



# Finance (No. 2) Act 1997

CHAPTER 58





# Finance (No. 2) Act 1997

## CHAPTER 58

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# Finance (No. 2) Act 1997

## 1997 CHAPTER 58

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.

[31st July 1997]

Most Gracious Sovereign,

**W**E, 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

#### THE WINDFALL TAX

1.—(1) Every company which, on 2nd July 1997, was benefitting from a windfall from the flotation of an undertaking whose privatisation involved the imposition of economic regulation shall be charged with a tax (to be known as the “windfall tax”) on the amount of that windfall.

Charge to windfall tax.

(2) Windfall tax shall be charged at the rate of 23 per cent.

(3) Schedule 1 to this Act (which sets out how to quantify the windfall from which a company was benefitting on 2nd July 1997) shall have effect.

2.—(1) For the purposes of this Part a company in existence on 2nd July 1997 was benefitting on that date from a windfall from the flotation of an undertaking whose privatisation involved the imposition of economic regulation if—

The companies benefitting from windfalls.

(a) that company, or a company of which it was on that date a demerged successor, had before that date been privatised by means of a flotation;

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- (b) there had, before that flotation, been a statutory transfer of property, rights and liabilities from a public corporation to the floated company or to a company which, at the time of the flotation, was a subsidiary undertaking of the floated company; and
- (c) at the time of the flotation, the floated company was carrying on an undertaking whose privatisation involved the imposition of economic regulation.

(2) For the purposes of this Part a company was privatised by means of a flotation if—

- (a) an offer of shares in that company was at any time made to the public in the United Kingdom;
- (b) the shares which were the subject-matter of the offer were publicly-owned at the time of the offer;
- (c) the offer was or included an offer of shares for disposal at a fixed price; and
- (d) shares in that company were first admitted to listing on the Official List of the Stock Exchange in pursuance of an application made in connection with the offer.

(3) In this Part references, in relation to a company privatised by means of a flotation, to the time of the company's flotation are references to the time when shares in the floated company were first admitted to listing on the Official List of the Stock Exchange.

(4) For the purposes of this Part a company in existence on 2nd July 1997 ("the relevant company") was on that date a demerged successor of a company privatised by means of a flotation if—

- (a) after the flotation of the floated company but before 2nd July 1997, there had been a statutory transfer of property, rights and liabilities from the floated company to a company ("the transferee company") which was a subsidiary undertaking of the floated company at the time of the transfer;
- (b) the transferee company was not a subsidiary undertaking of the floated company on 2nd July 1997 but was, on that date, a subsidiary undertaking of the relevant company; and
- (c) before 2nd July 1997 shares in the relevant company had been admitted to listing on the Official List of the Stock Exchange in pursuance of an application made in connection with the transaction, or series of transactions, by virtue of which the transferee company ceased to be a subsidiary undertaking of the floated company.

(5) For the purposes of this section a company was, at the time of its flotation, carrying on an undertaking whose privatisation involved the imposition of economic regulation if that company, or a company which at that time was a subsidiary undertaking of that company, was at that time—

- (a) a public telecommunications operator, within the meaning of the Telecommunications Act 1984;
- (b) an airport operator in relation to an airport subject to economic regulation under Part IV of the Airports Act 1986;

1984 c. 12.

1986 c. 31.



## PART I

- (c) the holder of an authorisation granted under section 7 of the Gas Act 1986, as originally enacted (public gas suppliers); 1986 c. 44.
- (d) the holder of an appointment under section 11 of the Water Act 1989 as the water undertaker for any area of England and Wales; 1989 c. 15.
- (e) the holder of a licence granted under section 6 of the Electricity Act 1989 or Article 10 of the Electricity (Northern Ireland) Order 1992 (licences authorising generation, transmission and supply of electricity); or 1989 c. 29.  
S.I. 1992/231 (N.I. 1).
- (f) a company authorised by a licence under section 8 of the Railways Act 1993 to be the operator of a railway asset. 1993 c. 43.
- (6) In subsection (5) above “airport operator” has the same meaning as in the Airports Act 1986. 1986 c. 31.
- 3.—(1) The windfall tax shall be under the care and management of the Commissioners of Inland Revenue. Administration of the windfall tax etc.
- (2) Schedule 2 to this Act (which makes provision with respect to the management and collection of the windfall tax) shall have effect.
- (3) Subject to paragraph 19(5) of Schedule 8 to the Taxes Act 1988 (which is the provision about profit-related pay schemes that is amended by section 4 below), nothing in this Act or the Tax Acts shall have the effect of allowing or requiring any amount of windfall tax to be deducted in computing income, profits or losses for any of the purposes of the Tax Acts.
- 4.—(1) In paragraph 19 of Schedule 8 to the Taxes Act 1988 (ascertainment of profits for the purposes of profit-related pay schemes)— The windfall tax and profit-related pay.
- (a) in sub-paragraph (5)(b), after “1985” there shall be inserted “or section 3(3) of the Finance (No. 2) Act 1997”; and
- (b) after paragraph (ff) of sub-paragraph (6) there shall be inserted the following paragraph—
- “(fg) windfall tax charged under Part I of the Finance (No. 2) Act 1997;”.
- (2) Subsection (1) above has effect in relation to the preparation, for the purposes of any scheme, of a profit and loss account for any period ending on or after 2nd July 1997.
- (3) Subsection (1) above shall not have effect in relation to an existing scheme unless, before the end of the period of six months beginning with the day on which this Act is passed, the scheme is altered, with effect for all periods ending on or after 2nd July 1997, to take account of that subsection.
- (4) Provision made, in compliance with paragraph 20(1) of Schedule 8 to the Taxes Act 1988 (consistency in preparation of accounts), by any existing scheme that is altered to take account of subsection (1) above shall not prevent a profit and loss account from being prepared in accordance with the alteration.

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(5) An alteration of an existing scheme to take account of subsection (1) above shall be treated as being within section 177B of the Taxes Act 1988 (alterations which are registrable and which, when registered, cannot give rise to the Board's power of cancellation).

(6) In this section "existing scheme" means a scheme which at any time in the period beginning with 2nd July 1997 and ending immediately before the day on which this Act is passed was a registered scheme under Chapter III of Part V of the Taxes Act 1988.

1997 c. 16.

(7) The preceding provisions of this section shall cease to have effect, in accordance with the notes to Part VI(3) of Schedule 18 to the Finance Act 1997, as if they were included in the repeal of Schedule 8 to the Taxes Act 1988.

Interpretation of  
Part I.  
1985 c. 6.  
S.I. 1986/1032  
(N.I. 6).

## 5.—(1) In this Part—

"company" means a company within the meaning of the Companies Act 1985 or the Companies (Northern Ireland) Order 1986;

"fixed price", in relation to any offer of publicly-owned shares in a company, means—

(a) a price set out in the offer; or

(b) a price subsequently fixed by a Minister of the Crown in a case in which the amount of a first instalment of the price was fixed by the offer;

"the floated company", in relation to the privatisation of a company by means of a flotation, means the company so privatised;

"public corporation", in relation to a statutory transfer, means any body corporate in existence at the time of the transfer which—

(a) had been established by or in accordance with the provisions of any enactment; and

(b) had a membership consisting of, or including, persons appointed as members by a Minister of the Crown;

"publicly-owned", in relation to any shares, means held by—

(a) a Minister of the Crown or the Treasury; or

(b) a nominee for a Minister of the Crown or for the Treasury;

"share" includes any right to require the issue of a share;

"statutory transfer" means a transfer under a transferring enactment or by or in accordance with a statutory scheme;

"subsidiary undertaking"—

(a) except in relation to a company formed and registered in Northern Ireland, means a subsidiary undertaking within the meaning of Part VII of the Companies Act 1985; and

(b) in relation to a company so formed and registered, means a subsidiary undertaking within the meaning of Part VIII of the Companies (Northern Ireland) Order 1986.

## (2) In this section—

"enactment" means an enactment contained in a public general Act or any provision of Northern Ireland legislation;

"Minister of the Crown" includes a Northern Ireland department or the head of such a department;

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“statutory scheme” means any scheme which—

(a) has been made in exercise of any power or duty conferred or imposed by any enactment;

(b) contains provision for the division of property, rights and liabilities between different persons, or for the transfer of property, rights and liabilities to a company; and

(c) would not have taken effect or come into force but for having been approved by a Minister of the Crown;

“transferring enactment” means an enactment under which property, rights and liabilities of a person specified in the enactment became, by virtue of that enactment, the property, rights or liabilities of a company nominated under that enactment.

(3) In subsection (2) above the reference, in relation to a scheme, to its having been approved by a Minister of the Crown includes a reference to its having been made by a Minister of the Crown.

(4) The reference in subsection (1) above to Part VII of the Companies Act 1985 shall be construed, in relation to times in relation to which that Part had effect without the amendments made by the Companies Act 1989, as if those amendments did have effect in relation to those times.

1985 c. 6.

1989 c. 40.

## PART II

## VALUE ADDED TAX AND EXCISE DUTIES

*Value added tax*

6.—(1) In section 2(1A) of the Value Added Tax Act 1994 (rate of VAT on fuel and power for domestic use etc.), for “8 per cent.” there shall be substituted “5 per cent.”

Fuel and power for domestic or charity use.

1994 c. 23.

(2) This section applies in relation to any supply made on or after 1st September 1997 and any acquisition or importation taking place on or after that date.

*Alcoholic liquor duties*

7.—(1) In section 5 of the Alcoholic Liquor Duties Act 1979 (spirits), for “£18.99” there shall be substituted “£19.56”.

Rate of duty on spirits.

1979 c. 4.

(2) This section shall come into force on 1st January 1998.

8.—(1) In section 36(1) of the Alcoholic Liquor Duties Act 1979 (beer), for “£10.82” there shall be substituted “£11.14”.

Rate of duty on beer.

(2) This section shall come into force on 1st January 1998.

## PART II

Rates of duty on wine and made-wine.  
1979 c. 4.

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

## TABLE OF RATES OF DUTY ON WINE AND MADE-WINE

## PART I

## WINE OR MADE-WINE OF A STRENGTH NOT EXCEEDING 22 PER CENT.

<i>Description of wine or made-wine</i>	<i>Rates of duty per hectolitre</i>
	£
Wine or made-wine of a strength not exceeding 4 per cent.	44.58
Wine or made-wine of a strength exceeding 4 per cent. but not exceeding 5.5 per cent.	61.30
Wine or made-wine of a strength exceeding 5.5 per cent. but not exceeding 15 per cent. and not being sparkling	144.65
Sparkling wine or sparkling made-wine of a strength exceeding 5.5 per cent. but less than 8.5 per cent.	201.50
Sparkling wine or sparkling made-wine of a strength of 8.5 per cent. or of a strength exceeding 8.5 per cent. but not exceeding 15 per cent.	206.66
Wine or made-wine of a strength exceeding 15 per cent. but not exceeding 22 per cent.	192.86

## PART II

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

<i>Description of wine or made-wine</i>	<i>Rates of duty per litre of alcohol in the wine or made-wine</i>
	£
Wine or made-wine of a strength exceeding 22 per cent.	19.56

(2) This section shall come into force on 1st January 1998.

Rates of duty on cider.

10.—(1) In section 62 of the Alcoholic Liquor Duties Act 1979 (cider), for subsection (1A) there shall be substituted—

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

- (a) £37.54 per hectolitre in the case of sparkling cider of a strength exceeding 5.5 per cent.;
- (b) £36.74 per hectolitre in the case of cider of a strength exceeding 7.5 per cent. which is not sparkling cider; and
- (c) £24.49 per hectolitre in any other case.”

(2) This section shall come into force on 1st January 1998.

## PART II

*Hydrocarbon oil duties*

11.—(1) In relation to times before the coming into force of section 7(2) and (3) of the Finance Act 1997 (which makes amendments specifying separate rates of duty for light oil, for ultra low sulphur diesel and for heavy oil which is not ultra low sulphur diesel), section 6(1) of the Hydrocarbon Oil Duties Act 1979 (“the 1979 Act”) shall have effect as follows—

Rates of hydrocarbon oil duties etc.  
1997 c. 16.  
1979 c. 5.

- (a) for “£0.4168” (rate of duty on light oil) there shall be substituted “£0.4510”; and
- (b) for “£0.3686” (rate of duty on heavy oil) there shall be substituted “£0.4028”.

(2) In relation to times after the coming into force of section 7(2) and (3) of the Finance Act 1997, section 6(1A) of the 1979 Act (which is inserted by section 7(3) of the Finance Act 1997) shall have effect as follows—

- (a) in paragraph (a) (rate of duty on light oil), for “£0.4168” there shall be substituted “£0.4510”;
- (b) in paragraph (b) (rate of duty on ultra low sulphur diesel), for “£0.3586” there shall be substituted “£0.3928”; and
- (c) in paragraph (c) (rate of duty on heavy oil that is not ultra low sulphur diesel), for “£0.3686” there shall be substituted “£0.4028”.

