subsection (5), for paragraph (a) (tax payable by instalments to carry interest in accordance with Part IX of the Taxes Management Act 1970, except section 88) there shall be substituted—

"(a) tax payable by instalments by virtue of this section carries interest in accordance with Part IX of the Management Act as that Part applies where no election is made under subsection (2) above, and".

(3) In subsection (6) (power to pay at any time unpaid tax payable by instalments, with interest to the date of payment) after "with interest" there shall be inserted "(determined in accordance with subsection (5)(a) above)".

(4) In subsection (7) (cases where tax payable by instalments, with interest to the date of payment, becomes due and payable immediately) after "with interest" there shall be inserted "(determined in accordance with subsection (5)(a) above as if the tax were tax payable by instalments by virtue of this section)".

The Finance Act 1995

16. In section 73(4) of the Finance Act 1995 (power to apply certain provisions of the Taxes Management Act 1970 in relation to certain sums payable in connection with venture capital trusts)— 1995 c. 4.

(a) for "section 29(3)(c)" there shall be substituted "section 29(1)(c)";

(b) for "section 88" there shall be substituted "section 86"; and

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(c) after paragraph (d) there shall be added—

"and section 86 of that Act may be so applied with such modifications as respects the relevant date as may be specified in the regulations."

Commencement

17.—(1) Paragraphs 1 to 3, 6(2)(a) and (b), 8, 10, 11(3)(a) and (b), 12(2)(a) and (b), 14(2)(a) and (b) and 16(a) above have effect, subject to sub-paragraph (2) below—

(a) for the purposes of income tax and capital gains tax, as respects the year 1996-97 and subsequent years of assessment; and

(b) for the purposes of corporation tax, as respects accounting periods ending on or after the day appointed under section 199 of the Finance Act 1994 for the purposes of Chapter III of Part IV of that Act (self-assessment management provisions).

1994 c. 9.

(2) Paragraphs 1, 3, 6(2)(a) and (b), 10, 11(3)(a) and (b), 12(2)(a) and (b) and 14(2)(a) and (b) above, so far as relating to partnerships whose trades, professions or businesses were set up and commenced before 6th April 1994, has effect as respects the year 1997-98 and subsequent years of assessment.

(3) Paragraphs 4, 5, 6(2)(c) and (3), 11(3)(c) and (4), 12(2)(c) and (3), 13, 14(2)(c) and (3), 15 and 16(b) and (c) above have effect, subject to sub-paragraph (4) below—

(a) as respects the year 1996-97 and subsequent years of assessment; and

(b) in relation to any income tax or capital gains tax which—

(i) is charged by an assessment made on or after 6th April 1998; and

(ii) is for the year 1995-96 or any earlier year of assessment;

and where sub-paragraph (4) of paragraph 11, sub-paragraph (3) of paragraph 12, or sub-paragraph (3) of paragraph 14 has effect by virtue of paragraph (b) of this sub-paragraph it shall have effect with the substitution, in the provision inserted by that sub-paragraph, for "section 29(1)(c)" of "section 29(3)(c)".

(4) Paragraphs 4, 6(2)(c) and (3), 11(3)(c) and (4), 12(2)(c) and (3), 13 and 14(2)(c) and (3) above, so far as relating to partnerships whose trades, professions or businesses were set up and commenced before 6th April 1994 have effect—

(a) as respects the year 1997-98 and subsequent years of assessment; and

(b) in relation to any income tax which—

(i) is charged by an assessment made on or after 6th April 1998; and

(ii) is for the year 1995-96 or any earlier year of assessment.

(5) Paragraphs 7 and 11(2) above have effect—

(a) as respects the year 1996-97 and subsequent years of assessment; and

(b) subject to sub-paragraphs (6) and (7) below, in relation to any income tax or capital gains tax which—

(i) is charged by an assessment made on or after 6th April 1998; and

(ii) is for the year 1995-96 or any earlier year of assessment.

(6) Sub-paragraph (5)(b) above does not apply to paragraph 7 above so far as paragraph 7 provides for the omission of—

(a) paragraph (a) of subsection (4) of section 374A of the Taxes Act 1988, and

(b) the words "and as if" so far as they relate to paragraph (a) of that subsection.

(7) Sub-paragraph (5)(b) above does not apply to paragraph 11(2) above so far as paragraph 11(2) provides for the omission of—

(a) the words "sections 55(1) (recovery of tax not postponed) and", and

(b) the words "and as if—

(a) the assessment were among those specified in"

so far as those words relate to the words mentioned in paragraph (a) of this sub-paragraph.

(8) Paragraphs 6(2)(d), 11(3)(d), 12(2)(d) and 14(2)(d) above shall not apply in relation to any payment if the payment, or the claim on which it is made, was made before the day on which this Act is passed.

(9) Paragraph 9 above has effect as respects accounting periods ending on or after the day appointed under section 199 of the Finance Act 1994 for the purposes of Chapter III of Part IV of that Act (self-assessment management provisions). 1994 c. 9.

(10) Any power to make regulations exercisable by virtue of an amendment made by any of the preceding provisions of this Schedule may be exercised so as to make provision having effect in relation to any year of assessment in relation to which that provision has effect in accordance with sub-paragraphs (1) to (9) above.

SCHEDULE 19

Section 133.

SELF-ASSESSMENT: CLAIMS AND ENQUIRIES

Introductory

1. The Taxes Management Act 1970, as it has effect— 1970 c. 9.

(a) for the purposes of income tax and capital gains tax, as respects the year 1996-97 and subsequent years of assessment, and

(b) for the purposes of corporation tax, as respects accounting periods ending on or after the day appointed under section 199 of the Finance Act 1994 for the purposes of Chapter III of Part IV of that Act (self-assessment management provisions),

shall be amended in accordance with the following provisions of this Schedule.

Matters subject to enquiry

2. In each of sections 9A(1), 11AB(1), 12AC(1), 19A(1), 28A(1) and 28B(1) (matters subject to enquiry), after paragraph (b) there shall be inserted "or

(c) any claim or election included in the return (by amendment or otherwise)".

Power to call for documents

3.—(1) In section 19A (power to call for documents for the purposes of certain enquiries), after subsection (2) there shall be inserted the following subsection—

"(2A) The officer of the Board may also (whether or not he imposes a requirement under subsection (2) above), by a notice in writing, require the taxpayer, within such time (which shall not be less than 30 days) as may be specified in the notice—

(a) to produce to the officer such documents as are in the taxpayer's possession or power and as the officer may reasonably require for the purpose of making a determination for the purposes of section 28A(7A)(d) or 28B(6A)(d) of this Act, and

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(b) to furnish the officer with such accounts or particulars as he may reasonably require for that purpose."

(2) In subsections (3), (5), (7), (9)(a) and (10) of that section, for the words "subsection (2)", in each place where they occur, there shall be substituted "subsection (2) or (2A)".

(3) In subsection (4) of that section, for "subsection (2) or" there shall be substituted "subsection (2), (2A) or".

(4) In section 97AA(1) (penalty for failure to comply with notice), for "section 19A(2) or (3)" there shall be substituted "section 19A(2), (2A) or (3)".

Further amendments of section 28A

4.—(1) In section 28A (amendment of self-assessment where enquiries made in the case of individuals, trustees and companies)—

(a) in each of subsections (2)(a) and (4)(b), for "subsection (1)(b) above" there shall be substituted "subsection (1)(b) or (c) above";

(b) in subsection (4)(a), for "the tax contained in the taxpayer's self-assessment" there shall be substituted "any amount set out in the return"; and

(c) in subsection (5)(b), at the end there shall be inserted "and as to any claims or elections into which he has enquired."

(2) After subsection (4) of that section there shall be inserted the following subsections—

"(4A) If—

(a) any claim or election is included in the return,

(b) the officer is of opinion that the claim or election should be disallowed in whole or in part but that its disallowance to the extent he thinks appropriate would not require any amendment of the taxpayer's self-assessment, and

(c) the claim or election, so far as the officer thinks it should be disallowed, is not, before the end of the period mentioned in subsection (3) above, amended to the officer's satisfaction or withdrawn,

the officer shall, before the end of the period mentioned in subsection (4) above, give notice to the taxpayer of the extent to which he is disallowing the claim or election.

(4B) Subsection (4A)(c) above is without prejudice to any provision by virtue of which any claim or election is irrevocable or unamendable."

(3) Immediately before subsection (8) of that section there shall be inserted the following subsections—

"(7A) Where, in the case of any return made in respect of any chargeable period—

(a) alternative methods are allowed by the Tax Acts for bringing amounts into account in that return,

(b) the return is made or amended using one of those methods,

(c) a return could have been made in that case using an alternative method, and

(d) an officer of the Board determines which of the alternative methods is to be used by the Board in relation to the taxpayer for that period,

any enquiry into that return or into an amendment of it shall be conducted, and this section shall have effect, as if the only method allowed for the purposes of the Tax Acts were the method determined by the officer.

(7B) For the purposes of subsection (7A) above the cases where the Tax Acts allow alternative methods for bringing amounts into account in a return are—

(a) the case where those amounts may be brought into account either—

(i) in making a computation for the purposes of Case I or II of Schedule D; or

(ii) in making a computation for the purposes of any of Cases III to V of that Schedule;

and

(b) the case where the computation in which amounts are brought into account may be either—

(i) a computation for the purposes of Case I of Schedule D; or

(ii) a computation for the purpose of applying the basis (commonly called the I minus E basis) under which a company carrying on life assurance business or capital redemption business may be charged to tax on that business otherwise than under Case I of Schedule D.

(7C) In subsection (7B) above—

'life assurance business' includes annuity business within the meaning of Chapter I of Part XII of the principal Act; and

'capital redemption business' means any capital redemption business, within the meaning of section 458 of that Act, which is business to which that section applies."

Further amendments of section 28B

5.—(1) In section 28B (amendment of partnership statement following enquiry)—

(a) in subsection (3)(b), for "subsection (1)(b) above" there shall be substituted "subsection (1)(b) or (c) above"; and

(b) in subsection (5)(b), at the end there shall be inserted "and as to any claims or elections into which he has enquired."

(2) After subsection (6) of that section there shall be inserted the following subsections—

"(6A) Where, in the case of any return made in relation to any period of account—

(a) alternative methods are allowed by the Tax Acts for bringing amounts into account in that return,

(b) the return is made or amended using one of those methods,

(c) a return could have been made in that case using an alternative method, and

(d) an officer of the Board determines which of the alternative methods is to be used by the Board in relation to the partnership for that period,

any enquiry into that return or into an amendment of it shall be conducted, and this section shall have effect, as if the only method allowed for the purposes of the Tax Acts were the method determined by the officer.

(6B) In subsection (6A) above 'period of account' has the same meaning as in section 12AB of this Act; and subsection (7B) of section 28A of this Act applies for the purposes of subsection (6A) above as it applies for the purposes of subsection (7A) of that section."

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Right of appeal against notice disallowing claim in return

6.—(1) In subsection (1) of section 31 (appeals)—

(a) after paragraph (a) there shall be inserted the following paragraph—

"(aa) a decision contained in a notice under section 28A(4A) of this Act disallowing a claim or election in whole or in part, or";

and

(b) in the words after paragraph (c), for "amendment or" there shall be substituted "amendment, the notice under section 28A(4A) of this Act or, as the case may be, the notice of".

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

"(1AA) The matters that may be questioned on any appeal against—

(a) an amendment under subsection (2) or (4) of section 28A of this Act,

(b) a decision contained in a notice under subsection (4A) of that section disallowing a claim or election in whole or in part, or

(c) an amendment under section 28B(3) or 30B(1) of this Act,

do not include any determination made for the purposes of section 28A(7A)(d) or 28B(6A)(d) of this Act."

(3) In subsection (5) of that section, the words "against any assessment" shall be omitted.

7. In section 50 (procedure on appeals), after subsection (7) there shall be inserted the following subsection—

"(7A) If, on appeal, it appears to the Commissioners that a claim or election specified in a notice under section 28A(4A) of this Act should have been allowed or disallowed to an extent different from that specified in the notice, the claim or election shall be allowed or disallowed accordingly to the extent that appears to them appropriate, but otherwise the decision in the notice shall stand good."

Claims not included in returns

8.—(1) In Schedule 1A (claims not included in returns), in paragraph 4 (giving effect to claims and amendments), in sub-paragraph (1) for "(1A) and (3)" there shall be substituted "(1A), (3) and (4)".

(2) In sub-paragraph (2) of that paragraph, for "sub-paragraph (3)" there shall be substituted "sub-paragraphs (3) and (4)".

(3) After sub-paragraph (3) there shall be inserted the following sub-paragraph—

"(4) Nothing in this paragraph applies in relation to a claim or an amendment of a claim if the claim is not one for discharge or repayment of tax."

9.—(1) In paragraph 7 of Schedule 1A (amendment of claims where enquiries made), after sub-paragraph (3), there shall be inserted the following sub-paragraphs—

"(3A) If, in the case of a claim which is not a claim for discharge or repayment of tax—

(a) the officer is of opinion that the claim should be disallowed in whole or in part, and

(b) the claim, so far as the officer thinks it should be disallowed, is not, before the end of the period mentioned in sub-paragraph (2) above, amended to the officer's satisfaction or withdrawn,

the officer shall, before the end of the period mentioned in sub-paragraph (3) above, give notice to the taxpayer of the extent to which he is disallowing the claim.

(3B) Sub-paragraph (3A)(b) above is without prejudice to any provision by virtue of which any claim is irrevocable or unamendable."

(2) In sub-paragraph (4)(b) of that paragraph, for "the amount which" there shall be substituted "whether the claim should be allowed in whole or in part and as to what amount (if any)".

Right of appeal against notice disallowing claim not in return

10.—(1) In paragraph 9 of Schedule 1A (appeals), for sub-paragraph (1) there shall be substituted the following sub-paragraph—

"(1) An appeal may be brought against—

(a) an amendment under paragraph 7(3) above, or

(b) a decision contained in a notice under paragraph 7(3A) above,

by giving notice to the officer within 30 days after the date on which the notice of amendment or, as the case may be, the notice under paragraph 7(3A) above was issued."

(2) In sub-paragraph (2) of that paragraph, for "making of the amendment under paragraph 7(3) above" there shall be substituted "date mentioned in sub-paragraph (1) above".

(3) In sub-paragraph (3) of that paragraph, for "under this paragraph" there shall be substituted "against an amendment under paragraph 7(3) above".

(4) After sub-paragraph (4) of that paragraph there shall be inserted the following sub-paragraph—

"(5) If, on appeal, it appears to the Commissioners that a claim specified in a notice under paragraph 7(3A) above should have been allowed or disallowed to an extent different from that specified in the notice, the claim shall be allowed or disallowed accordingly to the extent that appears to them appropriate, but otherwise the decision in the notice shall stand good."

SCHEDULE 20

Section 134.

SELF-ASSESSMENT: DISCRETIONS EXERCISABLE BY THE BOARD ETC.

The Taxes Act 1988

1. In section 24(2) of the Taxes Act 1988 (presumption as to sums being paid by way of premium unless the contrary is shown) for "is" there shall be substituted "can be".

2. In section 38(4) of the Taxes Act 1988 (assumptions as to benefits and payments relating to leases) in the words after paragraph (b), for "is" there shall be substituted "can be".

3. In section 65(4) of the Taxes Act 1988 (assessments under Cases IV and V of Schedule D: subsections (1) to (3) not to apply to a person who satisfies the

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Board that he is not domiciled in the United Kingdom etc.) for "on a claim made to the Board, satisfies the Board" there shall be substituted "makes a claim to the Board stating".

4. In section 74(1)(j) of the Taxes Act 1988 (Case I or II of Schedule D: no deduction in respect of debts), in sub-paragraph (i) (deduction allowed for a bad debt proved to be such) the words "proved to be such" shall cease to have effect.

5.—(1) In section 109A of the Taxes Act 1988 (relief for post-cessation expenditure) in subsection (4) (relief for debt taken into account in computing profits or gains and later released or proved to be bad), in the first sentence, for the words following "entitled" there shall be substituted "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—

(a) an amount equal to the amount released, or

(b) if he was entitled to only part of the benefit of the debt, an amount equal to an appropriate proportion of that amount."

(2) After that subsection there shall be inserted—

"(4A) 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 and gains of that trade, profession or vocation and to the benefit of which he is entitled, proves to be bad, then if—

(a) in making a claim for a year of assessment under subsection (1) above he gives notice that the debt was bad in any part of that year, and

(b) he has not given such a notice in respect of that debt in the making of any other such claim,

he shall be treated as making in that year a payment to which this section applies of an amount equal to the amount of the debt 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 sum."

6. In section 132(1) of the Taxes Act 1988 (emoluments for period of absence treated as emoluments for duties performed in the UK except in so far as it is shown that but for that absence they would have been emoluments for duties performed outside the UK) for "it is shown that, but for that absence, they would" there shall be substituted "they would, but for that absence".

7. In section 145(7) of the Taxes Act 1988 (living accommodation provided for employee deemed to be provided by reason of his employment for the purposes of section 145(1) unless it can be shown that it is a case falling within paragraph (a) or (b)) in paragraphs (a) and (b) the words "it can be shown that" shall cease to have effect.

8. In section 159 of the Taxes Act 1988 (pooled cars)—

(a) in subsection (1) (which provides that the section is to apply to any car in the case of which the inspector is satisfied, whether on a claim under that section or otherwise, that it has been included in a car pool) for the words from "in the case" to "that it" there shall be substituted "which"; and

(b) subsections (4) to (6) (claims and appeals) shall cease to have effect.

9. In section 161 of the Taxes Act 1988 (exceptions from charge under section 160 on beneficial loans)—

(a) in subsection (3) (exception for certain loans if it is shown that the interest rate is of a certain description) the words "it is shown that" shall cease to have effect; and

(b) in subsection (4) (exception for loan to employee's relative from which employee shows that he derived no benefit) the words "shows that he" shall cease to have effect.

10.—(1) In section 168 of the Taxes Act 1988 (interpretative provisions) in subsection (3) (exception from charge under Chapter II of Part V for any such payment or provision made by employer as can be shown to have been made in normal course of his domestic, family or personal relationships) for the words following "any such payment or provision" there shall be substituted "which is made by the employer, being an individual, in the normal course of his domestic, family or personal relationships".

(2) In subsection (6) of that section—

(a) in paragraph (b) (exception from charge for car made available by employer where it can be shown that the car was made available in normal course of his domestic, family or personal relationships) for "it can be shown that the car was" there shall be substituted "the car is"; and

(b) in paragraph (d) (similar exception for vans) for "it can be shown that the van was" there shall be substituted "the van is".

11. In section 186(10) of the Taxes Act 1988 (value of the proceeds of certain disposals)—

(a) for paragraph (b) there shall be substituted the following paragraph—

"(b) any other disposal falling within that subsection is not at arm's length,"; and

(b) in paragraph (c) for "that sub-paragraph" there shall be substituted "that subsection".

12. In section 231(3A) of the Taxes Act 1988 (restriction of tax credit where certain arrangements made by close investment-holding companies)—

(a) in the words preceding paragraph (a), the words "it appears to the inspector that" shall cease to have effect; and

(b) in the words following paragraph (b), for "appears to the inspector to be" there shall be substituted "is".

13. In section 257 of the Taxes Act 1988 (personal allowance)—

(a) in subsection (2) (claimant entitled to deduction if he proves that he is 65 or over), and

(b) in subsection (3) (claimant entitled to deduction if he proves that he is 75 or over),

the words "proves that he" shall cease to have effect.

14.—(1) Section 257A of the Taxes Act 1988 (married couple's allowance) shall be amended in accordance with the following provisions of this paragraph.

(2) In subsection (1) (claimant entitled to reduction if he proves that he is a married man whose wife is living with him) for the words from the beginning to "he is" there shall be substituted "If the claimant is, for the whole or any part of the year of assessment,".

(3) In—

(a) subsection (2) (claimant entitled to reduction if he proves that he is a married man whose wife is living with him and that either of them is 65 or over), and

(b) subsection (3) (similar provision on proof that claimant or wife is 75 or over),

for the words from the beginning to "and that" there shall be substituted "If the claimant is, for the whole or any part of the year of assessment, a married man whose wife is living with him, and".

15. In section 257E(1) of the Taxes Act 1988 (claimant entitled to relief if his wife lives with him and he proves that for the year 1989-90 he was entitled as described in paragraph (a) or (b))—

(a) the words "he proves" shall cease to have effect; and

(b) the word "that", in the first and third places where it occurs in each of paragraphs (a) and (b), shall cease to have effect.

16.—(1) Section 257F of the Taxes Act 1988 (transitional relief: effect of preceding sections where claimant who does not live with his wife proves that paragraphs (a) to (c) apply) shall be amended in accordance with the following provisions of this paragraph.

(2) The words "the claimant proves" shall cease to have effect.

(3) In paragraph (a)—

(a) for "that he" there shall be substituted "the claimant"; and

(b) the word "that" in the second place where it occurs shall cease to have effect.

(4) In paragraph (b) the word "that" in the first place where it occurs shall cease to have effect.

(5) In paragraph (c) the word "that" in the first and third places where it occurs shall cease to have effect.

17.—(1) Section 259 of the Taxes Act 1988 (additional relief in respect of children) shall be amended in accordance with the following provisions of this paragraph.

(2) In subsection (2) (claimant entitled to reduction if he proves that a qualifying child is resident with him) for the words from "if the claimant" to "he shall be entitled" there shall be substituted "if—

(a) the claimant is a person to whom this section applies, and

(b) a qualifying child is resident with him for the whole or a part of a year of assessment,

the claimant shall be entitled".

(3) In subsection (6) (circumstances in which the reference in subsection (5) to a child receiving full-time instruction includes a child undergoing training for a trade, profession or vocation) the second paragraph (inspector's power to require particulars of training) shall cease to have effect.

18. In section 261A(1) of the Taxes Act 1988 (person who proves that a qualifying child is resident with him in the year in which he and his wife separate is entitled to relief) for "who proves that a qualifying child is resident with him" there shall be substituted "with whom a qualifying child is resident".

19. In section 265(1) of the Taxes Act 1988 (claimant entitled to blind person's allowance if he proves that he is a registered blind person) the words "proves that he" shall cease to have effect.

20. In section 274(4) of the Taxes Act 1988 (effect of war insurance premiums on the limit on relief under section 266 or 273) in the second paragraph (definition of war insurance premiums: to include any part of any premium paid in respect of a life insurance policy which appears to the inspector to be attributable to risks arising from war or war service abroad) for "appears to the inspector to be" there shall be substituted "is".

21. In section 278(2) of the Taxes Act 1988 (bar on relief for non-residents not to apply to an individual who satisfies the Board that he or she is a Commonwealth citizen etc) the words "satisfies the Board that he or she" shall cease to have effect.

22. In section 306(2) of the Taxes Act 1988 (claim for relief in respect of eligible shares must be accompanied by a certificate issued by the company) for the words from the beginning to "accompanied by" there shall be substituted "No claim for relief in respect of eligible shares in a company may be made unless the person making the claim has received from the company".

23. In section 311(4) of the Taxes Act 1988 (application of section 306(2) to claims in respect of shares issued to the managers of an approved fund) for the words from "as if it required" to "accompanied by" there shall be substituted—

"(a) as if it required the certificate referred to in that section to be issued by the company to the managers; and

(b) as if it provided that no claim for relief may be made unless the person making the claim has received from the managers".

24. In section 381(4) of the Taxes Act 1988 (no relief unless it is shown that trade was on a commercial basis) the words "it is shown that" shall cease to have effect.

25.—(1) In section 384 of the Taxes Act 1988 (restrictions on right of set-off) in subsection (1) (no relief unless it is shown that trade was on a commercial basis and with a view to the realisation of profits) the words "it is shown that" shall cease to have effect.

(2) For subsection (9) of that section (conclusive evidence that a trade was carried on with a view to the realisation of profits) there shall be substituted—

"(9) Where at any time a trade is carried on so as to afford a reasonable expectation of profit, it shall be treated for the purposes of subsection (1) above as being carried on at that time with a view to the realisation of profits."

26. In section 393A of the Taxes Act 1988 (losses: set-off against profits of the same or an earlier accounting period)—

(a) in subsection (3)(b) (no relief unless trade was on commercial basis and with a view to the realisation of gain) for "it is shown that for" there shall be substituted "for"; and

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(b) in subsection (4), for paragraph (a) (conclusive evidence that a trade was carried on with a view to the realisation of gain) there shall be substituted—

"(a) where at any time a trade is carried on so as to afford a reasonable expectation of gain, it shall be treated as being carried on at that time with a view to the realisation of gain; and".

27. In section 397(3) of the Taxes Act 1988 (farming and market gardening: relief not to be restricted in certain cases)—

(a) for ", if it is shown by the claimant" there shall be substituted "in any case"; and

(b) for the word "that", at the beginning of each of paragraphs (a) and (b), there shall be substituted "where".

28.—(1) Section 488 of the Taxes Act 1988 (co-operative housing associations) shall be amended in accordance with the following provisions of this paragraph.

(2) For subsection (9) (which provides for a claim to be made to the inspector within two years and excludes the operation of section 42 of the Taxes Management Act 1970) there shall be substituted— 1970 c. 9.

"(9) A claim under this section may be made at any time not later than two years after the end of the year of assessment or accounting period to which, or to a part of which, it relates."

(3) In subsection (10) (no claim under the section to have effect unless it is proved that the conditions there specified are complied with) for the words from "no claim" to "it is proved that" there shall be substituted "no claim shall be made under this section unless".

(4) For subsection (11) (power of Board to direct that a claim shall have effect if they are satisfied that the conditions in subsection (10) are substantially complied with, and power to revoke the direction on subsequent information) there shall be substituted—

"(11) A housing association may make a claim under this section notwithstanding anything in subsection (10) above, if the association reasonably considers that the requirements of that subsection are substantially complied with.

(11A) If as a result of an enquiry—

(a) under section 11AB of the Management Act into a return, or an amendment of a return, in which a claim under this section by a housing association is included, or

(b) under paragraph 5 of Schedule 1A to that Act into a claim under this section by a housing association, or an amendment of such a claim,

an amendment is made to the association's self-assessment or, as the case may be, to the claim, the liability of all persons concerned to tax for all relevant years or accounting periods may also be adjusted by the making of assessments or otherwise."

(5) For subsection (12) (particulars required to be included in a claim may include an authority granted by the members for the use of information in their tax returns for determining the claim) there shall be substituted—

"(12) A housing association making a claim under this section may be required under or by virtue of section 11(1) of, or paragraph 2(5) of Schedule 1A to, the Management Act to deliver an authority, granted by all members of the association, for any relevant information contained in any return made by a member under the provisions of the Income Tax Acts to be used by an officer of the Board in such manner as he may think fit

in connection with any enquiry under section 11AB of, or paragraph 5 of Schedule 1A to, the Management Act, so far as relating to the association's claim under this section."

29.—(1) Section 489 of the Taxes Act 1988 (self-build societies) shall be amended in accordance with the following provisions of this paragraph.

(2) For subsection (7) (which excludes the operation of section 42 of the Taxes Management Act 1970 but provides for a claim to be made to the inspector within two years) there shall be substituted— 1970 c. 9.

"(7) A claim under this section may be made at any time not later than two years after the end of the year of assessment or accounting period to which, or to a part of which, it relates."

(3) In subsection (8) (no claim under the section to have effect unless it is proved that the conditions there specified are complied with) for the words from "no claim" to "it is proved that" there shall be substituted "no claim shall be made under this section unless".

(4) For subsection (9) (power of Board to direct that a claim shall have effect if they are satisfied that the conditions in subsection (8) are substantially complied with, and power to revoke the direction on subsequent information) there shall be substituted—

"(9) A self-build society may make a claim under this section notwithstanding anything in subsection (8) above, if the society reasonably considers that the requirements of that subsection are substantially complied with.

(9A) If as a result of an enquiry—

(a) under section 11AB of the Management Act into a return, or an amendment of a return, in which a claim under this section by a self-build society is included, or

(b) under paragraph 5 of Schedule 1A to that Act into a claim under this section by a self-build society or an amendment of such a claim,

an amendment is made to the society's self-assessment or, as the case may be, to the claim, the society's liability to tax for all relevant years or accounting periods may also be adjusted by the making of assessments or otherwise."

30. In section 503(6) of the Taxes Act 1988 (apportionments where a letting relates only in part to holiday accommodation) for "appear to the inspector, or on appeal the Commissioners, to be" there shall be substituted "are".

31. In section 570(2) of the Taxes Act 1988 (schemes for rationalizing industry: treatment of certain payments made under such schemes)—

(a) the words "on a claim it is shown in accordance with the provisions of Part II of Schedule 21 that" shall cease to have effect;

(b) after "the Tax Acts" there shall be inserted "and a claim is made to that effect,";

(c) for "that Schedule", where those words first occur, there shall be substituted "Schedule 21"; and

(d) at the end there shall be added—

"and paragraph 6 of that Schedule applies for the purposes of this subsection as it applies for the purposes of that Schedule."

32. In section 582(2)(b) of the Taxes Act 1988 (cases where retention of funding bonds is impracticable)—

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(a) the words "the Board are satisfied that" shall cease to have effect; and

(b) in sub-paragraph (i), for the words from the beginning to "them" there shall be substituted—

"(i) any such person shall be relieved from the obligation to retain bonds and account for income tax under that paragraph, on his furnishing to the Board".

33.—(1) Section 584 of the Taxes Act 1988 (relief for unremittable overseas income) shall be amended in accordance with the following provisions of this paragraph.

(2) For subsections (2) and (3) (the account to be taken of overseas income which the Board are satisfied is unremittable) there shall be substituted—

"(2) Subject to subsection (2A) below, where a person so chargeable makes a claim under this subsection in relation to any overseas income—

(a) which is unremittable; and

(b) to which subsection (1)(a) above will continue to apply notwithstanding any reasonable endeavours on his part,

then, in the first instance, account shall not be taken of that income, and tax shall be assessed, or, in the case of corporation tax, assessable, and shall be charged on all persons concerned and for all periods accordingly.

(2A) If on any date paragraph (a) or (b) of subsection (2) above ceases to apply to any part of any overseas income in relation to which a claim has been made under that subsection—

(a) that part of the income shall be treated as income arising on that date, and

(b) account shall be taken of it, and of any tax payable in respect of it under the law of the territory where it arises, according to their value at that date."

(3) In subsection (4) (company chargeable to corporation tax in respect of source of income that it has ceased to possess) for "a company becomes chargeable to corporation tax in respect of income from any source by virtue of subsections (2) and (3)" there shall be substituted "a person becomes chargeable to income tax or corporation tax in respect of income from any source by virtue of subsection (2) or (2A)".

(4) In subsection (5) (where payment made by ECGD in respect of income, conditions in subsection (2) treated as not satisfied) for the words following "treated as income" there shall be substituted "to which paragraphs (a) and (b) of subsection (2) above do not apply (and accordingly cannot cease to apply)".

(5) For subsection (6) (delivery of notices under subsection (2) and making of assessments required by such notices) there shall be substituted—

"(6) A claim under subsection (2) above—

(a) for the purposes of income tax, shall be made on or before the first anniversary of the 31st January next following the year of assessment in which the income arises;

(b) for the purposes of corporation tax, shall be made no later than two years after the end of the accounting period in which the income arises."

(6) In subsection (7) (charge to tax on executors and administrators) after "(2)" there shall be inserted "or (2A)".

(7) In subsection (8) (how to determine the amount of unremittable overseas income) for "(3)" there shall be substituted "(2A)".

34. In section 585(1) of the Taxes Act 1988 (relief for delayed remittances: claim may be made on showing that the conditions in paragraphs (a) to (c) are satisfied) for the words from "by making a claim" to "that is to say" there shall be substituted ", if the relevant conditions are satisfied, by making a claim require that the following provisions of this section shall apply; and for this purpose the relevant conditions are—".

35. In section 717(9) of the Taxes Act 1988 (which provides for section 713 to have effect for certain cases with the substitution of a new provision for subsections (3) to (6)) in the substituted subsection, for "an inspector decides is just and reasonable; and the jurisdiction of the General Commissioners or the Special Commissioners on any appeal shall include jurisdiction to review such a decision of the inspector" there shall be substituted "is just and reasonable".

36. In section 731(3) of the Taxes Act 1988 (cases of purchase and sale of securities where sections 732 to 734 do not apply)—

(a) in paragraph (b) (it is shown to the satisfaction of the Board that certain conditions are satisfied in relation to the purchase and sale) for the words from "it is shown" to "and that" there shall be substituted "the purchase and sale were each effected at the current market price, and"; and

(b) the words following paragraph (b) (appeals) shall cease to have effect.

37. In section 769(2)(d) of the Taxes Act 1988 (acquisitions of shares on death and certain gifts of shares to be left out of account in applying the rules in subsection (1) for ascertaining change in ownership of company)—

(a) for "and, if it is shown that the gift" there shall be substituted ", and any gift of shares which"; and

(b) the words "any gift of shares" shall cease to have effect.

38.—(1) Section 812 of the Taxes Act 1988 (withdrawal of right to tax credit of certain non-resident companies connected with unitary states) shall be amended in accordance with the following provisions of this paragraph.

(2) In subsection (4), paragraph (a) (one of the conditions for the withdrawal of the right to tax credit treated as being satisfied unless, on making a claim under section 213(3), the claimant proves otherwise to the satisfaction of the Board) shall cease to have effect.

(3) In subsection (7) (power to substitute one of two sets of provisions for subsections (3) and (4)) for the words following "there shall be substituted" there shall be substituted "either the following subsection—

"(3) A company shall be treated as having a qualifying presence in a unitary state if it is liable in such a state to a tax charged on its income or profits by whatever name called for any period ending after the relevant date for which that state charges tax.";

or the following subsections—

"(3) A company shall be treated as having a qualifying presence in a unitary state if it has its principal place of business in such a state at any time after the relevant date.

(4) For the purposes of subsection (3) above the principal place of business of a company shall include both the place where central management and control of the company is exercised and the place where the immediate day-to-day management of the company as a whole is exercised."."

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39. In section 815A of the Taxes Act 1988 (transfer of a non-UK trade) for subsections (2) to (4) there shall be substituted—

> "(2) Where gains accruing to company A on the transfer would have been chargeable to tax under the law of the relevant member State but for the Mergers Directive, this Part, including any arrangements having effect by virtue of section 788, shall apply as if the amount of tax, calculated on the required basis, which would have been payable under that law in respect of the gains so accruing but for that Directive, were tax payable under that law."

40. In Schedule 6 to the Taxes Act 1988 (taxation of directors and others in respect of cars) in sub-paragraphs (1) and (2) of paragraph 2 (reduction for use of car for business travel) for "it is shown to the inspector's satisfaction that the employee was required by the nature of his employment to use, and did use" there shall be substituted "the employee is required by the nature of his employment to use and does use".

41. In Schedule 7 to the Taxes Act 1988 (taxation of benefit from loans obtained by reason of employment) in paragraph 1(5) (benefit of loan not obtained by reason of employment if made by an individual and shown to have been made in normal course of his domestic, family or personal relationships) the words "and shown to have been made" shall cease to have effect.

42. In Schedule 12 to the Taxes Act 1988 (foreign earnings) in paragraph 2(2) (emoluments in respect of which deduction under section 193(1) allowed not to exceed such proportion as is shown to be reasonable) the words "shown to be" shall cease to have effect.

43. In Schedule 21 to the Taxes Act 1988 (tax relief in connection with schemes for rationalizing industry and other redundancy schemes), paragraph 3 (no relief in respect of payments under schemes unless certain amounts are shown) shall cease to have effect.

The Capital Allowances Act 1990

1990 c. 1.

44. In section 29(3) of the Capital Allowances Act 1990 (apportionments where a letting relates only in part to holiday accommodation) for "appear to the inspector, or on appeal the Commissioners, to be" there shall be substituted "are".

The Taxation of Chargeable Gains Act 1992

45. In the following provisions of this Schedule "the Gains Act" means the Taxation of Chargeable Gains Act 1992.

1992 c. 12.

46. In section 30(4) of the Gains Act (section not to apply if it is shown that there was no tax avoidance purpose) for "if it is shown that" there shall be substituted "in a case where".

47. In each of—

(a) subsections (5) and (6) of section 30 of the Gains Act (consideration to be increased or reduced by such amount as appears to the inspector etc to be just and reasonable),

(b) section 32(4)(b) of the Gains Act (costs in cases of part disposal to be such proportion as appears to the inspector etc to be just and reasonable), and

(c) subsections (7) and (8) of section 33 of the Gains Act (amounts to be reduced to such amount as appears to the inspector etc to be just and reasonable),

for "appears to the inspector, or on appeal the Commissioners concerned, to be" there shall be substituted "is".

48. In section 48 of the Gains Act (consideration due after time of disposal and irrecoverable consideration) for the words following "if any part of the consideration so brought into account" there shall be substituted "subsequently proves to be irrecoverable, there shall be made, on a claim being made to that effect, such adjustment, whether by way of discharge or repayment of tax or otherwise, as is required in consequence."

49. In section 49 of the Gains Act (contingent liabilities) for subsection (2) (adjustment to be made if it is shown to the satisfaction of the inspector that a contingent liability has become enforceable) there shall be substituted—

"(2) If any such contingent liability subsequently becomes enforceable and is being or has been enforced, there shall be made, on a claim being made to that effect, such adjustment, whether by way of discharge or repayment of tax or otherwise, as is required in consequence."

50. In section 52(4) of the Gains Act (apportionments by such method as appears to the inspector etc to be just and reasonable) the words "such method as appears to the inspector or on appeal the Commissioners concerned to be" shall cease to have effect.