(3) In section 11(1) of the 1979 Act (rebate on heavy oil), for “£0.0194” (fuel oil) and “£0.0250” (gas oil) there shall be substituted “£0.0200” and “£0.0258”, respectively.

(4) In section 14(1) of the 1979 Act (rebate on light oil for use as furnace fuel), for “£0.0194” there shall be substituted “£0.0200”.

(5) This section shall be deemed to have come into force at 6 o'clock in the evening of 2nd July 1997.

*Tobacco products duty*

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

Rates of tobacco products duty.  
1979 c. 7.

## TABLE

1. Cigarettes	... ..	An amount equal to 21 per cent. of the retail price plus £72.06 per thousand cigarettes.
2. Cigars	... ..	£105.86 per kilogram.
3. Hand-rolling tobacco	...	£87.74 per kilogram.
4. Other smoking tobacco and chewing tobacco	...	£46.55 per kilogram.

(2) This section shall come into force on 1st December 1997.

## PART II

## Vehicle excise and registration

Rates of vehicle excise duty.  
1994 c. 22.

13.—(1) In Schedule 1 to the Vehicle Excise and Registration Act 1994 (annual rates of duty) in paragraph 1(2) (the general rate), for “£145” there shall be substituted “£150”.

(2) For the table in paragraph 9(1) of that Schedule (rates of duty for rigid goods vehicles) there shall be substituted the following table—

Revenue weight of vehicle		Rate		
(1) Exceeding	(2) Not Exceeding	(3) Two axle vehicle	(4) Three axle vehicle	(5) Four or more axle vehicle
kgs	kgs	£	£	£
3,500	7,500	160	160	160
7,500	12,000	300	300	300
12,000	13,000	470	490	350
13,000	14,000	650	490	350
14,000	15,000	840	490	350
15,000	17,000	1,320	490	350
17,000	19,000	1,320	850	350
19,000	21,000	1,320	1,020	350
21,000	23,000	1,320	1,470	510
23,000	25,000	1,320	2,230	830
25,000	27,000	1,320	2,340	1,470
27,000	29,000	1,320	2,340	2,320
29,000	31,000	1,320	2,340	3,360
31,000	44,000	1,320	2,340	4,400

(3) For the table in paragraph 11(1) of that Schedule (rates of duty for tractive units) there shall be substituted the following table—

Revenue weight of tractive unit		Rate for tractive unit with two axles			Rate for tractive unit with three or more axles		
(1) Exceeding	(2) Not exceeding	(3) Any no. of semi- trailer axles	(4) 2 or more semi- trailer axles	(5) 3 or more semi- trailer axles	(6) Any no. of semi- trailer axles	(7) 2 or more semi- trailer axles	(8) 3 or more semi- trailer axles
kgs	kgs	£	£	£	£	£	£
3,500	7,500	160	160	160	160	160	160
7,500	12,000	300	300	300	300	300	300
12,000	16,000	460	460	460	460	460	460
16,000	20,000	520	460	460	460	460	460
20,000	23,000	810	460	460	460	460	460
23,000	26,000	1,190	590	460	590	460	460
26,000	28,000	1,190	1,130	460	1,130	460	460
28,000	31,000	1,740	1,740	1,090	1,740	660	460
31,000	33,000	2,530	2,530	1,740	2,530	1,000	460
33,000	34,000	5,170	5,170	1,740	2,530	1,470	570
34,000	36,000	5,170	5,170	2,840	2,530	2,100	860
36,000	38,000	5,170	5,170	3,210	2,820	2,820	1,280
38,000	44,000	5,170	5,170	3,210	2,820	2,820	1,280

(4) This section applies in relation to licences taken out after 15th November 1997.

Payments where vehicle information transmitted electronically.

14.—(1) In section 7 of the Vehicle Excise and Registration Act 1994 (issue of vehicle licences), in subsection (3B) (conditions that may be imposed in place of requirement to make a declaration), after “include” there shall be inserted “(a)” and at the end there shall be inserted “; and

## PART II

- (b) a condition requiring such payments as may be specified by the Secretary of State to be made to him in respect of—
- (i) steps taken by him for facilitating compliance by any person with any condition falling within paragraph (a); and
  - (ii) in such circumstances as may be so specified, the processing of applications for vehicle licences where particulars are transmitted in accordance with that paragraph.”

(2) Subsection (1) above applies to applications made on or after the day on which this Act is passed.

(3) In section 22 of the Vehicle Excise and Registration Act 1994, after subsection (2) (regulations about registration and identification of exempt vehicles, etc.) there shall be inserted the following subsections—

“(2A) Regulations under subsection (2) may, in particular—

- (a) require a person applying for a nil licence—
  - (i) to make such a declaration, and
  - (ii) to furnish such particulars,
 

(whether or not with respect to the vehicle for which the licence is to be taken out) as may be prescribed by the regulations, and
- (b) provide for any requirement to make such a declaration not to apply in such circumstances as may be so prescribed.

(2B) The circumstances which may be prescribed by the regulations by virtue of subsection (2A)(b) include where a person applying for a nil licence agrees to comply with such conditions as may be specified in relation to him by the Secretary of State.

(2C) The conditions which may be specified by virtue of subsection (2B) include—

- (a) a condition that particulars for the time being prescribed by the regulations by virtue of subsection (2A)(a) are furnished by being transmitted to the Secretary of State by such electronic means as he may specify; and
- (b) a condition such as is mentioned in section 7(3B)(b) (treating the references to paragraph (a) of subsection (3B) as references to paragraph (a) of this subsection).”

## PART III

## INCOME TAX AND CORPORATION TAX

*Reliefs for interest and private medical insurance*

15.—(1) In section 353 of the Taxes Act 1988 (general provision for relief for interest payments), in subsection (1G) (amount of relief for interest on loans to buy land, etc.), for paragraph (a) there shall be substituted—

- “(a) in relation to so much of any interest as is eligible for relief under this section by virtue of section 354, means 10 per cent; and”

Mortgage interest payments.

## PART III

(2) In section 369 of that Act (deduction at source of mortgage interest relief), in subsection (1A) (percentage of interest deductible), for paragraph (a) there shall be substituted—

“(a) in relation to so much of any payment of relevant loan interest as is not a payment in relation to which paragraph (b) below has effect, means 10 per cent; and”.

(3) Subsection (1) above has effect in relation to any payment of interest (whenever falling due) made in the year 1998-99 or any subsequent year of assessment; and subsection (2) above has effect in relation to any payment of interest which becomes due in the year 1998-99 or any subsequent year of assessment.

Limit on relief for interest for 1998-99.

16. For the year 1998-99 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.

Withdrawal of relief on medical insurance premiums.  
1989 c. 26.

17.—(1) Subject to subsections (2) and (3) below, relief under section 54 of the Finance Act 1989 (medical insurance) shall not be given in respect of any payment where either—

- (a) the premium in respect of which the payment is made is a premium under a contract entered into on or after 2nd July 1997; or
- (b) the payment is received by the insurer on or after 6th April 1999.

(2) Subsection (1) above shall not affect the giving of relief in respect of a payment received by an insurer before 6th April 1999 where—

- (a) the premium in respect of which the payment is made is a premium under a contract entered into on or after 2nd July 1997 but before 1st August 1997;
- (b) the contract is one entered into in pursuance of a written proposal received by or on behalf of the insurer before 2nd July 1997;
- (c) the contract is not a contract entered into by way of the renewal of an earlier contract; and
- (d) if the payment is not itself a payment received before 1st August 1997, the insurer had before 1st August 1997 received an earlier payment in respect of a premium under the contract in question.

(3) Subsection (1) above shall not affect the giving of relief in respect of a payment received by an insurer before 6th April 1999 where—

- (a) the premium in respect of which the payment is made is a premium under a contract entered into on or after 2nd July 1997 but before 1st August 1997;
- (b) that contract is one entered into by way of the renewal of an earlier contract;
- (c) the period of insurance under the earlier contract ended before 2nd July 1997; and
- (d) if the payment is not itself a payment received before 1st August 1997, the insurer had before 1st August 1997 received an earlier payment in respect of a premium under the renewal contract.



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(4) For the purposes of the preceding provisions of this section a contract shall be taken to have been entered into by way of the renewal of an earlier contract only if—

- (a) it was entered into by way of the renewal of a contract which was an eligible contract for the purposes of section 54 of the Finance Act 1989 when that earlier contract was entered into;
- (b) the insurer under the earlier contract and the insurer under the contract by which it has been renewed are the same; and
- (c) the period of insurance under the earlier contract ended immediately before the beginning of the period of insurance under the contract by which it has been renewed.

1989 c. 26.

(5) This section has effect for the year 1997-98 and subsequent years of assessment.

*Corporation tax*

**18.**—(1) The rate at which corporation tax is charged for the financial year 1997 shall be, and shall be deemed always to have been, 31 per cent. (and not 33 per cent. as provided by section 58 of the Finance Act 1997).

Rates for financial year 1997.

1997 c. 16.

(2) The small companies' rate for that year shall be, and shall be deemed always to have been, 21 per cent. (and not 23 per cent. as provided by section 59(a) of that Act).

(3) All such adjustments shall be made, whether by way of discharge or repayment of tax or otherwise, as may be required in consequence of the provisions of this section.

*Distributions, tax credits etc on and after 2nd July 1997*

**19.**—(1) In section 231 of the Taxes Act 1988 (tax credits for certain recipients of qualifying distributions)—

Pension funds no longer entitled to payment of tax credits.

- (a) in subsection (2) (payment of tax credits to companies resident in the United Kingdom) for "Subject to section 241(5)" there shall be substituted "Subject to sections 231A and 241(5)"; and
- (b) at the beginning of subsection (3) (claims by other persons to set tax credits against income tax liability and to receive payment of any excess of tax credit over that liability) there shall be inserted "Subject to section 231A,".

(2) After section 231 of the Taxes Act 1988 there shall be inserted—

"Restrictions on the use of tax credits by pension funds.

231A.—(1) No claim shall be made under section 231(2) for payment of the amount of a tax credit if or to the extent that the qualifying distribution to which the credit relates is income of a pension fund.

(2) In the case of any pension fund, for any year of assessment the aggregate amount of the tax credits in respect of which claims are made under section 231(3) must not exceed the aggregate amount of the tax credits in respect of the qualifying distributions comprised in the income of the pension fund and brought into charge to tax.

(3) Accordingly, no payment shall be made under section 231(3) in respect of so much of the excess there

## PART III

mentioned as is referable to a tax credit in respect of a qualifying distribution if or to the extent that the qualifying distribution is income of a pension fund.

(4) In this section—

“income”, in relation to a pension fund, means income derived from investments or deposits held for the purposes of the pension fund;

“pension fund” means any scheme, fund or other arrangements established and maintained (whether in the United Kingdom or elsewhere) for the purpose of providing pensions, retirement annuities, allowances, lump sums, gratuities or other superannuation benefits (with or without subsidiary benefits);

“scheme” includes any deed, agreement or series of agreements.

(5) For convenience of identification only, the schemes, funds or other arrangements which are “pension funds” for the purposes of this section by virtue of the definition of that expression in subsection (4) above include, in particular, those whose income is, in whole or in part, exempt, or eligible for exemption, from tax under or by virtue of any of the following provisions—

- (a) section 512(2);
- (b) section 592(2);
- (c) section 608(2)(a);
- (d) section 613(4);
- (e) section 614(2), (3), (4) or (5);
- (f) section 620(6);
- (g) section 643(2).

(6) The preceding provisions of this section do not have effect in relation to—

- (a) claims made in respect of tax credits to which entitlement arises by virtue of section 232(3); or
- (b) claims made by virtue of arrangements having effect under section 788.”

(3) This section has effect in relation to qualifying distributions made on or after 2nd July 1997.

Losses etc not to be set against surplus franked investment income.

**20.**—(1) No claim shall be made under section 242 or 243 of the Taxes Act 1988 (set off of losses etc against surplus of franked investment income) for any accounting period beginning on or after 2nd July 1997; and section 244(1) of that Act shall cease to have effect accordingly.

(2) Sections 242(5) and (6) and 243(4) of the Taxes Act 1988 (restoration of loss etc in later accounting period for which there is a surplus of franked payments) shall not have effect where the later accounting period mentioned in section 242(5)(b) begins on or after 2nd July 1997.

## PART III

(3) No amount shall be deducted under paragraph (a), or carried forward and deducted under paragraph (b), of section 244(2) (deduction of tax credit paid from ACT subsequently available for set off or surrender) for any accounting period beginning on or after 2nd July 1997.