51. In section 116(13) of the Gains Act (subsection (12) not to apply where inspector, being satisfied sum is comparatively small, so directs) the words "the inspector is satisfied that" and "and so directs," shall cease to have effect.

52.—(1) In section 122 of the Gains Act (distribution which is not a new holding) in subsection (2) (treatment of distributions which the inspector is satisfied are comparatively small) the words "the inspector is satisfied that" and "and so directs" shall cease to have effect.

(2) Subsection (3) of that section (appeals from decisions of inspectors under subsection (2)) shall cease to have effect.

(3) In subsection (4)(a) of that section (subsections (2) and (3) not to apply in certain cases) for "subsections (2) and (3)" there shall be substituted "subsection (2)".

53.—(1) In section 133 of the Gains Act (premiums on conversion of securities) in subsection (2) (treatment of premiums which the inspector is satisfied are comparatively small) the words "the inspector is satisfied that" and "and so directs" shall cease to have effect.

(2) Subsection (3) of that section (appeals from decisions of inspectors under subsection (2)) shall cease to have effect.

(3) In subsection (4)(a) of that section (subsections (2) and (3) not to apply in certain cases) for "subsections (2) and (3)" there shall be substituted "subsection (2)".

54. In each of sections 150(10)(a) and 150A(9)(a) of the Gains Act (reductions in relief to be apportioned in such a way as appears to the inspector etc to be just and reasonable) for "such a way as appears to the inspector, or on appeal to the Commissioners concerned, to be" there shall be substituted "a way which is".

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55. In section 164F(8)(a) of the Gains Act (section not to apply where it is shown that winding up etc is bona fide) the words "it is shown that" shall cease to have effect.

56. In section 164FG of the Gains Act (multiple claims for reductions under section 164A(2) or 164F(10A) of the Gains Act) in subsection (2) (reductions to be treated as claimed separately in such sequence as the claimant elects or an officer of the Board in default of an election determines) the words "or an officer of the Board in default of an election determines" shall cease to have effect.

57.—(1) In each of subsections (4) and (6) of section 176 of the Gains Act (losses or gains on disposals where there have been depreciatory transactions to be reduced to such extent as appears to the inspector etc to be just and reasonable) for "appears to the inspector, or, on appeal, the Commissioners concerned, to be" there shall be substituted "is".

(2) In subsection (5) of that section (footing on which decision under subsection (4) is to be made) for "The inspector or the Commissioners shall make the decision under subsection (4) above" there shall be substituted "A reduction under subsection (4) above shall be made".

58. In section 181(1)(b) of the Gains Act (sections 178 and 179 not to apply where it is shown that merger was bona fide) the words "it is shown that", and the word "that" in the second place where it occurs, shall cease to have effect.

59.—(1) Section 222 of the Gains Act (relief on disposal of residence and land up to the permitted area, which is 0.5 of a hectare) shall be amended in accordance with the following provisions of this paragraph.

(2) For subsection (3) (which provides for the permitted area in certain cases to be such area, larger than 0.5 of a hectare, as the Commissioners may determine) there shall be substituted—

> "(3) Where the area required for the reasonable enjoyment of the dwelling-house (or of the part in question) as a residence, having regard to the size and character of the dwelling-house, is larger than 0.5 of a hectare, that larger area shall be the permitted area."

(3) In subsection (5) (determination of individual's main residence)—

(a) paragraph (b) (which, subject to conclusive notice by the individual under paragraph (a), provides for the question to be determined by an inspector), and

(b) the words following that paragraph (right of appeal against inspector's determination),

shall cease to have effect.

(4) In subsection (6), paragraph (b) (further provision about the right of appeal against determinations under subsection (5)(b)) and the word "and" immediately preceding it shall cease to have effect.

60. In section 224(2) of the Gains Act (adjustment of relief given by section 223 for changes occurring during period of ownership) for "may be adjusted in such manner as the Commissioners concerned may consider to be just and reasonable" there shall be substituted "may be adjusted in a manner which is just and reasonable".

61. In section 226 of the Gains Act (relief in respect of private residence occupied by dependent relative before 6th April 1988) subsection (5) (power of inspector, before granting a claim for relief under that section, to require claimant to show that granting the claim will not preclude relief to claimant's wife or husband) shall cease to have effect.

62. In section 241(7) of the Gains Act (apportionments where a letting relates only in part to holiday accommodation) for "appear to the inspector, or on appeal the Commissioners, to be" there shall be substituted "are".

63.—(1) In section 271 of the Gains Act (miscellaneous exemptions) in subsections (1)(g) and (2), for "such extent as the Board are satisfied" there shall be substituted "the extent".

(2) In subsection (2) of that section, in the second paragraph, the words "the Board are satisfied that" shall cease to have effect.

64. In section 279(1) of the Gains Act (claimant for deduction in respect of gains accruing from the disposal of foreign assets must show that conditions in subsection (3) are satisfied) for paragraph (b) there shall be substituted—

"(b) the person charged or chargeable makes a claim, and

(c) the conditions set out in subsection (3) below are, so far as applicable, satisfied as respects those gains ("the qualifying gains");".

65. In section 280 of the Gains Act (payment of tax by instalments where consideration payable by instalments) for "if the person making the disposal satisfies the Board that he would otherwise suffer undue hardship, the tax on a chargeable gain accruing on the disposal may, at his option," there shall be substituted "at the option of the person making the disposal, the tax on a chargeable gain accruing on the disposal may".

66.—(1) Schedule 6 to the Gains Act (retirement relief) shall be amended in accordance with the following provisions of this paragraph.

(2) In paragraph 3, in sub-paragraphs (1), (3) and (4) (under each of which a person is treated as having retired on ill-health grounds if, on production of such evidence as the Board may reasonably require, the Board are satisfied as there mentioned)—

(a) the words "on production of such evidence as the Board may reasonably require, the Board are satisfied" shall cease to have effect, and

(b) for "that he" (in each place where those words occur) there shall be substituted "he".

(3) At the end of that paragraph there shall be added—

"(5) In any case where—

(a) an officer of the Board gives notice to any person under section 9A(1) of, or paragraph 5(1) of Schedule 1A to, the Management Act (notice of intention to enquire into a return or claim or an amendment of a return or claim), and

(b) the enquiry to any extent relates to the question whether or not a person falls to be treated as having retired on ill-health grounds by virtue of the foregoing provisions of this paragraph,

then, without prejudice to any other powers of such an officer in relation to such an enquiry, an officer of the Board may at the same or any subsequent time by notice in writing require that person, within such time (which shall not be less than 30 days) as may be specified in the notice, to produce such evidence relating to the question mentioned in paragraph (b) above as may reasonably be specified in the notice."

(4) In paragraph 10 (limitation of retirement relief in certain cases)—

(a) in sub-paragraph (1) for "appears to the Board to be" there shall be substituted "is"; and

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(b) in sub-paragraph (2) for "the Board shall have regard" there shall be substituted "regard shall be had".

67. In Schedule 8 to the Gains Act (leases) in paragraph 10(2) (presumption as to sums being paid by way of premium unless the contrary is shown) for the words following "in so far as" there shall be substituted "other sufficient consideration for the payment can be shown to have been given".

The Finance Act 1993

1993 c. 34.

68.—(1) In section 144 of the Finance Act 1993 (irrecoverable debts) in paragraph (b) of each of subsections (1) and (2) (cases where inspector is satisfied as to whole, or part, of a debt being irrecoverable) the words "the inspector is satisfied,", and the word "that" in the first place where it occurs, shall cease to have effect.

(2) In subsection (3)(b) of that section (debt to be treated as reduced by amount which was irrecoverable in the inspector's opinion) the words "in the opinion of the inspector" shall cease to have effect.

(3) Subsection (4) of that section (construction, for the purposes of appeals, of references in the section to the inspector) shall cease to have effect.

69.—(1) In section 145 of the Finance Act 1993, in subsections (1)(c) and (4)(b) (requirements that inspector is satisfied as to the recoverability of the outstanding amount) the words "the inspector is satisfied that" shall cease to have effect.

(2) In subsections (2)(b), (3)(b) and (5) of that section (opinion of inspector as to recoverability of the outstanding amount) the words "in the opinion of the inspector" shall cease to have effect.

(3) Subsection (6) of that section (construction, for the purposes of appeals, of references in the section to the inspector) shall cease to have effect.

70. In Schedule 15 to the Finance Act 1993 (exchange gains and losses: alternative calculations) in paragraph 3(4) (meaning of unremittable income), for paragraphs (a) to (c) there shall be substituted—

"(a) a claim under subsection (2) of section 584 of the Taxes Act 1988 (relief for unremittable income) has been made in relation to the income,

(b) paragraphs (a) and (b) of that subsection apply to it, and

(c) those paragraphs have not ceased to apply to it."

The Finance Act 1994

1994 c. 9.

71.—(1) Section 163 of the Finance Act 1994 (interest rate and currency contracts: irrecoverable payments) shall be amended in accordance with the following provisions of this paragraph.

(2) In subsection (1) (application of subsections (2) and (3) where inspector is satisfied as to irrecoverability of qualifying payment) for the words from "where" to "made" there shall be substituted "where a qualifying company—

(a) is entitled to a right to receive a qualifying payment, and

(b) makes a claim".

(3) In subsections (2) and (3) (treatment of irrecoverable amounts) in paragraph (a) (amount is considered to have become irrecoverable in the period), for "is considered to have" there shall be substituted "may reasonably be regarded as having".

(4) In subsection (4) (treatment of amounts later recovered), in paragraph (b) (the whole or any part of so much of the qualifying payment as was considered irrecoverable is recovered in a later accounting period) for "was considered irrecoverable" there shall be substituted "fell within paragraphs (a) and (b) of that subsection".

SCHEDULE 21

Section 135.

SELF-ASSESSMENT: TIME LIMITS

The Taxes Act 1988

1. In section 62A(3) of the Taxes Act 1988 (time limit for giving notice of a change of basis period) for the words following "The second condition is" there shall be substituted—

"(a) in the case of a trade, profession or vocation carried on by an individual, that notice of the accounting change is given to an officer of the Board in a return under section 8 of the Management Act on or before the day on which that return is required to be made and delivered under that section;

(b) in the case of a trade, profession or vocation carried on by persons in partnership, that notice of the accounting change is given to an officer of the Board in a return under section 12AA of that Act on or before the day specified in relation to that return under subsection (2) or (3) of that section."

2.—(1) Section 84 of the Taxes Act 1988 (relief for gifts to educational establishments) shall be amended in accordance with the following provisions of this paragraph.

(2) In subsection (3), in the words following paragraph (b) (relief not available unless donor makes claim within two years of making the gift) for "two years of making the gift" there shall be substituted "the period specified in subsection (3A) below".

(3) After that subsection there shall be inserted—

"(3A) The period mentioned in subsection (3) above is—

(a) in the case of a claim with respect to income tax, the period ending with the first anniversary of the 31st January next following the year of assessment in whose basis period the gift is made;

(b) in the case of a claim with respect to corporation tax, the period of two years beginning at the end of the accounting period in which the gift is made.

(3B) In paragraph (a) of subsection (3A) above "basis period" means—

(a) in relation to a year of assessment for which a basis period is given by sections 60 to 63, that basis period,

(b) in relation to a year of assessment for which no basis period is given by those sections, the year of assessment."

3.—(1) Section 101 of the Taxes Act 1988 (valuation of work in progress at discontinuance of profession or vocation) shall be amended in accordance with the following provisions of this paragraph.

(2) In subsection (2) (election may be made within 12 months after discontinuance) for "12 months after the discontinuance" there shall be substituted "the period specified in subsection (2A) below".

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(3) After that subsection there shall be inserted—

"(2A) The period mentioned in subsection (2) above is—

(a) in the case of an election for the purposes of income tax, the period ending with the first anniversary of the 31st January next following the year of assessment in which the profession or vocation is discontinued;

(b) in the case of an election for the purposes of corporation tax, the period of two years beginning at the end of the accounting period in which the profession or vocation is discontinued."

4. In section 257BB(5)(a) of the Taxes Act 1988 (notice to be given not later than six years after the end of the year of assessment to which it relates) for "not later than six years after" there shall be substituted "on or before the fifth anniversary of the 31st January next following".

5. In section 257D(9)(a) of the Taxes Act 1988 (notice to be given not later than six years after the end of the year of assessment to which it relates) for "not later than six years after" there shall be substituted "on or before the fifth anniversary of the 31st January next following".

6. In section 265(5)(a) of the Taxes Act 1988 (notice to be given not later than six years after the end of the year of assessment to which it relates) for "not later than six years after" there shall be substituted "on or before the fifth anniversary of the 31st January next following".

7. In section 306(1) of the Taxes Act 1988 (claim for relief in respect of eligible shares) as it has effect in relation to shares issued on or after 1st January 1994 (the enterprise investment scheme) for paragraph (b) (claim to be made not later than twelve months after the inspector authorises the issue of a certificate) there shall be substituted—

"(b) not later than the fifth anniversary of the 31st January next following that year of assessment".

8.—(1) Section 356B of the Taxes Act 1988 (residence basis: married couples) shall be amended in accordance with the following provisions of this paragraph.

(2) In subsection (2)(a) (election to be made before the end of the period of twelve months beginning with the end of the first year of assessment for which it is made or such longer period as the Board may in any particular case allow) for the words following "shall be made" there shall be substituted "on or before—

(i) the first anniversary of the 31st January next following the first year of assessment for which it is made, or

(ii) such later date as the Board may in any particular case allow,".

(3) In subsection (4)(b) (notice of withdrawal not to be given after the end of the period of twelve months beginning with the end of the first year of assessment for which it is given or such longer period as the Board may in any particular case allow) for the words following "shall not be given after" there shall be substituted—

"(i) the first anniversary of the 31st January next following the year of assessment for which it is given, or

(ii) such later date as the Board may in any particular case allow, and".

9. In section 356C(6) of the Taxes Act 1988, for paragraph (a) (election to have effect for the period in which it is made and subsequent periods) there shall be substituted—

"(a) shall be made on or before the first anniversary of the 31st January next following the year of assessment in which falls the first period for which it is made and shall have effect for that period and subsequent periods,".

10. In section 381(1) of the Taxes Act 1988 (claim to be made by notice given within two years after year of assessment in which loss sustained) for "within two years after" there shall be substituted "on or before the first anniversary of the 31st January next following".

11. In section 392(5) of the Taxes Act 1988 (claim to be made within six years after the year of assessment in question)—

(a) for "within six years after" there shall be substituted "on or before the fifth anniversary of the 31st January next following"; and

(b) for "not later than six years after" there shall be substituted "on or before the fifth anniversary of the 31st January next following".

12. In section 471 of the Taxes Act 1988 (exchange of securities in connection with conversion operations, nationalisation etc.) for subsection (2) (tax treatment under subsection (1) not to apply to a person who gives notice to the inspector that he desires not to be treated as mentioned in that subsection) there shall be substituted—

"(2) Subsection (1) above shall not apply to a person who elects, by notice given to an officer of the Board, not to be treated as mentioned in that subsection.

(2A) A notice under subsection (2) above—

(a) for the purposes of income tax, shall be given on or before the first anniversary of the 31st January next following the year of assessment in whose basis period the exchange takes place;

(b) for the purposes of corporation tax, shall be given no later than two years after the end of the accounting period in which the exchange takes place.

(2B) In paragraph (a) of subsection (2A) above "basis period" means—

(a) in relation to a year of assessment for which a basis period is given by sections 60 to 63, that basis period;

(b) in relation to a year of assessment for which no basis period is given by those sections, the year of assessment."

13.—(1) In section 472 of the Taxes Act 1988 (distribution of securities issued in connection with nationalisation etc.) in subsection (1) (dealer to be treated for tax purposes in the manner specified in subsections (2) and (3), unless he gives notice to the inspector that he desires not to be so treated) for "gives notice to the inspector not later than two years after the end of the chargeable period in which the distribution takes place that he desires" there shall be substituted "elects, by notice given to an officer of the Board,".

(2) After subsection (3) of that section there shall be inserted—

"(3A) A notice under subsection (1) above—

(a) for the purposes of income tax, shall be given on or before the first anniversary of the 31st January next following the year of assessment in whose basis period the distribution takes place;

(b) for the purposes of corporation tax, shall be given no later than two years after the end of the accounting period in which the distribution takes place.

(3B) In paragraph (a) of subsection (3A) above "basis period" means—

(a) in relation to a year of assessment for which a basis period is given by sections 60 to 63, that basis period;

(b) in relation to a year of assessment for which no basis period is given by those sections, the year of assessment."

14.—(1) Section 504 of the Taxes Act 1988 shall be amended in accordance with the following provisions of this paragraph.

(2) In subsection (6) (claim to be made within two years after the year of assessment or accounting period in which holiday accommodation is let) for "two years after that year or period" there shall be substituted "the time specified in subsection (6A) below".

(3) After subsection (6) there shall be inserted—

"(6A) The time mentioned in subsection (6) above is—

(a) in the case of a claim for the purposes of income tax, the period ending with the first anniversary of the 31st January next following the year of assessment in which the accommodation was let;

(b) in the case of a claim for the purposes of corporation tax, the period of two years beginning at the end of the accounting period in which the accommodation was let."

15.—(1) Section 524 of the Taxes Act 1988 (taxation of receipts from sale of patent rights) shall be amended in accordance with the following provisions of this paragraph.

(2) In subsection (2) (election to be made by notice served on the inspector not later than two years after end of chargeable period in which sum received)—

(a) for "the inspector not later than two years after the end of the chargeable period in which the sum was received" there shall be substituted "an officer of the Board within the period specified in subsection (2A) below"; and

(b) for "that chargeable period" there shall be substituted "the chargeable period in which it was received".

(3) After that subsection there shall be inserted—

"(2A) The period mentioned in subsection (2) above is—

(a) in the case of an election for the purposes of income tax, the period ending with the first anniversary of the 31st January next following the year of assessment in which the sum was received;

(b) in the case of an election for the purposes of corporation tax, the period of two years beginning at the end of the accounting period in which the sum was received."

(4) In subsection (4) (election to be made not later than two years after the end of the year of assessment in which the sum is paid) for "not later than two years after the end of" there shall be substituted "on or before the first anniversary of the 31st January next following".

16. In section 585(6) of the Taxes Act 1988 (no claim may be made more than six years after the end of the year of assessment in which the income to which it relates is received in the United Kingdom) for "more than six years after the end of" there shall be substituted "after the fifth anniversary of the 31st January next following".

17. In section 619(4) of the Taxes Act 1988 (election to be made before the end of the year of assessment in which qualifying premium paid) for "before the end of" there shall be substituted "on or before the 31st January next following".

18. In section 641(4) of the Taxes Act 1988 (election to be made not later than three months after the end of the year of assessment in which contributions are actually paid) for "not later than three months after the end of" there shall be substituted "on or before the 31st January next following".

19. In section 691(4) of the Taxes Act 1988 (election to be made within two years of the end of the year of assessment to which it relates) for "within two years of the end of" there shall be substituted "on or before the first anniversary of the 31st January next following".

20. In section 700(3) of the Taxes Act 1988 (time for making assessments, adjustments or claims shall not expire before the end of the third year following the year of assessment in which the administration of the estate was completed) for "third year" there shall be substituted "period of three years beginning with the 31st January next".

21.—(1) Section 781 of the Taxes Act 1988 (assets leased to traders and others) shall be amended in accordance with the following provisions of this paragraph.

(2) In subsection (8) (adjustment may be made at any time not more than six years from end of chargeable period in which payment made) for the words following "at any time" there shall be substituted "within the period specified in subsection (8A) below".

(3) After that subsection there shall be inserted—

"(8A) The period mentioned in subsection (8) above is—

(a) in the case of adjustments with respect to income tax, the period ending with the fifth anniversary of the 31st January next following the year of assessment in which the payment was made;

(b) in the case of adjustments with respect to corporation tax, the period of six years beginning at the end of the accounting period in which the payment was made."

22. In section 804(7) of the Taxes Act 1988 (claim for credit against tax for any year of assessment to be made within six years of the end of that year of assessment) for "within six years of the end of", in each place where those words occur, there shall be substituted "on or before the fifth anniversary of the 31st January next following".

23. In section 806(1) of the Taxes Act 1988 (claim to be made not later than six years from end of chargeable period for which income or gain falls to be charged to tax) for the words following "any income or chargeable gain" there shall be substituted—

"(a) shall, in the case of any income or chargeable gain which—

(i) falls to be charged to income tax for a year of assessment, or

(ii) would fall to be charged to income tax for a year of assessment if any income tax were chargeable in respect of the income or gain,

be made on or before the fifth anniversary of the 31st January next following that year of assessment;

(b) shall, in the case of any income or chargeable gain which—

(i) falls to be charged to corporation tax for an accounting period, or

(ii) would fall to be charged to corporation tax for an accounting period if any corporation tax were chargeable in respect of the income or gain,

be made not more than six years after the end of that accounting period."

24. In Schedule 11 to the Taxes Act 1988, in paragraph 12 (election to be made by notice given to the inspector within six years after the year of assessment in which payment made) for "the inspector within six years after" there shall be substituted "an officer of the Board on or before the fifth anniversary of the 31st January next following".

The Finance Act 1988 (c. 39)

25. In section 39(2)(b) of the Finance Act 1988 (election to be made not later than twelve months after the end of the first year of assessment for which it is to have effect) for "not later than twelve months after the end of" there shall be substituted "on or before the first anniversary of the 31st January next following".

The Capital Allowances Act 1990 (c. 1)

26.—(1) Section 25 of the Capital Allowances Act 1990 (qualifying expenditure) shall be amended in accordance with the following provisions of this paragraph.

(2) In subsection (3) (election to be made by notice given to the inspector not later than two years after the end of the chargeable period related to the incurring of expenditure) for "the inspector not later than two years after the end of that chargeable period" there shall be substituted "an officer of the Board within the period specified in subsection (3A) below".

(3) After subsection (3) there shall be inserted—

"(3A) The period mentioned in subsection (3) above is—

(a) for the purposes of income tax, the period ending with the first anniversary of the 31st January next following the year of assessment in which ends the chargeable period related to the incurring of the expenditure;

(b) for the purposes of corporation tax, the period of two years beginning at the end of the chargeable period related to the incurring of the expenditure."

27.—(1) Section 30 of the Capital Allowances Act 1990 (ships: first-year allowances) shall be amended in accordance with the following provisions of this paragraph.

(2) In subsection (1) (notices that may be given where first-year allowance falls to be made) for "the inspector not later than two years after the end of the period" there shall be substituted "an officer of the Board within the period specified in subsection (1A) below".

(3) After subsection (1) there shall be inserted—

"(1A) The period mentioned in subsection (1) above is—

(a) for the purposes of income tax, the period ending with the first anniversary of the 31st January next following the year of assessment in which ends the period of account for which the allowance mentioned in that subsection falls to be made;

(b) for the purposes of corporation tax, the period of two years beginning at the end of the accounting period for which the allowance mentioned in that subsection falls to be made."

28. For section 31(3) of the Capital Allowances Act 1990 (ships: notice to postpone writing-down allowance) there shall be substituted—

"(3) Where the shipowner has qualifying expenditure for a chargeable period in respect of his single ship trade, he may by notice given to an officer of the Board require the postponement of—

(a) the whole of the writing-down allowance to be made to him for that chargeable period, or

(b) so much of it as is specified in the notice.

(3A) A notice under subsection (3) above—

(a) for the purposes of income tax, shall be given on or before the first anniversary of the 31st January next following the year of assessment in which ends the chargeable period mentioned in that subsection;

(b) for the purposes of corporation tax, shall be given no later than two years after the end of the chargeable period mentioned in that subsection."

29.—(1) Section 33 of the Capital Allowances Act 1990 (ships: exclusion of section 31) shall be amended in accordance with the following provisions of this paragraph.

(2) For subsection (1) (notice to exclude section 31) there shall be substituted—

"(1) The shipowner may by notice given to an officer of the Board require that, with effect from the beginning of a chargeable period of a single ship trade, not being the chargeable period relating to the permanent discontinuance of that trade, section 31 shall not, or as the case may be, shall no longer apply."

(3) For subsection (4) (notice to have expenditure in respect of single ship trade attributed to actual trade) there shall be substituted—

"(4) The shipowner may by notice given to an officer of the Board require that an amount of expenditure specified in the notice, being less than the amount which, apart from this subsection, would be his qualifying expenditure in respect of a single ship trade for a chargeable period of that trade, shall be attributed to his actual trade."

(4) After subsection (5) there shall be substituted—

"(5A) A notice under subsection (1) or (4) above—

(a) for the purposes of income tax, shall be given on or before the first anniversary of the 31st January next following the year of assessment in which ends the chargeable period mentioned in that subsection;

(b) for the purposes of corporation tax, shall be given no later than two years after the end of the chargeable period mentioned in that subsection."

30.—(1) Section 37 of the Capital Allowances Act 1990 (election for certain machinery or plant to be treated as short life assets) shall be amended in accordance with the following provisions of this paragraph.

(2) In subsection (2) (elections)—

(a) in paragraph (c) (election may not be made more than two years after the end of the chargeable period in which the capital expenditure was incurred) for the words following "may not be made" there shall be substituted "after the end of the period specified in subsection (2A) below"; and

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(b) the words following paragraph (d) shall cease to have effect.

(3) After that subsection there shall be inserted—

"(2A) The period mentioned in subsection (2) above is—

(a) for the purposes of income tax, the period ending with the first anniversary of the 31st January next following the year of assessment in which ends the chargeable period related to the incurring of the capital expenditure concerned;

(b) for the purposes of corporation tax, the period of two years beginning at the end of the chargeable period related to the incurring of the capital expenditure concerned;

and if different parts of the capital expenditure are incurred at different times, only that part of the expenditure which is first incurred shall be taken into account for the purposes of this subsection."

31.—(1) Section 53 of the Capital Allowances Act 1990 (expenditure incurred by equipment lessor) shall be amended in accordance with the following provisions of this paragraph.

(2) In subsection (2) (election to be made by notice given to the inspector before the expiry of the period of two years beginning at the end of the chargeable period related to the incurring of the expenditure)—

(a) for "the inspector" there shall be substituted "an officer of the Board"; and

(b) for "of two years beginning at the end of the chargeable period related to the incurring of the expenditure referred to in subsection (1)(a) above" there shall be substituted "specified in subsection (2A) below".

(3) After that subsection there shall be inserted—

"(2A) The period mentioned in subsection (2) above is—

(a) for the purposes of income tax, the period ending with the first anniversary of the 31st January next following the year of assessment in which ends the chargeable period related to the incurring of the expenditure referred to in subsection (1)(a) above;

(b) for the purposes of corporation tax, the period of two years beginning at the end of the chargeable period related to the incurring of the expenditure referred to in subsection (1)(a) above."

32.—(1) Section 68 of the Capital Allowances Act 1990 (exclusion of certain expenditure relating to films, tapes and discs) shall be amended in accordance with the following provisions of this paragraph.

(2) In subsection (5) (claim to be made not later than two years after the end of the relevant period) for "not later than two years after the end of that period" there shall be substituted "within the period specified in subsection (5A) below".

(3) After that subsection there shall be inserted—

"(5A) The period mentioned in subsection (5) above is—

(a) for the purposes of income tax, the period ending with the first anniversary of the 31st January next following the year of assessment in which ends the relevant period mentioned in that subsection;

(b) for the purposes of corporation tax, the period of two years beginning at the end of the relevant period mentioned in that subsection."

(4) In subsection (9A)(b) (election to be made by giving notice to the inspector not later than two years after the end of the relevant period in which the film etc. is completed)—

(a) for "the inspector" there shall be substituted "an officer of the Board"; and

(b) for "not later than two years after the end of the relevant period in which the film, tape or disc is completed" there shall be substituted "within the period specified in subsection (9AA) below".

(5) After subsection (9A) there shall be inserted—

"(9AA) The period mentioned in subsection (9A)(b) above is—

(a) in the case of an election for the purposes of income tax, the period ending with the first anniversary of the 31st January next following the year of assessment in which ends the relevant period in which the film, tape or disc is completed;

(b) in the case of an election for the purposes of corporation tax, the period of two years beginning at the end of the relevant period in which the film, tape or disc is completed."

(6) In subsection (9B) for "(9A)(b)" there shall be substituted "(9AA)".

33. In section 129(2) of the Capital Allowances Act 1990 (election to be made by notice given to the inspector not more than two years after the end of the chargeable period related to the occurrence of the event) for the words following "by notice given to" there shall be substituted "an officer of the Board; and—

(a) an election under this subsection for the purposes of income tax shall be made on or before the first anniversary of the 31st January next following the year of assessment in which ends the chargeable period related to the occurrence of the event; and

(b) an election under this subsection for the purposes of corporation tax shall be made not more than two years after the end of the chargeable period related to the occurrence of the event."

34. In section 141(3) of the Capital Allowances Act 1990, in the second paragraph (election as respects an allowance for any year of assessment to be made by giving notice to the inspector not later than two years after the end of that year of assessment) for "the inspector not later than two years after the end of" there shall be substituted "an officer of the Board on or before the first anniversary of the 31st January next following".

The Taxation of Chargeable Gains Act 1992 (c. 12)

35. In section 35(6) of the Taxation of Chargeable Gains Act 1992 (elections under section 35(5) to be made by notice to the inspector within period ending 2 years after the end of the year of assessment or accounting period in which the disposal is made or at such later time as the Board may allow)—

(a) for "the inspector" there shall be substituted "an officer of the Board"; and

(b) for paragraphs (a) and (b) there shall be substituted—

"(a) in the case of an election for the purposes of capital gains tax, with the first anniversary of the 31st January next following the year of assessment in which the disposal is made;

(aa) in the case of an election for the purposes of corporation tax, 2 years after the end of the accounting period in which the disposal is made; or

(b) in either case, at such later time as the Board may allow;".

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36. In section 161 of the Taxation of Chargeable Gains Act 1992 (appropriations to and from stock) after subsection (3) there shall be inserted—

"(3A) An election under subsection (3) above shall be made—

(a) for the purposes of capital gains tax, on or before the first anniversary of the 31st January next following the year of assessment in which ends the period of account in which the asset is appropriated for the purposes of the trade as trading stock;

(b) for the purposes of corporation tax, within 2 years after the end of the accounting period in which the asset is appropriated for the purposes of the trade as trading stock;

and in paragraph (a) above "period of account" means a period for which the accounts of the trade are made up."

37. In section 242 of the Taxation of Chargeable Gains Act 1992 (small part disposals) after subsection (2) there shall be inserted—

"(2A) A claim under subsection (2) above shall be made—

(a) for the purposes of capital gains tax, on or before the first anniversary of the 31st January next following the year of assessment in which the transfer is made;

(b) for the purposes of corporation tax, within 2 years after the end of the accounting period in which the transfer is made."

38. In section 243 of the Taxation of Chargeable Gains Act 1992 (part disposal to authority with compulsory powers) after subsection (2) there shall be inserted—

"(2A) A claim under subsection (2) above shall be made—

(a) for the purposes of capital gains tax, on or before the first anniversary of the 31st January next following the year of assessment in which the transfer is made;

(b) for the purposes of corporation tax, within 2 years after the end of the accounting period in which the transfer is made."

39. In section 244 of the Taxation of Chargeable Gains Act 1992 (part disposal: consideration exceeding allowable expenditure) after subsection (2) there shall be inserted—

"(3) An election under subsection (2)(b) above shall be made—

(a) for the purposes of capital gains tax, on or before the first anniversary of the 31st January next following the year of assessment in which the part disposal is made;

(b) for the purposes of corporation tax, within 2 years after the end of the accounting period in which the part disposal is made."

40. In section 253 of the Taxation of Chargeable Gains Act 1992 (relief for loans to traders) after subsection (4) there shall be inserted—

"(4A) A claim under subsection (4) above shall be made—

(a) for the purposes of capital gains tax, on or before the fifth anniversary of the 31st January next following the year of assessment in which the payment was made;

(b) for the purposes of corporation tax, within 6 years after the end of the accounting period in which the payment was made."

41. In section 279 of the Taxation of Chargeable Gains Act 1992 (foreign assets: delayed remittances) for subsection (5) (no claim under section 279 to be made more than 6 years after end of year of assessment in which chargeable gain accrues) there shall be substituted—

"(5) No claim under this section in respect of a chargeable gain shall be made—

(a) in the case of a claim for the purposes of capital gains tax, at any time after the fifth anniversary of the 31st January next following the year of assessment in which the gain accrues; or

(b) in the case of a claim for the purposes of corporation tax, more than 6 years after the end of the accounting period in which the gain accrues."

42.—(1) Schedule 2 to the Taxation of Chargeable Gains Act 1992 shall be amended in accordance with the following provisions of this paragraph.

(2) In paragraph 4 (election for pooling) in sub-paragraph (11) (election to be made by notice to the inspector not later than the expiration of 2 years from the end of the year of assessment or accounting period of a company in which the first relevant disposal is made, or such further time as the Board may allow) for the words following "notice to" there shall be substituted "an officer of the Board given—

(a) in the case of an election for the purposes of capital gains tax, on or before the first anniversary of the 31st January next following the year of assessment in which the first relevant disposal is made;

(b) in the case of an election for the purposes of corporation tax, not later than the expiration of 2 years from the end of the accounting period in which the first relevant disposal is made; or

(c) in either case, within such further time as the Board may allow."

(3) In paragraph 17 (election for valuation at 6th April) in sub-paragraph (3) (election to be made by notice to the inspector given within 2 years from the end of the year of assessment or accounting period of a company in which the disposal is made, or such further time as the Board may by notice allow) for the words following "by notice to" there shall be substituted "an officer of the Board given—

(a) in the case of an election for the purposes of capital gains tax, on or before the first anniversary of the 31st January next following the year of assessment in which the disposal is made;

(b) in the case of an election for the purposes of corporation tax, within 2 years from the end of the accounting period in which the disposal is made; or

(c) in either case, within such further time as the Board may by notice allow."

43. In Schedule 4 to the Taxation of Chargeable Gains Act 1992 (deferred charges on gains before 31st March 1982) in paragraph 9(1) (time for making claims)—

(a) in paragraph (b)—

(i) for "any other case" there shall be substituted "the case of a disposal made by, or a gain treated as accruing to, a person chargeable to corporation tax"; and

(ii) the words "year of assessment or" shall be omitted;

(b) after paragraph (b) there shall be inserted—

"(c) in the case of a disposal made by, or a gain treated as accruing to, a person who is chargeable to capital gains tax, on or before the first anniversary of the 31st January next following the year of assessment in which the disposal in question is made or the gain in question is treated as accruing,"; and

(c) in the words following paragraph (b), after "period" there shall be inserted "or (as the case may be) on or before such later date".

44.—(1) Schedule 6 to the Taxation of Chargeable Gains Act 1992 (retirement relief etc.) shall be amended in accordance with the following provisions of this paragraph.

(2) In paragraph 2(1) (election to be made by notice given to the Board not more than 2 years after the end of the year of assessment in which the disposal occurred) for "not more than 2 years after the end of" there shall be substituted "on or before the first anniversary of the 31st January next following".

(3) In paragraph 5(2) (claim for relief to be made not later than 2 years after the end of the year of assessment in which the disposal occurred) for "not later than 2 years after the end of" there shall be substituted "on or before the first anniversary of the 31st January next following".

(4) In paragraph 12(5)(b) (election to be made by giving notice to the inspector not later than 2 years after the end of the year of assessment in which capital distribution received)—

(a) for "not later than 2 years after the end of" there shall be substituted "on or before the first anniversary of the 31st January next following"; and

(b) for "the inspector" there shall be substituted "an officer of the Board".

(5) In paragraph 16 (aggregation of spouse's interest in the business: election to be made by giving notice to the inspector not later than 2 years after the end of the year of assessment in which material disposal occurred)—

(a) in sub-paragraph (1)(e) for "not later than 2 years after the end of" there shall be substituted "on or before the first anniversary of the 31st January next following"; and

(b) in sub-paragraph (2) for "the inspector" there shall be substituted "an officer of the Board".

The Finance (No. 2) Act 1992 (c. 48)

45. For section 41(6) of the Finance (No. 2) Act 1992 (claim to be made not later than two years after the end of the relevant period in which the expenditure to which it relates becomes payable) there shall be substituted—

"(6) A claim under this section shall be made—

(a) for the purposes of income tax, on or before the first anniversary of the 31st January next following the year of assessment in which ends the relevant period in which the expenditure to which it relates becomes payable;

(b) for the purposes of corporation tax, not later than two years after the end of the relevant period in which the expenditure to which it relates becomes payable."

46. For section 42(6) of the Finance (No. 2) Act 1992 (claim to be made not later than two years after the end of the relevant period to which it relates) there shall be substituted—

"(6) A claim under this section shall be made—

(a) for the purposes of income tax, on or before the first anniversary of the 31st January next following the year of assessment in which ends the relevant period to which the claim relates,

(b) for the purposes of corporation tax, not later than two years after the end of the relevant period to which the claim relates,

and shall be irrevocable."

47.—(1) Schedule 10 to the Finance (No. 2) Act 1992 (furnished accommodation) shall be amended in accordance with the following provisions of this paragraph.

(2) In paragraph 10(4) (election or notice to be made or given by notice in writing to the inspector before the end of the period of one year beginning with the end of the year of assessment concerned or such longer period as the Board may in any particular case allow)—

(a) in paragraph (a) for the words following "must be made or given" there shall be substituted "on or before—

(i) the first anniversary of the 31st January next following the year of assessment concerned, or

(ii) such later date as the Board may in any particular case allow, and"; and

(b) in paragraph (b) for "the inspector" there shall be substituted "an officer of the Board".

(3) In paragraph 10, in sub-paragraph (5) (assessment not to be out of time if made before the end of the period of one year beginning with the day when the election was made or the notice given) for "before the end of the period of one year beginning with the day when" there shall be substituted "on or before the first anniversary of the 31st January next following the year of assessment in which".

(4) In paragraph 12(2) (election must be made in writing to the inspector before the end of the period of one year beginning with the end of the year of assessment for which it is made or such longer period as the Board may in any particular case allow)—

(a) in paragraph (b) for the words following "must be made" there shall be substituted "on or before—

(i) the first anniversary of the 31st January next following the year of assessment for which it is made, or

(ii) such later date as the Board may in any particular case allow, and"; and

(b) in paragraph (c) for "the inspector" there shall be substituted "an officer of the Board".

(5) In paragraph 12(4) (notice of withdrawal to be given in writing to the inspector before the end of the period of one year beginning with the end of the year of assessment for which it is given or such longer period as the Board may in any particular case allow)—

(a) in paragraph (a) for the words following "must be given" there shall be substituted "on or before—

(i) the first anniversary of the 31st January next following the year of assessment for which it is given, or

(ii) such later date as the Board may in any particular case allow,"; and

(b) in paragraph (b) for "the inspector" there shall be substituted "an officer of the Board".

(6) In paragraph 12, in sub-paragraph (6)(b) (notice of withdrawal deemed to be given on the last day of the period of one year beginning with the end of the year of assessment concerned) for "last day of the period of one year beginning with the end of" there shall be substituted "first anniversary of the 31st January next following".

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(7) In paragraph 12, in sub-paragraph (7) (assessment not to be out of time if made before the end of the period of one year beginning with the day when the election was made or the notice was given) for "before the end of the period of one year beginning with the day when" there shall be substituted "on or before the first anniversary of the 31st January next following the year of assessment in which".

The Finance Act 1994 (c. 9)

48.—(1) Section 118 of the Finance Act 1994 (expenditure on machinery or plant: notification) shall be amended in accordance with the following provisions of this paragraph.

(2) In subsection (3) (condition fulfilled with respect to a chargeable period if notice given to the inspector not later than two years after the end of the period) for "the inspector, in such form as the Board may require, not later than two years after the end of that period" there shall be substituted "an officer of the Board, in such form as the Board may require, within the period specified in subsection (3A) below".

(3) After subsection (3) there shall be inserted—

"(3A) A notice under subsection (3) above—

(a) for the purposes of income tax, shall be given on or before the first anniversary of the 31st January next following the year of assessment in which ends the chargeable period mentioned in that subsection;

(b) for the purposes of corporation tax, shall be given no later than two years after the end of the chargeable period mentioned in that subsection."

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SCHEDULE 22

SELF-ASSESSMENT: APPEALS

The Taxes Management Act 1970

1970 c. 9.

1. The Taxes Management Act 1970 shall be amended in accordance with paragraphs 2 to 10 below.

2. In section 19A (power to call for documents for purposes of certain enquiries), for subsection (11) there shall be substituted the following subsection—

"(11) The determination of the Commissioners of an appeal under subsection (6) above shall be final and conclusive (notwithstanding any provision having effect by virtue of section 56B of this Act)."

3. In section 28A (amendment of self-assessment where enquiries made), for subsections (6) and (7) there shall be substituted the following subsections—

"(6) At any time before a notice is given under subsection (5) above, the taxpayer may apply for a direction that the officer shall give such a notice within such period as may be specified in the direction.

(6A) Subject to subsection (7) below, an application under subsection (6) above shall be heard and determined in the same way as an appeal against an amendment of a self-assessment under subsection (2) or (4) above.

(7) The Commissioners hearing the application shall give the direction applied for unless they are satisfied that the officer has reasonable grounds for not giving the notice."

4. In section 31 (appeals in connection with assessments), for subsection (3) there shall be substituted the following subsection—

"(3) An appeal against an assessment made—

(a) by the Board, or

(b) under section 350 of the principal Act,

shall be to the Special Commissioners."

5. In section 33A (error or mistake in partnership statement), for subsection (8) there shall be substituted the following subsections—

"(8) Subject to subsection (8A) below, the determination of the Special Commissioners of an appeal under subsection (6) above shall be final and conclusive (notwithstanding any provision having effect by virtue of section 56B of this Act).

(8A) Subsection (8) above does not apply in relation to a point of law arising in connection with the computation of profits."

6. Section 42(12) and Schedule 2 (Commissioners to whom appeal lies where appeal is against amendment of claim not included in return) shall be omitted.

7. For section 47 there shall be substituted the following sections—

"Questions to be determined by Special Commissioners.

46B.—(1) In so far as the question in dispute on an appeal to which this section applies is a question which under this section is to be determined by the Special Commissioners, the question shall be determined by them.

(2) This section applies to—

(a) an appeal against an amendment under section 28A(2) or (4) of this Act of a self-assessment;

(b) an appeal against a decision contained in a notice under section 28A(4A) of this Act disallowing a claim or election in whole or in part;

(c) an appeal against an amendment under section 28B(3) or 30B(1) of this Act of a partnership statement;

(d) an appeal against an assessment to tax which is not a self-assessment;

(e) an appeal against an amendment under paragraph 7(3) of Schedule 1A to this Act of a claim or election made otherwise than by being included in a return;

(f) an appeal against a decision contained in a notice under paragraph 7(3A) of Schedule 1A to this Act disallowing in whole or in part a claim or election made otherwise than by being included in a return.

(3) Any question—

(a) of the value of any shares or securities in a company resident in the United Kingdom, other than shares or securities quoted in The Stock Exchange Daily Official List, and

(b) arising in relation to the taxation of chargeable gains (whether under capital gains tax or corporation tax) or in relation to a claim under the 1992 Act,

is a question to be determined by the Special Commissioners.

(4) Any question as to the application of any of the following provisions of the principal Act is a question to be determined by the Special Commissioners—

(a) Chapter IA or IB of Part XV (settlements);

(b) Part XVI (administration of estates);

(c) sections 740 and 743(1) (liability in respect of transfer of assets abroad);

(d) section 747(4)(a) (liability in respect of controlled foreign company).

(5) Any question as to the application of—

(a) section 830 of the principal Act, or

(b) section 276 of the 1992 Act,

(liability in relation to territorial sea and designated areas) is a question to be determined by the Special Commissioners.

Jurisdiction of Special Commissioners over certain claims included in returns.

46C.—(1) In so far as the question in dispute on an appeal to which this section applies concerns a claim made—

(a) to the Board, or

(b) under any of the provisions of the principal Act listed in subsection (3) below,

the question shall be determined by the Special Commissioners.

(2) This section applies to—

(a) an appeal against an amendment under section 28A(2) or (4) of this Act of a self-assessment;

(b) an appeal against an amendment under section 28B(3) or 30B(1) of this Act of a partnership statement.

(3) The provisions of the principal Act mentioned in subsection (1) above are—

(a) section 121(1) and (2) (management expenses of owner of mineral rights);

(b) sections 459 and 460 (exemption for certain friendly societies);

(c) section 467 (exemption for certain trade unions and employers' associations);

(d) sections 527, 534, 536 and 538 (reliefs in respect of royalties, copyright payments etc.);

(e) Chapter I of Part XVIII.

Questions to be determined by Lands Tribunal.

46D.—(1) In so far as the question in dispute on an appeal to which this section applies—

(a) is a question of the value of any land or of a lease of land, and

(b) arises in relation to the taxation of chargeable gains (whether under capital gains tax or corporation tax) or in relation to a claim under the 1992 Act,

the question shall be determined by the relevant Lands Tribunal.

(2) This section applies to—

(a) an appeal against an amendment under section 28A(2) or (4) of this Act of a self-assessment;

(b) an appeal against a decision contained in a notice under section 28A(4A) of this Act disallowing a claim or election in whole or in part;

(c) an appeal against an amendment under section 28B(3) or 30B(1) of this Act of a partnership statement;

(d) an appeal against an assessment to tax which is not a self-assessment;

(e) an appeal against an amendment under paragraph 7(3) of Schedule 1A to this Act of a claim or election made otherwise than by being included in a return;

(f) an appeal against a decision contained in a notice under paragraph 7(3A) of Schedule 1A to this Act disallowing in whole or in part a claim or election made otherwise than by being included in a return.

(3) In this section 'the relevant Lands Tribunal' means—

(a) in relation to land in England and Wales, the Lands Tribunal;

(b) in relation to land in Scotland, the Lands Tribunal for Scotland;

(c) in relation to land in Northern Ireland, the Lands Tribunal for Northern Ireland."

8. In section 57(3)(c) (power to make regulations authorising conditional decisions where more than one tribunal is determining questions in the proceedings), for "section 47" there shall be substituted "section 46B, 46C or 46D".

9. In Schedule 1A (claims not included in returns), after paragraph 9 there shall be inserted the following paragraphs—

"10. An appeal against an amendment under paragraph 7(3) above of a claim made—

(a) to the Board,

(b) under Part XVI of the principal Act (administration of estates), or

(c) under any of the provisions of the principal Act listed in section 46C(3) of this Act,

shall be to the Special Commissioners.

11.—(1) Subject to paragraph 10 above and the following provisions of this paragraph, an appeal under paragraph 9(1) above shall be to the General Commissioners.

(2) The appellant may elect (in accordance with section 46(1) of this Act) to bring the appeal before the Special Commissioners.

(3) Such an election shall be disregarded if—

(a) the appellant and the officer of the Board agree in writing, at any time before the determination of the appeal, that it is to be disregarded; or

(b) the General Commissioners have given a direction under sub-paragraph (5) below and have not revoked it.

(4) At any time before the determination of an appeal in respect of which an election has been made an officer of the Board after giving notice to the appellant may refer the election to the General Commissioners.

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(5) On any such reference the Commissioners shall, unless they are satisfied that the appellant has arguments to present or evidence to adduce on the merits of the appeal, give a direction that the election be disregarded.

(6) If, at any time after the giving of such a direction (but before the determination of the appeal) the General Commissioners are satisfied that the appellant has arguments to present or evidence to adduce on the merits of the appeal, they shall revoke the direction.

(7) Any decision to give or revoke such a direction shall be final.

(8) If—

(a) a person bringing an appeal under paragraph 9(1) above has another appeal pending to either body of Commissioners concerning an assessment on him, and

(b) the appeals relate to the same source of income,

the appeal under paragraph 9(1) above shall be to the body of Commissioners before whom the appeal concerning the assessment is being brought.

(9) This paragraph is subject to provision made by or under Part V of this Act."

10. The following Schedule shall be substituted for Schedule 3—

"SCHEDULE 3

RULES FOR ASSIGNING PROCEEDINGS TO GENERAL COMMISSIONERS

Introductory

1. In this Schedule—

'the relevant place' means the place referred to in section 44(1) of this Act, which is used to identify the General Commissioners before whom proceedings are to be brought; and

'the taxpayer', in relation to any proceedings, means the party to the proceedings who is neither the Board nor an officer of the Board.

General rule for income and capital gains tax proceedings

2.—(1) In the case of any proceedings relating to income tax or capital gains tax the relevant place is whichever of the places specified in sub-paragraph (2) below is identified—

(a) except where the proceedings are commenced by an officer of the Board, by an election made by the taxpayer; and

(b) where the proceedings are so commenced, by an election made by the officer.

(2) Those places are—

(a) the place (if any) in the United Kingdom which, at the time when the election is made, is the taxpayer's place of residence;

(b) the place (if any) which at that time is the taxpayer's place of business in the United Kingdom;

(c) the place (if any) in the United Kingdom which at that time is the taxpayer's place of employment;

and, in the case of a place of employment, it shall be immaterial for the purposes of this paragraph whether the proceedings in question relate to matters connected with the employment of the taxpayer.

(3) Where the taxpayer fails to make an election for the purposes of this paragraph before the time limit given by paragraph 5 below, an officer of the Board may elect which of the places specified in sub-paragraph (2) above is to be the relevant place.

(4) In sub-paragraph (2)(a) above 'place of residence' means—

(a) in relation to an election made by the taxpayer, his usual place of residence; and

(b) in relation to an election made by an officer of the Board, the taxpayer's usual place of residence or, if that is unknown, his last known place of residence.

(5) In sub-paragraph (2)(b) above 'place of business' means—

(a) the place where the trade, profession, vocation or business with which the proceedings are concerned is carried on, or

(b) if the trade, profession, vocation or business is carried on at more than one place, the head office or place where it is mainly carried on.

(6) This paragraph does not apply in the case of any proceedings to which paragraph 3, 4 or 7 below applies.

PAYE appeals

3.—(1) In the case of an appeal in exercise of a right of appeal conferred by regulations under section 203 of the principal Act, the relevant place is—

(a) except in a case falling in paragraph (b) below, the place determined by the regulations, and

(b) if the appellant elects for one of the places specified in paragraph 2(2) above to be the relevant place instead, the place identified by the election.

(2) This paragraph does not apply in the case of any proceedings to which paragraph 4 or 7 below applies.

Corporation tax etc.

4.—(1) In the case of the proceedings mentioned in sub-paragraph (2) below the relevant place is whichever of the places specified in sub-paragraph (3) below is identified—

(a) except where the proceedings are commenced by an officer of the Board, by an election made by the company or other body corporate which is a party to the proceedings ("the corporate taxpayer"); and

(b) where the proceedings are so commenced, by an election made by the officer.

(2) The proceedings are—

(a) proceedings relating to corporation tax;

(b) proceedings relating to income tax which are proceedings to which a company resident in the United Kingdom and within the charge to corporation tax is a party;

(c) proceedings relating to tax assessable under sections 419 and 420 of the principal Act (close company loans).

(3) The places are—

(a) the place where, at the time when the election is made, the corporate taxpayer carries on its trade or business;

(b) the place where, at that time, the head office or principal place of business of the corporate taxpayer is situated;

(c) the place where, at that time, the corporate taxpayer resides.

(4) Where the corporate taxpayer fails to make an election for the purposes of this paragraph before the time limit given by paragraph 5 below, an officer of the Board may elect which of the places specified in sub-paragraph (3) above is to be the relevant place.

(5) This paragraph does not apply in the case of any proceedings to which paragraph 7 below applies.

Procedure for making elections, etc.

5.—(1) An election by a taxpayer for the purposes of this Schedule shall be made by notice in writing to an officer of the Board.

(2) The time limit for the making of such an election in relation to proceedings is—

(a) the time when the taxpayer gives notice of appeal or, if the proceedings are not an appeal, otherwise commences the proceedings; or

(b) such later date as the Board allows.

(3) Such an election shall be irrevocable.

6. An election by an officer of the Board for the purposes of this Schedule shall be made by notice in writing served on the taxpayer.

Partnerships

7. In the case of proceedings relating to a partnership to which a partner of that partnership is a party, the relevant place is—

(a) the place where the trade, profession or business of the partnership is carried on, or

(b) if the trade, profession or business is carried on at more than one place, the place where it is mainly carried on.

Directions by the Board

8.—(1) The Board may give a direction in relation to any class of proceedings specified in the direction that, notwithstanding the preceding provisions of this Schedule, the relevant place shall be taken to be a place in a division specified in the direction.

(2) A direction given under this paragraph shall not have effect in relation to any proceedings unless an officer of the Board has served on the taxpayer a notice in writing stating the effect of the direction in relation to those proceedings.

(3) A direction given under this paragraph shall not have effect if the taxpayer gives a notice in accordance with sub-paragraph (4) below objecting to the direction.

(4) The taxpayer gives a notice in accordance with this sub-paragraph if he gives it in writing to the Board within the period of 30 days beginning with the day on which the notice under sub-paragraph (2) above was served on him.

9.—(1) The Board may give directions for determining the relevant place in cases where —

(a) the proceedings fall within paragraph 2, 4 or 7 above, but there is no place falling within paragraph 2(2), 4(3) or, as the case may be, paragraph 7; or

(b) the relevant place would, apart from the direction, be a place outside the United Kingdom.

(2) A direction given under this paragraph by the Board shall not have effect in relation to any proceedings unless an officer of the Board has served on the taxpayer a notice in writing stating the effect of the direction in relation to those proceedings.

(3) A direction under sub-paragraph (1) above may be given in relation to—

(a) proceedings falling within that sub-paragraph;

(b) any class of such proceedings specified in the direction; or

(c) proceedings specified in the direction.

Other provisions

10. The provisions of this Schedule have effect subject to sections 44(2), 46A and 57 of this Act, sections 102(1), 113(5), 343(10) and 783(9) of the principal Act and section 151 of the Capital Allowances Act 1990." 1990 c. 1.

Section 102 of the Taxes Act 1988

11. In section 102(1)(a) of the Taxes Act 1988 (cases where jurisdiction exercised by General Commissioners) for "both the trades, professions or vocations" there shall be substituted "each of the persons whose trade, profession or vocation is one of those".

Commencement of Schedule

12. This Schedule has effect in relation to—

(a) any proceedings relating to the year 1996-97 or any subsequent year of assessment, and

(b) any proceedings relating to an accounting period ending on or after the day appointed under section 199 of the Finance Act 1994 for the purposes of Chapter III of Part IV of that Act (self-assessment). 1994 c. 9.

SCHEDULE 23

Section 137.

SELF-ASSESSMENT: SCHEDULES 13 AND 16 TO THE TAXES ACT 1988

PART I

SCHEDULE 13 TO THE TAXES ACT 1988

1. Schedule 13 to the Taxes Act 1988 (collection of advance corporation tax) shall be amended in accordance with the following provisions of this Part of this Schedule.

2. In paragraph 2 (contents of returns) in sub-paragraph (2) (specification of particular matters to be included in a return) after "The return shall specify" there shall be inserted "(a)" and at the end of that sub-paragraph there shall be inserted—

"(b) whether any estimated amount of franked payments is included under that paragraph by virtue of paragraph 7(2) below and, if so, the amount so included;

(c) whether any estimated amount of advance corporation tax is included under paragraph (c) of sub-paragraph (1) above by virtue of paragraph 7(2) below and, if so, the amount so included."

3. In paragraph 3(3) (power of the inspector to make an assessment in certain cases)—

(a) for "the inspector", where first occurring, there shall be substituted "an officer of the Board"; and

(b) for "or if the inspector is dissatisfied with any return, he may" there shall be substituted "or if an officer of the Board is of the opinion that a return is incorrect, any such officer may".

4.—(1) In sub-paragraph (1) of paragraph 3B (power of the inspector to make an assessment where he is not satisfied that there is a reasonable basis for the company treating itself as an international headquarters company)—

(a) for "the inspector is not satisfied that there was a reasonable basis" there shall be substituted "an officer of the Board is of the opinion that there was not a reasonable basis"; and

(b) for "he may" there shall be substituted "any such officer may".

(2) In sub-paragraph (3) of that paragraph for "the inspector" there shall be substituted "an officer of the Board".

5. In paragraph 5 (certain deemed claims for set-off in respect of franked investment income to be supported by such evidence as the inspector may reasonably require) for "the inspector" there shall be substituted "an officer of the Board".

6. In paragraph 6A(1) (certain deemed claims for set-off in respect of foreign income dividends to be supported by such evidence as the inspector may reasonably require) for "the inspector" there shall be substituted "an officer of the Board".

7.—(1) Paragraph 7 (special provision for qualifying distributions which are not payments and payments whose nature is not clear) shall be amended as follows.

(2) For sub-paragraph (2) (no amount to be shown under paragraph 2(1)(a) or (c) in respect of those qualifying distributions or payments) there shall be substituted—

"(2) No amount is required to be shown under paragraph 2(1)(a) or (c) above in respect of the qualifying distribution or payment and, unless estimated amounts are shown by virtue of paragraph (a) below, paragraph 3(1) above shall not apply in relation to advance corporation tax in respect thereof; but—

(a) the company making the return may include under paragraph 2(1)(a) and (c) above estimated amounts in respect of the qualifying distribution or payment; and

(b) if it does so, paragraph 3(1) above shall apply in relation to advance corporation tax in respect thereof as it applies in relation to advance corporation tax in respect of franked payments which are required to be included in the return."

(3) In sub-paragraph (3) (particulars of the qualifying distribution or payment to be given separately in the return) at the beginning there shall be inserted "Whether or not estimated amounts are also included under paragraph 2(1)(a) or (c) above in respect of the qualifying distribution or payment,".

(4) For sub-paragraph (4) (assessment of advance corporation tax) there shall be substituted—

"(3A) Sub-paragraph (4) below applies—

(a) if an estimated amount is not included under paragraph 2(1)(a) or (c) above in respect of the qualifying distribution or payment; or

(b) if an officer of the Board is of the opinion that an estimated amount which is included under paragraph 2(1)(a) or (c) above in respect of the qualifying distribution or payment is incorrect.

(4) Where this sub-paragraph applies, any advance corporation tax payable in respect of the qualifying distribution or payment shall be assessed on the company and shall be so assessed without regard to any franked investment income received by the company, but—

(a) relief shall be given in accordance with sub-paragraph (4A) or (4B) below;

(b) for the purposes of the application of paragraph 2(3) above to any subsequent return period, the amount of the franked payment comprising the qualifying distribution or payment shall be taken to be the amount calculated as mentioned in sub-paragraph (4A) or (4B) below, as the case may be; and

(c) any advance corporation tax due under an assessment made by virtue of this sub-paragraph shall be treated for the purposes of interest on unpaid tax as having been payable at the time when it would have been payable if correct amounts had been included under paragraph 2(1)(a) and (c) above in respect of the qualifying distribution or payment.

(4A) Where sub-paragraph (4) above applies by virtue of sub-paragraph (3A)(a) above, relief shall be given from the tax assessed (by discharge thereof) to the extent, if any, to which that tax exceeds the tax that would have been payable if the amount of the franked payment comprising the qualifying distribution or payment, calculated on the amount or value thereof shown in the assessment, had been included in the return under sub-paragraph (1)(a) of paragraph 2 above and the tax had been calculated in accordance with sub-paragraph (4) of that paragraph.

(4B) Where sub-paragraph (4) above applies by virtue of sub-paragraph (3A)(b) above, relief shall be given from the tax assessed (by discharge thereof) to the extent, if any, to which that tax exceeds the tax that would have been payable if the excess (if any) of—

(a) the amount of the franked payment comprising the qualifying distribution or payment, calculated on the amount or value thereof shown in the assessment, over

(b) the estimated amount specified under paragraph 2(2)(b) above in respect of that franked payment,

had been included in the return under sub-paragraph (1)(a) of paragraph 2 above and the tax had been calculated in accordance with sub-paragraph (4) of that paragraph."

8. After paragraph 7 there shall be inserted—

"Amended return where company becomes aware of an error

7A.—(1) If a company becomes aware—

(a) that anything which ought to have been included in a return made by it under this Schedule for any return period has not been so included,

(b) that anything which ought not to have been included in a return made by it under this Schedule for any return period has been so included,

(c) that an estimated amount included by virtue of paragraph 7(2)(a) above in a return under this Schedule for any period is incorrect, or

(d) that any other error has occurred in a return made by it under this Schedule for any return period,

it shall forthwith supply to the collector an amended return for that return period.

(2) The duty imposed by sub-paragraph (1) above is without prejudice to any duty that may also arise under paragraph 7A of Schedule 16.

(3) Where an amended return is supplied under this paragraph, all such assessments, adjustments, set-offs or payments or repayments of tax shall be made as may be required for securing that the resulting liabilities to tax (including interest on unpaid or overpaid tax) whether of the company or any other person are the same as they would have been if a correct return had been made."

9. In paragraph 8 (power of inspector to make assessments etc where items are included in returns under the Schedule in error) for "the inspector" there shall be substituted "an officer of the Board".

PART II

SCHEDULE 16 TO THE TAXES ACT 1988

10. Schedule 16 to the Taxes Act 1988 (collection of income tax on company payments which are not distributions) shall be amended in accordance with the following provisions of this Part of this Schedule.

11. In paragraph 4(2) (cases where the inspector may make an assessment)—

(a) for "the inspector", where first occurring, there shall be substituted "an officer of the Board"; and

(b) for "or if the inspector is dissatisfied with any return, he may" there shall be substituted "or if an officer of the Board is of the opinion that a return is incorrect, any such officer may".

12. After paragraph 7 there shall be inserted—

"Amended return where company becomes aware of an error

7A.—(1) If a company becomes aware—

(a) that anything which ought to have been included in a return made by it under this Schedule for any period has not been so included,

(b) that anything which ought not to have been included in a return made by it under this Schedule for any period has been so included, or

(c) that any other error has occurred in a return made by it under this Schedule for any period,

it shall forthwith supply to the collector an amended return for that period.

(2) The duty imposed by sub-paragraph (1) above is without prejudice to any duty that may also arise under paragraph 7A of Schedule 13.

(3) Where an amended return is supplied under this paragraph, all such assessments, adjustments, set-offs or payments or repayments of tax shall be made as may be required for securing that the resulting liabilities to tax

(including interest on unpaid or overpaid tax) whether of the company or any other person are the same as they would have been if a correct return had been made."

13. In paragraph 8 (power of inspector to make assessments etc where items are included in returns under the Schedule in error) for "the inspector" there shall be substituted "an officer of the Board".

SCHEDULE 24

Section 138.

SELF-ASSESSMENT: ACCOUNTING PERIODS ETC.

PART I

AMENDMENTS OF THE TAXES MANAGEMENT ACT 1970

Introductory

1. The Taxes Management Act 1970 shall be amended in accordance with this Part of this Schedule. 1970 c. 9.

2. In section 11 (return of profits), after subsection (9) there shall be inserted the following subsection—

"(10) In the following provisions of this Act 'section 11 notice' means a notice under this section."

Power to enquire into return for wrong period, etc.

3. In section 11AA (return of profits to include self-assessment), after subsection (4) there shall be inserted the following subsections—

"(5) This section, except subsection (4) above, applies in relation to a return for a period—

(a) which ends in or at the end of the period specified in the section 11 notice;

(b) which in the return is treated as an accounting period; but

(c) which is not, or may not be, an accounting period.

(6) In relation to such a return, 'the filing date' means, in this section and section 11AB of this Act, the day which would be the day mentioned in section 11(4) of this Act if the period for which the return is made were an accounting period."

4.—(1) In section 11AB(1) (power to enquire into return of profits), after paragraph (c) (which is inserted by paragraph 2 of Schedule 19 to this Act), there shall be inserted "or

(d) if it appears to the officer that a return delivered in response to a section 11 notice—

(i) is or may be a return for the wrong period, or

(ii) has become a return for the wrong period as a result of a direction under section 12(5A) of the principal Act,

the period for which the return should have been made;".

(2) After subsection (3) of that section there shall be inserted the following subsections—

"(4) For the purposes of subsection (1)(d) above a return is a return for the wrong period in each of the cases set out below.

(5) The first case is where—

(a) the return is made for a period which ends in or at the end of the period specified in the section 11 notice and which in the return is treated as an accounting period; but

(b) the period for which the return is made is not an accounting period of the company.

(6) The second case is where—

(a) the return is made for a part of the period specified in the section 11 notice which in the return is treated as not falling within an accounting period of the company; but

(b) there is an accounting period ending in or at the end of the period specified in the section 11 notice."

5. In section 19A(1) (cases where officer has power to call for documents), after paragraph (c) (which is inserted by paragraph 2 of Schedule 19 to this Act) there shall be inserted "or

(d) the period for which a return should have been made."

Amendment of return for wrong period

6. After section 28A there shall be inserted the following sections—

"Amendment of return of profits made for wrong period.

28AA.—(1) Where an officer of the Board gives notice under section 11AB(1) of this Act to a company of his intention to enquire into the period for which a return should have been made, the officer's enquiries shall be treated as completed at such time as he by notice—

(a) informs the company that he has completed his enquiries; and

(b) states his conclusions on the subject of his enquiries.

(2) Subsections (3) and (4) below apply where the officer in the conclusions stated under subsection (1) above designates a period, in accordance with subsections (6) to (8) below, as the accounting period for which the return should have been made.

(3) At any time in the period of 30 days beginning with the day on which the officer's enquiries are completed, the company may amend the return for the purpose of making it a return appropriate to the designated period.

(4) At any time in the period of 30 days beginning immediately after the period mentioned in subsection (3) above, the officer may by notice to the company amend the return for the purpose of making it a return appropriate to the designated period.

(5) The power under subsections (3) and (4) above to amend a return includes the power to amend a self-assessment so as to make clear that it is a self-assessment for the designated period.

(6) If there is only one accounting period ending in or at the end of the period specified in the section 11 notice, the only period which the officer may designate is that period.

(7) If there is more than one accounting period ending in or at the end of the period specified in the section 11 notice, the only period which the officer may designate is the earliest of those accounting periods for which no return has been delivered.

(8) In designating a period, the officer must specify the dates on which the period begins and ends.

Provisions supplementary to section 28AA.

28AB.—(1) On an application made by the company, the Commissioners shall direct the officer to give a notice under section 28AA(1) of this Act within a period specified in the direction, unless they are satisfied that the officer has reasonable grounds for not giving such a notice.

(2) Proceedings under subsection (1) above shall be heard and determined in the same way as an appeal.

(3) An appeal may be brought against an amendment made under section 28AA(4) of this Act within the period of 30 days beginning with the date on which the notice of the amendment was issued.

(4) The provisions of this Act relating to appeals shall have effect in relation to an appeal under subsection (3) above as they have effect in relation to an appeal against an assessment to tax.

(5) Subsection (6) below applies where—

(a) a return is delivered in response to a section 11 notice;

(b) following a statement of conclusions under section 28AA of this Act, a period is finally determined to be the accounting period for which the return should have been made;

(c) the effect of the determination is that there is a period ('a further period') which—

(i) before the determination was not an accounting period ending in or at the end of the period specified in the section 11 notice, and

(ii) as a result of the determination, becomes a period so ending;

and

(d) there is no return which can be amended under section 28AA of this Act so as to become a return for that further period.

(6) Where this subsection applies, the section 11 notice shall be taken to require a return for the further period before the postponed final day.

(7) The postponed final day is whichever is the later of—

(a) the final day determined under section 11(4) of this Act; and

(b) the last day of the period of 30 days beginning with the day on which the accounting period for the return mentioned in subsection (5)(a) above is finally determined.

(8) In relation to any return for the further period the provisions of this Act shall have effect as if any reference to the filing date in relation to that return were a reference to the postponed final day."

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Failure to deliver return: determinations

7. After section 28C there shall be inserted the following sections—

"Determination of corporation tax where no return delivered.

28D.—(1) Where—

(a) a section 11 notice has been served on a company, and

(b) no return is delivered to an officer of the Board in response to the notice before the relevant day,

the officer may make a determination of the amounts in which, to the best of his information and belief, the company is chargeable to corporation tax for the relevant period.

(2) In subsection (1) above 'the relevant period' means—

(a) if there is only one accounting period ending in or at the end of the period specified in the section 11 notice, that accounting period;

(b) if there is more than one accounting period ending in or at the end of the period so specified, each of those accounting periods;

(c) if the officer has insufficient information to identify the accounting periods of the company, such period or periods ending in or at the end of the period so specified as he may determine.

(3) Subject to subsections (4) and (5) below, a determination under subsection (1) above shall have effect for the purposes of Parts VA, VI, IX and XI of this Act as if—

(a) it were a self-assessment made under section 11AA of this Act; and

(b) (where subsection (2)(c) above applies) the period for which the determination is made were an accounting period of the company.

(4) If—

(a) the company delivers a return for a period ending in or at the end of the period specified in the section 11 notice,

(b) the period is, or is treated in the return as, an accounting period, and

(c) the return includes a self-assessment under section 11AA of this Act,

the self-assessment shall supersede the determination under subsection (1) above or, if there is more than one determination under that subsection, the determination for the period which is, or most closely approximates to, the period for which the return is made.

(5) If the company shows—

(a) that there is no period ending in or at the end of the period specified in the section 11 notice which is an accounting period of the company, or

(b) that it has delivered a return containing a self-assessment for the accounting period, or each accounting period, ending in or at the end of the period specified in the section 11 notice,

any determination under subsection (1) above shall be of no effect.

Determination of corporation tax where notice complied with in part.

28E.—(1) Where—

(a) a company delivers a return for an accounting period ending in or at the end of the period specified in a section 11 notice served on the company, but

(b) there is another period so ending (an 'outstanding period') which it appears to an officer of the Board is or may be an accounting period but for which no return has been delivered before the relevant day,

the officer may make a determination of the amounts in which, to the best of his information and belief, the company is chargeable to corporation tax for the outstanding period.

(2) Subject to subsections (3) and (4) below, a determination under subsection (1) above shall have effect for the purposes of Parts VA, VI, IX and XI of this Act as if—

(a) it were a self-assessment made under section 11AA of this Act; and

(b) where the officer has insufficient information to determine whether the outstanding period is an accounting period, the period for which the determination is made were an accounting period of the company.

(3) If, after the determination is made—

(a) the company delivers a further return for a period ending in or at the end of the period specified in the section 11 notice,

(b) the period is, or is treated in the return as, an accounting period, and

(c) the return includes a self-assessment under section 11AA of this Act,

the self-assessment shall supersede the determination under subsection (1) above.

(4) If the company shows that it has delivered a return containing a self-assessment for the accounting period, or each accounting period, ending in or at the end of the period specified in the section 11 notice, the determination under subsection (1) above shall be of no effect.

Corporation tax determinations: supplementary.

28F.—(1) Notice of any determination under section 28D or 28E of this Act shall be served on the person in respect of whom it is made and shall state the date on which it is issued.

(2) No determination may be made under section 28D or 28E of this Act after the end of the period of five years beginning with the relevant day.

(3) A self-assessment shall not supersede a determination under section 28D or 28E of this Act if it is made after whichever is the later of—

(a) the end of the period of five years beginning with the relevant day; and

(b) the end of the period of twelve months beginning with the date of the determination.

(4) Where—

(a) an officer of the Board has commenced any proceedings for the recovery of any tax charged by a determination under section 28D or 28E of this Act, and

(b) before those proceedings are concluded, the determination is superseded by a self-assessment,

those proceedings may be continued as if they were proceedings for the recovery of so much of the tax charged by the self-assessment as is due and payable and has not been paid.

(5) In sections 28D and 28E of this Act and this section 'the relevant day' means, in relation to a section 11 notice—

(a) if the final day for the delivery of any return required by the notice can be ascertained in accordance with section 11(4) of this Act, that day;

(b) in any other case, the day determined in accordance with subsection (6) below.

(6) The day is whichever is the later of—

(a) the last day of the period of 30 months from the end of the period specified in the section 11 notice; and

(b) the last day of the period of three months from the day on which the section 11 notice was served."

Commencement

8.—(1) Paragraphs 3 to 6 above have effect in relation to returns made for periods ending on or after the day appointed under section 199 of the Finance Act 1994 for the purposes of Chapter III of Part IV of that Act (self-assessment).

1994 c. 9.

(2) Paragraph 7 above has effect in relation to notices under section 11 of the Taxes Management Act 1970 specifying a period ending on or after the day so appointed.

1970 c. 9.

PART II

OTHER AMENDMENTS

General

9. In this Part of this Schedule "the appointed day" means the day appointed as mentioned in paragraph 8(1) above.

Repeal of section 8A of the Taxes Act 1988

10. Section 8A of the Taxes Act 1988 (resolutions to reduce corporation tax) shall cease to have effect.

Determination of accounting date

11.—(1) Section 12 of the Taxes Act 1988 (basis of, and periods for, assessment) shall be amended as follows.

(2) In subsection (5)—

(a) at the beginning there shall be inserted "Subject to subsection (5A) below"; and

(b) for the words "as the Board may determine" there shall be substituted "as the company may determine".

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

"(5A) If the Board is of the opinion, on reasonable grounds, that a date determined by a company for the purposes of subsection (5) above is inappropriate, they may by notice direct that the accounting date of such other of the trades referred to in that subsection as appears to them to be appropriate shall be used instead."

(4) This paragraph has effect where each of the different dates referred to in section 12(5) of the Taxes Act 1988 occurs on or after the appointed day.

Companies in liquidation

12.—(1) Section 342 of the Taxes Act 1988 (companies in liquidation) shall be amended as follows.

(2) In subsection (5) (assumption as to commencement date of final accounting period where company being wound up), for the words "the inspector may, with the concurrence of the liquidator" there shall be substituted "the liquidator may".

(3) In subsection (6) for the words from "as if" to the end there shall be substituted "as if the winding-up had commenced with the beginning of that new accounting period".

(4) This paragraph has effect in relation to the winding up of a company if the date on which the affairs of the company are completely wound up does not occur before the appointed day.

Construction of references to assessments

13. In section 197(1) of the Finance Act 1994 (construction of certain references), in paragraph (b) after "28C" there shall be inserted ", 28D or 28E". 1994 c. 9.

SCHEDULE 25

Section 139.

SELF-ASSESSMENT: SURRENDERS OF ADVANCE CORPORATION TAX

Amendments of section 240 of the Taxes Act 1988

1.—(1) Section 240 of the Taxes Act 1988 (set-off of company's advance corporation tax against subsidiary's liability to corporation tax) shall be amended as follows.

(2) For subsection (1) there shall be substituted the following subsections—

"(1) Where a company ('the surrendering company') has paid an amount of advance corporation tax in respect of a dividend or dividends paid by it in an accounting period, it may under this section surrender the benefit of so much of that amount as is available for surrender, or any part of that amount that is available for surrender, to any company which was a subsidiary of it throughout that accounting period.