(4) For the purposes of sections 242 and 243 of the Taxes Act 1988, if—

- (a) a company has a surplus of franked investment income for an accounting period beginning before 2nd July 1997 and ending on or after that date, and
- (b) that surplus exceeds the surplus of franked investment income which the company would have had for that accounting period had it ended on 1st July 1997,

the surplus shall be treated as reduced by the excess.

(5) Sections 242 to 244 of the Taxes Act 1988 cease to have effect in consequence of, and in accordance with, the foregoing provisions of this section.

(6) In section 237(4) of the Taxes Act 1988 (bonus issue and related tax credit not to be franked investment income for the purposes of sections 241 and 244) for “sections 241 and 244” there shall be substituted “section 241”.

(7) Subsection (6) above has effect in accordance with subsection (5) above.

**21.—**(1) Section 699A of the Taxes Act 1988 (untaxed sums comprised in the income of the estate) shall be amended as follows.

Estates in administration: distributions to which s.233(1) applies.

(2) In subsection (1) (which defines “a relevant amount” by reference to an amount which is or would be paid out of sums to which paragraphs (a) and (b) apply) after paragraph (b) there shall be inserted—

“or out of any sums included in the aggregate income of the estate of the deceased which fall within subsection (1A) below.”

(3) After subsection (1) there shall be inserted—

“(1A) A sum falls within this subsection if it is a sum in respect of a distribution to which section 233(1) applies.

(1B) Any reference in this Part to a sum to which subsection (1)(a) and (b) above applies includes a reference to a sum falling within subsection (1A) above which is included in the aggregate income of the estate of the deceased.”

(4) In subsection (4) (rate at which sums are assumed to bear tax) after paragraph (b) there shall be inserted “; and

(c) in the case of sums falling within subsection (1A) above, at the lower rate.”

(5) This section has effect in relation to amounts which a person is deemed by virtue of Part XVI of the Taxes Act 1988 (estates in the course of administration) to receive, or to have a right to receive, on or after 2nd July 1997.

**22.—**(1) In section 171 of the Finance Act 1993 (taxation of profits, and allowance of losses, of non-corporate members) after subsection (2A) there shall be inserted—

Lloyd's underwriters. 1993 c. 34.

## PART III

“(2B) Section 231(1) of the Taxes Act 1988 (entitlement to tax credit) shall not apply where the distribution there mentioned is a distribution in respect of any asset of a member’s premiums trust fund.”

1994 c. 9.

(2) In section 219 of the Finance Act 1994 (taxation of profits of corporate members) at the beginning of subsection (3) there shall be inserted “Subject to subsection (4A) below,”.

(3) In subsection (4) of that section (subsection (2) applies in relation to distributions and associated tax credits notwithstanding section 11(2)(a) or 208 of the Taxes Act 1988)—

- (a) for “dividends or other distributions of a company resident in the United Kingdom” there shall be substituted “UK distributions”; and
- (b) the words “(and any associated tax credits)” shall cease to have effect.

(4) After that subsection there shall be inserted—

“(4A) Notwithstanding anything in section 11(2)(a) or 208 of the Taxes Act 1988, UK distributions in respect of any assets of a corporate member which are mentioned in paragraph (a) or (b) of subsection (3) above—

- (a) shall be taken into account in computing profits of the corporate member for tax purposes; and
- (b) shall be so taken into account under Case I of Schedule D (and not under any other Schedule or any other Case of Schedule D).

(4B) Section 231(1) of the Taxes Act 1988 (entitlement to tax credit) shall not apply where the distribution there mentioned is a distribution in respect of any asset of a corporate member’s premiums trust fund.

(4C) In this section “UK distributions” means dividends or other distributions of a company resident in the United Kingdom.”

(5) In section 20(1) of the Taxes Act 1988, as amended by section 24(10) below, in paragraph 2 of Schedule F (distribution in respect of which a person is entitled to a tax credit treated for the purposes of the Tax Acts, other than section 95(1), as representing income equal to the aggregate of the distribution and the tax credit) after “95(1)” there shall be inserted “of this Act and section 219(4A) of the Finance Act 1994”.

(6) In section 231(1) of the Taxes Act 1988 (recipient of distribution made by UK resident company entitled to tax credit subject to sections 247 and 441A) after “441A,” there shall be inserted “section 171(2B) of the Finance Act 1993 and section 219(4B) of the Finance Act 1994,”.

(7) This section has effect in relation to distributions made on or after 2nd July 1997.

Insurance  
companies and  
friendly societies.

23. Schedule 3 to this Act (which makes provision in relation to insurance companies and friendly societies) shall have effect.

## PART III

*Distributions, tax credits etc: avoidance*

24.—(1) Section 95 of the Taxes Act 1988 (taxation of dealers in respect of certain qualifying distributions etc) shall be amended in accordance with subsections (2) to (9) below.

Taxation of dealers in respect of distributions etc.

(2) For subsection (1) (qualifying distributions to which Schedule 7 to the Finance Act 1997 applies which are received by a dealer, and payments made by a dealer which are representative of such distributions, to be taken into account in computing profits of the dealer) there shall be substituted—

1997 c. 16.

“(1) Where a dealer—

(a) receives a relevant distribution, that is to say—

(i) any distribution which is made by a company resident in the United Kingdom (“a UK distribution”), or

(ii) any payment which is representative of a UK distribution, or

(b) makes any payment which is representative of a UK distribution,

the distribution or, as the case may be, the payment shall be taken into account in computing the profits of the dealer which are chargeable to tax in accordance with the provisions of this Act applicable to Case I or II of Schedule D.”

(3) In subsection (1A) (provisions consequential on subsection (1) where dealer receives qualifying distribution to which Schedule 7 to the Finance Act 1997 applies)—

(a) in the words preceding paragraph (a), for “qualifying distribution to which Schedule 7 to the Finance Act 1997 applies” there shall be substituted “relevant distribution”;

(b) paragraph (b) (distribution not to be treated for the purposes of sections 246D and 246F as a FID received by the dealer) shall cease to have effect;

(c) in paragraph (c), for “sections 208 and 234(1)” there shall be substituted “section 208”;

(d) paragraph (d) (which disapplies paragraph 2A(2) of Schedule 23A to the Taxes Act 1988 which is repealed by this section) shall be omitted; and

(e) the following paragraph shall be inserted at the appropriate place—

“(e) section 11(2)(a) shall have effect in relation to that distribution with the omission of the words “(but so that this paragraph shall not include distributions received from companies resident in the United Kingdom)”.”

(4) Subsection (1B) (which relates to the application of section 732 and which becomes unnecessary in consequence of the amendments made to that section by section 26 below) shall cease to have effect.

(5) In subsection (2) (meaning of “dealer”)—

(a) the word “qualifying” shall be omitted in both places where it occurs; and

(b) in paragraph (a), after “shares” there shall be inserted “or stock”.

## PART III

(6) After subsection (2) there shall be inserted—

“(2A) The reference in subsection (2) above to the profits of a person does not include the profits of that person in respect of insurance business or any category of insurance business.”

(7) Subsection (4) (which makes special provision in relation to preference shares) shall cease to have effect.

(8) Subsection (5) (definitions) shall be omitted.

(9) For the sidenote there shall be substituted “Taxation of dealers in respect of distributions etc.”

(10) In section 20(1) of the Taxes Act 1988, in paragraph 2 of Schedule F (distribution in respect of which a person is entitled to a tax credit treated for the purposes of the Tax Acts as representing income equal to the aggregate of the distribution and the tax credit) after “purposes of the Tax Acts” there shall be inserted “(other than section 95(1))”.

(11) In section 234 of the Taxes Act 1988 (information relating to distributions) in subsection (1), the words “but subject to section 95(1A)(c)” shall be omitted.

(12) In section 246D(1) of the Taxes Act 1988 (individuals entitled to FIDs treated as receiving grossed-up amount) after “that individual shall be treated” there shall be inserted “(except for the purposes of section 95(1))”.

(13) In Schedule 23A to the Taxes Act 1988 (manufactured dividends and interest) paragraph 2A(2) (which provides that if the dividend manufacturer is a company not resident in the UK no amount shall be deductible in the case of that company in respect of the manufactured dividend) shall be omitted (and accordingly paragraph 2(3)(c) of that Schedule has effect instead).

1997 c. 16.

(14) In Schedule 7 to the Finance Act 1997 (special treatment for certain distributions) in paragraph 2 (distributions treated as FIDs) in sub-paragraph (3)—

(a) paragraph (a) (subjection to section 95(1A)(b)) shall be omitted; and

(b) in paragraph (b) (subjection to section 247(5B) to (5D)) for “of that Act” there shall be substituted “of the Taxes Act 1988”.

(15) This section has effect in relation to—

(a) any distribution made on or after 2nd July 1997; and

(b) any payment which is representative of such a distribution.

Repeal of s.95(5) of the Taxes Act 1988: consequential amendments.

**25.—**(1) In section 246A(9) of the Taxes Act 1988 (which provides that “fixed-rate preference shares” shall be construed in accordance with section 95(5)) for “section 95(5)” there shall be substituted “paragraph 13(6) of Schedule 28B”.

(2) In Schedule 28B to the Taxes Act 1988 (venture capital trusts) paragraph 13 (general interpretation) shall be amended in accordance with subsections (3) and (4) below.

(3) In sub-paragraph (5), paragraph (b) (which provides that “fixed-rate preference shares” has the same meaning as in section 95), and the word “and” immediately preceding that paragraph, shall be omitted.

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(4) After sub-paragraph (5) there shall be inserted—

“(6) In this paragraph “fixed-rate preference shares” means shares which—

- (a) were issued wholly for new consideration;
- (b) do not carry any right either to conversion into shares or securities of any other description or to the acquisition of any additional shares or securities; and
- (c) do not carry any right to dividends other than dividends which—
  - (i) are of a fixed amount or at a fixed rate per cent. of the nominal value of the shares, and
  - (ii) together with any sum paid on redemption, represent no more than a reasonable commercial return on the consideration for which the shares were issued;

and in paragraph (a) above “new consideration” has the meaning given by section 254.”

(5) In Schedule 7 to the Finance Act 1997 (special treatment for certain distributions) paragraph 5 (fixed-rate preference shares) shall be amended in accordance with subsections (6) and (7) below. 1997 c. 16.

(6) In sub-paragraph (2) (which defines “fixed-rate preference shares” by reference to section 95 of the Taxes Act 1988)—

- (a) in paragraph (a) for “section 95 of” there shall be substituted “paragraph 13 of Schedule 28B to”; and
- (b) in paragraph (b) for “section 95(5)(c)(i) of that Act” there shall be substituted “paragraph 13(6)(c)(i) of that Schedule”.

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

“(3) For the purposes of sub-paragraph (2) above, any reference in paragraph 13(6) of Schedule 28B to shares shall be taken as a reference to shares within the meaning of this Schedule.”

(8) This section has effect on and after 2nd July 1997.

**26.**—(1) Section 732 of the Taxes Act 1988 (dealers in securities) shall be amended as follows. Purchase and sale of securities.

(2) After subsection (1) (dealers in securities: reduction for tax purposes of price paid by the appropriate amount in respect of interest) there shall be inserted—

“(1A) Subsection (1) above shall not apply if the interest receivable by the first buyer falls to be taken into account by virtue of section 95(1) in computing profits of his which are chargeable to tax in accordance with the provisions of this Act applicable to Case I or II of Schedule D.”

(3) Subsections (2) and (2A) (exceptions from subsection (1) for certain market makers, recognised clearing houses and members of recognised investment exchanges) shall cease to have effect.

(4) In subsection (4) (exception from subsection (1) for overseas securities bought on a stock exchange outside the United Kingdom if

## PART III

conditions as to computation of profits and non-allowance of credit for foreign tax are satisfied) the words “on a stock exchange outside the United Kingdom” shall be omitted.

(5) For the definition of “overseas securities” in subsection (4) there shall be substituted—

“In this subsection “overseas securities” means securities issued—

- (a) by a government or public or local authority of a territory outside the United Kingdom; or
- (b) by any other body of persons not resident in the United Kingdom.”

(6) Subsections (5) and (5A) (exceptions from subsection (1) for Eurobonds bought by dealers and for rights in a unit trust scheme where first buyer sells as manager) shall cease to have effect.

(7) Subsections (6) and (7) (definitions for the purposes of subsections (2) and (2A)) shall cease to have effect.

(8) This section has effect where, for the purposes of section 731(2) of the Taxes Act 1988, the interest receivable by the first buyer is paid on or after 2nd July 1997.

Payments to companies under section 687 of the Taxes Act 1988.

27.—(1) After section 687 of the Taxes Act 1988 (payments under discretionary trusts) there shall be inserted—

“Payments to companies under section 687.

687A.—(1) This section applies where—

- (a) trustees make a payment to a company;
- (b) section 687 applies to the payment; and
- (c) the company is chargeable to corporation tax and does not fall within subsection (2) below.