(1A) The surrender shall take effect on the surrendering company making a claim in accordance with Schedule 13A.

(1B) A claim to surrender an amount exceeding the amount the benefit of which, at the time the claim is made, is available for surrender shall be of no effect."

(3) For subsections (6) and (7) there shall be substituted the following subsections—

"(5A) A claim under subsection (1A) above may be withdrawn by the surrendering company with the consent of the subsidiary to whom the surrender was made.

(5B) The withdrawal of a claim under subsection (1A) above to make a surrender for an accounting period of the surrendering company shall not prevent the making of a further claim under that subsection for that accounting period (whether to the same or a different subsidiary).

SCH. 25

(5C) Where the surrendering company withdraws a claim by virtue of which an amount of advance corporation tax was treated under subsection (2) above as paid by its subsidiary in respect of a distribution made on a date determined under that subsection—

(a) the subsidiary shall be treated as if it had not paid that amount in respect of a distribution made by it on the date so determined; and

(b) subject to the effect of any further claim, the surrendering company shall be treated as having paid a corresponding amount of advance corporation tax in respect of a distribution made by it on the date so determined.

(5D) The amount of advance corporation tax the benefit of which is at any time available for surrender is the amount referred to in subsection (1) above less any amount which at that time falls within subsection (5E) below.

(5E) The amounts are—

(a) any amount which has been repaid to the surrendering company;

(b) any amount which has been dealt with under section 239(3);

(c) any amount surrendered under a claim for that period which has not been withdrawn.

(5F) Subject to subsection (5C)(b) above, no amount of advance corporation tax the benefit of which has been surrendered under this section shall be treated for the purposes of section 239 as advance corporation tax paid by the surrendering company."

(4) After subsection (13) there shall be inserted the following subsection—

"(14) Schedule 13A (which makes supplementary provision with respect to surrenders of advance corporation tax) shall have effect."

The new Schedule 13A to the Taxes Act 1988

2. After Schedule 13 to the Taxes Act 1988 there shall be inserted the following Schedule—

"SCHEDULE 13A

SURRENDERS OF ADVANCE CORPORATION TAX

General

1.—(1) In this Schedule any reference to a claim is to a claim under section 240(1A).

(2) In this Schedule 'the relevant accounting period of the surrendering company' means, in relation to a claim by the surrendering company, the accounting period referred to in section 240(1).

Multiple claims

2.—(1) Surrenders to different subsidiaries or to the same subsidiary at different times shall be treated as made by separate claims (however the claims are presented).

(2) Where a surrendering company makes more than one claim at the same time, the claims shall be treated as made in such sequence as the surrendering company at that time elects or as, in default of such an election, an officer of the Board determines.

Content of claims etc.

3.—(1) A claim must specify—

(a) the amount the benefit of which is surrendered; and

(b) the subsidiary to whom the surrender is made.

(2) The amount specified in compliance with sub-paragraph (1)(a) above must be an amount which is quantified at the time when the claim is made.

Time limit for claims

4. A claim by the surrendering company must be made within the period of six years from the end of the relevant accounting period of the surrendering company.

Claim to be included in return where possible

5.—(1) Where a claim could be made by being included in a return under section 11 of the Management Act, or an amendment of such a return, it must be so made.

(2) Section 42 of and Schedule 1A to the Management Act (procedure for making claims) shall not apply to the making of claims.

6.—(1) A claim not included in a return or an amendment of a return must be made to an officer of the Board and must be supported by such documents as the officer may require.

(2) The claim shall be made in such form as the Board may determine.

(3) The form of claim shall provide for a declaration to the effect that all the particulars given in the form are correctly stated to the best of the information and belief of the person making the claim.

Contents of notices of withdrawal, etc.

7.—(1) A claim shall not be withdrawn except by a notice given to an officer of the Board in such form as the Board may determine.

(2) A notice withdrawing a claim must specify—

(a) the surrendering company which made the claim;

(b) the amount the benefit of which was surrendered under the claim;

(c) the subsidiary to whom the surrender was made; and

(d) the relevant accounting period of the surrendering company in relation to the claim.

(3) A notice withdrawing a claim must be accompanied by a notice signifying the consent required by section 240(5A).

(4) Where a claim included in a return is withdrawn and the withdrawal could be made by an amendment of the return, it must be so made.

Simultaneous claims and withdrawals of claims

8. Where—

(a) a claim ('claim A') is withdrawn, and

(b) at the time when claim A is withdrawn, another claim ('claim B') is made,

claim A shall be treated as being withdrawn before claim B is treated as made.

Time limit for withdrawing claims

9.—(1) Subject to sub-paragraph (3) below, a claim shall not be withdrawn after the earlier of—

(a) the end of the period of six years from the end of the relevant accounting period of the surrendering company; and

(b) the date on which an assessment for any relevant accounting period of the subsidiary in whose favour the claim was made becomes final.

(2) In this paragraph 'relevant accounting period of the subsidiary' means, in relation to a claim, any period in which a distribution is treated under section 240(2) as made by virtue of the claim.

(3) In the circumstances given by sub-paragraph (4) below, a claim may be withdrawn at any time before the end of the period of six years from the end of the relevant accounting period of the surrendering company.

(4) The circumstances are that—

(a) the claim was made—

(i) after the date on which an assessment for a relevant accounting period of the subsidiary in whose favour the claim is made becomes final; and

(ii) after a further assessment has been made on the subsidiary for that period by an officer of the Board or the Board; and

(b) immediately before the claim is withdrawn, none of the advance corporation tax which, by virtue of the claim, is treated as paid by the subsidiary has been finally dealt with to the subsidiary's advantage.

(5) For the purposes of sub-paragraph (4) above, advance corporation tax is finally dealt with to the subsidiary's advantage if—

(a) it is set against any liability of the subsidiary under any assessment to corporation tax which has become final; or

(b) any of it is repaid to the subsidiary.

No amendment of claims

10. Nothing in the Management Act shall be read as allowing a claim to be amended.

Further self-assessments by the surrendering company

11.—(1) Where—

(a) a claim is made after an assessment to corporation tax for the relevant accounting period of the surrendering company has become final,

(b) under section 239(1), advance corporation tax has been set against the company's liability to corporation tax for that period, and

(c) the claim is a claim to surrender the benefit of an amount which is or includes the whole or a part of the amount set-off,

the claim must be accompanied by an assessment (a self-assessment) of the corporation tax due as a result of the claim.

(2) The tax shall be treated as due and payable, in accordance with section 59D of the Management Act, on the day following the expiry of nine months from the end of the relevant accounting period.

(3) The standard provisions about enquiries into self-assessments (given by paragraph 14 below) apply to self-assessments provided under this paragraph.

12.—(1) Where—

(a) by virtue of section 239(4), advance corporation tax paid in the relevant accounting period of the surrendering company has been set against the company's liability to corporation tax for a later accounting period,

(b) the claim is made after assessments to corporation tax for both periods have become final, and

(c) the claim is a claim to surrender the benefit of an amount which is or includes the whole or a part of the amount set-off,

the claim must be accompanied by an assessment (a self-assessment) of the corporation tax due as a result of the claim.

(2) The tax shall be treated as due and payable, in accordance with section 59D of the Management Act, on the day following the expiry of nine months from the end of the later accounting period.

(3) The standard provisions about enquiries into self-assessments (given by paragraph 14 below) apply to self-assessments provided under this paragraph.

(4) For the purposes of sub-paragraph (1)(a) above, advance corporation tax which was in fact paid in the relevant accounting period of the surrendering company shall be treated as set against the liability of the company to corporation tax for the later accounting period after any other advance corporation tax available to be so treated.

Further self-assessments by subsidiary

13.—(1) Sub-paragraph (3) below applies where—

(a) under section 239(1), advance corporation tax has been set against the subsidiary's liability to corporation tax for an accounting period ('the relevant accounting period'),

(b) the advance corporation tax is, includes or is part of advance corporation tax which is treated as paid by the subsidiary in respect of that period on the assumption that section 240(2) required that treatment, and

(c) after an assessment to corporation tax for that period has become final, the subsidiary becomes aware of facts ('the true facts') which, by virtue of section 240(1B), make that treatment incorrect.

(2) Sub-paragraph (3) below also applies where—

(a) by virtue of section 239(4), advance corporation tax has been set against the subsidiary's liability to corporation tax for an accounting period ('the relevant accounting period'),

(b) the advance corporation tax is, includes or is part of advance corporation tax which is treated as paid by the subsidiary in respect of a previous accounting period on the assumption that section 240(2) required that treatment, and

(c) after an assessment to corporation tax for that period has become final, the subsidiary becomes aware of facts ('the true facts') which, by virtue of section 240(1B), make that treatment incorrect.

(3) The subsidiary must, before the end of the period of three months beginning with the day on which it becomes aware of the true facts, provide

an officer of the Board with an assessment (a self-assessment) of the amount of corporation tax which was due for the relevant accounting period on the basis of the true facts.

(4) The tax shall be treated as due and payable, in accordance with section 59D of the Management Act, on the day following the expiry of nine months from the end of the relevant accounting period of the subsidiary.

(5) The standard provisions about enquiries into self-assessments (given by paragraph 14 below) apply to self-assessments provided under this paragraph.

(6) For the purposes of this paragraph it shall be assumed that advance corporation tax actually paid (or correctly treated as paid) by the subsidiary has been set against the subsidiary's liability to corporation tax before any advance corporation tax incorrectly treated as paid by the subsidiary.

Standard provisions about enquiries into self-assessments

14.—(1) The standard provisions about enquiries into self-assessments (which correspond, in general terms, to certain provisions of section 28A of the Management Act) are as follows.

(2) An officer of the Board may, at any time before the end of the period of one year beginning with the day on which the self-assessment is received, give notice of his intention to enquire into the self-assessment.

(3) The officer's enquiries shall end on such day as he by notice—

(a) informs the company that he has completed his enquiries, and

(b) states his conclusions as to the amount of tax which should be contained in the company's self-assessment.

(4) At any time in the period of 30 days beginning with the day on which the enquiries end, the company may amend its self-assessment so as to make good any deficiency or eliminate any excess in the amount of tax contained in the self-assessment.

(5) At any time in the period of 30 days beginning immediately after the period mentioned in sub-paragraph (4) above, the officer may by notice to the company amend the company's self-assessment so as to make good any deficiency or eliminate any excess in the amount of tax contained in the self-assessment.

(6) The provisions of the Management Act apply to an amendment of a self-assessment under sub-paragraph (5) above as they apply to an amendment of a self-assessment under section 28A(4) of that Act.

(7) At any time before a notice is given under sub-paragraph (3) above, the company may apply for a direction that the officer shall give such a notice within such period as may be specified in the direction.

(8) Subject to sub-paragraph (9) below, an application under sub-paragraph (7) above shall be heard and determined in the same way as an appeal against an amendment of a self-assessment under section 28A(2) or (4) of the Management Act.

(9) The Commissioners hearing an application under sub-paragraph (7) above shall give the direction applied for unless they are satisfied that the officer has reasonable grounds for not giving the notice.

Repayments

15.—(1) Where—

(a) a claim is withdrawn after an assessment for the relevant accounting period of the surrendering company has become final, and

(b) an amount of corporation tax paid by the surrendering company in respect of that period would not have been payable if the claim had not been made,

the surrendering company shall be entitled by notice to claim repayment of that amount.

(2) Where—

(a) a claim is made after the date on which an assessment for any relevant accounting period of the subsidiary in whose favour the claim is made becomes final, and

(b) an amount of corporation tax paid by the subsidiary in respect of that period would not have been payable if the claim had not been made,

the subsidiary shall be entitled by notice to claim repayment of that amount.

(3) In this paragraph 'relevant accounting period of the subsidiary' has the same meaning as in paragraph 9."

3. Paragraphs 1 and 2 above have effect where the accounting period of the surrendering company ends on or after the day appointed under section 199 of the Finance Act 1994 for the purposes of Chapter III of Part IV of that Act (self-assessment). 1994 c. 9.

Other amendments

4. Section 239(5) of the Taxes Act 1988 (manner in which claims under section 239(1) and (4) to be given effect) shall cease to have effect in relation to accounting periods ending on or after the day appointed as mentioned in paragraph 3 above.

5. In the Table in section 98 of the Taxes Management Act 1970 (penalties in respect of certain information provisions), after the entry in the second column relating to Schedule 13 to the Taxes Act 1988, there shall be inserted the following entry— 1970 c. 9.

"Schedule 13A, paragraphs 11, 12 and 13;".

SCHEDULE 26

DAMAGES AND COMPENSATION FOR PERSONAL INJURY Section 150.

The sections inserted after section 329 of the Taxes Act 1988 by section 150 of this Act are as follows—

"Personal injury damages in the form of periodical payments.

329AA.—(1) Where—

(a) an agreement is made settling a claim or action for damages for personal injury on terms whereby the damages are to consist wholly or partly of periodical payments; or

(b) a court awarding damages for personal injury makes an order incorporating such terms,

the payments shall not for the purposes of income tax be

regarded as the income of any of the persons mentioned in subsection (2) below and accordingly shall be paid without any deduction under section 348(1)(b) or 349(1).

(2) The persons referred to in subsection (1) above are—

(a) the person ("A") entitled to the damages under the agreement or order;

(b) any person who, whether in pursuance of the agreement or order or otherwise, receives the payments or any of them on behalf of A;

(c) any trustee who, whether in pursuance of the agreement or order or otherwise, receives the payments or any of them on trust for the benefit of A under a trust under which A is during his lifetime the sole beneficiary.

(3) The periodical payments referred to in subsection (1) above, or any of them, may, if the agreement or order mentioned in that subsection or a subsequent agreement so provides, consist of payments under one or more annuities purchased or provided for, or for the benefit of, A by the person by whom the payments would otherwise fall to be made.

(4) Sums paid to, or for the benefit of, A by a trustee or trustees shall not be regarded as his income for the purposes of income tax if made out of payments which by virtue of this section are not to be regarded for those purposes as income of the trustee or trustees.

(5) In this section "personal injury" includes any disease and any impairment of a person's physical or mental condition.

(6) For the purposes of this section a claim or action for personal injury includes—

1934 c. 41. (a) such a claim or action brought by virtue of the Law Reform (Miscellaneous Provisions) Act 1934;

1937 c. 9 (N.I.). (b) such a claim or action brought by virtue of the Law Reform (Miscellaneous Provisions) Act (Northern Ireland) 1937;

1976 c. 13. (c) such a claim or action brought by virtue of the Damages (Scotland) Act 1976;

1976 c. 30. (d) a claim or action brought by virtue of the Fatal Accidents Act 1976;

S.I. 1977/1251 (N.I. 18). (e) a claim or action brought by virtue of the Fatal Accidents (Northern Ireland) Order 1977.

(7) In relation to such an order as is mentioned in paragraph (b) of subsection (1) above "damages" includes an interim payment which the court, by virtue of rules of court in that behalf, orders the defendant to make to the plaintiff; and where, without such an order, the defendant agrees to make a payment on account of the damages that may be awarded against him in such an action as is mentioned in paragraph (a) of that subsection, that paragraph shall apply to the payment and the agreement as it applies to damages and to such an agreement as is there mentioned.

(8) In the application of subsection (7) above to Scotland for references to the plaintiff and the defendant there shall be substituted references to the pursuer and the defender.

Compensation for personal injury under statutory or other schemes.

329AB.—(1) Section 329AA applies to annuity payments under an award of compensation made under the Criminal Injuries Compensation Scheme as it applies to payments of damages in that form under such an agreement or order as is mentioned in subsection (1) of that section.

(2) In subsection (1) above "the Criminal Injuries Compensation Scheme" means—

(a) the scheme established by arrangements made under the Criminal Injuries Compensation Act 1995; or 1995 c. 53.

(b) arrangements made by the Secretary of State for compensation for criminal injuries and in operation before the commencement of that scheme.

(3) If it appears to the Treasury that any other scheme or arrangement, whether established by statute or otherwise, makes provision for the making of periodical payments by way of compensation for personal injury within the meaning of section 329AA, the Treasury may by order apply that section to those payments with such modifications as the Treasury consider necessary."

SCHEDULE 27

Section 153.

FOREIGN INCOME DIVIDENDS

Companies that pay FIDs

1.—(1) In section 246A(1) of the Taxes Act 1988 (foreign income dividends) after "a company" there shall be inserted "resident in the United Kingdom".

(2) This paragraph has effect in relation to dividends paid on or after 28th November 1995.

Recipients of FIDs

2. Section 246D(5) of that Act (exclusion of section 233(1) and (1A) in the case of foreign income dividends) shall have effect, and be deemed always to have had effect, as if at the end there were inserted "to which an individual is beneficially entitled, a foreign income dividend paid to personal representatives or a foreign income dividend paid to trustees in a case in which the dividend is income to which section 686 applies."

Calculation of the distributable foreign profit and the notional foreign source ACT

3.—(1) In section 246I(6) of that Act, for the words from "an amount equal" onwards there shall be substituted "the amount of corporation tax payable, before double taxation relief is afforded, in respect of the foreign source profit."

(2) In section 246P(2) of that Act (assumptions to apply for the purposes of calculating the notional foreign source ACT), the following paragraph shall be inserted before the "and" at the end of paragraph (e)—

"(ea) where any of the matched foreign source profits represent an amount ('a gross profit') reduced by one or more such deductions as are mentioned in section 246I(2), the amount of double taxation relief which is to be taken, in finding the amount of corporation tax falling finally to be borne, to have been available (after the reduction) to be allowed by reference to the amount representing the gross profit was equal to the amount that would have been available to be so allowed had no reduction been made;".

(3) In section 246P of that Act, after subsection (12) there shall be inserted the following subsection—

"(12A) In this section 'double taxation relief' has the same meaning as in section 246I."

(4) Subject to sub-paragraph (5) below, this paragraph has effect in relation to accounting periods ending after 28th November 1995.

(5) This paragraph, so far as applicable as respects authorised unit trusts, has effect in relation to any distribution period ending after 28th November 1995.

International headquarters company

4.—(1) Section 246S of that Act (conditions for treatment as international headquarters company) shall be amended as follows.

(2) In subsection (3) (wholly-owned subsidiary of foreign quoted parent company), in paragraph (a), for "wholly owned by" there shall be substituted "a 100 per cent. subsidiary of".

(3) Subsection (8) (extension of subsection (3)) shall cease to have effect.

(4) After subsection (10) there shall be inserted the following subsection—

"(10A) For the purposes of this section a company is a 100 per cent. subsidiary of another if and so long as it is a body corporate all of whose share capital would fall to be treated for the purposes of section 838 as owned directly or indirectly by the other and that other is a body corporate; but for this purpose references in that section to owning share capital shall be construed in accordance with subsection (12) below."

(5) Subject to sub-paragraph (6) below, this paragraph has effect in relation to any accounting period ending after 28th November 1995.

(6) Where—

(a) this paragraph has effect under sub-paragraph (5) above in relation to an accounting period in which a dividend is paid, and

(b) the immediately preceding period ended on or before 28th November 1995,

subsection (9) (requirement to be international headquarters company in the period before that in which a dividend is paid) shall have effect in the case of that dividend as if this paragraph also had effect in relation to that immediately preceding period.

Life assurance business charged under Case I of Schedule D

5.—(1) In section 440B of that Act (modifications for life assurance business charged under Case I of Schedule D), after subsection (1) there shall be inserted the following subsection—

"(1A) Nothing in section 208 shall prevent foreign income dividends from being taken into account in any computation of the profits of the company's life assurance business charged in accordance with Case I of Schedule D."

(2) This paragraph has effect in relation to accounting periods beginning on or after 1st January 1996.

Foreign income distributions to corporate unit holders

6.—(1) In section 468R of that Act (foreign income distributions to corporate unit holders), after subsection (3) there shall be inserted the following subsection—

"(4) No repayment shall be made of any tax which is deemed to have been deducted by virtue of the application of paragraph (b) of section 468Q(2) in relation to a foreign income distribution."

(2) This paragraph applies in relation to any distribution period ending on or after 28th November 1995.

SCHEDULE 28

Section 154.

FOTRA SECURITIES: CONSEQUENTIAL AMENDMENTS

The Taxes Act 1988

1. Section 47 of the Taxes Act 1988 (FOTRA securities) shall cease to have effect.

2. Section 474(2) of that Act (which prevents the deduction of expenses in respect of securities the income on which is exempt from tax) shall cease to have effect.

3.—(1) In section 475 of that Act (tax-free securities: exclusion of interest on borrowed money), for subsection (1) there shall be substituted the following subsection—

"(1) This section has effect where a banking business, an insurance business or a business consisting wholly or partly in dealing in securities—

(a) is carried on in the United Kingdom by a person not ordinarily resident there; and

(b) in computing for any of the purposes of the Tax Acts the profits arising from, or loss sustained, in the business, any amount which would otherwise be brought into account is disregarded by virtue of a condition subject to which any 3½% War Loan 1952 or after was issued;

and for this purpose insurance business includes insurance business of any category."

(2) In subsections (3) and (8) of that section for the words "tax-free Treasury securities", in each place where they occur, there shall be substituted "3½% War Loan 1952 or after".

(3) Subsections (6) and (7) of that section shall cease to have effect.

4. In paragraph 5 of Schedule 19AA to that Act (designation of certain assets of overseas life assurance fund), for sub-paragraph (7) there shall be substituted the following sub-paragraph—

"(7) For the purposes of sub-paragraph (5)(d) above, the reference to securities issued with a FOTRA condition is a reference to any FOTRA security within the meaning of section 154 of the Finance Act 1996."

5. In paragraph 5C of Schedule 19AC to that Act (modification for overseas life insurance companies in relation to tax-free securities), for sub-paragraph (2) there shall be substituted the following sub-paragraphs—

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"(2) Where, in computing the income to which this paragraph applies, any profits and gains arising from a FOTRA security, or from any loan relationship represented by it, are excluded by virtue of the tax exemption condition of that security, the amount which by virtue of section 76 is to be deductible by way of management expenses shall be reduced in accordance with sub-paragraph (3) below.

(3) That amount shall be reduced so that it bears to the amount which would be deductible apart from this sub-paragraph the same proportion as the amount of the income to which this paragraph applies (after applying the provisions of section 154(2) to (7) of the Finance Act 1996) bears to what would be the amount of that income if the tax exemption condition were disregarded.

(4) Subsection (8) of section 154 of the Finance Act 1996 (meaning of 'FOTRA security' and 'tax exemption condition') shall apply for the purposes of this paragraph as it applies for the purposes of that section."

6. In paragraph 1(3) of Schedule 24 to that Act and in paragraph 5(5) of Schedule 27 to that Act (amount taken into account in computing tax of company on the assumption that it is resident in the United Kingdom), for "by virtue of section 47 or 48" there shall be substituted, in each case, "and have been so received by virtue of section 154(2) of the Finance Act 1996".

The Inheritance Tax Act 1984 (c. 51)

7. In section 6(2) of the Inheritance Tax Act 1984 (FOTRA securities to be excluded property in specified circumstances), for the words from "neither" to "United Kingdom" there shall be substituted "of a description specified in the condition".

8. In each of paragraphs (a) and (b) of section 48(4) of that Act (excluded property in the case of settlements), for the words from "neither" to "United Kingdom" there shall be substituted "of a description specified in the condition in question".

Section 156.

SCHEDULE 29

PAYING AND COLLECTING AGENTS ETC.

PART I

THE NEW CHAPTER

1. In Part IV of the Taxes Act 1988 (provisions relating to the Schedule D charge) the following Chapter shall be inserted after Chapter VII—

"CHAPTER VIIA

PAYING AND COLLECTING AGENTS

Definitions.

118A. In this Chapter—

(a) except in the terms "agent concerned", "collecting agent" and "paying agent", references to an "agent" include a person acting as nominee or sub-agent for an agent;

(b) "bank" has the meaning given by section 840A;

(c) the "chargeable date"—

(i) in the case of a relevant payment, has the meaning given by section 118B(5); and

(ii) in the case of a relevant receipt, has the meaning given by section 118C(4);

(d) "collecting agent" has the meaning given by section 118C(1), and in relation to any relevant receipt or chargeable receipt, a reference to the collecting agent is a reference to the collecting agent by virtue of whose performance of a relevant function that receipt was received or arose;

(e) in relation to any dividends, references to "coupons" include warrants for and bills of exchange purporting to be drawn or made in payment of those dividends;

(f) references to a depositary include references to a person acting as agent or nominee for a depositary;

(g) except in paragraph (h) below, references to "dividends" are references to foreign dividends, United Kingdom public revenue dividends or relevant dividends as the context requires;

(h) "foreign dividends" means any annual payments, interest or dividends payable out of or in respect of foreign holdings;

(i) "foreign holdings" means the stocks, funds, shares or securities of any body of persons not resident in the United Kingdom or of a government or public or local authority in a country outside the United Kingdom;

(j) "gilt-edged securities" means any securities which—

(i) are gilt-edged securities for the purposes of the 1992 Act; or

(ii) 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;

(k) "international organisation" has the meaning given by section 51A(8);

(l) references to a "nominee" include a person acting as agent or nominee for a nominee;

(m) "paying agent" has the meaning given by section 118B(1);

(n) "prescribed" means prescribed in regulations made by the Board under this Chapter or prescribed by the Board in accordance with such regulations;

(o) "quoted Eurobond" means a quoted Eurobond within the meaning of section 124 the interest on which is chargeable to tax under Case III of Schedule D, and "quoted Eurobond interest" means interest on such a quoted Eurobond;

(p) "relevant dividends" means foreign dividends and quoted Eurobond interest;

(q) "relevant holdings" means foreign holdings and quoted Eurobonds;

(r) "relevant payment" has the meaning given by section 118B(5);

(s) "relevant receipt" has the meaning given by section 118C(2);

(t) "securities" includes any loan stocks or similar securities, whether secured or unsecured; and

(u) "United Kingdom public revenue dividends" means income from securities which is payable out of the public revenue of the United Kingdom or Northern Ireland.

Paying agents.

118B.—(1) A person specified in column 1 of Table A below shall be a paying agent for the purposes of this Chapter in relation to such dividends as are—

(a) of a description set out in column 2 of that Table opposite his specification; and

(b) entrusted to him for payment or distribution.

TABLE A

1	2
1. Any person in the United Kingdom.	United Kingdom public revenue dividends
2. The Bank of England	United Kingdom public revenue dividends paid on securities entered in the register of the Bank of Ireland in Dublin
3. Any person in the United Kingdom	foreign dividends which are payable to persons in the United Kingdom and do not fall within subsection (4) below

(2) The Bank of England and the Bank of Ireland shall be treated as paying agents for the purposes of this Chapter in relation to United Kingdom public revenue dividends which are payable to them.

(3) The National Debt Commissioners shall be treated as paying agents for the purposes of this Chapter in relation to United Kingdom public revenue dividends payable by them.

(4) Foreign dividends fall within this subsection if they are payable out of, or in respect of, the stocks, funds, shares or securities of an organisation which is for the time being designated for the purposes of this subsection pursuant to section 582A(1).

(5) Any payment in relation to which a person is a paying agent shall be a relevant payment for the purposes of this Chapter; and the chargeable date is—

(a) in relation to such a payment as is mentioned in subsection (2) above, the date on which the payment is received; and

(b) in relation to any other relevant payment, the date on which the payment is made.

Collecting agents.

118C.—(1) Subject to subsection (3) below, a person described in column 1 of Table B below shall be a collecting agent for the purposes of this Chapter in relation to such functions performed by him as are set out in that description,

which shall be relevant functions for the purposes of this Chapter.

(2) Such dividends or proceeds of sale or other realisation as—

(a) are set out in column 2 of Table B below opposite the description of a collecting agent in column 1; and

(b) are received or arise by virtue of that collecting agent's performance of a relevant function comprised in that description

shall be relevant receipts for the purposes of this Chapter.

TABLE B

1	2
1. Any person in the United Kingdom who, in the course of a trade or profession, acts as custodian of any relevant holdings	any relevant dividends in respect of those relevant holdings which are received by him or are paid to another person at his direction or with his consent
2. Any person in the United Kingdom who, in the course of a trade or profession, by means of coupons collects or secures payment of or receives relevant dividends for another person	the relevant dividends which he so collects or receives or of which he so secures payment
3. Any person in the United Kingdom who, in the course of a trade or profession, otherwise acts for another person in arranging to collect or secure payment of relevant dividends	the relevant dividends which he so collects or of which he so secures payment
4. Any bank in the United Kingdom which sells or otherwise realises coupons for relevant dividends and pays over the proceeds or carries them into an account	the proceeds of sale or other realisation of those coupons
5. Any dealer in coupons in the United Kingdom who purchases any coupons for relevant dividends otherwise than from a bank or another dealer in coupons	the proceeds of sale of those coupons

(3) Neither the clearing of a cheque, nor the arranging for the clearing of a cheque, shall of itself be a relevant function.

(4) The chargeable date, in relation to a relevant receipt, is—

(a) in the case of a relevant receipt falling within paragraph 4 or 5 of Table B above, the date on which the sale or realisation is effected, and

(b) in any other case, the date on which the dividends are paid.

(5) For the purposes of paragraph 1 of Table B above, a person acts as a custodian of relevant holdings if he holds them, or an entitlement to them, for another person.

(6) The Board may by regulations provide for the application of the provisions of this Chapter relating to collecting agents where—

(a) a person in the United Kingdom—

(i) holds, beneficially or otherwise, a right (the relevant right) which is a right to delivery of, or to amounts representing the whole or substantially the whole of the value of, a specified quantity of shares or securities comprised in a relevant holding which is held by a person outside the United Kingdom, and

(ii) is entitled to receive income (the relevant income) which is derived from, or which represents, foreign dividends or quoted Eurobond interest on that quantity of shares or securities; and

(b) apart from the provisions of the regulations, the relevant right is not a relevant holding, or the relevant income does not constitute foreign dividends or quoted Eurobond interest.

(7) Regulations under subsection (6) above may—

(a) treat the relevant right as a foreign holding or, as the case may be, a holding of quoted Eurobonds (the notional holding); and

(b) treat the relevant income as foreign dividends or, as the case may be, quoted Eurobond interest paid on the notional holding.

Chargeable payments and chargeable receipts.

118D.—(1) For the purposes of this Chapter, every relevant payment shall be a chargeable payment unless—

(a) it is made in respect of a foreign dividend—

(i) which is payable on foreign holdings held in a recognised clearing system; and

(ii) in respect of which any conditions imposed by virtue of subsection (8) below are satisfied; or

(b) it is a payment of interest on an exempted certificate of deposit; or

(c) the making of the payment is excluded from being a chargeable payment by subsections (4), (5) or (6) below or by section 118G.

(2) For the purposes of this Chapter, every relevant receipt shall be a chargeable receipt, unless—

(a) it arises in respect of relevant holdings which are held in a recognised clearing system and—

(i) the collecting agent pays or accounts for the relevant receipt directly or indirectly to the recognised clearing system, and

(ii) any conditions imposed by virtue of subsection (8) below are satisfied; or

(b) it arises in respect of relevant holdings which are held in a recognised clearing system for which the collecting agent is acting as depositary; or

(c) it is excluded from being a chargeable receipt by subsection (7) below or by section 118G.

(3) In subsection (1)(b) above, "exempted certificate of deposit" means a certificate of deposit (within the meaning of section 56(5)) issued by a person in the United Kingdom relating to a deposit with a branch in the United Kingdom through which a company resident outside, and not resident in, the United Kingdom carries on a trade.

(4) The payment of United Kingdom public revenue dividends on securities the interest on which is, by virtue of directions given (or treated by section 51 as having been given) under section 50(1), payable without deduction of income tax shall not be a chargeable payment unless the interest is for the time being payable under deduction of income tax pursuant to an application made (or treated by section 51 as having been made) under section 50(2).

(5) The payment of United Kingdom public revenue dividends in respect of securities standing in the name of the official custodian for charities, or in respect of which there is given to the paying agent a certificate from the Board to the effect that the dividends are subject only to charitable trusts and are exempt from tax, shall not be a chargeable payment.

(6) In a case where—

(a) foreign dividends are entrusted by a company which at the time they are entrusted (the "relevant time") is not resident in the United Kingdom,

(b) they are entrusted for payment to a company which at the relevant time is resident in the United Kingdom, and

(c) at the relevant time the company mentioned in paragraph (b) above directly or indirectly controls not less than 10 per cent. of the voting power in the company mentioned in paragraph (a) above,

the payment of those dividends shall not be a chargeable payment.

(7) In a case where—

(a) foreign dividends are payable by a company which at the time of the payment (the "relevant time") is not resident in the United Kingdom,

(b) payment of those dividends is collected, received or secured, or coupons for those dividends are realised, on behalf of a company which at the relevant time is resident in the United Kingdom, and

(c) at the relevant time the company mentioned in paragraph (b) above directly or indirectly controls not less than 10 per cent. of the voting power in the company mentioned in paragraph (a) above,

those dividends or, as the case may be, the proceeds of realisation of those coupons shall not be a chargeable receipt.

(8) The Board may by regulations provide that subsection (1)(a) above does not apply in respect of a relevant payment, or that subsection (2)(a) above does not apply in respect of a relevant receipt, unless the paying agent or, as the case may be, the collecting agent has obtained a declaration from the recognised clearing system or its depositary in such form, and containing such information, as may be required by those regulations.

(9) The Board may by regulations make such provision as they may consider appropriate for requiring paying agents and collecting agents to deliver returns setting out particulars of—

(a) any relevant payments made by them which would have been chargeable payments but for the provisions of section 118D(1)(a);

(b) any relevant receipts which would have been chargeable receipts but for the provisions of section 118D(2)(a) or (b);

and for the keeping and production to, or to an officer of, the Board of any document in which any such declaration as is mentioned in subsection (8) above is contained.

Deduction of tax from chargeable payments and chargeable receipts.

118E.—(1) Subject to subsection (2) below, where a paying agent makes a chargeable payment—

(a) he shall, on making the payment, deduct from it a sum representing the amount of income tax thereon;

(b) he shall become liable to account for that sum;

(c) the person to whom the chargeable payment is made shall allow the deduction on receipt of the residue of the payment, and the paying agent shall be acquitted and discharged of so much money as is represented by the deduction, as if that sum had actually been paid; and

(d) the deduction shall be treated as income tax paid by the person entitled to the chargeable payment.

(2) In relation to United Kingdom public revenue dividends payable to the Bank of Ireland out of the public revenue of the United Kingdom, or which are entrusted to the Bank of Ireland for payment and distribution and are not payable by that Bank out of its principal office in Belfast, subsection (1) above shall not apply, but—

1870 c. 71.

(a) the money which, apart from this subsection, would be issuable to the Bank of Ireland under section 14 of the National Debt Act 1870, or otherwise payable to the Bank of Ireland for the purpose of dividends on securities of the United Kingdom government entered in the register of the Bank of Ireland in Dublin, shall be issued and paid to the Bank of England;

(b) the Bank of England shall deduct from the money so issued and paid to it a sum representing the amount of income tax on the dividends payable to the Bank of Ireland, and on the dividends on the securities of the United Kingdom government entered in the register of the Bank of Ireland in Dublin, and shall become liable to account for the same under section 118F(1);

(c) the Bank of England shall pay to the Bank of Ireland the residue of the money so issued and paid to it, to be applied by the Bank of Ireland in payment of the dividends; and

(d) the deduction shall be treated as income tax paid by the person entitled to the dividends, and the Bank of England and the Bank of Ireland shall be acquitted and discharged of so much money as is represented by the deduction, as if that sum had actually been paid.

(3) Where a collecting agent performs a relevant function—

(a) he shall on the chargeable date become liable to account for a sum representing the amount of income tax on any chargeable receipt in relation to which he is the collecting agent;

(b) he shall be entitled—

(i) to be indemnified by the person entitled to the chargeable receipt against the income tax for which he is liable to account in accordance with paragraph (a) above; and

(ii) to deduct out of the chargeable receipt or to retain from any other sums otherwise due from him to the person entitled to the chargeable receipt, or received by him on behalf of that person, amounts sufficient for meeting any liability to account for such income tax which he has discharged or to which he is subject;

(c) the person entitled to the chargeable receipt shall allow the deduction or retention on receipt of the residue of the chargeable receipt, and the collecting agent shall be acquitted and discharged of so much money as is represented by the deduction, as if that sum had actually been paid; and

(d) the amount for which the collecting agent is liable to account shall be treated as income tax paid by the person entitled to the chargeable receipt.

(4) A paying agent who makes a chargeable payment, or a collecting agent who is required to account for tax on a chargeable receipt, shall, if the person entitled to the chargeable payment or, as the case may be, the chargeable receipt so requests in writing, furnish him within thirty days after receiving that request with a certificate showing—

(a) the gross amount of the payment or receipt;

(b) the amount of income tax treated as paid by him;

(c) the actual amount actually paid or accounted for to him; and

(d) the chargeable date.

(5) The Board may by regulations—

(a) require a certificate furnished pursuant to subsection (4) above to contain information additional to that set out in paragraphs (a) to (d) of that subsection or a declaration made by or on behalf of the paying agent or collecting agent;

(b) make provision for the form of such a certificate or declaration.

(6) The duty imposed by subsection (4) above shall be enforceable at the suit or instance of the person requesting the certificate.

Accounting for tax on chargeable payments and chargeable receipts.

118F.—(1) Income tax in respect of United Kingdom public revenue dividends for which the Bank of England, the Bank of Ireland, the National Debt Commissioners or any public office or department of the Crown are liable to account pursuant to section 118E(1) or (2) shall become due and payable on the seventh day after the chargeable date and shall be paid into the general account of the Board at the Bank of England or, in the case of the Bank of Ireland, at the Bank of Ireland.

(2) Any other income tax for which a paying agent is liable to account under section 118E(1), and any income tax for which a collecting agent is liable to account under section 118E(3), shall become due and payable on the fourteenth day from the end of the month in which the chargeable date falls.

1989 c. 26.

(3) Any tax due under subsection (1) or (2) above shall carry interest, at the rate applicable under section 178 of the Finance Act 1989, from the date on which it becomes due until it is paid.

(4) The Board may by regulations make such provision as they may consider appropriate—

(a) for requiring paying agents and collecting agents to deliver returns setting out particulars of—

(i) chargeable payments made by them;

(ii) chargeable receipts in respect of which they are liable to account for tax;

(iii) any relevant payments made by them which would have been chargeable payments but for the provisions of section 118G;

(iv) any relevant receipts which would have been chargeable receipts but for the provisions of section 118G;

(v) the amount of any tax accounted for by them, or for which they are liable to account, in relation to chargeable payments or chargeable receipts;

(vi) in the case of relevant payments falling within sub-paragraph (iii) above, the paragraphs of subsection (3) or (4) of section 118G that applied to them;

(vii) in the case of relevant receipts falling within sub-paragraph (iv) above, the paragraphs of subsection (4) of section 118G that applied to them;

(viii) the names and addresses of the persons entitled to the relevant payments or relevant receipts;

(b) with respect to the furnishing of information by paying agents or collecting agents, including the inspection of books, documents and other records on behalf of the Board;

(c) for the assessment under the regulations of amounts due and for appeals against such assessments;

(d) for the repayment in specified circumstances of amounts paid (or purporting to be paid) under this Chapter.

Relevant securities of eligible persons.

118G.—(1) Subject to subsection (2) below, and to the provisions of any regulations under section 118H—

(a) any relevant payment to which subsection (3) or (4) below applies shall not be a chargeable payment; and

(b) any relevant receipt to which subsection (4) below applies shall not be a chargeable receipt.

(2) Regulations made under paragraph (g), (h) or (i) of subsection (4) below may provide that only one of paragraphs (a) and (b) of subsection (1) above is to apply by virtue of those regulations in relation to relevant payments or relevant receipts of a particular kind or from a particular source.

(3) This subsection applies to payments of United Kingdom public revenue dividends so long as—

(a) they are exempt from tax by virtue of section 46, 49, 516 or 517;

(b) they are payable in respect of gilt-edged securities which for the time being are treated by section 51A as issued subject to the condition that interest on them is paid without deduction of income tax;

(c) they are payable in respect of securities which have been issued with such a condition as is authorised by section 22(1) of the Finance (No. 2) Act 1931 and which are for the time being beneficially owned by a person who is not ordinarily resident in the United Kingdom; 1931 c. 49.

(d) they are eligible for relief from tax by virtue of section 505(1)(c) or (d), or would be so eligible but for section 505(3);

(e) they are eligible for relief from tax by virtue of section 592(2), 608(2)(a), 613(4), 614(2), (3) or (4) or 643(2); or

(f) they are payable in respect of securities held by or on behalf of a person of such a description as may be prescribed.

(4) This subsection applies to relevant payments (not being payments of United Kingdom public revenue dividends) and relevant receipts—

(a) to which a person who, at the chargeable date—

(i) is not resident in the United Kingdom, and

(ii) beneficially owns the relevant holdings from which they are derived,

is beneficially entitled;

(b) which consist of, or of the proceeds of sale or other realisation of coupons for, interest (other than quoted Eurobond interest) to which a bank which, at the chargeable date—

(i) is resident in the United Kingdom, and

(ii) beneficially owns the foreign holdings from which they are derived,

is beneficially entitled;

(c) which arise to the trustees of a qualifying discretionary or accumulation trust in their capacity as such in respect of relevant holdings held on the trusts thereof;

(d) which are eligible for relief from tax by virtue of section 505(1)(c) or (d), or would be so eligible but for section 505(3);

(e) which are 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);

(f) which consist of, or of the proceeds of sale or other realisation of coupons for, dividends payable out of the public revenue of the Republic of Ireland or out of or in respect of shares or securities issued by or on behalf of any Republic of Ireland company, society, adventure or concern;

(g) to which a person of such a description as may be prescribed and who, at the chargeable date, beneficially owns the securities from which they are derived, is beneficially entitled;

(h) which are derived from relevant holdings held by or on behalf of a person of such a description as may be prescribed;

(i) which are of such a description as may be prescribed; or

(j) which fall to be treated as the income of, or of the government of, a sovereign power or of an international organisation.

(5) For the purposes of subsection (4)(c) above, a trust is a qualifying discretionary or accumulation trust if—

(a) 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 (liability to additional rate tax of certain income of discretionary trusts) applies;

(b) the trustees are not resident in the United Kingdom; and

(c) none of the beneficiaries of the trust is resident in the United Kingdom.

(6) The persons who are to be taken for the purposes of subsection (5) 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 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) The Board may by regulations provide that a paying agent who is entrusted with the payment or distribution of—

(a) United Kingdom public revenue dividends on securities which are held by a nominee approved for the purposes of this subsection, or

(b) foreign dividends on foreign holdings held by such a nominee,

shall treat those dividends as not being chargeable payments.

(8) For the purpose of giving relief from tax pursuant to arrangements which have effect by virtue of section 788, the Board may by regulations provide that a paying agent who is entrusted with the payment or distribution of United Kingdom public revenue dividends on gilt-edged securities held by a nominee approved for the purposes of this subsection shall—

(a) treat those dividends as not being chargeable payments, or

(b) deduct tax from them at such reduced rates (being lower than the rate that would otherwise be applicable by virtue of section 118E(1)) as may be prescribed.

(9) Where, pursuant to subsection (7) or (8) above, dividends are paid without deduction of tax, or subject to deduction of tax at a reduced rate, the provisions of this Chapter shall apply, subject to subsection (10) below and to the provisions of regulations under section 118H, as though the nominee was the paying agent in relation to those dividends and the chargeable date was the date on which he received them.

(10) Where tax has been deducted from dividends at a reduced rate pursuant to regulations under subsection (8) above, the tax for which the nominee is liable to account by virtue of subsection (9) above shall not exceed the difference between the amount of tax on those dividends at the rate that is applicable by virtue of section 118E(1) and the tax already deducted from them.

Relevant securities of eligible persons: administration.

118H.—(1) The Board may by regulations provide that section 118G(1) shall not apply as regards relevant payments or relevant receipts—

(a) unless such conditions as may be prescribed are fulfilled;

(b) where the Board have reason to believe that section 118G(3) does not apply to, or to the whole of, any relevant payments; or

(c) where the Board have reason to believe that section 118G(4) does not apply to, or to the whole of, any relevant payments or relevant receipts.

(2) In subsection (3) below, references to the relevant exclusion are to exclusion from being a chargeable payment or chargeable receipt pursuant to section 118G(1) or regulations made under section 118G(7) or (8), or to the deduction of tax at a reduced rate pursuant to regulations under section 118G(8), as the case may be; and references to the agent concerned are to the paying agent or collecting agent or, as the case may be, to the nominee approved for the purpose of section 118G(7) or (8).

(3) Regulations under this section or section 118G(7) or (8) may—

(a) disapply the relevant exclusion in respect of any relevant payments or relevant receipts derived from any securities or relevant holdings unless the appropriate person has made a declaration in writing to the agent concerned, in such form as may be prescribed or authorised by the Board, confirming that the requirements for the exclusion are satisfied;

(b) require the person who makes such a declaration to undertake in the declaration to notify the agent concerned if the circumstances set out in the declaration change;

(c) require the agent concerned to consider the accuracy of any declaration made pursuant to a requirement imposed by virtue of paragraph (a) above;

(d) impose obligations—

(i) on persons having any rights in relation to relevant payments or relevant receipts in respect of which the relevant exclusion applies or is claimed to apply; and

(ii) on persons who are the agents concerned in relation to such relevant payments or relevant receipts as are mentioned in sub-paragraph (i) above

as to the provision of information, and the production of documents, to the Board or, on request, to an officer of the Board;

(e) provide for notices to be issued by the Board to persons who fail to comply with requirements for the provision of information or documents mentioned in paragraph (d) above, disapplying the relevant exclusion in relation to relevant payments or relevant receipts in relation to which they have any rights or in relation to which they are the agents concerned;

(f) impose requirements as to—

(i) the form and contents of any declaration to be made in accordance with the regulations under this section;

(ii) the appropriate person to make such a declaration;

(iii) the form and manner in which, and the time at which, any declaration is to be made or provided; and

(iv) the keeping and production to, or to an officer of, the Board of any document in which any such declaration is contained;

(g) provide for notices to be issued by the Board to such persons as may be described in the regulations where the Board are satisfied that the relevant exclusion applies, or where the Board are satisfied or have reason to believe that the relevant exclusion does not apply.

(4) Regulations under section 118G(7) or (8) may—

(a) prescribe conditions for the inclusion of securities or foreign holdings in arrangements established under that subsection;

(b) set out procedures for the approval of nominees for the purpose of that subsection and for the withdrawal of such approval.

Deduction of tax at reduced rate.

118I. The Board may make regulations which provide for the amount of any income tax which a paying agent would otherwise be liable to deduct under section 118E(1)(a), or for which a collecting agent would otherwise be liable to account under section 118E(3)(a), to be reduced by reference to liabilities for such tax paid under the law of a territory outside the United Kingdom as may be prescribed.

Prevention of double accounting.

118J.—(1) A relevant dividend the payment of which is a chargeable payment shall not be a chargeable receipt for the purpose of this Chapter.

(2) Subsection (1) above does not prevent the proceeds of sale or other realisation of a coupon from being a chargeable receipt.

(3) The Board may make regulations—

(a) for preventing more than one collecting agent from being liable to account for tax on the same dividend; or

(b) which provide that—

(i) where more than one person is a collecting agent in relation to a dividend, those persons may agree between themselves which one of their number shall be treated as the collecting agent in relation to that dividend; and

(ii) the person so identified shall for all the purposes of this Chapter be treated as the sole collecting agent in relation to that dividend.

Regulations.

118K.—(1) Any power to make regulations under this Chapter—

(a) may be exercised as regards prescribed cases or descriptions of case; and

(b) may be exercised differently in relation to different cases or descriptions of case, or in relation to different persons or descriptions of person.

(2) Regulations under this Chapter may include such supplementary, incidental, consequential or transitional provisions as appear to the Board to be necessary or expedient.

(3) No specific provision of this Chapter about regulations shall prejudice the generality of subsections (1) and (2) above."

PART II

OTHER PROVISIONS

Penalties

2.—(1) In section 98 of the Taxes Management Act 1970 (penalties in respect of certain information provisions) the words "regulations under section 118D, 118F, 118G, 118H or 118I;" shall be inserted— 1970 c. 9.

(a) in column 1 of the Table, after "regulations under section 42A"; and

(b) in column 2 of the Table, after "regulations under section 51B".

(2) In the same section—

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(a) the words "regulations under section 124(3);" shall be inserted in column 1 of the Table after the words inserted by sub-paragraph (1)(a) above; and

(b) for the words "section 124(3)" in column 2 of the Table there shall be substituted "regulations under section 124(3)".

Amendments of the Taxes Act 1988

3. The Taxes Act 1988 shall be amended in accordance with paragraphs 4 to 7 below.

4. For section 124(2) to (5) there shall be substituted—

"(2) The conditions are—

(a) that a person who—

(i) is not resident in the United Kingdom, and

(ii) beneficially owns the quoted Eurobond

is beneficially entitled to the interest;

(b) that the quoted Eurobond is held in a recognised clearing system.

(3) The Board may by regulations provide that subsection (1)(b) above shall be taken not to apply to a payment of interest unless—

(a) the person by or through whom the payment is made (the relevant payer) has received a declaration confirming that one of the conditions of subsection (2) above is satisfied, or

(b) they have issued a notice to the relevant payer stating that they consider that one (or both) of those conditions is satisfied.

(4) Regulations under subsection (3) above may—

(a) impose requirements as to—

(i) the contents of any declaration to be made in accordance with regulations under subsection (3)(a) above,

(ii) the form and manner in which any declaration is to be 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 is contained;

(b) make provision for any such declaration to be made by the person entitled to the interest (or, as the case may be, the depositary for the recognised clearing system) or by such other person as may be prescribed by the regulations;

(c) require the relevant payer to consider the accuracy of any such declaration;

(d) make provision for notices to be issued by the Board to such persons as may be described in the regulations where the Board consider that

(i) one (or both) of the conditions of subsection (2) above, or

(ii) neither of those conditions

is satisfied in relation to interest paid on any holding of quoted Eurobonds;

(e) make provision with respect to the furnishing of information by relevant payers, including the inspection of books and other records on behalf of the Board;

(f) require relevant payers to deliver returns setting out particulars of payments made by them to which subsection (1)(b) above applies and the names and addresses of the persons entitled to them;

(g) contain such supplementary, incidental, consequential or transitional provisions as appear to the Board to be necessary or expedient."

5.—(1) In section 348(3) and in section 349(1), at the end there shall be inserted "or to any payment which is a relevant payment for the purposes of Chapter VIIA of Part IV".

(2) In section 349(3), the following paragraph shall be inserted after paragraph (d)—

"(e) to any payment which is a relevant payment for the purposes of Chapter VIIA of Part IV; or"

6. In section 582A (designated international organisations: miscellaneous exemptions), in subsection (1) for "(2) to (6) below" there shall be substituted "(2) and (4) to (6) below and section 118B(4)".

7. In paragraph 4(8) of Schedule 23A (manufactured overseas dividends), for the words "subsection (2) or (3) of section 123 or under Part III, as the case may be, and for Parts III and IV of Schedule 3" there shall be substituted "Chapter VIIA of Part IV and for that Chapter".

Amendment of the Finance Act 1989

8. In section 178 of the Finance Act 1989 (setting rates of interest), in subsection (2)(m), before "160" there shall be inserted "118F,". 1989 c. 26.

SCHEDULE 30

Section 160.

INVESTMENTS IN HOUSING

Reduced rate of corporation tax

1. After section 508 of the Taxes Act 1988 there shall be inserted the following sections—

"Investment trusts investing in housing.

508A.—(1) Where any company that is an investment trust has eligible rental income for any accounting period—

(a) the rate of corporation tax chargeable for any financial year on the trust's housing investment profits for that period shall be deemed to be the small companies' rate for that year; and

(b) its housing investment profits for that period shall be treated for the purposes of section 13 as excluded from its basic profits for that period.

(2) For the purposes of this section—

(a) a company's eligible rental income for any period is so much of its income for that period as consists in rents or other receipts deriving from lettings by the company of eligible properties; and

(b) its housing investment profits for any period are so much of its profits for that period as represents the amount chargeable to tax under Schedule A in respect of its eligible rental income for that period.

(3) In computing the amount mentioned in subsection (2)(b) above for any period, deductions shall be made which (except in so far as they exceed the amount from which they are deducted) are, in aggregate, not less than the sum of the following amounts—

(a) every amount which is both—

(i) deductible (otherwise than as a debit brought into account under Chapter II of Part IV of the Finance Act 1996) in the computation of any income of the company, or of its total profits, for that period, and

(ii) referable to, or to activities connected with, the letting by the company on assured tenancies of dwelling-houses that are eligible properties when so let,

and

(b) any amount that is so referable that would represent a non-trading deficit on the company's loan relationships for that period.

(4) For the purposes of subsection (3) above any question—

(a) whether for any period there is an amount referable to any matter that would represent a non-trading deficit on a company's loan relationships, or

(b) as to what that amount is for that period,

shall be determined by computing whether and to what extent there would for that period have been a non-trading deficit on the company's loan relationships if debits and credits fell to be brought into account under Chapter II of Part IV of the Finance Act 1996 to the extent only that they are referable to that matter.

Interpretation of section 508A.

508B.—(1) In section 508A 'eligible property', in relation to a company, means (subject to the following provisions of this section) any dwelling-house as respects which the following conditions are satisfied—

(a) the company first acquired an interest in the dwelling-house on or after 1st April 1996;

(b) that interest was not, at the time when it was acquired, subject to any letting or to any statutory tenancy;

(c) at that time no arrangements had been made by the company or any person connected with it for the letting of the dwelling-house;

(d) the interest of the company in the dwelling-house is a freehold interest or an interest under a long lease at a low rent;

(e) the consideration given by the company for the acquisition of its interest in the dwelling-house did not exceed—

(i) £125,000, in the case of a dwelling-house in Greater London, or

(ii) £85,000, in any other case;

(f) the dwelling-house is let by the company under an assured tenancy and is neither—

(i) let by the company in consideration of a premium within the meaning of Schedule 8 to the 1992 Act, nor

(ii) a dwelling-house in respect of which the person to whom it is let or any associate of his has been granted any option to purchase.

(2) For the purposes of paragraph (b) of subsection (1) above, no account shall be taken of any shorthold tenancy or statutory shorthold tenancy to which the interest became subject before the time when it was acquired.

(3) For the purposes of paragraph (c) of subsection (1) above, no account shall be taken of any arrangements made by a person connected with the company in question before the time when the interest was acquired by the company if—

(a) that person had an interest in the dwelling-house when he made those arrangements;

(b) that person did not dispose of his interest at any time after the arrangements were entered into and before the company acquired its interest; and

(c) the arrangements were such as to confer a relevant entitlement on a person who, at the time when the company acquired its interest, was a tenant under any shorthold tenancy of the dwelling-house (or any part of it).

(4) For the purposes of subsection (3)(c) above a relevant entitlement is an entitlement of a tenant under a shorthold tenancy of any premises, on the coming to an end of that tenancy, to such a further tenancy of the same or substantially the same premises as will itself be a shorthold tenancy.

(5) For the purposes of this section the consideration given by a company for the acquisition of an interest in a dwelling-house shall be taken (subject to subsection (6) below) to include—

(a) any amount expended by the company on the construction or renovation of the dwelling-house or on any conversion by virtue of which that dwelling-house came to be usable as such;

(b) any amount so expended by a person connected with the company; and

(c) any consideration given by a person connected with the company for the acquisition of any such interest in the dwelling-house as—

(i) is subsequently acquired by the company, or

(ii) is held by such a person at the same time as the company holds its interest in the premises.

(6) Where a company has acquired any interest in a dwelling house from a person connected with that company—

(a) amounts expended by that person as mentioned in paragraph (a) of subsection (5) above, and

(b) the amount of any consideration given by that person for an interest in the dwelling-house,

shall be treated by virtue of that subsection as included in the consideration given by the company to the extent only that the aggregate of those amounts exceeds the consideration given by that company to that person for the interest acquired from that person by the company.

(7) In section 508A and this section—

'associate' has the meaning given by subsections (3) and (4) of section 417;

'assured tenancy' means—

(a) any letting which is an assured tenancy for the purposes of the Housing Act 1988 or the Housing (Scotland) Act 1988, or

1988 c. 50.
1988 c. 43.

(b) any tenancy in Northern Ireland which complies with such requirements or conditions as may be prescribed by regulations made by the Department of the Environment for Northern Ireland;

'letting' includes a letting by virtue of an agreement for a lease or under a licence, and 'let' shall be construed accordingly;

'long lease', in relation to the interest of a company in any dwelling-house, means a lease for a term of years certain of which at least 21 years remains unexpired at the time when that interest was acquired by the company;

'low rent' means a rent at an annual rate not exceeding—

(a) £1,000, in the case of a dwelling-house in Greater London; and

(b) £250, in any other case;

'rent' has the same meaning as it has for the purposes of Schedule A in its application to companies within the charge to corporation tax;

'shorthold tenancy' means any letting which is an assured shorthold tenancy for the purposes of the Housing Act 1988 or a short assured tenancy for the purposes of the Housing (Scotland) Act 1988;

'statutory shorthold tenancy' means—

(a) a statutory periodic tenancy within the meaning of the Housing Act 1988 which arose on the coming to an end of an assured shorthold tenancy which was a fixed term tenancy, or

(b) a statutory assured tenancy within the meaning of the Housing (Scotland) Act 1988 which arose on the coming to an end of a short assured tenancy;

'statutory tenancy'—

(a) in relation to England and Wales, has the same meaning as in the Rent Act 1977;

1977 c. 42.

(b) in relation to Scotland, has the same meaning as in the Rent (Scotland) Act 1984; and

1984 c. 58.

(c) in relation to Northern Ireland, has the same meaning as in the Rent (Northern Ireland) Order 1978.

S.I. 1978/1050 (N.I. 20).

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

(9) Section 508A shall have effect where—

(a) a company acquires an interest in any dwelling-house, and

(b) a person connected with the company has previously acquired an interest in the dwelling-house, being an interest subsequently acquired by the company or one held by that person at the same time as the company holds its interest,

as if references in this section (except in subsection (3) above) to the time when the company first acquired an interest in the premises included references to the time when the person connected with the company first acquired his interest.

(10) The Treasury may, if they think fit, by order vary the figures for the time being specified in paragraph (e) of subsection (1) above; and an order under this subsection may make different provision for different localities in Greater London or elsewhere.

(11) In the application of this section to Scotland—

(a) references to acquiring an interest shall be construed, if there is a contract to acquire the interest, as references to entering into that contract;

(b) references to the freehold interest shall be construed as references to the estate or interest of the proprietor of the *dominium utile* or, in the case of property other than feudal property, of the owner;

(c) in the definition of 'long lease' in subsection (7) above, the word 'certain' shall be omitted.

(12) Regulations made for the purposes of paragraph (b) of the definition of 'assured tenancy' in subsection (7) above shall be made by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979, and shall be subject to negative resolution within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954." S.I. 1979/1573 (N.I. 12). 1954 c. 33 (N.I.).

Investments in housing by investment trusts

2.—(1) Section 842 of the Taxes Act 1988 (investment trusts) shall be amended as follows.

(2) In subsection (1) (conditions as to a company's income for approval as an investment trust)—

(a) in paragraph (a), for "derived wholly or mainly from shares or securities" there shall be substituted "consists wholly or mainly of eligible investment income"; and

(b) in paragraph (e), for "the income it derives from shares or securities" there shall be substituted "its eligible investment income".

(3) After that subsection there shall be inserted the following subsection—

"(1AA) Income is eligible investment income for the purposes of this section in so far as it is either—

(a) income deriving from shares or securities, or

(b) eligible rental income, within the meaning of section 508A."

Commencement

3. This Schedule has effect in relation to accounting periods beginning on or after the day on which this Act is passed.

Section 163.

SCHEDULE 31

LIFE ASSURANCE BUSINESS LOSSES

Expenses of management

1. In section 76 of the Taxes Act 1988 (expenses of management: insurance companies) in subsection (1) (which applies section 75 of that Act with specified exceptions) before paragraph (a) there shall be inserted—

"(aa) where the whole or any part of a loss arising to the company in respect of its life assurance business in an accounting period is set off under section 393A or 403(1), there shall be deducted from the amount treated as the expenses of management for that period an amount equal to so much of the loss as, in the aggregate, is so set off, reduced by the amounts by which any losses for that period under section 436, 439B or 441 fall to be reduced under section 434A(2)(b); and

(ab) section 75(1) shall have effect with the substitution for "in computing profits apart from this section" of—

"(a) in computing income for the purposes of Schedule A, or

(b) by virtue of section 121(3) in computing income from the letting of rights to work minerals in the United Kingdom"; and".

Computation of losses and limitation on relief

2.—(1) In relation to accounting periods beginning on or after 1st January 1996 and ending after 31st March 1996, section 434A of the Taxes Act 1988 (life assurance business: computation of losses and limitation on relief) shall be amended as follows—

(a) for subsection (2) there shall be substituted the subsection (2) set out in sub-paragraph (2) below; and

(b) in subsection (2A) (which is inserted by paragraph 23(2) of Schedule 14 to this Act) for "(2)(c)" there shall be substituted "(2)(a)(ii)".

(2) The subsection (2) set out in this sub-paragraph is as follows—

"(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—

(a) the loss resulting from the computation shall be reduced (but not below nil) by the aggregate of—

(i) the aggregate amount treated as a charge on income in computing for the period, otherwise than in accordance with those provisions, the profits or losses of the company's life assurance business; and

(ii) any relevant non-trading deficit for that period on the company's debtor relationships; and

(b) if the whole or any part of that loss as so reduced is set off—

(i) under section 393A, or

(ii) under section 403(1),

any losses for that period under section 436, 439B or 441 shall be reduced to nil, unless the aggregate of those losses exceeds the total of the amounts set off as mentioned in sub-paragraphs (i) and (ii) above, in which case each of those losses shall be reduced by an amount which bears to that total the proportion which the loss in question bears to that aggregate."

(3) In relation to accounting periods beginning on or after 1st January 1996 and ending on or before 31st March 1996, for subsection (2) of section 434A of the Taxes Act 1988 there shall be substituted the subsection (2) set out in sub-paragraph (2) above, but with the following amendments to paragraph (a), that is to say—

(a) in the words preceding sub-paragraph (i), the words "the aggregate of" shall be omitted;

(b) in sub-paragraph (i), for "aggregate amount treated as a charge on income" there shall be substituted "amount of interest and annuities treated as charges on income"; and

(c) sub-paragraph (ii) shall be omitted.

Spreading of relief for acquisition expenses

3.—(1) In section 86 of the Finance Act 1989 (spreading of relief for acquisition expenses) in subsection (1), for the words from "less any such repayments" to the end there shall be substituted— 1989 c. 26.

"reduced by the items specified in subsection (1A) below."

(2) After that subsection there shall be inserted—

"(1A) Those items are—

(a) the appropriate portion of any deduction falling to be made under paragraph (aa) of subsection (1) of section 76 of the Taxes Act 1988 for the period in question;

(b) any such repayments or refunds falling within paragraph (c) of that subsection as are received in that period;

(c) any reinsurance commissions falling within paragraph (ca) of that subsection.

(1B) For the purposes of paragraph (a) of subsection (1A) above, "the appropriate portion" of the deduction there mentioned is the amount which bears to the whole of that deduction the proportion which the acquisition expenses, without making the reduction required by subsection (1) above, would bear to the whole of the expenses of management, without making the deductions required by paragraphs (aa), (a), (c) and (ca) of section 76(1) of the Taxes Act 1988."

Ascertainment of losses

4. In section 83 of the Finance Act 1989 (receipts to be brought into account) for subsection (3) (ascertainment of losses) there shall be substituted—

"(3) In ascertaining whether or to what extent a company has incurred a loss in respect of that business in a case where an amount is added to the company's long term business fund as part of or in connection with—

(a) a transfer of business to the company, or

(b) a demutualisation of the company not involving a transfer of business,

that amount shall (subject to subsection (4) below) be taken into account, for the period for which it is brought into account, as an increase in value of the assets of that fund within subsection (2)(b) above.

(4) Subsection (3) above 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 taken into account under subsection (2) above otherwise than by virtue of subsection (3) above, or

(c) is specifically exempted from tax.

(5) Any amount which is to be taken into account pursuant to subsection (3) above for a period of account shall be so taken into account—

(a) after the making of any reduction under subsection (6) of section 83AA below in relation to that period, but

(b) before the making of any reduction under subsection (3) of that section in relation to an accounting period of the company ending in or with that period.

(6) In subsection (3) above "transfer of business" means—

(a) a transfer of the whole or part of the long term business of an insurance company in accordance with a scheme sanctioned by a court under Part I of Schedule 2C to the Insurance Companies Act 1982;

1982 c. 50.

(b) a qualifying overseas transfer, within the meaning of paragraph 4A of Schedule 19AC to the Taxes Act 1988; or

(c) the making of a contract of reinsurance which, in whole or in part, constitutes or forms part of a total reinsurance by the reinsured, unless the reinsurer under the contract falls within section 439A of the Taxes Act 1988 (pure reinsurance).

(7) For the purposes of subsection (3)(a) above, a transfer of business falling within subsection (6)(c) above shall be treated as a transfer of business to the company which is the reinsurer under the contract of reinsurance.

(8) In this section—

"add", in relation to an amount and a company's long term business fund, includes transfer (whether from other assets of the company or otherwise);

"demutualisation" means the conversion, under the law of any territory, of a company which has been carrying on insurance business without having a share capital into a company with a share capital, without any change of legal personality;

"total reinsurance" means the reinsurance (whether effected by a single contract of reinsurance or by two or more such contracts, taken together, whether or not made with the same reinsurer) of the whole, or substantially the whole, of the reinsured's risk—

(a) under policies of a particular description issued in respect of insurances made in the course of carrying on life assurance business before the making of the contract of reinsurance (or, in a case where there are two or more contracts of reinsurance, the last of them); or

(b) under contracts of a particular description so made."

Application of surplus in reduction of certain losses

1989 c. 26.

5. After section 83 of the Finance Act 1989 there shall be inserted—

"Amounts added to long term business fund of a company in excess of that company's loss.

83AA.—(1) If one or more relevant amounts are brought into account for a period of account of a company and either—

(a) the aggregate of those amounts exceeds the loss which, after the making of any reduction under subsection (6) below but before any application of section 83(3) above in relation to that period, would have arisen to the company in that period in respect of its life assurance business, or

(b) no such loss would have so arisen,

the surplus for that period shall be applied in accordance with the following provisions of this section and section 83AB below.

(2) In this section—

"relevant amount" means so much of any amount which is added to the long term business fund of a company as mentioned in subsection (3) of section 83 above as does not fall within any of the paragraphs of subsection (4) of that section;

"surplus", in relation to a period of account of a company, means (subject to section 83AB(2) below)—

(a) if the aggregate of the relevant amounts brought into account for that period exceeds the amount of any loss which, after the making of any reduction under subsection (6) below but before any application of section 83(3) above in relation to that period, would have arisen to the company in that period in respect of its life assurance business, the amount of the excess; or

(b) if no such loss would have so arisen, the aggregate of the relevant amounts brought into account for that period.

(3) Where, apart from section 83AB(2) below, there is a surplus for a period of account of a company for which there are brought into account one or more relevant amounts which were added to the company's long term business fund as part of, or in connection with, a particular transfer of business, the appropriate portion of the surplus for that period shall be treated as reducing (but not below nil) so much of any loss arising to the transferor company in the relevant accounting period as, on a just and reasonable apportionment of the loss, is referable to the business which is the subject of that particular transfer.

(4) For the purposes of subsection (3) above, the appropriate portion of the surplus for a period of account of a company is, in the case of any particular transfer of business, the amount which bears to that surplus (apart from any additions by virtue of section 83AB(2) below) the proportion which A bears to B, where—

A is the aggregate of such of the relevant amounts added to the company's long term business fund as part of, or in connection with, that particular transfer of business as are brought into account for that period, and

B is the aggregate of the relevant amounts brought into account for that period.

(5) Any reduction pursuant to subsection (3) above of the loss arising to the transferor company in the relevant accounting period shall be made after—

(a) the making of any reduction under subsection (6) below, and

(b) any application of section 83(3) above,

in relation to the period of account of that company in which falls the date of the particular transfer of business in question.

(6) Any loss arising to a company in respect of its life assurance business in a period of account subsequent to one for which there is a surplus shall be reduced (but not below nil) by so much of that surplus as cannot be applied—

(a) under subsection (3) above;

(b) under this subsection, in the reduction of a loss arising to the company in an earlier period of account; or

(c) under section 83AB below, in relation to a transfer of business from the company in that or any earlier period of account.

(7) Any reduction pursuant to subsection (6) above of a loss arising to a company in a period of account shall be made—

(a) before any application of section 83(3) above in relation to that period, and

(b) if the company is also the transferor company in relation to a particular transfer of business, before the making of any reduction under subsection (3) above in relation to that one of its accounting periods which is the relevant accounting period in relation to that transfer.

(8) A surplus in respect of an earlier period of account shall be applied under subsection (6) above before a surplus in respect of a later period of account.

(9) All such adjustments to the liability to tax of any person shall be made, whether by assessment or otherwise, as may be required to give effect to this section.

(10) In this section—

"add" has the same meaning as in section 83 above;

"the relevant accounting period" means the accounting period of the transferor company which—

(a) ends on the date of the transfer of business mentioned in subsection (3) above, or

(b) if that transfer of business falls within section 83(6)(c) above and no accounting period of the transferor company ends on that date, ends next after that date;

"transfer of business" has the same meaning as in section 83(3) above;

"the transferor company" means the company from which the transfer of business mentioned in subsection (3) above is effected.

(11) A transfer of business falling within section 83(6)(c) above shall be treated for the purposes of this section as a transfer of business from the company which is the reinsured under the contract of reinsurance.

Treatment of surplus where there is a subsequent transfer of business from the company etc.

83AB.—(1) If an amount is added to the long term business fund of a company as part of or in connection with a transfer of business to the company, or a demutualisation of the company not involving a transfer of business, and—

(a) there is a surplus for the period of account of the company for which that amount is brought into account,

(b) at any time after the transfer of business or

demutualisation, there is a transfer of business from the company (the "subsequent transfer"), and

(c) at the end of the relevant period of account there remains at least some of the surplus mentioned in paragraph (a) above which cannot be applied—

(i) under subsection (3) of section 83AA above,

(ii) under subsection (6) of that section, in the reduction of a loss arising to the company in an earlier period of account, or

(iii) under this section, in relation to an earlier subsequent transfer,

so much of the surplus falling within paragraph (c) above as, on a just and reasonable apportionment, is referable to business which is the subject of the subsequent transfer shall be applied under this section.

(2) An amount of surplus which is to be applied under this section shall be so applied by being treated as an amount of surplus (additional to any other amounts of surplus) for the period of account of the transferee company which last precedes the period of account of that company in which the subsequent transfer is effected, whether or not there is in fact any such preceding period of account.

(3) If, in a case where an amount is treated under subsection (2) above as an amount of surplus for a period of account of a company, the period is not one for which there is brought into account an amount added to the company's long term business fund in connection with the subsequent transfer, subsection (1) above shall have effect in relation to any transfer of business from the company subsequent to that transfer as if an amount had been so added and had been brought into account for that period.

(4) Any question as to what is a just and reasonable apportionment in any case for the purposes of subsection (1) above shall be determined by the Special Commissioners who shall determine the question in the same manner as they determine appeals; but any person affected by the apportionment shall be entitled to appear and be heard or make representations in writing.

(5) A surplus in respect of an earlier period of account shall be applied under this section before a surplus in respect of a later period of account.

(6) All such adjustments to the liability to tax of any person shall be made, whether by assessment or otherwise, as may be required to give effect to this section.

(7) In this section—

"add" has the same meaning as in section 83 above;

"demutualisation" has the same meaning as in section 83 above;

"the relevant period of account" means the period of account of the company from which the subsequent transfer is effected which consists of or includes the accounting period of that company which—

(a) ends with the day on which the subsequent transfer is effected; or

(b) if the subsequent transfer is a transfer of business falling within section 83(6)(c) above and no accounting period of the company ends on that day, ends next after that day;

"surplus" has the same meaning as in section 83AA above;

"transfer of business" has the same meaning as in section 83(3) above;

"transferee company" means the company to which the subsequent transfer of business is effected.

(8) Where it is necessary for any purpose of this section to identify the time at which a demutualisation of a company takes place, that time shall be taken to be the time when the company first issues shares.

(9) A transfer of business falling within section 83(6)(c) above shall be treated for the purposes of this section as a transfer of business from the company which is the reinsured under the contract of reinsurance to the company which is the reinsurer under that contract."

Meaning of "brought into account" in sections 83AA and 83AB

1989 c. 26.

6.—(1) In section 83A of the Finance Act 1989, in subsection (1) (meaning of "brought into account" in section 83)—

(a) for "In section 83" there shall be substituted "In sections 83 to 83AB"; and

(b) for "that section" there shall be substituted "those sections".

(2) In subsection (2) of that section (the accounts which are recognised for the purposes of that section) for "that section" there shall be substituted "those sections".

Enactments disapplying section 83(3) of the Finance Act 1989

7.—(1) The following provisions of the Taxes Act 1988 (each of which provides for section 83(3) of the Finance Act 1989 not to apply in certain cases) shall cease to have effect—

(a) section 436(3)(aa);

(b) section 439B(3)(b); and

(c) section 441(4)(aa).

(2) In consequence of sub-paragraph (1)(b) and (c) above, the word "and" shall be added at the end of section 439B(3)(a) and section 441(4)(a) of the Taxes Act 1988.

Overseas life insurance companies

8.—(1) Schedule 8A to the Finance Act 1989 (modifications of sections 83 and 89 in relation to overseas life insurance companies) shall be amended in accordance with the following provisions of this paragraph.

(2) In the Heading "Modifications of sections 83 and 89 in relation to overseas life insurance companies" after "83" there shall be inserted "to 83A".

(3) In paragraph 1(1), for "sections 83 and 83A" there shall be substituted "sections 83 to 83A".

(4) In paragraph 1A, in sub-paragraph (4)—

(a) for the words from "being transferred" to "added to that fund" there shall be substituted "being added to the company's long term business fund"; and

(b) in the second sentence, for "a transfer" and "transferred" there shall be substituted respectively "an addition" and "added".

(5) After that sub-paragraph there shall be added—

"(5) Any reference in section 83AA(2), (3) or (4) or 83AB(1) or (3) to an amount being added to the relevant company's long term business fund shall be construed in accordance with sub-paragraph (4) above."

(6) In paragraph 1C(4), for "transfer" there shall be substituted "addition".