(2) A company falls within this subsection if it is—

- (a) a charity, as defined in section 506(1);
- (b) a body mentioned in section 507 (heritage bodies); or
- (c) an Association of a description specified in section 508 (scientific research organisations).

(3) Where this section applies—

- (a) none of the following provisions, namely—
  - (i) section 7(2),
  - (ii) section 11(3),
  - (iii) paragraph 5(1) of Schedule 16,
 shall apply in the case of the payment;
- (b) the payment shall be left out of account in calculating the profits of the company for the purposes of corporation tax; and
- (c) no repayment shall be made of the amount treated under section 687(2) as income tax paid by the company in the case of the payment.



## PART III

(4) If the company is not resident in the United Kingdom, this section applies only in relation to so much (if any) of the payment as is comprised in the company's chargeable profits for the purposes of corporation tax."

(2) This section has effect in relation to payments made by trustees to companies on or after 2nd July 1997.

28.—(1) After section 231A of the Taxes Act 1988 (which is inserted by section 19 of this Act) there shall be inserted—

Arrangements to pass on value of tax credit.

"Consequences of certain arrangements to pass on the value of a tax credit.

231B.—(1) This section applies in any case where—

- (a) a person ("A") is entitled to a tax credit in respect of a qualifying distribution;
- (b) arrangements subsist such that another person ("B") obtains, whether directly or indirectly, a payment representing any of the value of the tax credit;
- (c) the arrangements (whether or not made directly between A and B) were entered into for an unallowable purpose; and
- (d) the condition in subsection (2) below is satisfied.

(2) The condition is that if B had been the person entitled to the tax credit and the qualifying distribution to which it relates, and had received the distribution when it was made, then—

- (a) B would not have been entitled to obtain any payment under section 231(2) or (3) in respect of the tax credit; and
- (b) if B is a company, B could not have used the income consisting of the distribution to frank a distribution actually made in the accounting period in which it would have received the distribution to which the tax credit relates.

(3) This section does not apply if and to the extent that any other provision of the Tax Acts has the effect of cancelling or reducing the tax advantage which would otherwise be obtained by virtue of the arrangements.

(4) Where this section applies—

- (a) no claim shall be made under section 231(2) for payment of the amount of the tax credit;
- (b) no claim shall be made under section 231(3) or 441A(7) in respect of the tax credit;
- (c) the income consisting of the distribution in respect of which A is entitled to the tax credit shall not be regarded for the purposes of section 241 as franked investment income; and
- (d) no claim shall be made under section 35 of the Finance (No. 2) Act 1997 (transitional relief) for payment of an amount determined by reference to that distribution.

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(5) For the purposes of this section, the question whether any arrangements were entered into for an “unallowable purpose” shall be determined in accordance with subsections (6) and (7) below.

(6) Arrangements are entered into for an unallowable purpose if the purposes for which at least one person is a party to the arrangements include a purpose which is not amongst the business or other commercial purposes of that person.

(7) Where one of the purposes for which a person enters into any arrangements is the purpose of securing that that person or another obtains a tax advantage, that purpose shall be regarded as a business or other commercial purpose of the person only if it is neither the main purpose, nor one of the main purposes, for which the person enters into the arrangements.

(8) Any reference in this section to a person obtaining a tax advantage includes a reference to a person obtaining a payment representing any of the value of a tax credit in circumstances where, had the person obtaining the payment been entitled to the tax credit and the qualifying distribution to which it relates, that person—

- (a) would not have been entitled to obtain any payment under section 231(2) or (3) in respect of the tax credit; and
- (b) if that person is a company, could not have used the income consisting of the distribution to frank a distribution actually made in the accounting period in which it would have received the distribution to which the tax credit relates.

(9) If an amount representing any of the value of a tax credit to which a person is entitled is applied at the direction of, or otherwise in favour of, some other person (whether by way of set off or otherwise), the case shall be treated for the purposes of this section as one where that other person obtains a payment representing any of the value of the tax credit.

(10) In determining for the purposes of subsections (2)(b) and (8)(b) above whether a company could have used the income consisting of the distribution in question to frank a distribution of the company, the company shall be taken to use its actual franked investment income to frank distributions before using the income consisting of the distribution in question.

(11) References in this section to using franked investment income to frank a distribution of a company have the same meaning as in Chapter V of Part VI.

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(12) In this section—

“arrangements” means arrangements of any kind, whether in writing or not (and includes a series of arrangements, whether or not between the same parties);

“business or other commercial purposes” includes the efficient management of investments;

“franked investment income” has the same meaning as in Chapter V of Part VI and references to income consisting of a distribution shall be construed accordingly;

“tax advantage” has the same meaning as in Chapter I of Part XVII.”

(2) This section has effect in relation to distributions made on or after 2nd July 1997.

**29.**—(1) Where a qualifying distribution—

Unauthorised unit trusts.

- (a) is made on or after 2nd July 1997 but before 6th April 1999 by a company resident in the United Kingdom, and
- (b) falls to be regarded by virtue of subsection (2) of section 469 of the Taxes Act 1988 (unit trusts other than authorised unit trusts) as income of the trustees of a unit trust scheme to which that section applies, and
- (c) is not a foreign income dividend and does not fall to be regarded by virtue of any provision of the Tax Acts apart from this section as a foreign income dividend arising to the trustees,

the trustees shall be treated for all purposes of the Tax Acts (apart from this section) as if the qualifying distribution were a foreign income dividend.

(2) Subsection (1) above shall not apply—

- (a) if the unit trust scheme is a common investment fund established under section 42 of the Administration of Justice Act 1982; or
- (b) if, apart from section 469(2) of the Taxes Act 1988, the whole of the qualifying distribution would fall to be regarded as income of section 505 bodies.

1982 c. 53.

(3) In this section—

“foreign income dividend” shall be construed in accordance with Chapter VA of Part VI of the Taxes Act 1988;

“section 505 body” means—

- (a) a charity, as defined in section 506(1) of the Taxes Act 1988;
- (b) a body mentioned in section 507 of that Act (heritage bodies); or
- (c) an Association of a description specified in section 508 of that Act (scientific research organisations).

## PART III

*Distributions, tax credits etc in and after 1999-00*

## Tax credits.

**30.**—(1) Section 231 of the Taxes Act 1988 (tax credits for certain recipients of qualifying distributions) shall be amended in accordance with subsections (2) to (7) below.

(2) In subsection (1) (recipient of certain distributions to be entitled to tax credit equal to proportion of distribution corresponding to rate of ACT in force)—

- (a) after “where” there shall be inserted “, in any year of assessment for which income tax is charged,”; and
- (b) for “the rate of advance corporation tax in force for the financial year in which” there shall be substituted “the tax credit fraction in force when”.

(3) After subsection (1) there shall be inserted—

“(1A) The tax credit fraction is one-ninth.”

(4) Subsection (2) (payment of tax credit to company resident in UK) shall cease to have effect.

(5) In subsection (3) (which includes provision for payment of excess of tax credit over income tax liability to person not being a company resident in the UK)—

- (a) for “Subject to section 231A,” there shall be substituted “Subject to subsection (3AA) below,”; and
- (b) the words “and subject to subsections (3A) and (3D) below where the credit exceeds that income tax, to have the excess paid to him” shall cease to have effect.

(6) After subsection (3) there shall be inserted—

“(3AA) For any year of assessment, the aggregate amount of the tax credits in respect of which claims are made under subsection (3) above by any person must not exceed the aggregate amount of the tax credits in respect of such qualifying distributions (if any) as are brought into charge to tax in the case of that person.”

(7) In consequence of subsection (5) above, subsections (3A) to (3D) shall cease to have effect.

(8) Section 231A of the Taxes Act 1988 (which is superseded by the foregoing provisions of this section) shall cease to have effect.

(9) The amendments made by subsections (5) and (6) above do not affect the entitlement of a person who is not resident in the United Kingdom to payment in respect of a tax credit by virtue of arrangements having effect under section 788 of the Taxes Act 1988 (relief by agreement with other countries).

(10) Where—

- (a) arrangements having effect by virtue of section 788 of the Taxes Act 1988 confer on a person not resident in the United Kingdom the right to a tax credit under section 231 of the Taxes Act 1988 in respect of a dividend of a company resident in the United Kingdom, and
- (b) the arrangements contain provision for permitting—
  - (i) tax to be charged or deducted, or

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- (ii) a reduction in the amount of the tax credit that is paid to be made,
  - by reference to the aggregate of the dividend and the tax credit, and
  - (c) the amount of that tax or that reduction exceeds the amount of the tax credit,
- that provision shall only have the effect of reducing to nil the amount of the payment to which the person is entitled in respect of the tax credit.

(11) This section has effect in relation to distributions made on or after 6th April 1999.

**31.—**(1) Section 1A of the Taxes Act 1988 (application of lower rate to income from savings and distributions) shall be amended in accordance with subsections (2) to (4) below.

Rates of tax applicable to Schedule F income etc.

(2) In subsection (1) (certain savings and distribution income to be charged at the lower rate to the exclusion of basic rate) for “lower rate” there shall be substituted “rate applicable in accordance with subsection (1A) below”.

(3) After subsection (1) there shall be inserted—

“(1A) The rate applicable in accordance with this subsection is—

- (a) in the case of income chargeable under Schedule F, the Schedule F ordinary rate;
- (b) in the case of equivalent foreign income falling within subsection (3)(b) below and chargeable under Case V of Schedule D, the Schedule F ordinary rate; and
- (c) in the case of any other income, the lower rate.”

(4) For subsection (5) (income to which section 1A applies to be treated as the highest part of a person’s income) there shall be substituted—

“(5) For the purposes of subsection (1)(b) above and any other provisions of the Income Tax Acts—

- (a) so much of any person’s income as comprises income to which this section applies shall be treated as the highest part of his income; and
- (b) so much of that part as consists of—
  - (i) income chargeable under Schedule F (if any), and
  - (ii) equivalent foreign income falling within subsection (3)(b) above and chargeable under Case V of Schedule D (if any),
 shall be treated as the highest part of that part.”

(5) After section 1A of the Taxes Act 1988 there shall be inserted—

“Rates of tax applicable to Schedule F income etc.

**1B.—**(1) In the case of so much of an individual’s income which consists of—

- (a) income chargeable under Schedule F (if any), and
- (b) equivalent foreign income falling within section 1A(3)(b) and chargeable under Case V of Schedule D (if any),

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as is income falling within section 1(2)(b), income tax shall, by virtue of this subsection, be charged at the Schedule F upper rate, instead of at the rate otherwise applicable to it in accordance with section 1(2)(b).

(2) In relation to any year of assessment for which income tax is charged—

(a) the Schedule F ordinary rate is 10 per cent., and

(b) the Schedule F upper rate is 32.5 per cent.,

or, in either case, such other rate as Parliament may determine.”

(6) This section has effect in relation to distributions made on or after 6th April 1999.

## Trusts.

32.—(1) Section 686 of the Taxes Act 1988 (income arising to trustees which is to be chargeable at the rate applicable to trusts) shall be amended as follows.

(2) In subsection (1) (income to which the section applies to be chargeable at the rate applicable to trusts instead of at the basic rate or, in accordance with section 1A, the lower rate)—

(a) for “at the rate applicable to trusts” there shall be substituted “at the rate applicable in accordance with subsection (1AA) below”; and

(b) after “at the lower rate” there shall be inserted “or the Schedule F ordinary rate”.

(3) After subsection (1) there shall be inserted—

“(1AA) The rate applicable in accordance with this subsection is—

(a) in the case of so much of any income to which this section applies as is Schedule F type income, the Schedule F trust rate; and

(b) in the case of any other income to which this section applies, the rate applicable to trusts.”

(4) In subsection (1A) (the rate applicable to trusts etc) for the words from the beginning to “Parliament may determine” there shall be substituted—

“(1A) In relation to any year of assessment for which income tax is charged—

(a) the Schedule F trust rate shall be 25 per cent., and

(b) the rate applicable to trusts shall be 34 per cent.,

or, in either case, such other rate as Parliament may determine.”

(5) In subsection (1A), so as to make the words following “as Parliament may determine” into a separate paragraph, for the words “and, for the purposes of assessments” there shall be substituted—

“For the purposes of assessments”.

(6) In subsection (2AA) (income treated by s.689B as applied in defraying trustees’ expenses to be taxed at the rate that would apply apart

## PART III

from s.686, instead of the rate applicable to trusts) after “instead of the rate applicable to trusts” there shall be inserted “or the Schedule F trust rate (as the case may be)”.