Transitional provisions

9.—(1) In the application of section 83AA or 83AB of the Finance Act 1989 in a case where one or more relevant amounts added to a company's long term business fund on or before 25th March 1996 are brought into account for a period of account beginning on or after 1st January 1996— 1989 c. 26.

(a) the amount of any loss which, before any application of section 83(3) of that Act in relation to that period, would have arisen to the company in that period shall be treated as reduced (but not below nil) by the aggregate of those relevant amounts; and

(b) except as provided by paragraph (a) above, those relevant amounts shall be disregarded.

(2) In the application of sub-paragraph (1) above in relation to an overseas life insurance company, any reference to an amount added to a company's long term business fund shall be taken as a reference to any assets which became assets of the long term business fund of an overseas life insurance company used or held for the purposes of the company's United Kingdom branch or agency, having immediately previously been—

(a) held by the company otherwise than as assets of that fund, or

(b) used or held otherwise than for those purposes.

(3) If the relevant accounting period mentioned in subsection (3) of section 83AA of the Finance Act 1989 is a period beginning before 1st January 1996, only the appropriate portion of the eligible loss shall be reduced pursuant to that subsection; and for the purposes of this sub-paragraph—

(a) "the eligible loss" means so much of the loss arising to the transferor company in the relevant accounting period as, on a just and reasonable apportionment of the loss for the purposes of that subsection, is referable to the business which is the subject of the particular transfer of business in question; and

(b) "the appropriate portion" of the eligible loss is the amount which bears to the eligible loss the proportion which A bears to B where—

A is the number of days in the relevant accounting period which fall on or after 1st January 1996; and

B is the total number of days in the relevant accounting period.

(4) Paragraph 10(2) below shall not prevent—

(a) an amount of surplus for a period of account of a company beginning on or after 1st January 1996, or

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(b) an amount of surplus for any period of account of a company which, by virtue of the operation of this sub-paragraph, derives from an amount of surplus falling within paragraph (a) above,

1989 c. 26.

from being treated by virtue of section 83AB of the Finance Act 1989 as an amount of surplus for the period of account of another company last preceding its earliest period of account ending on or after 1st January 1996 (whenever beginning) or from being applied accordingly under section 83AA(6) or 83AB of that Act.

(5) In this paragraph—

"add" has the same meaning as in section 83 of the Finance Act 1989;

"brought into account" has the same meaning as it has in sections 83 to 83AB of that Act by virtue of section 83A of that Act;

"relevant amount" has the same meaning as in section 83AA of that Act;

"surplus" has the same meaning as in sections 83AA and 83AB of that Act.

Commencement

10.—(1) Subject to paragraph 2(1) and (3) above, paragraphs 1 to 3 above have effect in relation to accounting periods beginning on or after 1st January 1996.

(2) Subject to paragraph 9 above, paragraphs 4 to 8 above have effect in relation to periods of account beginning on or after 1st January 1996.

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SCHEDULE 32

EQUALISATION RESERVES

1. In Chapter I of Part XII of the Taxes Act 1988 (insurance companies and capital redemption business), after section 444B there shall be inserted the following sections—

"Equalisation reserves

Equalisation reserves for general business.

444BA.—(1) Subject to the following provisions of this section and to sections 444BB to 444BD, the rules in subsection (2) below shall apply in making any computation, for the purposes of Case I or V of Schedule D, of the profits or losses for any accounting period of an insurance company whose business has at any time been or included business in respect of which it was required, by virtue of section 34A regulations, to maintain an equalisation reserve.

(2) Those rules are—

(a) that amounts which, in accordance with section 34A regulations, are transferred into the equalisation reserve in respect of the company's business for the accounting period in question are to be deductible;

(b) that amounts which, in accordance with any such regulations, are transferred out of the reserve in respect of the company's business for that period are to be treated as receipts of that business; and

(c) that it must be assumed that all such transfers as are required by section 34A regulations to be made into or out of the reserve in respect of the company's business for any period are made as required.

(3) Where an insurance company having any business in respect of which it is required, by virtue of section 34A regulations, to maintain an equalisation reserve ceases to trade—

(a) any balance which exists in the reserve at that time for the purposes of the Tax Acts shall be deemed to have been transferred out of the reserve immediately before the company ceases to trade; and

(b) that transfer out shall be deemed to be a transfer in respect of the company's business for the accounting period in which the company so ceases and to have been required by section 34A regulations.

(4) Where—

(a) an amount is transferred into an equalisation reserve in respect of the business of an insurance company for any accounting period,

(b) the rule in subsection (2)(a) above would apply to the transfer of that amount but for this subsection,

(c) that company by notice in writing to an officer of the Board makes an election in relation to that amount for the purposes of this subsection, and

(d) the notice of the election is given not more than two years after the end of that period,

the rule mentioned in subsection (2)(a) above shall not apply to that transfer of that amount and, instead, the amount transferred (the 'unrelieved transfer') shall be carried forward for the purposes of subsection (5) below to the next accounting period and (subject to subsection (6) below) from accounting period to accounting period.

(5) Where—

(a) in accordance with section 34A regulations, a transfer is made out of an equalisation reserve in respect of an insurance company's business for any accounting period,

(b) the rule in subsection (2)(b) above would apply to the transfer but for this subsection, and

(c) the accounting period is one to which any amount representing one or more unrelieved transfers has been carried forward under subsection (4) above,

that rule mentioned in subsection (2)(b) above shall not apply to that transfer except to the extent (if any) that the amount of the transfer exceeds the aggregate of the amounts representing unrelieved transfers carried forward to that period.

(6) Where in the case of any company—

(a) any amount representing one or more unrelieved transfers is carried forward to an accounting period in accordance with subsection (4) above, and

(b) by virtue of subsection (5) above the rule in subsection (2)(b) above does not apply to an amount representing the whole or any part of any transfer out of an equalisation reserve in respect of the company's business for that period,

the amount mentioned in paragraph (a) above shall not be carried forward under subsection (4) above to the next accounting period except to the extent (if any) that it exceeds the amount mentioned in paragraph (b) above.

(7) To the extent that any actual or assumed transfer in accordance with section 34A regulations of any amount into an equalisation reserve is attributable to arrangements entered into wholly or mainly for tax purposes—

(a) the rule in subsection (2)(a) above shall not apply to that transfer; and

(b) the making of that transfer shall be disregarded in determining, for the purposes of the Tax Acts, whether and to what extent there is subsequently any requirement to make a transfer into or out of the reserve in accordance with section 34A regulations;

and this subsection applies irrespective of whether the insurance company in question is a party to the arrangements.

(8) For the purposes of this section the transfer of an amount into an equalisation reserve is attributable to arrangements entered into wholly or mainly for tax purposes to the extent that the arrangements to which it is attributable are arrangements—

(a) the sole or main purpose of which is, or

(b) the sole or main benefit accruing from which might (but for subsection (7) above) be expected to be,

the reduction by virtue of this section of any liability to tax.

(9) Where—

(a) any transfer made into or out of an equalisation reserve maintained by an insurance company is made in accordance with section 34A regulations in respect of business carried on by that company over a period ('the equalisation period'), and

(b) parts of the equalisation period are in different accounting periods,

the amount transferred shall be apportioned for the purposes of this section between the different accounting periods in the proportions that correspond to the number of days in the equalisation period that are included in each of those accounting periods.

(10) The Treasury may by regulations provide in relation to any accounting periods ending on or after 1st April 1996 for specified transitional provisions contained in section 34A regulations to be disregarded for the purposes of the Tax Acts in determining how much is required, on any occasion, to be transferred into or out of any equalisation reserve in accordance with the regulations.

(11) In this section and sections 444BB to 444BD 'section 34A regulations' means regulations made under section 34A of the Insurance Companies Act 1982 (equalisation reserves in respect of general business).

1982 c. 50.

Modification of s. 444BA for mutual or overseas business and for non-resident companies.

444BB.—(1) The Treasury may by regulations make provision modifying section 444BA so as, in cases mentioned in subsection (2) below—

(a) to require—

(i) sums by reference to which the amount of any transfer into or out of an equalisation reserve falls to be computed, or

(ii) the amount of any such transfer,

to be apportioned between different parts of the business carried on for any period by an insurance company; and

(b) to provide for the purposes of corporation tax for the amounts taken to be transferred into or out of an equalisation reserve to be computed disregarding any such sum or, as the case may be, any such part of a transfer as is attributed, in accordance with the regulations, to a part of the business described for the purpose in the regulations.

(2) Those cases are cases where an insurance company which, in accordance with section 34A regulations, is required to make transfers into or out of an equalisation reserve in respect of any business carried on by that company for any period is carrying on, for the whole or any part of that period—

(a) any business the income and gains of which fall to be disregarded in making a computation of the company's profits in accordance with the rules applicable to Case I of Schedule D, or

(b) any business by reference to which double taxation relief is afforded in respect of any income or gains.

(3) Section 444BA shall have effect (subject to any regulations under subsection (1) above) in the case of an equalisation reserve maintained by an insurance company which—

(a) is not resident in the United Kingdom, and

(b) carries on business in the United Kingdom through a branch or agency,

only if such conditions as may be prescribed by regulations made by the Treasury are satisfied in relation to that company and in relation to transfers into or out of that reserve.

(4) Regulations under this section prescribing conditions subject to which section 444BA is to apply in the case of any equalisation reserve maintained by an insurance company may—

(a) contain conditions imposing requirements on the company to furnish the Board with information with respect to any matters to which the regulations relate, or to produce to the Board documents or records relating to any such matters; and

(b) provide that, where any prescribed condition is not, or ceases to be, satisfied in relation to the company or in relation to transfers into or out of that reserve, there is to be deemed for the purposes of the Tax Acts to have been a transfer out of that reserve of an amount determined under the regulations.

(5) Regulations under this section may—

(a) provide for apportionments under the regulations to be made in such manner, and by reference to such factors, as may be specified or described in the regulations;

(b) make different provision for different cases;

(c) contain such supplementary, incidental, consequential and transitional provision as the Treasury may think fit;

(d) make provision having retrospective effect in relation to accounting periods beginning not more than one year before the time when the regulations are made;

and the powers conferred by this section in relation to transfers into or out of any reserve shall be exercisable in relation to both actual and assumed transfers.

(6) In this section 'double taxation relief' means—

(a) relief under double taxation arrangements which takes the form of a credit allowed against corporation tax, or

(b) unilateral relief under section 790(1) which takes that form;

and 'double taxation arrangements' here means arrangements having effect by virtue of section 788.

Modification of s. 444BA for non-annual accounting etc.

444BC.—(1) The Treasury may by regulations make provision modifying the operation of section 444BA in relation to cases where an insurance company has, for the purpose of preparing the documents it is required to prepare for the purposes of section 17 of the Insurance Companies Act 1982, applied for any period an accounting method described in paragraph 52 or 53 of Schedule 9A to the Companies Act 1985 (accounting on a non-annual basis).

1982 c. 50.

1985 c. 6.

(2) Subsection (5) of section 444BB applies for the purposes of this section as it applies for the purposes of that section.

Application of s. 444BA rules to other equalisation reserves.

444BD.—(1) The Treasury may by regulations provide for section 444BA to have effect, in such cases and subject to such modifications as may be specified in the regulations, in relation to any equivalent reserves as it has effect in relation to equalisation reserves maintained by virtue of section 34A regulations.

(2) For the purposes of this section a reserve is an equivalent reserve if—

(a) it is maintained, otherwise than by virtue of section 34A regulations, either—

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

(ii) in respect of any insurance business (within the meaning of the Insurance Companies Act 1982) which is carried on outside the United Kingdom by a company resident in the United Kingdom;

and

(b) the purpose for which, or the manner in which, it is maintained is such as to make it equivalent to an equalisation reserve maintained by virtue of section 34A regulations.

(3) For the purposes of this section a reserve is also an equivalent reserve if it is maintained in respect of any credit insurance business in accordance with requirements imposed either—

(a) by or under any enactment, or

(b) under so much of the law of any territory as secures compliance with the requirements of Article 1 of the credit insurance directive (equalisation reserves for credit insurance).

(4) Without prejudice to the generality of subsection (1) above, the modifications made by virtue of that subsection may—

(a) provide for section 444BA to apply in the case of an equivalent reserve only where such conditions as may be specified in the regulations are satisfied in relation to the company maintaining the reserve or in relation to transfers made into or out of it; and

(b) contain any other provision corresponding to any provision which, in the case of a reserve maintained by virtue of section 34A regulations, may be made under sections 444BA to 444BC.

(5) Subsections (4) and (5) of section 444BB shall apply for the purposes of this section as they apply for the purposes of that section.

(6) Without prejudice to the generality of section 444BB(5), the transitional provision which by virtue of subsection (5) above may be contained in regulations under this section shall include—

(a) provision for treating the amount of any transfers made into or out of an equivalent reserve in respect of business carried on for any specified period as increased by the amount by which they would have been increased if no transfers into the reserve had been made in respect of business carried on for an earlier period; and

(b) provision for excluding from the rule in section 444BA(2)(b) so much of any amount transferred out of an equivalent reserve as represents, in pursuance of an apportionment made under the regulations, the transfer out of that reserve of amounts in respect of which there has been no entitlement to relief by virtue of section 444BA(2)(a).

(7) In this section—

'credit insurance business' means any insurance business falling within general business class 14 of Schedule 2 to the Insurance Companies Act 1982 that is not reinsurance business; 1982 c. 50.

'the credit insurance directive' means Council Directive 87/343/EEC of 22nd June 1987 amending, as regards credit insurance and suretyship insurance, First Directive 73/239 on the coordination of laws, regulations and administrative provisions relating to the taking-up and pursuit of the business of direct insurance other than life assurance; and

'EC company' has the same meaning as in the Insurance Companies Act 1982."

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1970 c. 9.

2. In the second column of the Table in section 98 of the Taxes Management Act 1970 (penalties in respect of certain information provisions), after the entry relating to regulations under section 431E(1) or 441A(3) of the Taxes Act 1988 there shall be inserted the following entries—

"regulations under section 444BB;

regulations under section 444BD;".

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SCHEDULE 33

MANAGEMENT EXPENSES OF CAPITAL REDEMPTION BUSINESS

Amendment of section 76 of Taxes Act

1.—(1) In section 76 of the Taxes Act 1988 (management expenses of companies carrying on life assurance business), after subsection (5) there shall be inserted the following subsection—

"(5A) In the preceding provisions of this section references to life assurance business and references to basic life assurance and general annuity business shall be deemed, in each case, to include references to capital redemption business."

(2) In subsection (6) of that section, at the end there shall be inserted "or to any capital redemption business carried on by the company at or through that branch or agency."

(3) In subsection (8) of that section, before the definition of "investment business" there shall be inserted the following definition—

"'capital redemption business' means any capital redemption business, within the meaning of section 458, which is business to which that section applies;".

Treatment of capital redemption business

2. In subsection (1) of section 458 of the Taxes Act 1988 (capital redemption business), at the end there shall be inserted "and where section 76 applies by virtue of subsection (5A) of that section, it shall apply separately to capital redemption business".

Overseas life insurance companies

3. In sub-paragraph (1) of paragraph 5 of Schedule 19AC to the Taxes Act 1988 (modification of section 76), at the end of paragraph (a) of the subsection (6A) which is treated as inserted by that sub-paragraph there shall be inserted "or capital redemption business".

Commencement

1994 c. 9.

4. This Schedule has effect as respects accounting periods ending on or after the day appointed under section 199 of the Finance Act 1994 for the purposes of Chapter III of Part IV of that Act (self-assessment management provisions).

SCHEDULE 34

Section 169.

PROVISIONAL REPAYMENTS IN CONNECTION WITH PENSION BUSINESS

PART I

AMENDMENTS OF SCHEDULE 19AB TO THE TAXES ACT 1988

1.—(1) Paragraph 1 (entitlement to certain payments on account) shall be amended in accordance with the following provisions of this paragraph.

(2) In sub-paragraph (1) (entitlement to payment of an amount equal to the aggregate there mentioned) after "equal" there shall be inserted ", subject to paragraph 2 below,".

(3) For sub-paragraphs (3) and (4) (ascertainment of the "provisional fraction") there shall be substituted—

"(3) In the application of subsections (5) to (9) of section 432A for the purpose of determining the amounts to which a company is entitled by way of provisional repayments in the case of any accounting period of the company, the reference in subsection (5) to "the relevant fraction" shall be taken as a reference to the provisional fraction for that accounting period.

(4) For the purposes of this paragraph—

(a) the provisional fraction for an accounting period of a company is the fraction which would, on the basis of the company's latest section 11 return, be the relevant fraction for the purposes of section 432A(5) for the accounting period to which that return relates; but

(b) if there is no section 11 return on the basis of which that fraction can be ascertained, the provisional fraction shall be taken to be nil;

but this sub-paragraph is subject to paragraph 2 below."

(4) In sub-paragraph (5) (meaning of "the appropriate portion") in paragraph (b) (company carrying on more than one category of long term business) for sub-paragraph (ii) (income arising from assets not linked to pension business) there shall be substituted—

"(ii) if and to the extent that the payment or distribution in question is income which is not referable to a category of business by virtue of subsection (3) or (4) of section 432A, the provisional fraction; and

(iii) except as provided by sub-paragraph (i) or (ii) above, none."

(5) For sub-paragraph (6) (inspector not to give effect to claim unless he is satisfied he has been given sufficient information) there shall be substituted—

"(6) Section 42 of the Management Act (claims) shall not apply to a claim for a provisional repayment.

(6A) A claim for a provisional repayment shall be in such form as the Board may determine and the form of claim shall provide for a declaration to the effect that all the particulars given in the form are correctly stated to the best of the knowledge and belief of the person making the claim."

(6) For sub-paragraph (7) (provisional repayments to be treated as payments on account of certain payments or repayments which will eventually fall to be made in respect of income tax and tax credits) there shall be substituted—

"(7) A provisional repayment for a provisional repayment period shall be regarded as a payment on account of the amounts (if any) which the

company would, apart from this Schedule, be entitled to be paid or repaid in respect of its pension business for the accounting period in which that provisional repayment period falls, in respect of—

(a) income tax borne by deduction on payments received by the company in that accounting period and referable to its pension business, and

(b) tax credits in respect of distributions received by the company in that accounting period and referable to its pension business,

on a claim such as is mentioned in section 7 of this Act or section 42(4) of the Management Act in respect of that accounting period."

(7) Sub-paragraph (8) (which relates to any case where an election is made under section 438(6) as respects franked investment income and which, having regard to amendments made by this Schedule, is unnecessary) shall cease to have effect.

(8) For sub-paragraph (10) (definitions) there shall be substituted—

"(10) In this paragraph—

"latest section 11 return", in the case of an accounting period of a company ("the current accounting period"), means, subject to sub-paragraph (11) below, the section 11 return for the latest preceding accounting period of the company for which such a return has been delivered before the making of the first claim for a provisional repayment for the current accounting period;

"section 11 return", in the case of any company, means a return delivered by the company pursuant to section 11 of the Management Act and includes a reference to any accounts, statements or reports delivered pursuant to that section together with the return;

"self-assessment" means an assessment included in a return under section 11 of the Management Act by virtue of section 11AA of that Act and includes a reference to such an assessment as amended under section 11AA(2) or 28A(3) or (4) of that Act.

(11) In any case where—

(a) there is a section 11 return which would, apart from this sub-paragraph, be the latest section 11 return in the case of an accounting period of a company,

(b) the self-assessment required to be included in that return pursuant to section 11AA of the Management Act has been amended under section 11AA(2) or 28A(3) or (4) of that Act, and

(c) that amendment was made before the making of the first claim for a provisional repayment for the accounting period mentioned in paragraph (a) above,

the return which is to be regarded as the latest section 11 return in the case of that accounting period shall be that return as it stands amended immediately after the making of that amendment of the self-assessment (or, if the self-assessment has been so amended more than once, that return as it stands amended immediately after the making of the last such amendment) but ignoring amendments which do not give rise to any change in the fraction which, on the basis of the return as it has effect from time to time, would be the relevant fraction for the purposes of section 432A(5) for the accounting period to which the return relates."

2.—(1) Paragraph 2 (changes in the provisional fraction) shall be amended in accordance with the following provisions of this paragraph.

(2) For sub-paragraphs (1) and (2) (cases where the paragraph applies, and consequences of its application) there shall be substituted—

"(1) This paragraph applies in any case where—

(a) a claim has been made for a provisional repayment for at least one provisional repayment period in an accounting period of a company;

(b) subsequently, a further such claim is made for a provisional repayment period falling within that accounting period; and

(c) had that further claim been the first claim made for a provisional repayment for that accounting period, the provisional fraction for the accounting period would have been a different fraction (whether in consequence of the delivery of a section 11 return for a later preceding accounting period or the application of paragraph 1(11) above);

and in this paragraph the "substituted provisional fraction" means the different fraction mentioned in paragraph (c) above.

(2) Where this paragraph applies—

(a) the amount of any provisional repayment to which the company is entitled for the provisional repayment period mentioned in sub-paragraph (1)(b) above shall be an amount determined in accordance with sub-paragraph (3) below or such lesser amount as may be specified in the claim; and

(b) in relation to any later provisional repayment period in the same accounting period, the substituted provisional fraction shall, subject to any further application of this paragraph, be treated as the provisional fraction for the accounting period."

(3) In sub-paragraph (3), in the definition of "total entitlement", for the words following paragraph (b) there shall be substituted—

"had the substituted provisional fraction been the provisional fraction for the accounting period as from the beginning of that period; and".

3.—(1) Paragraph 3 (repayment, with interest, of excessive provisional repayments) shall be amended in accordance with the following provisions of this paragraph.

(2) In sub-paragraph (1), for paragraphs (a) and (b) (which respectively refer to the company's assessment to corporation tax being finally determined and the amount referred to in paragraph 1(7)) there shall be substituted—

"(a) an insurance company's self-assessment for an accounting period becomes final, and

(b) the aggregate amount of the provisional repayments made to the company for that accounting period exceeds the appropriate amount,".

(3) After that sub-paragraph there shall be inserted—

"(1A) For the purposes of sub-paragraph (1)(b) above, the appropriate amount for an accounting period of a company is the amount (if any) which, on the assumptions in sub-paragraphs (1B) and (1C) below and disregarding any provisional repayments, the company would be entitled to be paid or repaid, when its self-assessment for the period becomes final, in respect of its pension business for that accounting period on a claim such as is mentioned in section 7 of this Act or section 42(4) of the Management Act in respect of—

(a) income tax borne by deduction on payments received by the company in that accounting period and referable to its pension business, and

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(b) tax credits in respect of distributions received by the company in that accounting period and referable to its pension business.

(1B) The first assumption is that no payments or repayments have been made to the company in respect of—

(a) income tax such as is mentioned in paragraph (a) of sub-paragraph (1A) above, or

(b) tax credits such as are mentioned in paragraph (b) of that sub-paragraph,

before the company's self-assessment for the accounting period in question becomes final.

(1C) The second assumption is that in making any set off under—

(a) section 7(2),

(b) paragraph 5 of Schedule 16, or

(c) regulations made by virtue of section 51B,

income tax borne by deduction on income which is not referable to pension business is set off before income tax so borne on income which is referable to pension business.

(1D) In its application by sub-paragraph (1) above, section 30 of the Management Act shall have effect as if, instead of the provision made by subsection (5), it provided that an assessment under that section by virtue of sub-paragraph (1) above is not out of time under section 34 of that Act if it is made no later than the end of the accounting period following that in which the self-assessment mentioned in paragraph (a) of that sub-paragraph becomes final."

1970 c. 9.

(4) In sub-paragraph (3) (application of section 87A of the Taxes Management Act 1970) in paragraph (b) (which provides for the specified words in subsection (1) of that section to be disregarded) for ""(in accordance with section 10 of the principal Act)"" there shall be substituted ""(in accordance with section 59D of this Act)"".

(5) In sub-paragraph (4) (amount of principal outstanding to be determined in accordance with sub-paragraphs (5) to (7)) for "(7)" there shall be substituted "(8)".

(6) After sub-paragraph (7) there shall be added—

"(8) For the purposes of sub-paragraph (7) above, any repayment made by the company in respect of an amount paid or repaid to it in respect of—

(a) income tax such as is mentioned in paragraph (a) of sub-paragraph (1A) above, or

(b) tax credits such as are mentioned in paragraph (b) of that sub-paragraph,

shall be treated as a repayment in respect of the principal, taking an earlier such repayment by the company before a later.

(9) In this paragraph "self-assessment" means an assessment included in a return under section 11 of the Management Act by virtue of section 11AA of that Act and includes a reference to such an assessment as amended."

4.—(1) Paragraph 6 (interpretation) shall be amended in accordance with the following provisions of this paragraph.

(2) In sub-paragraph (1), for the definition of "provisional fraction" there shall be substituted—

""provisional fraction" shall be construed in accordance with paragraphs 1(4) and 2 above;".

(3) Sub-paragraph (3) (which makes transitional provision for cases where an insurance company has not made a return under section 11 of the Taxes Management Act 1970 as amended by section 82 of the Finance (No.2) Act 1987 shall cease to have effect. 1970 c. 9. 1987 c. 51.

(4) After that sub-paragraph there shall be added—

"(4) Sub-paragraph (5) below applies in any case where an insurance company—

(a) which has delivered a return under section 11 of the Management Act for an accounting period ending before the self-assessment appointed day, but

(b) which has not delivered its first return under that section for an accounting period ending on or after that day,

makes the first claim for a provisional repayment for a particular accounting period ending on or after that day.

(5) Where this sub-paragraph applies—

(a) the provisional fraction for the accounting period to which the claim mentioned in sub-paragraph (4) above relates shall be determined in accordance with paragraph 1(3), (4), and (6) and sub-paragraph (3) above, as they have effect in relation to accounting periods ending before that day; and

(b) paragraph 2 above, as originally enacted, shall have effect in relation to that accounting period as it has effect in relation to accounting periods ending before that day.

(6) In this paragraph "the self-assessment appointed day" means the day appointed under section 199 of the Finance Act 1994 for the purposes of Chapter III of Part IV of that Act (self-assessment management provisions)." 1994 c. 9.

PART II

AMENDMENTS OF SCHEDULE 19AC TO THE TAXES ACT 1988

5.—(1) Paragraph 15 (modification of Schedule 19AB) shall be amended in accordance with the following provisions of this paragraph.

(2) Sub-paragraph (1) (which relates to paragraph 1(8) of Schedule 19AB) shall cease to have effect.

(3) At the end there shall be added—

"(3) In paragraph 3(1C) of Schedule 19AB, for paragraph (a) there shall be substituted—

"(a) section 11(3),"."

SCHEDULE 35

Section 179.

ROLL-OVER RELIEF IN RESPECT OF SHIPS

Preliminary

1. The Capital Allowances Act 1990 shall be amended as follows. 1990 c. 1.

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Amendment of provisions relating to roll-over relief in respect of ships

2.—(1) In subsection (3) of section 33A (relief limited to expenditure on new shipping incurred or to be incurred by the shipowner), for paragraph (b) there shall be substituted the following paragraph—

"(b) the amount of any expenditure incurred or to be incurred by qualifying persons in the period of six years beginning with the day on which the event mentioned in subsection (1)(b) above occurs, so far as that expenditure is, or (when incurred) will be, expenditure to which an addition made under this section in respect of that event may be attributed in accordance with subsection (5) below;".

(2) In subsection (4) of that section (relief not to apply where expenditure on new shipping not incurred by the shipowner within six years), for the words from the beginning of paragraph (b) onwards there shall be substituted the following—

"(b) circumstances arise in which the whole or any part of the addition ceases (otherwise than by being attributed) to be an amount that may be attributed, in accordance with subsection (5) below, to expenditure on new shipping incurred by qualifying persons in the period of six years mentioned in subsection (3)(b) above,

the shipowner shall be assumed not to have been entitled to so much of the addition as will not be so attributed."

(3) For subsection (5) of that section (attribution of relief to expenditure on new shipping) there shall be substituted the following subsections—

"(5) Subject to subsection (5A) below and to section 33D(6), where—

(a) an addition is made under this section to the shipowner's qualifying expenditure for the relevant period in respect of his actual trade, and

(b) expenditure on new shipping is incurred by a qualifying person in the period of six years mentioned in subsection (3)(b) above,

the shipowner may, by notice to an officer of the Board, attribute to that expenditure so much of the addition as is equal to so much of the expenditure as is not already the subject of an attribution under this subsection.

(5A) A notice under subsection (5) above shall not have effect in a case where the shipowner and the qualifying person to whose expenditure the notice relates are not the same person unless that person joins with the shipowner in the giving of that notice."

(4) After subsection (7) of that section there shall be inserted the following subsection—

"(8) In this section and the following provisions of this Chapter references to a qualifying person, in relation to any expenditure, are references to—

(a) the shipowner; and

(b) where the shipowner is a company, any company which, at the time when the expenditure is or is to be incurred, is or (as the case may be) would be a member of the same group of companies as the shipowner;

and for the purposes of this subsection two companies are members of the same group of companies at any time if, at that time, they are treated as members of the same group of companies for the purposes of Chapter IV of Part X of the principal Act (group relief)."

3.—(1) In subsection (1) of section 33C (re-imposition of deferred charge)—

(a) in paragraph (b), for "the shipowner" there shall be substituted "a qualifying person"; and

(b) for paragraph (c) there shall be substituted the following paragraph—

"(c) the expenditure is expenditure the whole or any part of which is expenditure to which the whole or any part of the addition is attributed in accordance with section 33A(5)."

(2) In subsection (2) of that section—

(a) the words "to be", in the first place where they occur, shall be omitted; and

(b) in paragraph (b), for "the shipowner" there shall be substituted "the qualifying person in question".

4.—(1) In section 33D (definition of expenditure on new shipping), in subsection (1)—

(a) in paragraph (a), for "the shipowner's actual trade" there shall be substituted "a trade carried on by the person who incurs that expenditure"; and

(b) in paragraph (b), for "the shipowner" there shall be substituted "that person".

(2) In subsection (2) of that section—

(a) in paragraph (a), for "the shipowner" there shall be substituted "the person who incurred the expenditure"; and

(b) in paragraph (c)(ii), for "the shipowner" there shall be substituted "the person who incurred the expenditure".

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

"(2A) Subject to subsection (2B) below, expenditure incurred by a qualifying person other than the shipowner on the provision of a ship shall not be, and shall be deemed never to have been, expenditure on new shipping if—

(a) at any time after the time when the ship first belongs to that person in consequence of that expenditure, it ceases to belong to that person without having been brought into use for the purposes of a trade of that person;

(b) the ship is brought into use for the purposes of a trade of that person and an event falling within section 24(6)(c) occurs with respect to the ship before the end of the period of three years beginning with the time when it is first so brought into use; or

(c) there is a time falling—

(i) after the expenditure is incurred, and

(ii) where the ship is brought into use for the purposes of a trade of that person, before the end of the period of three years beginning with the time when it is first so brought into use,

when the shipowner and that person do not fall to be treated as members of the same group of companies for the purposes of Chapter IV of Part X of the principal Act (group relief).

(2B) Subsection (2A) above shall not apply by virtue of paragraph (a) or (b) of that subsection in any case if the event by virtue of which the case falls within that paragraph is, or is the result of—

(a) the total loss of the ship; or

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(b) damage to the 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;

and that subsection shall have effect, where anything falling within paragraph (a) or (b) above occurs, as if times falling after the occurrence of the total loss or, as the case may be, after the occurrence of the damage were to be disregarded for the purposes of paragraph (c) of that subsection."

(4) In subsection (4) of that section—

(a) in paragraphs (a) and (b), for the words "the shipowner", in each place where they occur, there shall be substituted "the person who incurred the expenditure"; and

(b) in paragraph (c)(i), for "the shipowner's actual trade" there shall be substituted "a trade carried on by the person who incurred that expenditure".

(5) In subsection (6) of that section, for "by the shipowner" there shall be substituted "by a qualifying person".

(6) In subsection (7) of that section—

(a) for "any trade previously carried on by the shipowner" there shall be substituted "the shipowner's actual trade"; and

(b) in paragraph (a), for the words "by the persons for the time being carrying on that trade" there shall be substituted "for the purposes of that trade by the persons for the time being carrying it on".

(7) For subsection (8) of that section there shall be substituted the following subsection—

"(8) For the purposes of this section a person is connected with another person at any time if, at that time—

(a) he is, within the terms of section 839 of the principal Act, connected either with that other person or with a person who is connected with that other person by virtue of paragraph (b) below; or

(b) he is carrying on a trade previously carried on by that other person in a case in which the only changes in the persons engaged in carrying on that trade between—

(i) the time when it was previously carried on by that other person, and

(ii) the time in question,

are changes in respect of which the trade is to be treated by virtue of section 113(2) or 343(2) of the principal Act as not having been discontinued;

and the persons who shall be taken for the purposes of this section, in relation to expenditure incurred by a person who is not the shipowner, to be connected at any time with the person by whom the expenditure is or has been incurred shall include every person who at that time is connected (in accordance with the preceding provisions of this subsection) with the shipowner."

5.—(1) In section 33E (definition of a qualifying ship), after subsection (8) there shall be inserted the following subsection—

"(9) Subsections (5), (6) and (8) above shall have effect for the purposes of section 33D in relation to any ship on the provision of which expenditure is incurred on or after the passing of the Finance Act 1996 as if the references in those subsections to the shipowner included references to the person incurring that expenditure."

6.—(1) In section 33F (procedural provisions), in subsection (4)—

(a) for "An attribution made for the purposes of section 33A(5) or 33C" there shall be substituted "Subject to subsection (4A) below, an attribution in accordance with section 33A(5)"; and

(b) for "the person giving the notice" there shall be substituted "the shipowner".

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

"(4A) A notice by the shipowner under subsection (4) above shall not have effect in a case where the shipowner and the qualifying person to whose expenditure the notice relates are not the same person unless that person joins with the shipowner in the giving of that notice."

Commencement

7.—(1) Subject to sub-paragraph (2) below, this Schedule shall have effect in relation to any case in which the event mentioned in section 33A(1)(b) occurs on or after the day on which this Act is passed.

(2) Subject to sub-paragraph (3) below, this Schedule shall not apply for the purposes of claims, assessments and adjustments made on or after the day on which this Act is passed but before such day as the Treasury may by order appoint.

(3) Sub-paragraph (2) above shall not prevent the making on or after the day appointed under that sub-paragraph of any claims, assessments or adjustments in respect of the application of this Schedule, in accordance with sub-paragraph (1) above, in relation to times before that day; and nothing in any provision relating to the period within which any claim or assessment must be made shall prevent any such claim, assessment or adjustment from being made by reference to this Schedule if it is made no more than twelve months after the day so appointed.

SCHEDULE 36

Section 182.

CONTROLLED FOREIGN COMPANIES

1.—(1) Section 747A of the Taxes Act 1988 (special rule for computing chargeable profits: currency) shall be amended as follows.

(2) Subsection (7) (first relevant accounting period of a trading company where subsection (6) does not apply) shall be omitted.

(3) In subsection (8) (first relevant accounting period of a company which is not a trading company)—

(a) the words "the company is not a trading company and" shall be omitted;

(b) for "its", where first occurring, there shall be substituted "the company's"; and

(c) after paragraph (b) (cases where direction under section 747 would have been given had the company not pursued an acceptable distribution policy) there shall be added—

"unless the company is a trading company, in which case paragraph (b) above shall be disregarded in the case of its accounting periods beginning before 28th November 1995."

2. In section 748(3) of the Taxes Act 1988 (direction under section 747(1) not to be given in cases where reduction in United Kingdom tax was not the main

purpose etc) in paragraph (a), for "or any two or more of those transactions taken together" there shall be substituted "or any two or more transactions taken together, the results of at least one of which are so reflected,".

3.—(1) Schedule 24 to the Taxes Act 1988 (assumptions for calculating chargeable profits etc) shall be amended in accordance with the following provisions of this paragraph.

(2) In paragraph 1 (general) after sub-paragraph (3) there shall be inserted—

"(3A) In any case where—

(a) it is at any time necessary for any purpose of Chapter IV of Part XVII to determine the chargeable profits of the company for an accounting period, and

(b) at that time—

(i) no direction has been given under section 747(1) with respect to that or any earlier accounting period of the company, and

(ii) it has not been established that that or any earlier accounting period of the company is an ADP exempt period,

in determining the chargeable profits of the company for the accounting period mentioned in paragraph (a) above it shall be assumed, for the purpose of any of the following provisions of this Schedule which refer to the first accounting period in respect of which a direction is given under section 747(1) or which is an ADP exempt period, that that period (but not any earlier period) is an accounting period in respect of which such a direction is given or which is an ADP exempt period."

(3) After sub-paragraph (5) of that paragraph there shall be inserted—

"(6) Any reference in this Schedule to an "ADP exempt period", in the case of any company, is a reference to an accounting period of the company—

(a) which begins on or after 28th November 1995; and

(b) in respect of which the company pursued, within the meaning of Part I of Schedule 25, an acceptable distribution policy."

(4) In paragraph 2(1) (company assumed to have become resident in the United Kingdom at the beginning of the first accounting period in respect of which a direction is given under section 747(1) and to have continued so resident etc) for "in respect of which a direction is given under section 747(1) and" there shall be substituted—

"(a) in respect of which a direction is given under section 747(1), or

(b) which is an ADP exempt period,

and".

(5) In paragraph 4 (maximum reliefs assumed to have been claimed etc unless notice requesting other treatment is given by UK resident company or companies with a majority interest) after sub-paragraph (1) there shall be inserted—

"(1A) Sub-paragraph (2) below applies to any accounting period of the company—

(a) in respect of which a direction is given under section 747(1); or

(b) which is an ADP exempt period."