(7) Before subsection (6) there shall be inserted—

“(5A) In this section “Schedule F type income”, in relation to trustees, means—

- (a) income chargeable under Schedule F;
- (b) income to which section 1A applies by virtue of its being equivalent foreign income falling within subsection (3)(b) of that section and chargeable under Case V of Schedule D;
- (c) a qualifying distribution whose amount or value is determined in accordance with section 233(1A);
- (d) a non-qualifying distribution, within the meaning of section 233(1B);
- (e) income treated as arising to the trustees by virtue of section 249(6)(b);
- (f) income treated as received by the trustees by virtue of section 421(1)(a);
- (g) any amount which, by virtue of section 686A, is treated for the purposes of the Tax Acts as if it were income to which this section applies.”

(8) For the sidenote there shall be substituted “Accumulation and discretionary trusts: special rates of tax.”

(9) After section 686 of the Taxes Act 1988 there shall be inserted—

“Certain distributions to be treated as income to which section 686 applies.

686A.—(1) This section applies where—

- (a) a qualifying distribution is made to trustees;
- (b) the trustees are not the trustees of a unit trust scheme; and
- (c) the qualifying distribution falls within subsection (2) below.

(2) A qualifying distribution falls within this subsection if it is a payment made by a company—

- (a) on the redemption, repayment or purchase of its own shares; or
- (b) on the purchase of rights to acquire its own shares.

(3) The relevant part of the distribution shall be treated for the purposes of the Tax Acts as if it were income to which section 686 applies.

(4) In subsection (3) above the reference to the relevant part of the distribution is a reference to so much (if any) of the distribution as—

- (a) is not income falling within paragraph (a) of section 686(2);
- (b) does not fall to be treated for the purposes of the Income Tax Acts as income of a settlor;

## PART III

- (c) is not income arising under a trust established for charitable purposes; and
- (d) is not income from investments, deposits or other property held for any such purposes as are mentioned in sub-paragraph (i) or (ii) of section 686(2)(c).

(5) Subsection (6) of section 686 shall apply for the purposes of this section as it applies for the purposes of that section.”

(10) The amendment made by subsection (5) above has effect on and after 6th April 1999.

(11) The other amendments made by this section have effect in relation to distributions made on or after 6th April 1999.

Estates of  
deceased persons  
in administration.

33.—(1) For section 698A of the Taxes Act 1988 (taxation at the lower rate of the income of beneficiaries) there shall be substituted—

“Taxation of  
income of  
beneficiaries at  
lower rate or at  
rates applicable  
to Schedule F  
income.

698A.—(1) Subject to subsection (3) below, in so far as any income of any person is treated under this Part as having borne income tax at the lower rate, section 1A shall have effect as if that income were income to which that section applies otherwise than by virtue of the income being income chargeable under Schedule F.

(2) Subject to subsection (3) below, in so far as any income of any person is treated under this Part as having borne income tax at the Schedule F ordinary rate, that income shall be treated as if it were income chargeable under Schedule F.

(3) Subsections (1) and (2) above shall not apply to income paid indirectly through a trustee and treated by virtue of section 698(3) as having borne income tax at the lower rate or the Schedule F ordinary rate; but, subject to section 686(1), section 1A shall have effect as if the payment made to the trustee were income of the trustee—

- (a) to which section 1A applies by virtue of the income being chargeable under Schedule F, in the case of income treated as having borne tax at the Schedule F ordinary rate; and
- (b) to which section 1A applies otherwise than by virtue of the income being chargeable under Schedule F, in any other case.”

(2) Section 699A of the Taxes Act 1988 (untaxed sums comprised in the income of the estate) shall be amended in accordance with subsections (3) to (6) below.

(3) In subsection (1A) (which is inserted by section 21 of this Act and describes sums to which subsection (1)(a) and (b) of s.699A is deemed to apply) after “if it is a sum in respect of” there shall be inserted—

- “(a) a distribution chargeable under Schedule F; or
- (b)”.



## PART III

(4) In subsection (2) (determination whether any amount is a relevant amount) in paragraph (b) (application of the assumption in section 701(3A)(b)) for “assumption” there shall be substituted “assumptions”.

(5) In subsection (4) (rate at which sums are assumed to bear tax) in paragraphs (a) and (c) for “lower rate” there shall be substituted “Schedule F ordinary rate”.

(6) In subsection (6) (income represented by a relevant amount to be treated as not brought into charge to tax for the purposes of ss.348 and 349(1)) at the end there shall be added “except to the extent that the relevant amount is or would be paid out of sums in respect of a distribution chargeable under Schedule F”.

(7) In section 701 of the Taxes Act 1988 (interpretation of Part XVI) subsection (3A) (which defines the “applicable rate” as basic rate or lower rate, according to the rate at which the income of the residue out of which the payment to the beneficiary is made bears tax) shall be amended in accordance with subsections (8) and (9) below.

(8) For the words “or the lower rate”, in both places where they occur, there shall be substituted “, the lower rate or the Schedule F ordinary rate”.

(9) In paragraph (b) (assumption that payments are made out of income bearing tax at the basic rate before income bearing tax at the lower rate)—

- (a) after “it shall be assumed” there shall be inserted “(i)”;
- (b) after “lower rate” there shall be inserted “or the Schedule F ordinary rate”; and
- (c) at the end of the paragraph there shall be added “; and
  - (ii) that payments are to be made out of income bearing tax at the lower rate before they are made out of income bearing tax at the Schedule F ordinary rate.”

(10) The amendment made by subsection (3) above has effect in relation to distributions made on or after 6th April 1999.

(11) The amendments made by subsections (1) and (4) to (9) above have effect for the year 1999-00 and subsequent years of assessment.

**34.** Schedule 4 to this Act (which contains provisions relating to tax credits and the taxation of distributions) shall have effect.

Tax credits and taxation of distributions: miscellaneous provisions.

**35.—(1)** In any case where—

- (a) a qualifying distribution is made on or after 6th April 1999 and before 6th April 2004 by a company resident in the United Kingdom, and
- (b) the recipient of the distribution is a section 505 body, and

Transitional relief for charities etc.

## PART III

- (c) if the section 505 body falls within neither paragraph (b) nor paragraph (c) of subsection (3) below, entitlement to exemption from tax by virtue of subsection (1)(c)(iii) of section 505 of the Taxes Act 1988 (charities) in respect of the distribution is not prevented by anything in that section,

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

(2) The amount referred to in subsection (1) above is an amount equal to—

- (a) 21 per cent of the amount or value of the distribution if the distribution is made on or after 6th April 1999 and before 6th April 2000;
- (b) 17 per cent of that amount or value if the distribution is made on or after 6th April 2000 and before 6th April 2001;
- (c) 13 per cent of that amount or value if the distribution is made on or after 6th April 2001 and before 6th April 2002;
- (d) 8 per cent of that amount or value if the distribution is made on or after 6th April 2002 and before 6th April 2003;
- (e) 4 per cent of that amount or value if the distribution is made on or after 6th April 2003 and before 6th April 2004.

(3) For the purposes of this section each of the following is a section 505 body—

- (a) any charity (as defined in section 506(1) of the Taxes Act 1988);
- (b) each of the bodies mentioned in section 507 of that Act (heritage bodies);
- (c) any Association of a description specified in section 508 of that Act (scientific research organisations).

(4) Schedule 5 to this Act shall have effect to remove or restrict entitlement to payment under this section in certain circumstances.

(5) For the purposes of Chapter I of Part XVII of the Taxes Act 1988 (cancellation of tax advantages) payment of an amount under this section shall be treated as repayment of tax.

(6) Any entitlement of a section 505 body to a payment under subsection (1) above shall be subject to a power of the Board to determine (whether before or after any payment is made) that, having regard to the operation in relation to the distribution in question of section 703 of the Taxes Act 1988 (cancellation of tax advantages), that body is to be treated as if it had had no entitlement to that payment or to so much of it as they may determine.

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

(8) An appeal may be brought against any decision of the Board under this section or under Schedule 5 to this Act by giving written notice to the Board within thirty days of receipt of written notice of the decision.

## PART III

(9) An appeal under this section shall lie to the Special Commissioners, and the provisions of the Taxes Management Act 1970 relating to appeals under the Tax Acts shall apply to an appeal under this section as they apply to those appeals. 1970 c. 9.

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

36.—(1) No election shall be made under section 246A of the Taxes Act 1988 (election for dividend to be treated as foreign income dividend) in respect of any distributions made on or after 6th April 1999. Foreign income dividends.

(2) No amount shall be shown as available for distribution as foreign income dividends in the distribution accounts of an authorised unit trust for a distribution period the distribution date for which falls on or after 6th April 1999.

(3) No distribution made on or after 6th April 1999 shall be treated as a foreign income dividend by virtue of paragraph 2(1) of Schedule 7 to the Finance Act 1997 (Tax Acts to have effect as if qualifying distributions to which Schedule 7 applies were foreign income dividends). 1997 c. 16.

(4) Schedule 6 to this Act (which makes provision for and in connection with the repeal of provisions relating to foreign income dividends) shall have effect.

(5) In subsection (2) above, “distribution accounts”, “distribution date” and “distribution period” shall be construed in accordance with section 468H of the Taxes Act 1988 (interpretation of sections 468I to 468R of that Act).

*Gilt-edged securities*

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

Interest to be paid gross.

(2) In section 50 (Treasury direction for payment of public revenue dividends without deduction of tax), before subsection (1) there shall be inserted the following subsection—

“(A1) The interest on registered gilt-edged securities (whenever issued and whatever the terms on which they were issued) shall be paid without deduction of income tax.”

(3) In that section—

- (a) in subsection (1), after “following securities” there shall be inserted “in so far as they are not gilt-edged securities”;
- (b) in subsection (2), after “by virtue of” there shall be inserted “subsection (A1) above or of”;
- (c) in subsection (3), for “to which subsection (1) above applied” there shall be substituted “the interest on which is to be paid without deduction of income tax”; and
- (d) in subsections (4) and (5), for the words “two months”, in each place where they occur, there shall be substituted “one month”.

(4) In subsection (7) of that section, after “requires” there shall be inserted the following definition—

“‘gilt-edged securities’ means any securities which—

## PART III

(a) are gilt-edged securities for the purposes of the 1992 Act; or

(b) will be such securities on the making of any order under paragraph 1 of Schedule 9 to that Act the making of which is anticipated in the prospectus under which they were issued.”

(5) Section 51A (interest on gilt-edged securities held under authorised arrangements to be paid without deduction of tax) shall cease to have effect.

(6) In section 51B (periodic accounting for tax on interest on gilt-edged securities), for subsection (5) there shall be substituted the following subsections—

“(5) In this section ‘relevant gilt-edged securities’ means securities of one of the following descriptions—

(a) gilt-edged securities issued before 6th April 1998 other than those in relation to which a direction under section 50(1) was given before that date;

(b) gilt-edged securities issued on or after that date in relation to which the Treasury have given a direction that they may be subjected to periodic accounting;

and in this subsection ‘gilt-edged securities’ has the same meaning as in section 50.

(5A) Regulations under this section shall not apply to a payment of interest on any relevant gilt-edged securities if that payment is made at any time after the Treasury have given a direction that those securities are to be exempted from periodic accounting.”

(7) In sections 722A(5) and 730C(9), and in paragraph 3A(2)(a) of Schedule 23A, (which all define “gilt-edged securities” by reference to section 51A of the Taxes Act 1988), for “51A” there shall be substituted, in each case, “50”.

(8) Subject to subsections (9) to (13) below, this section has effect in relation to payments of interest falling due on or after 6th April 1998.

(9) Subsection (3)(d) above has effect in relation to applications made and notices given at any time on or after the day on which this Act is passed.

(10) Where—

(a) any person holds any gilt-edged securities in relation to which a direction was given under section 50(1) of the Taxes Act 1988 at any time before 6th April 1998, and

(b) that person at any time before that date made an application under section 50(2) of that Act with respect to those securities,

that application (unless withdrawn) shall have effect in relation to any interest on those securities to which section 50(A1) of that Act applies as it previously had effect in relation to any interest on those securities to which that direction applied.

(11) Sections 50, 51B and 118D(4) of the Taxes Act 1988 shall have effect in relation to any gilt-edged securities issued before 6th April 1998 which—

## PART III

- (a) are securities the interest on which, if paid immediately before that date, would have fallen to be paid after deduction of income tax, and
- (b) are registered within the meaning of section 50 of that Act but are not securities in relation to which any direction under section 50 of that Act was given before that date,

as if the appropriate person had so made an application under section 50(2) of that Act as to enable that application to take effect in relation to payments of interest made on or after that date.

(12) In subsection (11) above “the appropriate person” means—

- (a) in the case of securities transferred before 6th April 1998 but after the time when the balance was struck for a dividend on them falling due on or after that date, the person who held the securities at the time when the balance was so struck;
- (b) in any other case, the person holding the securities in question immediately before 6th April 1998.