(6) In sub-paragraph (2) of that paragraph (notice to be given not later than the expiry of the time for making an appeal under s.753 or within such longer period as the Board may allow)—

(a) at the beginning there shall be inserted "Where this sub-paragraph applies to an accounting period of the company, then"; and

(b) for "the time for the making of an appeal under section 753" there shall be substituted "the appropriate period".

(7) After that sub-paragraph there shall be inserted—

"(2A) For the purposes of sub-paragraph (2) above, "the appropriate period"—

(a) in the case of an accounting period in respect of which a direction is given under section 747(1), means the time for the making of an appeal under section 753; and

(b) in the case of an accounting period which is an ADP exempt period, means the period of twenty months following the end of the accounting period."

(8) After sub-paragraph (3) of that paragraph (which defines the UK resident company or companies with a majority interest) there shall be inserted—

"(3A) Sub-paragraph (3) above shall apply in relation to an accounting period which is an ADP exempt period as it would apply if—

(a) that accounting period had instead been one in respect of which a direction had been duly given under section 747(1), and

(b) such apportionments and assessments as are mentioned in sub-paragraph (3) above had been made."

(9) In paragraph 9(1)(c) (losses incurred in accounting periods in which, among other things, the company was not resident in the United Kingdom) after "was not resident" there shall be inserted ", and is not to be assumed by virtue of paragraph 2(1)(b) above to have been resident,".

(10) In paragraph 10 (capital allowances for expenditure incurred on machinery or plant before the first accounting period in respect of which a direction is given under section 747(1)) for "in respect of which a direction is given under section 747(1), the" there shall be substituted—

"(a) in respect of which a direction is given under section 747(1), or

(b) which is an ADP exempt period,

the".

(11) In paragraph 11 (write-down of allowances for certain years preceding the first for which a direction is given under section 747(1)) in sub-paragraph (2) (which defines the starting period as the first accounting period for which a direction is given and makes provision in respect of claims under paragraph 9(3)) for "in respect of which a direction is given under section 747(1) and" there shall be substituted—

"(a) in respect of which a direction is given under section 747(1), or

(b) which is an ADP exempt period,

and".

4.—(1) Schedule 25 to the Taxes Act 1988 (cases excluded from direction-making powers) shall be amended as follows.

(2) In paragraph 2 (acceptable distribution policy)—

(a) in sub-paragraph (1)(d) (amount of the dividend etc paid to persons resident in the United Kingdom) for "50 per cent. of the company's available profits" there shall be substituted "90 per cent. of the company's net chargeable profits";

(b) in sub-paragraph (6) (computation of appropriate portion of profits in cases where there are two classes of issued shares) in the definition of "X", for "available profits" there shall be substituted "net chargeable profits".

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(3) In paragraph 2A (further provisions to determine whether a controlled foreign company which is not a trading company pursues an acceptable distribution policy)—

(a) in sub-paragraph (1) (application) the words "which is not a trading company" shall be omitted;

(b) in sub-paragraph (5)(c) (which modifies the definition of "X" in paragraph 2(6) for certain purposes) for "available profits" there shall be substituted "net chargeable profits";

(c) sub-paragraphs (6) and (7) (which are superseded by amendments made to paragraph 2 by this Schedule) shall be omitted.

(4) In paragraph 3 ("available profits" and "net chargeable profits" for purposes of Part I of the Schedule)—

(a) sub-paragraphs (1) to (4) (ascertainment of "available profits") shall be omitted;

(b) in sub-paragraph (5) (certain dividends to be left out of account in determining available profits or, where the company is not a trading company, chargeable profits) the words "the available profits or, where the company is not a trading company," shall be omitted.

(5) In paragraph 6 (exempt activities) in sub-paragraph (2)(b) (less than 50 per cent. of gross trading receipts from wholesale, distributive or financial business to be derived from connected or associated persons) after "connected or associated persons" there shall be added "or persons who have an interest in the company at any time during that accounting period."

(6) In paragraph 16(2) (reductions in United Kingdom tax: extended meaning of "transaction" in paragraphs 17 and 18)—

(a) in paragraph (a), after "transaction" there shall be inserted "the results of which are"; and

(b) in paragraph (b), for "two or more such transactions taken together" there shall be substituted "two or more transactions taken together, the results of at least one of which are so reflected".

Section 198.

SCHEDULE 37

BANKS

PART I

"BANK" RE-DEFINED FOR CERTAIN PURPOSES

1.—(1) After section 840 of the Taxes Act 1988 there shall be inserted the following section—

"Banks.

840A.—(1) In any provision in relation to which it is provided that 'bank' has the meaning given by this section 'bank' means—

(a) the Bank of England;

1987 c. 22.

(b) an institution authorised under the Banking Act 1987;

(c) a relevant European institution; or

(d) a relevant international organisation which is designated as a bank for the purposes of that provision by an order made by the Treasury.

(2) For the purposes of subsection (1) above, an institution is a relevant European institution if—

(a) it is a European authorised institution within the meaning of the Banking Co-ordination (Second Council Directive) Regulations 1992; and S.I. 1992/3218.

(b) the requirements of paragraph 1 of Schedule 2 to those regulations have been complied with in relation to its establishment of a branch.

(3) For the purposes of subsection (1) above, a relevant international organisation is an international organisation of which the United Kingdom is a member."

(2) In section 828 of the Taxes Act 1988 (regulations and orders), in subsection (4), for "or 791" there shall be substituted "791 or 840A(1)(d)".

PART II

AMENDMENTS OF THE TAXES ACT 1988

Provisions in which new meaning of "bank" applies

2.—(1) The following subsection—

"( ) In this section 'bank' has the meaning given by section 840A.",

shall be inserted in the Taxes Act 1988 in accordance with sub-paragraph (2) below.

(2) The subsection shall be inserted—

(a) in section 234A (information relating to distributions), after subsection (8), as subsection (8A);

(b) in section 349 (payment of interest under deduction of tax, etc.), after subsection (3), as subsection (3AA);

(c) in section 745 (obligation to furnish information not to apply to banks), after subsection (5), as subsection (5A);

(d) in section 816 (obligation to disclose certain particulars to apply to banks), after subsection (3), as subsection (3A).

(3) In Schedule 20 to the Taxes Act 1988 (charities: qualifying investments and loans), in paragraph 7 (certain deposits with banks to be qualifying investments), after sub-paragraph (2), there shall be inserted the following sub-paragraph—

"(3) In this paragraph 'bank' has the meaning given by section 840A."

(4) The provisions of paragraph 10 of that Schedule shall become sub-paragraph (1) of that paragraph and after that sub-paragraph there shall be inserted the following sub-paragraph—

"(2) In this paragraph 'bank' has the meaning given by section 840A."

Related amendments

3. In section 349(3) of the Taxes Act 1988—

(a) in paragraph (a), for the words from "in the United Kingdom" to the end there shall be substituted "on an advance from a bank, if at the time when the interest is paid the person beneficially entitled to the interest is within the charge to corporation tax as respects the interest";

(b) in paragraph (b), for "such a bank in the ordinary course of that" there shall be substituted "a bank in the ordinary course of its".

4. After subsection (3AA) of section 349 of the Taxes Act 1988 (inserted by paragraph 2 above) there shall be inserted the following subsection—

"(3AB) An order under section 840A(1)(d) designating an organisation as a bank for the purposes of paragraph (a) of subsection (3) above may provide that that paragraph shall apply to the organisation as if the words from "if" to the end were omitted."

5. In Schedule 20 to the Taxes Act 1988, in paragraphs 7(1) and 10, for "an institution authorised under the Banking Act 1987" there shall in each case be substituted "a bank".

1987 c. 22.

Application

6. The amendments of the Taxes Act 1988 made by paragraphs 2 to 5 above apply as mentioned in paragraphs 7 to 10 below.

7. The amendment of section 234A applies in relation to payments made on or after the day on which this Act is passed.

8.—(1) The amendment of subsection (3)(a) of section 349, and inserted subsection (3AA) of that section so far as it relates to subsection (3)(a), apply in accordance with sub-paragraphs (2) to (6) below.

(2) The amendments do not apply in relation to interest payable before the day on which this Act is passed.

(3) In the case of an institution which—

(a) immediately before the day on which this Act is passed, is treated for the purposes of section 349(3)(a) as a bank carrying on a bona fide banking business in the United Kingdom, and

(b) on that day, falls within the definition of 'bank' given by section 840A(1),

the amendments apply in relation to interest payable on an advance made before that day as well as in relation to interest payable on an advance made on or after that day.

(4) In the case of an institution which—

(a) immediately before the day on which this Act is passed, is not treated for the purposes of section 349(3)(a) as a bank carrying on a bona fide banking business in the United Kingdom, and

(b) on that day, falls within the definition of 'bank' given by section 840A(1),

the amendments apply only in relation to interest payable on an advance made on or after that day.

(5) Sub-paragraph (6) below applies in the case of an institution which—

(a) immediately before the day on which this Act is passed, is treated for the purposes of section 349(3)(a) as a bank carrying on a bona fide banking business in the United Kingdom; and

(b) on that day does not fall within the definition of 'bank' given by section 840A(1).

(6) The amendments apply in relation to—

(a) interest payable on an advance made on or after the day on which this Act is passed; and

(b) interest payable on an advance made before that day, if at the time when the interest is paid the person beneficially entitled to the interest is not within the charge to corporation tax as respects the interest.

(7) The amendment of subsection (3)(b) of section 349, and inserted subsection (3AA) of that section so far as it relates to subsection (3)(b), apply in relation to interest paid on or after the day on which this Act is passed on an advance made on or after that day.

(8) In relation to interest paid on an advance made before the day on which this Act is passed, section 349(3)(b) shall have effect as if for the words "such a bank" there were substituted "a bank carrying on a bona fide banking business in the United Kingdom" (and section 349(3AA) shall be disregarded).

9. The amendments of sections 745 and 816 apply in relation to requirements imposed on or after the day on which this Act is passed.

10. The amendments of paragraphs 7 and 10 of Schedule 20 apply in relation to deposits made or, as the case may be, money placed on or after the day on which this Act is passed.

PART III

OTHER AMENDMENTS

Amendments of the Management Act

11.—(1) The following subsection—

"( ) In this section 'bank' has the meaning given by section 840A of the principal Act.",

shall be inserted in the Taxes Management Act 1970 in accordance with sub-paragraph (2) below. 1970 c. 9.

(2) The subsection shall be inserted—

(a) in section 17 (returns from banks etc.), after subsection (1), as subsection (1A);

(b) in section 18 (obligation to supply certain information not to apply to banks), after subsection (3), as subsection (3AA);

(c) in section 24 (obligation to disclose certain particulars not to apply to banks), after subsection (3), as subsection (3A).

(3) In section 17(1) of that Act, for "person carrying on the trade or business of banking" there shall be substituted "such person who is a bank".

(4) In section 18(3) of that Act for the words from "carrying on" to the end there shall be substituted "in respect of any interest paid by the bank in the ordinary course of its business".

(5) This paragraph applies as follows—

(a) the amendments of section 17 apply in relation to interest paid on or after the day on which this Act is passed; and

(b) the amendments of sections 18 and 24 apply in relation to requirements imposed on or after the day on which this Act is passed.

Amendments of the Inheritance Tax Act 1984

12.—(1) In section 157 of the Inheritance Tax Act 1984 (non-residents' bank accounts), in subsection (5), for "the Bank of England, the Post Office or an authorised institution" there shall be substituted "a bank or the Post Office". 1984 c. 51.

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

"(6) In this section 'bank' has the meaning given by section 840A of the Taxes Act 1988."

(3) This paragraph applies in relation to deaths occurring on or after the day on which this Act is passed.

Section 199.

SCHEDULE 38

QUOTATION OR LISTING OF SECURITIES

The Finance Act 1973

1973 c. 51.

1.—(1) In section 38(2)(c) of the Finance Act 1973 (disposals of exploration or exploitation rights to include disposals of shares deriving their value from such rights), for "quoted" there shall be substituted "listed".

(2) This paragraph has effect in relation to disposals of shares on or after 1st April 1996.

The Inheritance Tax Act 1984

2.—(1) For the second and the last occurrences of the word "quoted" in each of—

1984 c. 51.

(a) sections 105(1ZA) and 113A(3B) of the Inheritance Tax Act 1984 (meaning of "quoted" etc.), and

(b) the paragraph in section 272 of that Act (general interpretation) which defines "quoted" and "unquoted",

there shall be substituted "listed".

(2) This paragraph has effect—

(a) in relation to transfers of value on or after 1st April 1996; and

(b) for the purposes of any charge to tax by reason of an event occurring on or after 1st April 1996, in relation to transfers of value before that date.

3.—(1) In section 180(3) of that Act (whether two investments are of the same description), for "quoted" there shall be substituted "listed".

(2) This paragraph has effect in relation to any time falling on or after 1st April 1996.

4.—(1) In section 178(2) of that Act (shares or investments whose quotation is suspended at time of death)—

(a) for "quotation" there shall be substituted "listing"; and

(b) for "quoted" there shall be substituted "so listed or dealt in".

(2) In section 186B(1) of that Act (shares or investments whose quotation is suspended at the end of the relevant period), for "quotation" there shall be substituted "listing".

(3) This paragraph has effect in relation to investments sold, or treated as sold, on or after 1st April 1996.

5.—(1) In each of sections 227(1AA) and 228(5) of that Act (meaning of "unquoted"), for the word "quoted" there shall be substituted "listed".

(2) This paragraph has effect—

(a) in relation to transfers of value on or after 1st April 1996; and

(b) for the purposes of any charge to tax by reason of an event occurring on or after 1st April 1996, in relation to transfers of value before that date.

The Taxes Act 1988

6.—(1) In each of the provisions of the Taxes Act 1988 listed in sub-paragraph (2) below, for "quoted" (wherever occurring) there shall be substituted "listed".

(2) The provisions referred to in sub-paragraph (1) above are—

(a) paragraph (b) of the definition of "quoted Eurobond" in section 124(6);

(b) section 209(2)(e)(ii);

(c) section 246S(3)(c) and (e);

(d) section 254(11);

(e) section 349(3A)(b);

(f) section 415(1)(b);

(g) section 477A(1A);

(h) section 576(4);

(j) paragraph 11(a) and (c) of Schedule 9;

(k) paragraph (c) of paragraph 1(5C) of Schedule 18;

(l) paragraph 5 of Schedule 20; and

(m) paragraph 13(2)(c) of Schedule 25.

(3) So far as relating to the provision mentioned in sub-paragraph (2)(a) above, sub-paragraph (1) above has effect in relation to any interest paid on a quoted Eurobond on or after 1st April 1996.

(4) So far as relating to the provision mentioned in sub-paragraph (2)(b) above, sub-paragraph (1) above has effect in relation to any interest paid or other distribution made on or after 1st April 1996.

(5) So far as relating to the provisions mentioned in sub-paragraph (2)(c) and (m) above, sub-paragraph (1) above has effect in relation to accounting periods ending on or after 1st April 1996.

(6) So far as relating to the provision mentioned in sub-paragraph (2)(d) above, sub-paragraph (1) above has effect in relation to securities issued on or after 1st April 1996.

(7) So far as relating to the provisions mentioned in sub-paragraph (2)(e) and (g) above, sub-paragraph (1) above has effect in relation to dividends or interest which become payable on or after 1st April 1996.

(8) So far as relating to the provision mentioned in sub-paragraph (2)(f) above, sub-paragraph (1) above has effect in relation to periods of 12 months ending on or after 1st April 1996.

(9) So far as relating to the provision mentioned in sub-paragraph (2)(h) above, sub-paragraph (1) above has effect in relation to relevant periods ending on or after 1st April 1996.

(10) So far as relating to the provisions mentioned in sub-paragraph (2)(j) and (k) above, sub-paragraph (1) above has effect in relation to any time falling on or after 1st April 1996.

(11) So far as relating to the provision mentioned in sub-paragraph (2)(l) above, sub-paragraph (1) above has effect in relation to chargeable periods ending on or after 1st April 1996.

7.—(1) In each of the provisions of that Act listed in sub-paragraph (2) below, for "quoted on" there shall be substituted "listed in the Official List of".

(2) The provisions referred to in sub-paragraph (1) above are—

(a) paragraph (b) of the definition of "preference shares" in section 210(4);

(b) section 842(1)(c); and

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(c) section 842AA(2)(e).

(3) Sub-paragraph (1) above, so far as relating to the provision mentioned in sub-paragraph (2)(a) above, has effect in relation to share capital repaid on or after 1st April 1996.

(4) Sub-paragraph (1) above, so far as relating to the provisions mentioned in sub-paragraph (2)(b) and (c) above, has effect in relation to accounting periods ending on or after 1st April 1996.

8.—(1) In section 251(5) of that Act (application of section 272(3) of the Taxation of Chargeable Gains Act 1992), for "listed" there shall be substituted "quoted". 1992 c. 12.

(2) This paragraph has effect where the relevant date falls on or after 1st April 1996.

9.—(1) In section 735(3) of that Act (meaning of the "appropriate proportion")—

(a) after "the appropriate proportion" there shall be inserted ", in relation to securities listed in the Official List of the Stock Exchange,";

(b) in paragraph (a), for "first listed in The Stock Exchange Daily Official List at a price excluding the value of" there shall be substituted ", in accordance with announcements made by The Stock Exchange, first to be dealt in without carrying rights to"; and

(c) in paragraph (b), for "quoted in that List at a price excluding the value of" there shall be substituted ", in accordance with such announcements, first to be dealt in without carrying rights to".

(2) In section 735(4) of that Act (application of section 753(3) to securities purchased before their first interest payment), for "quoted" there shall be substituted "to be dealt in".

(3) In section 735(5) of that Act (application of section 735(3) to securities not listed in the Stock Exchange Daily Official List)—

(a) for "Stock Exchange Daily Official List" there shall be substituted "Official List of The Stock Exchange"; and

(b) after "shall have effect" there shall be inserted "as it has effect in relation to securities which are so listed but".

(4) This paragraph has effect in relation to cases where the first buyer purchases securities on or after 1st April 1996.

The Taxation of Chargeable Gains Act 1992

10.—(1) In each of the provisions of the Taxation of Chargeable Gains Act 1992 listed in sub-paragraph (2) below, for the word "quoted" (wherever occurring) there shall be substituted "listed".

(2) The provisions referred to in sub-paragraph (1) above are—

(a) section 144(8)(b);

(b) the definition of "unquoted company" in section 164N(1);

(c) section 165(2)(b)(i);

(d) section 276(2)(c) and (6);

(e) section 281(3)(c); and

(f) paragraph 2(2)(b)(i) of Schedule 7.

(3) So far as relating to the provisions mentioned in sub-paragraph (2)(a) and (c) to (f) above, sub-paragraph (1) above has effect in relation to disposals on or after 1st April 1996.

(4) So far as relating to the provision mentioned in sub-paragraph (2)(b) above, sub-paragraph (1) above has effect in relation to acquisitions of qualifying investments (within the meaning of section 164A of that Act) on or after 1st April 1996.

11.—(1) In section 146(4)(b) of that Act (definition of "quoted shares and securities"), for the words "have a quoted market value" there shall be substituted the words "are listed".

(2) This paragraph has effect in relation to disposals of options on or after 1st April 1996.

12.—(1) In section 272(3) of that Act (market value of certain listed shares or securities), for "listed" there shall be substituted "quoted".

(2) In Schedule 11 to that Act (transitional provisions and savings), in paragraph 7(1)(a) (modification of section 272(3) when ascertaining market values before 25th March 1973), for "listed" there shall be substituted "quoted".

(3) This paragraph has effect where the relevant date falls on or after 1st April 1996.

SCHEDULE 39

Section 201.

ENACTMENT OF CERTAIN INLAND REVENUE EXTRA-STATUTORY CONCESSIONS

PART I

INCOME TAX AND CORPORATION TAX

Capital Allowances

1.—(1) The Capital Allowances Act 1990 ("the 1990 Act") shall be amended as follows. 1990 c. 1.

(2) The following section shall be inserted after section 15 of the 1990 Act:

"Balancing charge after cessation of trade.

15A.—(1) This section applies where:

(a) a balancing charge falls to be made as provided in section 15 on any person in respect of a building or structure which is temporarily out of use but is deemed by virtue of subsection (1) of that section still to be an industrial building or structure; and

(b) when the building or structure was last in use, it was in use as an industrial building or structure for the purposes of a trade which was carried on by that person but which has since been permanently discontinued.

(2) Where this section applies, the amount of the balancing charge shall be treated for the purposes of section 105 of the principal Act (allowable deductions) as a sum received by that person which is chargeable to tax under section 103 or 104(1) of the principal Act (charges on receipts after discontinuance), and accordingly any loss, expense, debit or capital allowance such as is referred to in section 105(1) may be deducted from the amount of the balancing charge.

(3) Nothing in subsection (2) above shall prevent any amounts allowable under any other provisions of the Tax Acts from being deducted from the amount of the balancing charge.

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(4) Section 15(3) shall apply for the purposes of this section."

(3) Section 35 of the 1990 Act (contributions to expenditure, and hiring of cars) shall be amended by the insertion of the following subsection after subsection (2):

"(2A) Where subsection (2) has operated to reduce any expenditure on the hiring of a motor car, and subsequently either any rebate (by whatever name called) of the rentals is made or any transaction occurs with regard to any rentals that falls within section 94 of the principal Act (debts deducted and subsequently released), then the amount otherwise taxable in respect of the rebate or transaction shall be reduced in the same proportion as the expenditure on hiring was reduced."

(4) The amendment made by subparagraph (2) above shall have effect where the balancing charge falls to be made on or after the day on which this Act is passed, and the amendment made by subparagraph (3) above shall have effect in relation to rebates made and transactions occurring on or after the day on which this Act is passed.

Contributions to overseas pension schemes

1989 c. 26.

2.—(1) Section 76 of the Finance Act 1989 (non-approved retirement benefits schemes) shall be amended as follows.

(2) At the beginning of each of subsections (2), (3), (5) and (6), for "Expenses" there shall be substituted "Subject to subsection (6A) below, expenses".

(3) The following subsections shall be inserted after subsection (6):

"(6A) Expenses to which subsection (6B) or (6C) below applies shall be treated as not falling within any of subsections (2), (3), (5) or (6) above.

(6B) This subsection applies to expenses of paying any sum, or of providing benefits, pursuant to a superannuation fund which satisfies the requirements of section 615(6) of the Taxes Act 1988.

(6C) This subsection applies to expenses of paying any sum, or of providing benefits, pursuant to a retirement benefits scheme which is established outside the United Kingdom and which the Board are satisfied corresponds to such a scheme as is mentioned in paragraphs (a), (b) or (c) of section 596(1) of the Taxes Act 1988, where the expenses are incurred for the benefit of:

(a) employees whose emoluments are foreign emoluments within the meaning of section 192 of the Taxes Act 1988; or

(b) employees who are not resident in the United Kingdom and whose duties are performed wholly outside the United Kingdom (and for this purpose duties performed in the United Kingdom the performance of which is merely incidental to the performance of other duties outside the United Kingdom shall be treated as performed outside the United Kingdom)."

(4) The amendments made by this paragraph shall have effect in relation to expenses incurred on or after the day on which this Act is passed.

PART II

CHARGEABLE GAINS

Treatment of compensation and insurance money

3.—(1) Section 23 of the Taxation of Chargeable Gains Act 1992 (receipt of compensation and insurance money not treated as a disposal) shall be amended as follows. 1992 c. 12.

(2) The following subsections shall be substituted for subsection (6):

"(6) If a building ("the old building") is destroyed or irreparably damaged, and all or part of a capital sum received by way of compensation for the destruction or damage, or under a policy of insurance of the risk of the destruction or damage, is applied by the recipient in constructing or otherwise acquiring a replacement building situated on other land ("the new building"), then for the purposes of subsections (4) and (5) above each of the old building and the new building shall be regarded as an asset separate from the land on which it is or was situated and the old building shall be treated as lost or destroyed.

(7) For the purposes of subsection (6) above:

(a) references to a building include references to any permanent or semi-permanent structure in the nature of a building; and

(b) the reference to a sum applied in acquiring the new building does not include a reference to a sum applied in acquiring the land on which the new building is situated; and

(c) all necessary apportionments shall be made of any expenditure, compensation or consideration, and the method of apportionment shall be such as is just and reasonable.

(8) This section shall apply in relation to a wasting asset with the following modifications:

(a) paragraphs (b) and (c) of subsection (1) above, and subsection (2) above, shall not apply; and

(b) in subsections (1) and (3) above, the amount of the expenditure from which the deduction is to be made shall be the amount which would have been allowable under Chapter III of this Part if the asset had been disposed of immediately after the application of the capital sum."

(3) The amendments made by this paragraph shall have effect in relation to capital sums received on or after 6th April 1996.

Assets of negligible value

4.—(1) Section 24 of the Taxation of Chargeable Gains Act 1992 (disposals where assets lost or destroyed, or become of negligible value) shall be amended by the substitution of the following subsection for subsection (2):

"(2) Where the owner of an asset which has become of negligible value makes a claim to that effect:

(a) this Act shall apply as if the claimant had sold, and immediately reacquired, the asset at the time of the claim or (subject to paragraphs (b) and (c) below) at any earlier time specified in the claim, for a consideration of an amount equal to the value specified in the claim.

(b) An earlier time may be specified in the claim if:

(i) the claimant owned the asset at the earlier time; and

(ii) the asset had become of negligible value at the earlier time; and either

(iii) for capital gains tax purposes the earlier time is not more than two years before the beginning of the year of assessment in which the claim is made; or

(iv) for corporation tax purposes the earlier time is on or after the first day of the earliest accounting period ending not more than two years before the time of the claim.

1994 c. 9.

(c) Section 93 of and Schedule 12 to the Finance Act 1994 (indexation losses and transitional relief) shall have effect in relation to an asset to which this section applies as if the sale and reacquisition occurred at the time of the claim and not at any earlier time."

(2) The amendment made by this paragraph shall have effect in relation to claims made on or after 6th April 1996.

Settled Property

5.—(1) Section 72 of the Taxation of Chargeable Gains Act 1992 (termination of life interest on death of person entitled) shall be amended as follows.

(2) In subsections (1), (2) and (5), for the words "a life" wherever they occur, there shall be substituted "an" and, in subsection (5), the word "life", in the third place where it occurs, shall be omitted.

(3) For subsections (3) and (4) there shall be substituted the following subsections:

"(3) This section shall apply on the death of the person entitled to any annuity payable out of, or charged on, settled property or the income of settled property as it applies on the death of a person whose interest in possession in the whole or any part of settled property terminates on his death.

(4) Where, in the case of any entitlement to an annuity created by a settlement some of the settled property is appropriated by the trustees as a fund out of which the annuity is payable, and there is no right of recourse to, or to the income of, settled property not so appropriated, then without prejudice to subsection (5) below, the settled property so appropriated shall, while the annuity is payable, and on the occasion of the death of the person entitled to the annuity, be treated for the purposes of this section as being settled property under a separate settlement."

(4) The amendments made by this paragraph shall have effect in relation to deaths occurring on or after 6th April 1996.

1992 c. 12.

6.—(1) Section 73 of the Taxation of Chargeable Gains Act 1992 (death of life tenant: exclusion of chargeable gain) shall be amended as follows.

(2) In subsection (1), for the words from "termination" to "that interest" there shall be substituted "death of a person entitled to an interest in possession in the settled property".

(3) In subsection (2), the word "life" shall be omitted.

(4) In subsection (3), for the words from "subsection (5)" to "subsection (2) above" there shall be substituted "subsections (3) to (5) of that section shall apply for the purposes of this section".

(5) The amendments made by this paragraph shall have effect in relation to deaths occurring on or after 6th April 1996.

Retirement Relief

7.—(1) Paragraph 14 of Schedule 6 to the Taxation of Chargeable Gains Act 1992 shall be amended as follows.

(2) In subparagraph (2), the word "original" shall be inserted before "qualifying period".

(3) The following subparagraphs shall be inserted at the end:

"(7) In relation to the expression "the original qualifying period", the questions whether a disposal is a qualifying disposal and whether the period relating to that disposal is a qualifying period shall be determined without regard to the requirement that the length of the period be at least one year.

(8) This paragraph shall not apply if the extended qualifying period resulting from the operation of subparagraphs (1) to (7) would be a period of less than one year."

(4) The amendments made by this paragraph shall have effect in relation to disposals made on or after 6th April 1996.

Relief for loans to traders

8.—(1) Section 253 of the Taxation of Chargeable Gains Act 1992 (relief for loans to traders) shall be amended as follows.

(2) In subsection (3):

(a) for the words from the beginning until "is satisfied that" there shall be substituted "Where a person who has made a qualifying loan makes a claim and at that time"; and

(b) for the words "when the claim was made" there shall be substituted "at the time of the claim or (subject to subsection (3A) below) any earlier time specified in the claim."

(3) The following subsection shall be inserted after subsection (3):

"(3A) For the purposes of subsection (3) above, an earlier time may be specified in the claim if:

(a) the amount to which that subsection applies was also irrecoverable at the earlier time; and either

(b) for capital gains tax purposes the earlier time falls not more than two years before the beginning of the year of assessment in which the claim is made; or

(c) for corporation tax purposes the earlier time falls on or after the first day of the earliest accounting period ending not more than two years before the time of the claim."

(4) In subsection (4) for the words from the beginning until "is satisfied that" there shall be substituted "Where a person who has guaranteed the repayment of a loan which is, or but for subsection (1)(c) above would be, a qualifying loan makes a claim and at that time".

(5) The amendments made by this paragraph shall have effect in relation to claims made on or after 6th April 1996.

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Relief for debts on qualifying corporate bonds

1992 c. 12.

9.—(1) Section 254 of the Taxation of Chargeable Gains Act 1992 (relief for debts on qualifying corporate bonds) shall be amended as follows.

(2) In subsection (2):

(a) for the words from the beginning until "is satisfied that" there shall be substituted "Where a person who has made a qualifying loan makes a claim and at that time"; and

(b) for the words "when the claim was made" there shall be substituted "at the time of the claim or (subject to subsection (8A) below) any earlier time specified in the claim".

(3) In subsections (6) and (7), the words "the inspector is satisfied that" shall be omitted.

(4) In subsection (8), the words "in the inspector's opinion" shall be omitted.

(5) The following subsection shall be inserted after subsection (8):

"(8A) For the purposes of subsection (2) above, an earlier time may be specified in the claim if:

(a) the condition which was fulfilled at the time of the claim was also fulfilled at the earlier time; and either

(b) for capital gains tax purposes the earlier time falls not more than two years before the beginning of the year of assessment in which the claim is made; or

(c) for corporation tax purposes the earlier time falls on or after the first day of the earliest accounting period ending not more than two years before the time of the claim."

(6) In subsection (11), the words "the inspector was satisfied that", "by the inspector" and "he was satisfied that" shall be omitted.

(7) The amendments made by this paragraph shall have effect in relation to claims made on or after 6th April 1996.

PART III

STAMP DUTY

Lost or spoiled instruments

1891 c. 38.

10.—(1) The Stamp Duties Management Act 1891 ("the Management Act") shall be amended as follows.

(2) In section 9 of the Management Act (procedure for obtaining allowance), subsection (7), paragraph (e), the words "which is inadvertently and undesignedly spoiled, and in lieu whereof another instrument made between the same parties and for the same purpose is executed and duly stamped, or" shall be omitted.

(3) The following section shall be inserted after section 12 of the Management Act:

"Allowance for lost or spoiled instruments

Lost or spoiled instruments.

12A.—(1) This section applies where the Commissioners are satisfied that:

(a) an instrument which was executed and duly stamped ("the original instrument") has been accidentally lost or spoiled; and

(b) in place of the original instrument, another instrument

made between the same persons and for the same purpose ("the replacement instrument") has been executed; and

(c) an application for relief under this section is made to the Commissioners; and either

(d) where the original instrument has been lost, the applicant undertakes to deliver it up to the Commissioners to be cancelled if it is subsequently found; or

(e) where the original instrument has been spoiled:

(i) the application is made within two years after the date of the original instrument, or if it is not dated, within two years after the time when it was executed, or within such further time as the Commissioners may allow; and

(ii) no legal proceeding has been commenced in which the original instrument has been or could or would have been given or offered in evidence; and

(iii) the original instrument is delivered up to the Commissioners to be cancelled.

(2) Where this section applies:

(a) the replacement instrument shall not be chargeable with any duty, but shall be stamped with the duty with which it would otherwise have been chargeable in accordance with the law in force at the time when it was executed, and shall be deemed for all purposes to be duly stamped; and

(b) if any duty, interest, fine or penalty was paid in respect of the replacement instrument before the application was made, the Commissioners shall pay to such person as they consider appropriate an amount equal to the duty, interest, fine or penalty so paid.

(3) For the purposes of this section the Commissioners may require the applicant to produce such evidence by statutory declaration or otherwise as they think fit."

(4) Subject to subparagraph (5) below, the amendments made by this paragraph shall have effect from the day on which this Act is passed.

(5) The amendments made by this paragraph shall not apply in relation to an instrument which has been accidentally spoiled if an application for allowance under section 9 of the Management Act was made before the day on which this Act is passed.

SCHEDULE 40

Section 202.

GILT STRIPPING: TAXATION PROVISIONS

The Stamp Act 1891 (c. 39)

1. In the definition of "stock" in section 122(1) of the Stamp Act 1891, after "Bank of Ireland," there shall be inserted "any strip (within the meaning of section 47 of the Finance Act 1942) of any such stocks or funds,". 1942 c. 21.

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2.—(1) At the end of paragraph (1) of the general exemptions at the end of Schedule 1 to the Stamp Act 1891 (exemption for Government stocks etc.) there shall be inserted "or strips (within the meaning of section 47 of the Finance Act 1942) of such stocks or funds".

1942 c. 21.

(2) Where any day is appointed as the abolition day for the purposes of sections 107 to 110 of the Finance Act 1990, sub-paragraph (1) above shall cease to have effect in accordance with the provisions of that Act for the coming into force of the repeal of the paragraph mentioned in that sub-paragraph.

1990 c. 29.

The Taxes Act 1988

3.—(1) At the end of subsection (5) of section 710 of the Taxes Act 1988 (meaning of "transfer"), there shall be inserted—

"(b) except as otherwise provided by subsections (1) and (3) of section 722A, does not include any transaction forming part of any such exchange as is mentioned in either of those subsections."

(2) After subsection (13) of that section there shall be inserted the following subsections—

"(13A) Where a security is deemed to have been transferred by virtue of section 722A(1), the interest period in which the exchange in question takes place shall be treated as ending on the day on which it would have ended had the exchange not taken place.

(13B) Where a security is deemed to have been transferred by virtue of section 722A(3), the interest period in which the exchange in question takes place shall be treated as having begun on such day as shall for that purpose be specified in the security."

4. In section 711 of the Taxes Act 1988 (interpretation of sections 710 and 712 to 728 of that Act), after subsection (6) there shall be inserted the following subsection—

"(6A) In any case where section 722A(1) or (3) applies, the deemed transfer shall be treated as made—

(a) without accrued interest in any such case where the exchange in question is made at any time after the balance has been struck for a dividend on the security but before the day on which that dividend is payable;

(b) with accrued interest in any other such case."

5. In section 712(4) of the Taxes Act 1988 (meaning of "settlement day"), after "722" there shall be inserted ", 722A".

6. In the Taxes Act 1988, the following section shall be inserted after section 722—

"Gilt strips: deemed transfer.

722A.—(1) For the purposes of sections 710 to 728, where a gilt-edged security is exchanged by any person for strips of that security the security shall be deemed to have been transferred by that person.

(2) Nothing in subsection (1) above shall have effect to cause any person to be treated as the transferee of any securities for the purposes of section 713(2)(b).

(3) For the purposes of sections 710 to 728, where strips of gilt-edged securities are exchanged by any person for a single gilt-edged security consolidating those strips, that security shall be deemed to have been transferred to that person.

(4) Nothing in subsection (3) above shall have effect to cause any person to be treated as the transferor of any securities for the purposes of section 713(2)(a).

(5) In this section—

'gilt-edged security' has the same meaning as in section 51A; and

'strip' means anything which, within the meaning of section 47 of the Finance Act 1942, is a strip of a gilt-edged security." 1942 c. 21.

7. In the Taxes Act 1988, the following section shall be inserted after section 730B—

"Exchanges of gilts: traders etc.

730C.—(1) This section has effect for the purposes of computing the profits and gains arising from any trade, profession or vocation carried on by any person in so far as the computation is such as to require amounts in respect of the acquisition or redemption of a gilt-edged security (including any strip) to be brought into account.

(2) Where a gilt-edged security is exchanged by any person for strips of that security—

(a) the security shall be deemed to have been redeemed at the time of the exchange by the payment to that person of its market value; and

(b) that person shall be deemed to have acquired each strip for the amount which bears the same proportion to that market value as is borne by the market value of the strip to the aggregate of the market values of all the strips received in exchange for the security.

(3) Where strips of a gilt-edged security are consolidated into a single security by being exchanged by any person for that security—

(a) each of the strips shall be deemed to have been redeemed at the time of the exchange by the payment to that person of the amount equal to its market value; and

(b) that person shall be deemed to have acquired the security for the amount equal to the aggregate of the market values of the strips given in exchange for the security.

(4) References in this section to the market value of a security given or received in exchange for another are references to its market value at the time of the exchange.

(5) Subsections (3) and (4) of section 473 shall not apply in the case of any exchange to which subsection (2) or (3) above applies.