(13) Section 50(5) of the Taxes Act 1988 shall have effect in relation to an application treated as made by virtue of subsection (11) above as if a notice withdrawing that application was capable of being given at any time on or after the passing of this Act.

**38.**—(1) Chapter VIIA of Part IV of the Taxes Act 1988 (paying and collecting agents) shall be amended as follows.

Paying and  
collecting agents.

(2) Section 118A (interpretation of Chapter) shall become subsection (1) of that section and, in paragraph (k) of that subsection (meaning of “international organisation”), for “has the meaning given by section 51A(8)” there shall be substituted “means an organisation of which two or more sovereign powers, or the governments of two or more sovereign powers, are members”.

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

“(2) If, in any proceedings, any question arises whether a person is an international organisation for the purposes 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.”

(4) In section 118D(4) (payments of interest payable without deduction of tax not to be chargeable payments), after “by virtue of” there shall be inserted “section 50(A1) or of”.

(5) In subsection (3) of section 118G (United Kingdom public revenue dividends excluded from being chargeable payments)—

- (a) paragraphs (b) and (d) to (f) shall be omitted; and
- (b) for paragraph (c) there shall be substituted the following paragraph—

“(ca) they are payable in respect of a FOTRA security (within the meaning of section 154 of the Finance Act 1996) which—

1996 c. 8.

- (i) is not registered (within the meaning of section 50 of this Act); and

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(ii) is, for the time being, beneficially owned by a person who is not ordinarily resident in the United Kingdom.”

(6) In section 118G(7), for paragraphs (a) and (b) there shall be substituted “foreign dividends on foreign holdings held by a nominee approved for the purposes of this subsection”.

(7) Section 118G(8) and (10) shall cease to have effect.

(8) This section has effect in relation to payments falling due on or after 6th April 1998.

*Relief for losses etc*

Carry-back of trading losses.

**39.**—(1) Section 393A of the Taxes Act 1988 (set-off of trading losses against profits of previous three years) shall be amended in accordance with subsections (2) to (6) below.

(2) In subsection (2) (three year carry-back period), for “is the period of three years” there shall be substituted “is (subject to subsection (2A) below) the period of twelve months”.

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

“(2A) This section shall have effect in relation to any loss to which this subsection applies as if, in subsection (2) above, the words ‘three years’ were substituted for the words ‘twelve months’.

(2B) Where a company ceases to carry on a trade at any time, subsection (2A) above applies to the following—

- (a) the whole of any loss incurred in that trade by that company in an accounting period beginning twelve months or less before that time; and
- (b) the part of any loss incurred in that trade by that company in an accounting period ending, but not beginning, in that twelve months which is proportionate to the part of that accounting period falling within those twelve months.

(2C) Where—

- (a) a loss is incurred by a company in a ring fence trade carried on by that company, and
- (b) the accounting period in which the loss is incurred is an accounting period for which an allowance under section 62A of the 1990 Act (demolition costs relating to offshore machinery or plant) is made to that company,

subsection (2A) above applies to so much of the amount of that loss not falling within subsection (2B) above as does not exceed the amount of that allowance.”

(4) In subsection (7) (application of section 393(9))—

- (a) at the beginning there shall be inserted “Subject to subsection (7A) below,”; and
- (b) for “the accounting period in which the cessation occurs” there shall be substituted “an accounting period ending with the cessation, or ending at any time in the twelve months immediately preceding the cessation,”.

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

“(7A) For the purposes of this section where—

- (a) subsection (7) above has effect for computing the loss for any accounting period, and
- (b) that accounting period is one beginning before the beginning of the twelve months mentioned in that subsection,

the part of that loss that is not the part falling within subsection (2B)(b) above shall be treated as reduced (without any corresponding increase in the part of the loss that does fall within subsection (2B)(b) above) by an amount equal to so much of the aggregate of the charges on income treated as expenses by virtue of subsection (7) above as is proportionate to the part of the accounting period that does not fall within those twelve months.”

(6) After subsection (11) there shall be inserted the following subsection—

“(12) In this section ‘ring fence trade’ has the same meaning as in section 62A of the 1990 Act.”

(7) In section 343 of that Act (company reconstructions without a change of ownership), the following subsection shall be inserted after subsection (4)—

“(4A) Subsection (2A) of section 393A shall not apply to any loss which (but for this subsection) would fall within subsection (2B) of that section by virtue of the predecessor’s ceasing to carry on the trade, and subsection (7) of that section shall not apply for the computation of any such loss.”

(8) Subject to subsection (9) below, this section applies to any loss incurred in an accounting period ending on or after 2nd July 1997.

(9) Where a loss in any trade is incurred by a company in an accounting period ending on or after 2nd July 1997 but beginning before that date, section 393A of the Taxes Act 1988 shall have effect as if subsection (2A) of that section applied to the pre-commencement part of any amount of that loss to which that subsection would not apply apart from this subsection.

(10) In subsection (9) above “the pre-commencement part”, in relation to the amount of the whole or any part of a loss in an accounting period, means the part of that amount which, on an apportionment in accordance with subsection (11) or, as the case may be, (12) below, is attributable to the part of that accounting period falling before 2nd July 1997.

(11) Except in a case where subsection (12) below applies, an apportionment for the purposes of subsection (10) above shall be made on a time basis according to the respective lengths of the part of the accounting period falling before 2nd July 1997 and the remainder of that accounting period.

(12) Where the circumstances of a particular case are such that the making of an apportionment on the time basis mentioned in subsection (11) above would work in a manner that would be unjust or unreasonable

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in relation to any person, the apportionment shall be made instead (to the extent only that is necessary in order to avoid injustice and unreasonableness) in such other manner as may be just and reasonable.

Carry-back of  
loan relationship  
deficits.  
1996 c. 8.

40.—(1) Chapter II of Part IV of the Finance Act 1996 (loan relationships) shall be amended as follows.

(2) In paragraph 3(7) of Schedule 8 (permitted period of three years for carry-back of deficits), for “three years” and “three year” there shall be substituted, in each case, “twelve months”.

(3) In sub-paragraph (3) of paragraph 4 of Schedule 11 (carry-back of deficit by insurance companies)—

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

“(a) carried back to accounting periods falling wholly or partly within the period of twelve months immediately preceding the deficit period; and”;

and

(b) in paragraph (b), for “those periods” there shall be substituted “up to three such periods”.

(4) In sub-paragraph (5) of that paragraph (mechanism for carry-back in the case of insurance companies), for “the three accounting periods preceding the deficit period” there shall be substituted “accounting periods falling wholly or partly within the period of twelve months mentioned in sub-paragraph (3)(a) above”.

(5) In sub-paragraph (8) of that paragraph (which defines the set-off periods), in each of paragraphs (b) and (c), for “immediately preceding” there shall be substituted “(if any) which falls wholly or partly within the period of twelve months mentioned in sub-paragraph (3)(a) above and immediately precedes”.

(6) In sub-paragraph (9) of that paragraph (adjusted amount of a company’s eligible profit), after “is” there shall be inserted “(subject to sub-paragraph (9A) below)”; and after that sub-paragraph there shall be inserted the following sub-paragraph—

“(9A) Where a set-off period falls only partly within the period of twelve months mentioned in sub-paragraph (3)(a) above, the adjusted amount of a company’s eligible profit for that period shall be taken to be confined to the part of the amount computed under sub-paragraph (9) above which is proportionate to the part of the set-off period that falls within that period of twelve months.”

(7) Subject to subsection (8) below, this section has effect in relation to any deficit for a deficit period ending on or after 2nd July 1997.

(8) Paragraph 3 of Schedule 8 to the Finance Act 1996 shall have effect in relation to any deficit for a deficit period beginning before but ending on or after 2nd July 1997 as if the permitted period in relation to the pre-commencement part of the deficit were the period beginning with 1st April 1996 and ending immediately before the beginning of the deficit period.

(9) Where for the purposes of paragraph 23 of Schedule 15 to the Finance Act 1996 (transitional provision in connection with the carrying back of exchange losses) there is a relievable amount for an accounting



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period ending on or after 2nd July 1997, that paragraph shall have effect, except in relation to any pre-commencement part of that amount, as if, in section 131(10)(b) of the Finance Act 1993 (the permitted period) as applied by that paragraph, the words “twelve months” were substituted for the words “three years”.

1993 c. 34.

(10) In this section “pre-commencement part”, in relation to the deficit for any deficit period or the relievable amount for any accounting period, means the part (if any) of that deficit or relievable amount which, on an apportionment in accordance with subsection (11) or, as the case may be, (12) below, is attributable to such part (if any) of that period as falls before 2nd July 1997.

(11) Except in a case where subsection (12) below applies, an apportionment for the purposes of subsection (10) above shall be made on a time basis according to the respective lengths of the part of the deficit period or, as the case may be, accounting period falling before 2nd July 1997 and the remainder of that period.

(12) Where the circumstances of a particular case are such that the making of an apportionment on the time basis mentioned in subsection (11) above would work in a manner that would be unjust or unreasonable in relation to any person, the apportionment shall be made instead (to the extent only that is necessary in order to avoid injustice and unreasonableness) in such other manner as may be just and reasonable.

**41.** Schedule 7 to this Act (which imposes new restrictions on the giving of group relief) shall have effect.

Restrictions on group relief.

*Capital allowances for small and medium-sized businesses*

**42.—**(1) In subsection (1) of section 22 of the Capital Allowances Act 1990 (first-year allowances), after “40 per cent. of that expenditure” there shall be inserted “, in the case of expenditure to which this section applies by virtue only of subsection (3C) below, shall be of an amount equal to the percentage of that expenditure that is given by subsection (1AA) below”.

Temporary first-year allowances.  
1990 c. 1.

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

“(1AA) In the case of expenditure to which this section applies by virtue only of subsection (3C) below, the percentage mentioned in subsection (1) above is—

- (a) in the case of expenditure to which Chapter IVA applies, 12 per cent; and
- (b) in the case of any other expenditure, 50 per cent.”

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

“(3C) This section applies to—

- (a) any expenditure which, disregarding any effect of section 83(2) on the time at which it is to be treated as incurred, is incurred by a small company or a small business in the period beginning with 2nd July 1997 and ending with 1st July 1998; and

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(b) any additional VAT liability incurred in respect of expenditure to which this section applies by virtue of paragraph (a) above.”

(4) In subsection (4) of that section, after “any expenditure” there shall be inserted “to which this section applies otherwise than by virtue only of subsection (3C) above”.

(5) After subsection (6A) of that section there shall be inserted the following subsections—

“(6B) No first-year allowance shall be made in respect of any expenditure to which this section applies by virtue only of subsection (3C) above—

- (a) if the chargeable period related to the incurring of the expenditure is also the chargeable period related to the permanent discontinuance of the trade;
- (b) if the expenditure (whether or not it is expenditure to which Chapter IVA would apply but for the provisions of section 38B) is expenditure of the kind described in any of subsections (2) to (4) of section 38B;
- (c) if the expenditure is expenditure to which Chapter IVA would apply but for the provisions of section 38H; or
- (d) if the expenditure is expenditure on the provision of machinery or plant for leasing, whether in the course of a trade or otherwise;

and section 50(2) shall apply for the interpretation of paragraph (d) above as it applies for the interpretation of Chapter V of this Part.

(6C) No first-year allowance shall be made in respect of any expenditure incurred on the provision of machinery or plant to which this section applies by virtue only of subsection (3C) above if—

- (a) the provision of the machinery or plant is connected with a change in the nature or conduct of a trade or business carried on by a person other than the person incurring the expenditure; and
- (b) the obtaining of a first-year allowance is the main benefit, or one of the main benefits, which could reasonably be expected to arise from the making of the change.”

(6) In sections 23(6), 42(9), 44(5), 46(8), 48(7) and 50(3) and (4A) of that Act (which contain provisions referring to the temporary first-year allowances under section 22(3B) of that Act), after the words “subsection (3B)”, in each place where they occur, there shall be inserted the words “or (3C)”.

(7) In section 39(2)(a) of that Act (definition of a qualifying purpose), for “subsections (2) to (3B)” there shall be substituted “subsections (2) to (3C)”.

(8) In section 43 of that Act (provisions relating to joint lessees in cases involving new expenditure), after subsection (4) there shall be added the following subsection—

“(5) Any first-year allowance made in respect of expenditure to which section 22 applies by virtue only of subsection (3C) of that section shall be made on the same assumptions and subject to the

## PART III

same apportionments (if any) as it appears would, by virtue of subsection (3) above, be applicable in the case of a writing-down allowance.”

(9) This section shall have effect in relation to every chargeable period ending on or after 2nd July 1997.

**43.**—(1) After section 22 of the Capital Allowances Act 1990 there shall be inserted the following section—

“Expenditure of a small company or small business.

**22A.**—(1) For the purposes of section 22 capital expenditure incurred by a company is capital expenditure incurred by a small company if the company—

- (a) qualifies as small or medium-sized in relation to the financial year of the company in which the expenditure is incurred; and
- (b) is not a member of a large group at the time when the expenditure is incurred.

(2) For the purposes of section 22, capital expenditure is capital expenditure incurred by a small business if—

- (a) it is incurred by a business for the purposes of a trade (the ‘first trade’) carried on by that business; and
- (b) were the first trade carried on by a company (the ‘hypothetical company’) in the circumstances set out in subsection (3) below, that company would qualify as small or medium-sized in relation to the financial year of that company in which the expenditure would be treated as incurred.

(3) Those circumstances are—

- (a) that every trade, profession or vocation carried on by the business concerned is carried on by the business as a part of the first trade;
- (b) that the financial years of the hypothetical company coincide with the chargeable periods of the business concerned; and
- (c) that accounts of the hypothetical company for any relevant chargeable period were prepared in accordance with the requirements of the Companies Act 1985 as if that period were a financial year of the company.

(4) Subject to subsection (5) below, a company is a member of a large group at the time when any expenditure is incurred if —

- (a) it is at that time the parent company of a group which does not qualify as small or medium-sized in relation to the financial year of the parent company in which that time falls; or
- (b) it is at that time a subsidiary undertaking in relation to the parent company of such a group.

Expenditure of a small company or small business.  
1990 c. 1.

1985 c. 6.

## PART III

(5) If, at the time when any expenditure is incurred by any company any arrangements exist which are such that, had effect been given to them immediately before that time, the company or a successor of the company would, at that time, have been a member of a large group, this section shall have effect as if the company concerned was a member of a large group at that time.

(6) In this section—

‘arrangements’ means arrangements of any kind, whether in writing or not, including arrangements that are not legally enforceable;

‘business’ means—

- (a) an individual;
- (b) a partnership of which all the members are individuals;
- (c) a registered friendly society within the meaning of Chapter II of Part XII of the principal Act; or
- (d) a body corporate which is not a company but is within the charge to corporation tax;

‘company’ means—

1985 c. 6.

(a) a company, or an oversea company, within the meaning of the Companies Act 1985; or

S.I. 1986/1032  
(N.I. 6).

(b) a company, or a Part XXIII company, within the meaning of the Companies (Northern Ireland) Order 1986;

‘financial year’, ‘group’, ‘parent company’ and ‘subsidiary undertaking’—

(a) except in relation to a company formed and registered in Northern Ireland, have the same meanings as in Part VII of the Companies Act 1985; and

(b) in relation to a company so formed and registered, have the same meanings as in Part VIII of the Companies (Northern Ireland) Order 1986.

(7) References in this section, in relation to a company, to its qualifying as small or medium-sized—

(a) except in the case of a company formed and registered in Northern Ireland, are references to its so qualifying, or being treated as so qualifying, for the purposes of section 247 of the Companies Act 1985; and

(b) in the case of a company so formed and registered, are references to its so qualifying, or being treated as so qualifying, for the purposes of Article 255 of the Companies (Northern Ireland) Order 1986.

## PART III

(8) In relation to a company with respect to which the question arises whether it is or would be a member of a large group, references to a group's qualifying as small or medium-sized—

(a) except in the case of a company formed and registered in Northern Ireland, are references to its so qualifying, or being treated as so qualifying, for the purposes of section 249 of the Companies Act 1985; and

1985 c. 6.

(b) in the case of a company so formed and registered, are references to its so qualifying, or being treated as so qualifying, for the purposes of Article 257 of the Companies (Northern Ireland) Order 1986.

S.I. 1986/1032  
(N.I. 6).

(9) For the purposes of this section a company is the successor of another if—

(a) it carries on a trade which, in whole or in part, the other company has ceased to carry on; and

(b) the circumstances are such that section 343 of the principal Act applies in relation to the two companies as the predecessor and the successor within the meaning of that section."

(2) This section shall have effect in relation to every chargeable period ending on or after 2nd July 1997.

*Capital allowances and finance leases*

44.—(1) Section 25 of the Capital Allowances Act 1990 (qualifying expenditure for writing-down allowances) shall be amended as follows.

Writing-down allowances for finance lessors.  
1990 c. 1.

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

“(5A) Subject to subsection (5B) below, capital expenditure incurred by any person in any chargeable period on the provision of machinery or plant for leasing under a finance lease shall not be brought into account so as to form part of that person's qualifying expenditure for that period except to the extent of the part of the expenditure which is proportionate to the part of the chargeable period falling after the time when the expenditure was incurred.

(5B) Subsection (5A) above does not apply where, in the chargeable period related to the incurring of the expenditure, the disposal value of the machinery or plant falls to be brought into account in accordance with section 24(6).

(5C) Where under subsection (5A) above only part of any capital expenditure on the provision of any machinery or plant may be included in a person's qualifying expenditure for any chargeable period, subsection (1)(a)(i) above shall not prevent the whole or any part of the remainder of that expenditure from being included in his qualifying expenditure for the next following chargeable period.”

(3) In subsection (6) (disposal values brought into account on an assignment)—

## PART III

(a) for the words “subsection (5) above”, in the first place where they occur, there shall be substituted “subsection (5) or (5B) above”; and

(b) for “, as modified by subsection (5) above,” there shall be substituted “(as modified, where subsection (5) above applies, by that subsection)”.

(4) In subsection (8) (adjustments), after “subsections (5)” there shall be inserted “, (5B)”.

(5) This section has effect for chargeable periods ending on or after 2nd July 1997 except in relation to—

(a) expenditure incurred before that date; and

(b) expenditure incurred in the twelve months beginning with that date in pursuance of a contract entered into before that date.

Hire-purchase by  
finance lessors.  
1990 c. 1.

**45.**—(1) In section 60 of the Capital Allowances Act 1990 (machinery and plant on hire-purchase), after subsection (2) there shall be inserted the following subsection—

“(2A) Subsections (1)(b) and (2)(b) above do not apply where the capital expenditure incurred by the person to whom the machinery or plant is treated as belonging under subsection (1)(a) was incurred on the provision of the machinery or plant for leasing under a finance lease.”

(2) This section has effect for chargeable periods ending on or after 2nd July 1997 except in relation to—

(a) expenditure incurred before that date; and

(b) expenditure incurred in the twelve months beginning with that date in pursuance of a contract entered into before that date.

Sale and leaseback  
etc. using finance  
leases.

**46.**—(1) In the Capital Allowances Act 1990—

(a) in section 75(1), (2) and (3) (further restrictions on allowances), for the words “sections 76 and 77”, in each place where they occur, there shall be substituted “sections 76, 76A and 77”; and

(b) in section 76, after subsection (6) there shall be inserted the following subsection—

“(7) This section has effect subject to the modifications made by section 76A in cases where there is a finance lease.”

(2) After section 76 of that Act there shall be inserted the following section—

“Special  
provision for  
finance lease  
cases.

**76A.**—(1) Where—

(a) any machinery or plant is used for the purposes of any non-trading activities carried on by any person, and

(b) it is directly or indirectly as a consequence of the machinery or plant having been leased under a finance lease that it is available for that use,

subsections (1), (2) and (3) of section 75 and subsection (1) of section 76 (except the words after ‘without’) shall have effect as if the use for the purposes of those activities were a use for the purposes of a trade carried on by that person.

## PART III

## (2) Where—

- (a) subsection (1), (2) or (3) of section 75 applies by virtue of paragraph (b) of that subsection, or is treated (under one or both of section 76(1) and subsection (1) above) as so applying,
- (b) it is directly or indirectly as a consequence of the machinery or plant having been leased under a finance lease that it is available after—
  - (i) the date of the sale,
  - (ii) the date of the making of the contract, or
  - (iii) the date of the assignment,for the use which is mentioned in that paragraph, or which is treated as if it were a use so mentioned, and
- (c) apart from this subsection the disposal value to be brought into account under sections 24, 25 and 26 by reason of the sale, contract or assignment would be more than the amount ('the section 76(2) amount') which (if no disposal value fell to be brought into account) would be applicable instead in accordance with section 76(2) and subsection (5) below,

sections 24, 25 and 26 (and, accordingly, subsections (1) to (3) of section 75) shall have effect as if the disposal value to be so brought into account were equal to the section 76(2) amount.

## (3) Where—

- (a) a disposal value has fallen, in a case within subparagraphs (a) and (b) of subsection (2) above, to be brought into account under sections 24, 25 and 26 by reason of the sale, contract or assignment,
- (b) the machinery or plant in question falls to be treated as belonging, at a time after the event by reason of which that disposal value fell to be brought into account, to any person in consequence of his incurring any capital expenditure,
- (c) the allowances under this Part in respect of that capital expenditure are not restricted by subsection (1), (2) or (3) of section 75, and
- (d) the amount of that expenditure ('the actual amount') exceeds the maximum allowable amount,

this Part shall have effect in relation to that expenditure as if it were expenditure of an amount equal to the maximum allowable amount.

(4) In subsection (3) above 'the maximum allowable amount' means the sum of the following amounts—

## PART III

- (a) the disposal value falling to be brought into account as mentioned in subsection (3)(a) above, and
- (b) so much of the actual amount of the expenditure as is equal to the amount included in that expenditure by virtue of section 66 (installation costs).

(5) In a case which—

- (a) falls within paragraphs (a) and (b) of subsection (2) above, but
- (b) is a case in which no disposal value falls to be brought into account as mentioned in the applicable subsection of section 75,

subsections (2) to (4) of section 76 shall have effect as if the amounts referred to in each of paragraphs (b) and (c) of section 76(2) were equal to the notional written-down value of the capital expenditure incurred by the person mentioned in that paragraph on the provision of the machinery or plant.

(6) Subsection (7) below applies where, in a case falling within paragraphs (a) and (b) of subsection (2) above—

- (a) the finance lease, or
- (b) any transaction or series of transactions of which it forms a part,

makes provision (otherwise than by means of guarantees from persons connected with the lessee) the effect of which (if the lessor and the persons connected with him are treated as the same person) is to remove the whole, or the greater part, of any non-compliance risk which (apart from that provision) would fall directly or indirectly on the lessor.

(7) Where this subsection applies—

- (a) subsections (1), (2) and (3) of section 75 shall have effect as if (as well as excluding the making of a first-year allowance), they also required—
  - (i) the whole amount of the expenditure, and
  - (ii) any additional VAT liability incurred in respect of it,
 to be left out of account in determining the amount for any period of a person's qualifying expenditure under section 25; and

(b) subsections (2), (3) and (5) above shall not apply.

(8) Where subsection (7) above applies in a case where the buyer, person entering into the contract or assignee is different from the lessor—

- (a) any capital expenditure incurred on the provision of the machinery or plant by the lessor, and



## PART III

- (b) any additional VAT liability incurred in respect of it,

shall also be disregarded both for the purposes of determining the amount for any period of the lessor's qualifying expenditure under section 25 and for the purposes of any claim by the lessor to a first-year allowance.

(9) In this section 'the notional written-down value', in relation to any expenditure incurred by a person on the provision of any machinery or plant, means the amount which, if—

- (a) the sale, contract or assignment were an event by reason of which a disposal value of that machinery or plant fell to be brought into account in that person's case, and
- (b) the further assumptions set out in subsection (10) below were made in relation to that expenditure,

would give rise to neither a balancing allowance nor a balancing charge for the chargeable period for which that disposal value would be brought into account in that person's case.

(10) Those assumptions are—

- (a) that the person in question incurred the expenditure on the provision of the machinery or plant wholly and exclusively for the purposes of a trade carried on by him (until its deemed discontinuance) separately from any other trade or other activities carried on or assumed to be carried on by him;
- (b) that that person was within the charge to tax in respect of that separate trade;
- (c) that the expenditure was the only capital expenditure ever taken into account in respect of that trade in determining qualifying expenditure for the purposes of section 24;
- (d) that the expenditure is to be treated in relation to that person as expenditure to which Chapter IVA of this Part applies if, but only if, it is expenditure falling in fact to be so treated apart from the preceding assumptions; and
- (e) that there had been made to that person the full amount of every allowance to which, on the assumptions specified in paragraphs (a) to (c) above, that person was entitled in respect of that expenditure.

(11) This section and sections 75 and 76 shall have effect in relation to machinery or plant where—

## PART III

- (a) it is directly or indirectly as a consequence of the machinery or plant having been leased under a finance lease that it is available for any use to which it is put, and
- (b) the machinery or plant has at any time been acquired by one public authority from another otherwise than by purchase,

as if the public authority from whom it was acquired were connected with the public authority that acquired it and with every person connected with the acquiring authority.