(6) Without prejudice to the generality of any power conferred by section 202 of the Finance Act 1996, the Treasury may by regulations make provision for the purposes of this section as to the manner of determining the market value at any time of any gilt-edged security (including any strip).

(7) Regulations under subsection (6) above may—

(a) make different provision for different cases; and

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(b) contain such incidental, supplemental, consequential and transitional provision as the Treasury may think fit.

(8) This section does not apply for the purposes of corporation tax.

(9) In this section—

'gilt-edged security' has the same meaning as in section 51A; and

'strip' means anything which, within the meaning of section 47 of the Finance Act 1942, is a strip of a gilt-edged security."

1942 c. 21.

The Taxation of Chargeable Gains Act 1992 (c. 12)

8. In Schedule 9 to the Taxation of Chargeable Gains Act 1992 (gilt-edged securities), after paragraph 1 there shall be inserted the following paragraph—

"1A.—(1) Any security which is a strip of a security which is a gilt-edged security for the purposes of this Act is also itself a gilt-edged security for those purposes.

(2) In this paragraph 'strip' has the same meaning as in section 47 of the Finance Act 1942."

SCHEDULE 41

Section 205.

REPEALS

PART I

HYDROCARBON OIL DUTY: RELIEF FOR MARINE VOYAGES

Chapter	Short title	Extent of repeal
1979 c. 2.	The Customs and Excise Management Act 1979.	In section 61(2), the words from "and in" to "waters)".
1979 c. 5.	The Hydrocarbon Oil Duties Act 1979.	Section 18 and in section 19(1), paragraph (a) and the words from "by the owner" to "be". In section 24(1), the words "section 18(1)". In Schedule 4, in paragraph 3, the word "18(1)".
1979 c. 8.	The Excise Duties (Surcharges or Rebates) Act 1979.	In section 1(7), paragraph (c) and in paragraph (d), the words "fishing boats".
1981 c. 35.	The Finance Act 1981.	In section 6(1) and (4), the word "18(1)".
1994 c. 9.	The Finance Act 1994.	In Schedule 4, paragraph 53.

The power in section 8(2) of this Act applies to these repeals as it applies to that section.

PART II

VEHICLE EXCISE AND REGISTRATION

(1) ELECTRICALLY PROPELLED VEHICLES

Chapter	Short title	Extent of repeal
1994 c. 22.	The Vehicle Excise and Registration Act 1994.	In Schedule 1, paragraph 4F(2).

This repeal has effect in accordance with section 15(4) of this Act.

(2) VEHICLES CAPABLE OF CONVEYING LOADS

Chapter	Short title	Extent of repeal
1994 c. 22.	The Vehicle Excise and Registration Act 1994.	In Schedule 1— (a) in paragraph 9(2), the word "and" immediately preceding paragraph (b); (b) in paragraph 11(2), the word "and" immediately preceding paragraph (b); (c) paragraph 15; and

Chapter	Short title	Extent of repeal
1994 c. 22. (*contd.*)	The Vehicle Excise and Registration Act 1994. (*contd.*)	(d) in paragraph 16(1), paragraph (b) and the word "or" immediately preceding it.

These repeals have effect in accordance with section 17 of this Act.

(3) OLD VEHICLES

Chapter	Short title	Extent of repeal
1994 c. 22.	The Vehicle Excise and Registration Act 1994.	In Schedule 1, paragraphs 1(3) to (5) and 2(2).
1995 c. 4.	The Finance Act 1995.	In Schedule 4, paragraph 6(2).

These repeals have effect in accordance with section 18(5) of this Act.

(4) EXEMPTIONS FOR VEHICLE TESTING

Chapter	Short title	Extent of repeal
1994 c. 22.	The Vehicle Excise and Registration Act 1994.	In paragraph 22 of Schedule 2— (a) in each of paragraphs (b) and (d) of sub-paragraph (5), the word "goods"; (b) sub-paragraph (5)(c); (c) the word "and" at the end of sub-paragraph (7)(b); and (d) in sub-paragraph (10)(a), the words "(or, in Northern Ireland, a vehicle test certificate)".

These repeals have effect in accordance with section 20 of this Act.

(5) PROVISIONS RELATING TO NORTHERN IRELAND

Chapter	Short title	Extent of repeal
1994 c. 22.	The Vehicle Excise and Registration Act 1994.	In paragraph 17 of Schedule 3, in sub-paragraph (1), "29(2)," and "34(6)," and sub-paragraph (2).

(6) LICENSING AND REGISTRATION

Chapter	Short title	Extent of repeal
1994 c. 22.	The Vehicle Excise and Registration Act 1994.	In section 22— (a) in subsection (1), the word "and" immediately preceding paragraph (h); and (b) in subsection (1B), the word "above". In section 57(1), the words "(other than sections 7(2) and (3), 8, 26, 27, 52 and 54)".

PART III

EXCISE DUTIES: REPEAL OF DRAWBACKS ETC.

Chapter	Short title	Extent of repeal
1977 c. 36.	The Finance Act 1977.	Section 3.
1979 c. 4.	The Alcoholic Liquor Duties Act 1979.	Section 22(6). Section 23. Section 92(6).
1979 c. 7.	The Tobacco Products Duty Act 1979.	Section 11(3).
1979 c. 58.	The Isle of Man Act 1979.	In section 9— (a) in subsection (1), the words "subsection (2) below and"; and (b) subsections (2) and (3).

PART IV

VALUE ADDED TAX

(1) FISCAL WAREHOUSING

Chapter	Short title	Extent of repeal
1994 c. 23.	The Value Added Tax Act 1994.	In section 62(1)(a), the words "or" at the end of sub-paragraph (i) and "and" at the end of sub-paragraph (ii).

This repeal has effect in accordance with section 26(2) of this Act.

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(2) WORK ON MATERIALS

Chapter	Short title	Extent of repeal
1994 c. 23.	The Value Added Tax Act 1994.	Section 22. In section 55(5)(a), the word "or" at the end of the paragraph. Section 97(4)(b). In Schedule 4, paragraph 2.

(3) VALUE OF IMPORTED GOODS

Chapter	Short title	Extent of repeal
1994 c. 23.	The Value Added Tax Act 1994.	In section 21(2)(a), the word "and" at the end of the paragraph.

This repeal has effect in accordance with section 27(4) of this Act.

(4) CONSTRUCTION AND CONVERSION OF BUILDINGS

Chapter	Short title	Extent of repeal
1995 c. 4.	The Finance Act 1995.	Section 33(2).

This repeal has effect in accordance with section 30(4) of this Act.

(5) GROUPS

Chapter	Short title	Extent of repeal
1994 c. 23.	The Value Added Tax Act 1994.	Section 43(1A).
1995 c. 4.	The Finance Act 1995.	In section 25(2), the words from the beginning to the word "and" immediately after the subsection (1A) inserted in section 43 of the Value Added Tax Act 1994.

These repeals have effect in accordance with section 31(5) of this Act.

PART V

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

(1) APPLICATION OF LOWER RATE TO INCOME FROM SAVINGS

Chapter	Short title	Extent of repeal
1988 c. 1.	The Income and Corporation Taxes Act 1988.	Section 207A. Sections 468E and 468EE. In section 469— (a) in subsection (1), paragraph (b) and the word "and" immediately preceding it; and (b) the second paragraph of subsection (3).
1990 c. 29.	The Finance Act 1990.	Section 51.
1992 c. 48.	The Finance (No. 2) Act 1992.	Section 19(4).
1993 c. 34.	The Finance Act 1993.	Section 77(1) and (2). Section 79(3). In Schedule 6, paragraph 14.
1994 c. 9.	The Finance Act 1994.	Section 111.

1. Subject to note 2 below, these repeals come into force in accordance with section 73 of, and Schedule 6 to, this Act.

2. The repeals in section 469 of the Taxes Act 1988 come into force for distribution periods ending on or after 6th April 1996.

(2) TRANSFER OF SCHEDULE C CHARGE ETC.

Chapter	Short title	Extent of repeal
1970 c. 9.	The Taxes Management Act 1970.	In the Table in section 98— (a) in the first column, the entry relating to paragraph 13(1) of Schedule 3 to the Taxes Act 1988; and (b) in the second column, the entry relating to paragraph 6C of that Schedule.
1988 c. 1.	The Income and Corporation Taxes Act 1988.	Section 17. In section 18(3), in Case IV, the words "except such income as is charged under Schedule C". Sections 44 and 45. Section 48. In sections 50(1) and 51A(1), the words "but shall be chargeable to tax under

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Chapter	Short title	Extent of repeal
1988 c. 1. (*contd.*)	The Income and Corporation Taxes Act 1988. (*contd.*)	Case III of Schedule D". Section 52. Section 123. In section 124— (a) in subsection (6), the definitions of "recognised clearing system" and "relevant foreign securities", and the word "and" immediately preceding those definitions; and (b) subsection (7). In section 322(1), the words "and he shall be treated as not resident in the United Kingdom for the purposes of sections 48 and 123(4)". In section 398(b), the words "C or". Section 474(1) and (3). Section 505(1)(c)(i). Section 582A(3). In section 832(1), the definition of "recognised clearing system". Schedule 3.
1988 c. 39.	The Finance Act 1988.	Section 76(1), (2), (3) and (5).
1989 c. 26.	The Finance Act 1989.	In section 178(2)(m), the words "and paragraph 6B of Schedule 3 to".
1992 c. 48.	The Finance (No. 2) Act 1992.	Section 30. In Schedule 11, paragraphs 1, 2, 4 and 5.
1993 c. 34.	The Finance Act 1993.	In Schedule 6, paragraphs 17 and 25(5).
1995 c. 4.	The Finance Act 1995.	In section 128(3)(a), the words "Schedule C".

These repeals have effect—

(a) in accordance with Schedule 7 to this Act; and

(b) without prejudice to paragraph 25 of Schedule 6 to this Act.

(3) LOAN RELATIONSHIPS

Chapter	Short title	Extent of repeal
1970 c. 9.	The Taxes Management Act 1970.	In section 42 (as substituted by paragraph 13 of Schedule 19 to the Finance Act 1994), in subsection (7)(a), "484,".

Chapter	Short title	Extent of repeal
1988 c. 1.	The Income and Corporation Taxes Act 1988.	Section 57. Section 78. Sections 88A to 88C. Sections 126 and 126A. In section 242, in each of subsections (2)(b) and (8)(b), the words "or paragraph 5 of Schedule 4". In section 337— (a) in subsection (2), the words "to subsection (3) below and"; and (b) subsection (3). In section 338— (a) in subsection (3), the words from "and" at the end of paragraph (a) to the end of the subsection; (b) in subsection (4), paragraphs (b) and (c); (c) in subsection (5)(a), the words ", not being interest"; and (d) subsection (6). Section 338A. Section 340. Section 341. Section 401(1A). In section 404(6)(c)(ii), the words "or paragraph 5(2) of Schedule 4". In section 477A, subsections (3A) to (3C). Sections 484 and 485. In section 494(3), the words "not consisting of a payment of interest". Section 714(6). Section 724. In section 804A(3), in paragraph (b) of the definition of "B", the words "and interest". Schedule 4. In Schedule 19AC, in paragraph 5B(2)(b), the words "or paragraph 5 of Schedule 4". In Schedule 23A, paragraphs 6(3), (4), (6) and (7). In Schedule 26, the word "and" at the end of paragraph 1(3)(d).
1989 c. 15.	The Water Act 1989.	Section 95(10).

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Chapter	Short title	Extent of repeal
1989 c. 26.	The Finance Act 1989.	Sections 93 to 95. Section 116. Schedules 10 and 11.
1990 c. 29.	The Finance Act 1990.	Section 56. Sections 58 and 59. Section 74. Schedule 10.
1991 c. 31.	The Finance Act 1991.	Section 52(2) and (3). In Schedule 12, paragraphs 3 and 4.
1992 c. 12.	The Taxation of Chargeable Gains Act 1992.	Section 108(1)(b). Section 117(2A), (3), (9) and (10). Section 118. In Schedule 10, paragraphs 14(6), (29) and (57), 19(6) and 22(4).
1992 c. 48.	The Finance (No. 2) Act 1992.	Section 33. In section 65(2)— (a) paragraphs (b) and (c); and (b) in paragraph (f), the words "to (c)". Schedule 7.
1993 c. 34.	The Finance Act 1993.	Sections 61 to 66. Section 103(4). Section 129(5) and (6). Section 152(2). Section 153(6) and (11A). Section 164(12). Section 176(3)(b) to (d). In Schedule 6— (a) paragraph 18; (b) in paragraph 20, the words "and in paragraph 11(1) of Schedule 11 to that Act"; and (c) paragraph 21. In Schedule 17, paragraphs 4 to 6. In Schedule 18, paragraphs 3 and 7.
1994 c. 9.	The Finance Act 1994.	Section 171. Section 251(12). In Schedule 18, in paragraph 4— (a) the definition of "the I minus E basis"; and (b) the words after the definition of "non-life mutual business". In Schedule 24, in paragraph 9—

Chapter	Short title	Extent of repeal
1994 c. 9. (*contd.*)	The Finance Act 1994. (*contd.*)	(a) the words "and 254" and the words "or 254", in each place where they occur; and (b) in sub-paragraph (9), the words "and subsection (10) of section 254 of that Act".
1995 c. 4.	The Finance Act 1995.	Section 42(6). Section 50. Section 87(6). Sections 88 and 89. Schedule 7. In Schedule 8, paragraphs 10 and 12(1)(c). In Schedule 24, paragraphs 4 to 6.

These repeals come into force in accordance with the provisions of Chapter II of Part IV of this Act.

(4) PROVISION OF LIVING ACCOMMODATION

Chapter	Short title	Extent of repeal
1988 c. 1.	The Income and Corporation Taxes Act 1988.	In section 145(1), the words "and is not otherwise made the subject of any charge to him by way of income tax".

This repeal has effect in accordance with section 106 of this Act.

(5) SHARE OPTION SCHEMES ETC.

Chapter	Short title	Extent of repeal
1988 c. 1.	The Income and Corporation Taxes Act 1988.	In section 187(8), paragraph (b) and the word "and" immediately preceding it. In Schedule 9, in paragraph 21(1), the word "and" immediately preceding paragraph (e), paragraph 28(2) and (4) and paragraph 29(8).
1989 c. 26.	The Finance Act 1989.	In Schedule 5, in paragraph 4(5)(a), the words "not less than one year and".
1992 c. 12.	The Taxation of Chargeable Gains Act 1992.	Section 149A(4). Section 238(4).

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1. The repeal in section 187 of the Taxes Act 1988 has effect in accordance with section 117 of this Act.

2. The repeal in paragraph 21 of Schedule 9 to that Act has effect in accordance with section 113 of this Act.

3. The repeals in paragraphs 28 and 29 of that Schedule have effect in accordance with section 114 of this Act.

4. The repeal in the Finance Act 1989 has effect in accordance with section 119 of this Act.

5. The repeal of section 149A(4) of the Taxation of Chargeable Gains Act 1992 has effect in accordance with section 111(6) of this Act.

6. The repeal of section 238(4) of that Act has effect in accordance with section 112(2) and (3) of this Act.

(6) SELF-ASSESSMENT: RETURNS ETC.

Chapter	Short title	Extent of repeal
1970 c. 9.	The Taxes Management Act 1970.	In section 8(1A), the words from "and the amounts referred to" to the end. In section 8A(1A), the words from "and the amounts referred to" to the end. In section 12AA(7)(a), the words "any part of". Section 12AC(6). In section 28C(3), the words "or 11AA". In section 42, subsections (3A) and (3B) and, in subsection (7)(a), the words "534, 535, 537A, 538".
1988 c. 1.	The Income and Corporation Taxes Act 1988.	In section 108, the words from "and, in any such case" to the end. In section 535, in subsection (4), the words "Subject to subsection (5) below", subsections (5) and (7) and, in subsection (6), the words from "unless the author" to the end. In section 547(5)(a), the words from "no assessment" to "but". In section 599A, in subsection (6), the words from "subject" to "and" and subsection (7).
1992 c. 12.	The Taxation of Chargeable Gains Act 1992.	In section 246, the words from "or, if earlier" to the end.

Chapter	Short title	Extent of repeal
1994 c. 9.	The Finance Act 1994.	In Schedule 19, paragraph 23.

1. The repeals of subsections (3A) and (3B) of section 42 of the Taxes Management Act 1970 and the repeals in sections 108 and 535 of the Income and Corporation Taxes Act 1988 have effect in accordance with section 128(11) of this Act.

2. The repeal in subsection (7)(a) of section 42 of the Taxes Management Act 1970 has effect in accordance with section 128(12) of this Act.

3. The other repeals have effect in accordance with section 121(8) of this Act.

(7) SELF-ASSESSMENT: NOTICES

Chapter	Short title	Extent of repeal
1970 c. 9.	The Taxes Management Act 1970.	In section 42, in subsection (7), in paragraph (a), "62A," and "401,", and in paragraph (c), "30,", "33,", "48, 49," and "124A," and in subsection (10) the words "and notices".

These repeals have effect in accordance with section 130 of this Act.

(8) OVERDUE TAX AND EXCESSIVE PAYMENTS BY THE BOARD

Chapter	Short title	Extent of repeal
1970 c. 9.	The Taxes Management Act 1970.	Section 88. Section 88A. In section 91(1), the words "or section 88". Section 113(1C).
1971 c. 68.	The Finance Act 1971.	In Schedule 6, paragraph 87.
1975 c. 45.	The Finance (No. 2) Act 1975.	Section 46(4).
1980 c. 48.	The Finance Act 1980.	Section 61(4), so far as relating to section 88(5)(c) and (d) of the Taxes Management Act 1970.
1988 c. 1.	The Income and Corporation Taxes Act 1988.	In section 374A(4), the words from "and as if" onwards. In Schedule 14, in paragraph 6(2) the words from "and as if" onwards. In Schedule 29, in paragraph 32, the entries relating to section 88(2), section

Chapter	Short title	Extent of repeal
1988 c. 1. (*contd.*)	The Income and Corporation Taxes Act 1988. (*contd.*)	88(5)(b) and section 88(5)(c) of the Taxes Management Act 1970.
1989 c. 26.	The Finance Act 1989.	Section 159. Section 160(1), (2) and (4). Section 161. In section 178(2)(f), the words "88". In section 179(1)(b)(i), the words "and 88(1)".

These repeals have effect in accordance with paragraph 17 of Schedule 18 to this Act.

(9) SELF-ASSESSMENT: CLAIMS AND ENQUIRIES

Chapter	Short title	Extent of repeal
1970 c. 9.	The Taxes Management Act 1970.	In section 31(5), the words "against any assessment".

This repeal has effect in accordance with Schedule 19 to this Act.

(10) SELF-ASSESSMENT: DISCRETIONS ETC.

Chapter	Short title	Extent of repeal
1988 c. 1.	The Income and Corporation Taxes Act 1988.	In section 74(1)(j)(i), the words "proved to be such". In section 145(7)(a) and (b), the words "it can be shown that". Section 159(4) to (6). In section 161, in subsection (3), the words "it is shown that" and, in subsection (4), the words "shows that he". In section 231(3A), the words "it appears to the inspector that". In section 257(2) and (3), the words "proves that he". In section 257E(1) the words "he proves" and, in each of paragraphs (a) and (b), the word "that" in the first and third places where it occurs. In section 257F, in the words preceding paragraph (a), the words "the claimant proves", and the word "that" in the second place

Chapter	Short title	Extent of repeal
1988 c. 1. (*contd.*)	The Income and Corporation Taxes Act 1988. (*contd.*)	where it occurs in paragraph (a), the first place where it occurs in paragraph (b) and the first and third places where it occurs in paragraph (c). In section 259(6), the second paragraph. In section 265(1), the words "proves that he". In section 278(2), the words "satisfies the Board that he or she". In section 381(4), the words "it is shown that". In section 384(1), the words "it is shown that". In section 570(2), the words "on a claim it is shown in accordance with the provisions of Part II of Schedule 21 that". In section 582(2)(b), the words "the Board are satisfied that". In section 731(3), the words following paragraph (b). In section 769(2)(d), the words "any gift of shares". In section 812(4), paragraph (a). In Schedule 7, in paragraph 1(5), the words "and shown to have been made". In Schedule 12, in paragraph 2(2), the words "shown to be". In Schedule 21, paragraph 3.
1992 c. 12.	The Taxation of Chargeable Gains Act 1992.	In section 52(4), the words "such method as appears to the inspector or on appeal the Commissioners concerned to be". In section 116(13), the words "the inspector is satisfied that" and "and so directs,". In section 122, in subsection (2), the words "the inspector is satisfied that" and "and so directs" and subsection (3). In section 133, in subsection (2), the words "the inspector is satisfied that" and "and so directs" and

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Chapter	Short title	Extent of repeal
1992 c. 12. (*contd.*)	The Taxation of Chargeable Gains Act 1992. (*contd.*)	subsection (3). In section 164F(8)(a), the words "it is shown that". In section 164FG(2), the words "or an officer of the Board in default of an election determines". In section 181(1)(b), the words "it is shown that" and the word "that" in the second place where it occurs. In section 222, in subsection (5), paragraph (b) and the words following it and, in subsection (6), paragraph (b) and the word "and" immediately preceding it. Section 226(5). In section 271(2), in the second paragraph, the words "the Board are satisfied that". In Schedule 6, in paragraph 3, in sub-paragraphs (1), (3) and (4), the words "on production of such evidence as the Board may reasonably require, the Board are satisfied".
1993 c. 34.	The Finance Act 1993.	In section 144, in subsections (1)(b) and (2)(b), the words "the inspector is satisfied," and the word "that", in the first place where it occurs, and, in subsection (3)(b), the words "in the opinion of the inspector" and subsection (4). In section 145, in subsection (1)(c), the words "the inspector is satisfied that", in subsections (2)(b) and (3)(b), the words "in the opinion of the inspector", in subsection (4)(b), the words "the inspector is satisfied that" and in subsection (5), the words "in the opinion of the inspector" and subsection (6).

These repeals have effect in accordance with section 134 of, and Schedule 20 to, this Act.

(11) SELF-ASSESSMENT: TIME LIMITS

Chapter	Short title	Extent of repeal
1990 c. 1.	The Capital Allowances Act 1990.	In section 37(2), the words following paragraph (d).
1992 c. 12.	The Taxation of Chargeable Gains Act 1992.	In Schedule 4, in paragraph 9(1)(b), the words "year of assessment or".
1994 c. 9.	The Finance Act 1994.	In Schedule 15, paragraph 21(a)(ii).

These repeals have effect in accordance with section 135 of, and Schedule 21 to, this Act.

(12) SELF-ASSESSMENT: APPEALS

Chapter	Short title	Extent of repeal
1970 c. 9.	The Taxes Management Act 1970.	Section 42(12). In section 44— (a) subsections (1A) and (1B), and (b) in subsection (2), the words "and any direction under subsection (1A) above". Schedule 2.
1975 c. 7.	The Finance Act 1975.	Section 54.
1975 c. 45.	The Finance (No. 2) Act 1975.	Section 66.
1976 c. 40.	The Finance Act 1976.	In Schedule 9, paragraph 11.
1984 c. 43.	The Finance Act 1984.	In Schedule 22, paragraph 3(2).
1988 c. 1.	The Income and Corporation Taxes Act 1988.	In the Table in paragraph 32 of Schedule 29, the entries relating to Schedule 3 to the Taxes Management Act 1970.
1988 c. 39.	The Finance Act 1988.	Section 133(1).
1989 c. 26.	The Finance Act 1989.	Section 160(6). Section 168(8).
1990 c. 1.	The Capital Allowances Act 1990.	In Schedule 1, paragraph 1(4).
1994 c. 9.	The Finance Act 1994.	In Schedule 19, paragraph 36.

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Chapter	Short title	Extent of repeal
1995 c. 4.	The Finance Act 1995.	In Schedule 17, in paragraph 22, the words "(including that provision as proposed to be substituted by paragraph 7 of Schedule 19 to the Finance Act 1994)".

These repeals have effect in accordance with Schedule 22 to this Act.

(13) SELF-ASSESSMENT: ACCOUNTING PERIODS ETC.

Chapter	Short title	Extent of repeal
1988 c. 1.	The Income and Corporation Taxes Act 1988.	Section 8A.
1993 c. 34.	The Finance Act 1993.	Section 206(2).

(14) SELF-ASSESSMENT: ADVANCE CORPORATION TAX

Chapter	Short title	Extent of repeal
1988 c. 1.	The Income and Corporation Taxes Act 1988.	Section 239(5).

This repeal has effect in accordance with Schedule 25 to this Act.

(15) CLASS 4 CONTRIBUTIONS

Chapter	Short title	Extent of repeal
1988 c. 1.	The Income and Corporation Taxes Act 1988.	Section 617(5).
1992 c. 4.	The Social Security Contributions and Benefits Act 1992.	In Schedule 2, in paragraph 3(2), the words "(e) section 617(5) (relief for Class 4 contributions)".
1992 c. 7.	The Social Security Contributions and Benefits (Northern Ireland) Act 1992.	In Schedule 2, in paragraph 3(2), the words "(e) section 617(5) (relief for Class 4 contributions)".

These repeals have effect in accordance with section 147 of this Act.

(16) PERSONAL INJURY DAMAGES AND COMPENSATION

Chapter	Short title	Extent of repeal
1988 c. 1.	The Income and Corporation Taxes Act 1988.	Sections 329A to 329C.
1995 c. 4.	The Finance Act 1995.	Section 142.
1995 c. 53.	The Criminal Injuries Compensation Act 1995.	Section 8.

(17) FOREIGN INCOME DIVIDENDS

Chapter	Short title	Extent of repeal
1988 c. 1.	The Income and Corporation Taxes Act 1988.	In section 246S— (a) in subsection (3), the words after paragraph (e); and (b) subsection (8).

These repeals have effect in accordance with Schedule 27 to this Act.

(18) FOTRA SECURITIES

Chapter	Short title	Extent of repeal
1988 c. 1.	The Income and Corporation Taxes Act 1988.	Section 47. Section 474(2). In section 475— (a) in subsection (5), the words "Subject to subsection (6) below,"; (b) subsections (6) and (7); and (c) in subsection (8), the words from "and this subsection" onwards. In section 715— (a) in subsection (1), paragraphs (g) and (h); and (b) in subsection (8), the definition of "FOTRA securities".
1993 c. 34.	The Finance Act 1993.	In section 174— (a) subsection (6); and (b) in subsection (7), the definitions of "FOTRA securities" and "non-resident United Kingdom trader".

Chapter	Short title	Extent of repeal
1994 c. 9.	The Finance Act 1994.	Section 222(6) and (7).

These repeals come into force in accordance with section 154(9) of this Act.

(19) PAYING AND COLLECTING AGENTS

Chapter	Short title	Extent of repeal
1988 c. 39.	The Finance Act 1988.	Section 76(4) and (6).

(20) ACCRUED INCOME SCHEME

Chapter	Short title	Extent of repeal
1988 c. 1.	The Income and Corporation Taxes Act 1988.	Section 721(1) and (4).

These repeals come into force in accordance with section 158 of this Act.

(21) MANUFACTURED PAYMENTS, REPOS, ETC.

Chapter	Short title	Extent of repeal
1970 c. 9.	The Taxes Management Act 1970.	In the first column of the Table in section 98, the entry relating to section 729(11) of the Taxes Act 1988.
1988 c. 1.	The Income and Corporation Taxes Act 1988.	Section 729. Section 732(3). In section 737(5AA)(b), the words from "and the words" onwards. Section 737A(2)(b). Section 786(4). In Schedule 23A, paragraph 4(7A).
1994 c. 9.	The Finance Act 1994.	Section 124.
1995 c. 4.	The Finance Act 1995.	Section 80(2).

1. Subject to note 2 below, these repeals have effect in accordance with section 159(1) of this Act.

2. The repeals in section 737 of, and Schedule 23A to, the Taxes Act 1988, and the repeal of section 124 of the Finance Act 1994, come into force on the day on which this Act is passed.

(22) VENTURE CAPITAL TRUSTS

Chapter	Short title	Extent of repeal
1988 c. 1.	The Income and Corporation Taxes Act 1988.	In Schedule 28B, in paragraph 9, in sub-paragraph (1) the words "subject to sub-paragraph (2) below" and sub-paragraph (2).

These repeals have effect in accordance with section 161 of this Act.

(23) LIFE ASSURANCE BUSINESS LOSSES

Chapter	Short title	Extent of repeal
1988 c. 1.	The Income and Corporation Taxes Act 1988.	Section 436(3)(aa). Section 439B(3)(b). Section 441(4)(aa).
1995 c. 4.	The Finance Act 1995.	In Schedule 8, paragraph 16(4) and (5).

These repeals have effect in accordance with paragraph 10(2) of Schedule 31 to this Act.

(24) MANAGEMENT EXPENSES OF INSURANCE COMPANIES

Chapter	Short title	Extent of repeal
1988 c. 1.	The Income and Corporation Taxes Act 1988.	In section 434(1)(b), the words from "of the tax" onwards. In section 434D(8), in paragraph (b) of the second sentence, the words from "of the tax" onwards. In section 442(3), the words "otherwise than for the purposes of section 76(2)". In section 473, subsection (5). In Schedule 19AC— (a) in paragraph 5(1), in the subsection (6B) deemed to be inserted in section 76, the words "and subsections (2) and (3)(b) above"; and (b) in paragraph 9, in the subsection (1A) deemed to be inserted in section 434, the words from "of the tax" onwards.

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Chapter	Short title	Extent of repeal
1992 c. 12.	The Taxation of Chargeable Gains Act 1992.	In Schedule 10, in paragraph 14(27)(a), the words "and (5)".

These repeals come into force in accordance with section 164(5) of this Act.

(25) ANNUAL PAYMENTS UNDER INSURANCE POLICIES

Chapter	Short title	Extent of repeal
1988 c. 1.	The Income and Corporation Taxes Act 1988.	Section 434B(1).

This repeal has effect in accordance with section 165 of this Act.

(26) INDUSTRIAL ASSURANCE BUSINESS

Chapter	Short title	Extent of repeal
1988 c. 1.	The Income and Corporation Taxes Act 1988.	In section 431(2)— (a) the definitions of "industrial assurance business" and of "ordinary long term business" and "ordinary life assurance business"; and (b) in the definition of "long term business fund", the words from "or, where" to "so maintained". Section 432(2). In section 458(3), the words "or industrial assurance business".
1989 c. 26.	The Finance Act 1989.	Section 83A(5).
1990 c. 29.	The Finance Act 1990.	In Schedule 6, paragraph 3.

These repeals come into force in relation to accounting periods beginning on or after 1st January 1996.

(27) PROVISIONAL REPAYMENTS IN CONNECTION WITH INSURANCE COMPANIES' PENSION BUSINESS

Chapter	Short title	Extent of repeal
1988 c. 1.	The Income and Corporation Taxes Act 1988.	In Schedule 19AB, in paragraph 1(5)(b), the word "and" immediately preceding sub-paragraph

Chapter	Short title	Extent of repeal
1988 c. 1. (*contd.*)	The Income and Corporation Taxes Act 1988. (*contd.*)	(ii) and paragraphs 1(8) and 6(3). In Schedule 19AC, paragraph 15(1).

These repeals have effect in accordance with section 169 of, and Schedule 34 to, this Act.

(28) FRIENDLY SOCIETIES

Chapter	Short title	Extent of repeal
1992 c. 48.	The Finance (No. 2) Act 1992.	In Schedule 9, paragraph 14(2).

This repeal has effect in accordance with section 171 of this Act.

(29) LOANS TO PARTICIPATORS ETC.

Chapter	Short title	Extent of repeal
1988 c. 1.	The Income and Corporation Taxes Act 1988.	In section 419(6), the words "and to a company not resident in the United Kingdom".

This repeal has effect in accordance with section 173(6) of this Act.

(30) CHARGEABLE GAINS: NON-RESIDENT COMPANIES

Chapter	Short title	Extent of repeal
1992 c. 12.	The Taxation of Chargeable Gains Act 1992.	Section 13(5)(a) and (6). In Schedule 5, paragraph 8(10).

These repeals come into force in relation to gains accruing on or after 28th November 1995.

(31) CANCELLATION OF TAX ADVANTAGES: TRANSACTIONS IN CERTAIN SECURITIES

Chapter	Short title	Extent of repeal
1996 c. 8.	The Finance Act 1996.	In section 175, subsections (2) and (3) and, in subsection (4), the words "Except as provided by subsection (3) above,".

These repeals have effect in accordance with section 175(3) of this Act.

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(32) SUB-CONTRACTORS IN THE CONSTRUCTION INDUSTRY

Chapter	Short title	Extent of repeal
1988 c. 1.	The Income and Corporation Taxes Act 1988.	In section 566(2), the words "and any such regulations may make different provision for different circumstances."

(33) CAPITAL ALLOWANCES: ROLL-OVER RELIEF IN RESPECT OF SHIPS

Chapter	Short title	Extent of repeal
1990 c. 1.	The Capital Allowances Act 1990.	In section 33C(2), the words "to be", in the first place where they occur.

(34) CONTROLLED FOREIGN COMPANIES

Chapter	Short title	Extent of repeal
1988 c. 1.	The Income and Corporation Taxes Act 1988.	In section 747A, subsection (7) and, in subsection (8), the words "the company is not a trading company and". In Schedule 25, in paragraph 2A, in sub-paragraph (1), the words "which is not a trading company" and sub-paragraphs (6) and (7) and, in paragraph 3, sub-paragraphs (1) to (4) and, in sub-paragraph (5), the words "the available profits or, where the company is not a trading company,".

These repeals have effect in accordance with section 182 of this Act.

PART VI

INHERITANCE TAX

Chapter	Short title	Extent of repeal
1984 c. 51.	The Inheritance Tax Act 1984.	In section 105— (a) in subsection (1), "109A", the words "shares in or" in paragraph (b), and paragraph (c); (b) subsections (1A) and (1B);

Chapter	Short title	Extent of repeal
1984 c. 51. (*contd.*)	The Inheritance Tax Act 1994. (*contd.*)	(c) in subsection (2), the words "(b) or"; and (d) subsection (2A). In section 107(4), the words "and section 109A below". Section 109A. Section 116(2A).
1987 c. 16.	The Finance Act 1987.	In Schedule 8, paragraphs 5 to 7.
1995 c. 4.	The Finance Act 1995.	Section 155(2).

1. Subject to note 2 below, these repeals have effect in accordance with section 184(6)(b) of this Act.

2. The repeal in section 116 of the Inheritance Tax Act 1984, and the related repeal in section 155 of the Finance Act 1995, have effect in accordance with section 185(3) and (6) of this Act.

PART VII

STAMP DUTY AND STAMP DUTY RESERVE TAX

Chapter	Short title	Extent of repeal
1986 c. 41.	The Finance Act 1986.	In section 87, in subsection (2), the words "the expiry of the period of two months beginning with" and the words from "unless" to the end and subsections (4), (5) and (8). Section 88(2) and (3) Section 94(8). Section 96(12). Section 97(2).
1996 c. 8.	The Finance Act 1996.	Sections 186 to 196.

1. The repeals in sections 87 and 88 of the Finance Act 1986 have effect in accordance with sections 188 and 192 of this Act.

2. The repeals in sections 94 and 96 of the Finance Act 1986 have effect in accordance with section 194 of this Act.

3. The repeal in section 97 of the Finance Act 1986 has effect in accordance with section 196(4) of this Act.

4. The repeals in the Finance Act 1996 have effect—

(a) so far as relating to stamp duty, in accordance with section 108 of the Finance Act 1990; and

(b) so far as relating to stamp duty reserve tax, in accordance with section 110 of the Finance Act 1990.

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PART VIII

MISCELLANEOUS

(1) RATES OF INTEREST

Chapter	Short title	Extent of repeal
1994 c. 9.	The Finance Act 1994.	In Schedule 6, paragraph 11. In Schedule 7, paragraph 21(5).
1994 c. 23.	The Value Added Tax Act 1994.	Section 74(6).

Subsection (7) of section 197 of this Act applies in relation to these repeals as it applies in relation to subsection (6) of that section.

(2) BANKS

Chapter	Short title	Extent of repeal
1984 c. 51.	The Inheritance Tax Act 1984.	In section 157(5), paragraph (b) and the word "and" immediately preceding it.
1987 c. 22.	The Banking Act 1987.	In Schedule 6, paragraph 17.

These repeals have effect in accordance with Schedule 37 to this Act.

(3) QUOTATION AND LISTING OF SECURITIES

Chapter	Short title	Extent of repeal
1992 c. 12.	The Taxation of Chargeable Gains Act 1992.	Section 288(4).

This repeal has effect in relation to times falling on or after 1st April 1996.

(4) ENACTMENT OF EXTRA-STATUTORY CONCESSIONS

Chapter	Short title	Extent of repeal
1891 c. 38.	The Stamp Duties Management Act 1891.	In section 9(7)(e), the words from "which is inadvertently" to "executed and duly stamped, or".
1992 c. 12.	The Taxation of Chargeable Gains Act 1992.	In section 72(5), the word "life" in the third place where it occurs. In section 73(2), the word "life". Section 75. In section 254— (a) in subsections (6) and (7), the words "the inspector is satisfied that";

Chapter	Short title	Extent of repeal
1992 c. 12. (*contd.*)	The Taxation of Chargeable Gains Act 1992. (*contd.*)	(b) in subsection (8), the words "in the inspector's opinion"; and (c) in subsection (11), the words "the inspector was satisfied that", "by the inspector" and "he was satisfied that".

These repeals have effect in accordance with Schedule 39 to this Act.

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