(12) In this section—

‘deemed discontinuance’, in relation to the trade assumed under subsection (10) above in a case in which section 75(1), (2) or (3) applies or is treated as applying, means a permanent discontinuance of that trade at the time of the sale, of the performance of the contract or, as the case may be, of the assignment;

‘non-compliance risk’, in relation to a finance lease, means a risk that a loss will be sustained by any person if payments under the lease are not made in accordance with its terms;

‘non-trading activities’ means any activities that do not constitute a trade; and

‘public authority’ includes the Crown or any government or local authority;

and (subject to subsection (11) above) references in this section to persons connected with each other shall be construed in accordance with section 839 of the principal Act.”

(3) This section has effect for chargeable periods ending on or after 2nd July 1997 except in relation to expenditure incurred before 2nd July 1998 in a case in which—

- (a) the sale referred to in subsection (1) of section 75 of that Act is a sale under a contract entered into before 2nd July 1997;
- (b) the contract referred to in subsection (2) of that section is itself a contract entered into before 2nd July 1997; or
- (c) the assignment referred to in subsection (3) of that section is an assignment made before 2nd July 1997 or in pursuance of a contract entered into before that date.

Meaning of  
“finance lease”.  
1990 c. 1.

**47.—**(1) After section 82 of the Capital Allowances Act 1990 there shall be inserted the following section—

“Meaning of  
‘finance lease’. **82A.—**(1) In this Part ‘finance lease’ means any arrangements which—

- (a) provide for machinery or plant to be leased or otherwise made available by a person (‘the lessor’) to another (‘the lessee’); and

## PART III

(b) are such that, in cases where the lessor and persons connected with the lessor are all UK companies—

(i) the arrangements, or

(ii) arrangements in which they are comprised,

fall, in accordance with normal accountancy practice, to be treated in the accounts of one or more of those companies as a finance lease or as a loan.

(2) In this section—

‘accounts’, in relation to a company, includes any consolidated group accounts relating to two or more companies of which that company is one;

‘consolidated group accounts’ means accounts prepared in accordance with—

(a) section 227 of the Companies Act 1985, or

(b) Article 235 of the Companies (Northern Ireland) Order 1986;

and

‘UK company’ means a company incorporated in a part of the United Kingdom;

and references in this section to persons connected with each other shall be construed in accordance with section 839 of the principal Act.”

(2) This section has effect in relation to any case in relation to which the Capital Allowances Act 1990 has effect as amended by any of sections 44 to 46 above. 1990 c. 1.

*Films*

48.—(1) Subject to subsection (4) below, section 42 of the Finance (No. 2) Act 1992 shall have effect in relation to any expenditure to which this section applies as if the following subsection were substituted for subsections (4) and (5) (which for any period limit relief for film production and acquisition expenditure to a third, or a proportionately reduced fraction, of the relievable expenditure)—

“(4) The amount deducted for a relevant period under subsection (1) above shall not exceed so much of the total expenditure incurred by the claimant on—

(a) the production of the film concerned, or

(b) the acquisition of the master negative or any master tape or master disc of it,

as has not already been deducted by virtue of section 68(3) to (6) of the 1990 Act, section 41 above or this section.”

(2) Subject to subsection (3) below, this section applies to so much of any expenditure falling within paragraphs (a) and (b) of section 42(1) of the Finance (No. 2) Act 1992 as is expenditure in relation to which each of the following conditions is satisfied, that is to say—

Relief for expenditure on production and acquisition. 1992 c. 48.

## PART III

- (a) the expenditure is expenditure incurred on or after 2nd July 1997 and before 2nd July 2000;
- (b) the film concerned is a film with a total production expenditure of £15 million or less; and
- (c) the film concerned is a film completed on or after 2nd July 1997.

1992 c. 48.

(3) This section does not apply to so much of any expenditure falling within section 42(3) of the Finance (No. 2) Act 1992 (acquisition expenditure) as exceeds the amount of the total production expenditure on the film concerned.

(4) Where this section applies to only part of any expenditure to which subsection (2) or (3) of section 42 of the Finance (No. 2) Act 1992 applies in the case of any film, the amount deducted by virtue of subsection (1) of that section for a relevant period shall not exceed the sum of the following amounts—

- (a) the maximum amount of expenditure to which this section applies that is deductible for that period in accordance with subsection (1) above; and
- (b) the maximum amount specified in subsection (5) below.

(5) The amount mentioned in subsection (4) above is the maximum amount which would be deductible for the relevant period in accordance with subsection (4) of section 42 of the Finance (No. 2) Act 1992 if—

- (a) in paragraphs (a) and (b) of that subsection (but not in paragraph (c)) the references to expenditure incurred by the claimant did not include references to any expenditure to which this section applies; and
- (b) the maximum amount mentioned in subsection (4)(a) above had already been deducted by virtue of that section.

(6) In this section “total production expenditure”, in relation to any claim for relief under section 42 of the Finance (No. 2) Act 1992 in the case of any film, means (subject to subsection (7) below) the total of all expenditure on the production of the film, whenever incurred and whether or not incurred by the claimant.

(7) For the purposes of this section where—

- (a) any part of the expenditure incurred by any person on the production of a film is incurred under or by virtue of any transaction directly or indirectly between that person and a person connected with him, and
- (b) that part of that expenditure might have been expected to have been of a greater amount (“the arm’s length amount”) if the transaction had been between independent persons dealing at arm’s length,

that part of that expenditure shall be deemed, for the purpose of determining the amount of the total production expenditure on the film, to have been expenditure of an amount equal to the arm’s length amount.

(8) Subsection (3) of section 43 of the Finance (No. 2) Act 1992 (time of completion of a film) shall apply for the purposes of this section as it applies for the purposes of sections 41 and 42 of that Act, but with the omission of paragraph (b) (completion on incurring acquisition expenditure) and the word “or” immediately preceding it.

## PART III

(9) Subsections (3) to (6) of section 159 of the Capital Allowances Act 1990 (time when expenditure incurred) shall apply for determining when for the purposes of this section any expenditure is incurred as they apply for determining when for the purposes of that Act any capital expenditure is incurred, but as if, in subsection (6) of that section, the words “at a time” were substituted for the words “in a chargeable period”.

(10) Section 839 of the Taxes Act 1988 (meaning of “connected person”) applies for the purposes of this section.

(11) This section applies for the making of a deduction for any relevant period ending on or after 2nd July 1997.

## PART IV

## MISCELLANEOUS AND SUPPLEMENTAL

*Stamp duty*

49.—(1) Section 55 of the Finance Act 1963 and section 4 of the Finance Act (Northern Ireland) 1963 (both of which provide for rates of stamp duty on conveyance and transfer on sale) shall each be amended in accordance with the provisions of subsections (2) to (4) below.

Stamp duty on conveyance or transfer on sale.  
1963 c. 25.  
1963 c. 22 (N.I.).

(2) Subject to the modification mentioned in subsection (5) below, in subsection (1) (which specifies rates of stamp duty), for paragraphs (b) and (c) there shall be substituted—

“(b) where paragraph (a) above does not apply and—

(i) the amount or value of the consideration does not exceed £500, and

(ii) the instrument is certified as described in section 34(4) of the Finance Act 1958 at £250,000,

1958 c. 56.

the rate of 50p for every £50 or part of £50 of the consideration;

(c) where paragraph (a) above does not apply and—

(i) the amount or value of the consideration exceeds £500 but does not exceed £250,000, and

(ii) the instrument is certified as described in section 34(4) of the Finance Act 1958 at £250,000,

the rate of £1 for every £100 or part of £100 of the consideration;

(d) where paragraphs (a) to (c) above do not apply and—

(i) the amount or value of the consideration does not exceed £500,000, and

(ii) the instrument is certified as described in section 34(4) of the Finance Act 1958 at £500,000,

the rate of £1.50p for every £100 or part of £100 of the consideration; and

(e) in any other case the rate of £2 for every £100 or part of £100 of the consideration;”.

(3) In subsection (1A) (disregard of paragraph (a) to paragraph (c) of subsection (1) in relation to conveyances or transfers of stock or marketable securities) for “paragraph (c)” there shall be substituted “paragraph (e)”.

## PART IV

(4) In subsection (2) (disregard of paragraph (a) for the purposes of leases where consideration includes rent which exceeds £600 a year)—

(a) after the words “shall have effect as if” there shall be inserted “(a)”, and

(b) after the word “omitted” there shall be inserted—  
“and

(b) in paragraph (d) for the words “paragraphs (a) to (c)” there were substituted the words “paragraphs (b) and (c)”.

1963 c. 22 (N.I.).

1958 c. 56.

1958 c. 14 (N.I.).

(5) In section 4 of the Finance Act (Northern Ireland) 1963, for the words “section 34(4) of the Finance Act 1958”, wherever they occur, there shall be substituted the words “section 7(4) of the Finance Act (Northern Ireland) 1958”.

(6) This section shall apply to instruments executed on or after 8th July 1997, except where the instrument in question is executed in pursuance of a contract made on or before 2nd July 1997.

(7) This section shall be deemed to have come into force on 8th July 1997.

*Provisional collection of taxes*

Statutory effect of resolutions etc.  
1968 c. 2.

**50.**—(1) In section 1(3) of the Provisional Collection of Taxes Act 1968 (period for which resolution has statutory effect), after paragraph (a) there shall be inserted the following paragraph—

“(aa) in the case of a resolution passed in February or March in any year, one expiring with 5th August in the same calendar year; and”.

(2) In section 246(2)(b) of the Taxes Act 1988 (charge to ACT at previous year’s rate until 5th May in any year), for “May” there shall be substituted “August”.

(3) Subsection (1) above applies in relation to resolutions passed after the day on which this Act is passed.

*Supplemental*

Interpretation.  
1988 c. 1.

**51.** In this Act “the Taxes Act 1988” means the Income and Corporation Taxes Act 1988.

Repeals.

**52.**—(1) The enactments mentioned in Schedule 8 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 or referred to in the notes set out in that Schedule.

Short title.

**53.** This Act may be cited as the Finance (No. 2) Act 1997.

## SCHEDULES

## SCHEDULE 1

Section 1.

## QUANTIFICATION OF A PRIVATISATION WINDFALL

*The basic rule*

1.—(1) Subject to paragraph 7 below, where a company was benefitting on 2nd July 1997 from a windfall from the flotation of an undertaking whose privatisation involved the imposition of economic regulation, the amount of that windfall shall be taken for the purposes of this Part to be the excess (if any) of the amount specified in sub-paragraph (2)(a) below over the amount specified in sub-paragraph (2)(b) below.

(2) Those amounts are the following amounts (determined in accordance with paragraphs 2 to 6 below), that is to say—

- (a) the value in profit-making terms of the disposal made on the occasion of the company's flotation; and
- (b) the value which for privatisation purposes was put on that disposal.

*Value of a disposal in profit-making terms*

2.—(1) Subject to paragraph 4 below, the value in profit-making terms of the disposal made on the occasion of a company's flotation is the amount produced by multiplying the average annual profit for the company's initial period by the applicable price-to-earnings ratio.

(2) For the purposes of this paragraph the average annual profit for a company's initial period is the amount produced by the following formula—

$$A = 365 \times \frac{P}{D}$$

Where—

A is the average annual profit for the company's initial period;

P is the amount, ascertained in accordance with paragraph 5 below, of the total profits for the company's initial period; and

D is the number of days in the company's initial period.

(3) For the purposes of this paragraph the applicable price-to-earnings ratio is 9.

*Value put on a disposal for privatisation purposes*

3.—(1) Subject to paragraph 4 below, the value which for privatisation purposes was put on the disposal made on the occasion of a company's flotation is the amount produced by multiplying the institutional price by the number of shares comprised in the ordinary share capital of the company at the time of its flotation.

(2) In this paragraph "the institutional price", in relation to a company, means the highest fixed price per share at which publicly-owned shares in the company were offered for disposal on the occasion of the company's flotation.

(3) Subject to sub-paragraph (4) below, where publicly-owned shares in a company were offered for disposal in accordance with any arrangements for the payment of the price in two or more instalments, the price per share at which those shares were offered shall be ascertained by aggregating the instalments.

(4) Where the arrangements under which any publicly-owned shares in a company were offered for disposal provided for any discount on the payment of

## SCH. 1

the whole or any part of the price for those shares, that discount shall be disregarded for the purposes of this paragraph in determining the price per share at which those shares were offered.

*Cases where company privatised in stages*

4.—(1) For the purposes of this Schedule, where the disposal percentage in the case of any company was 85 per cent. or less—

- (a) the value in profit-making terms of the disposal made on the occasion of the company's flotation, and
- (b) the value which for privatisation purposes was put on that disposal,

shall each be taken to be the disposal percentage of the amount which, under paragraph 2 or 3 above, would be the amount of that value but for this paragraph.

(2) For the purposes of this paragraph "the disposal percentage", in relation to any company, means the percentage which expresses (in terms of nominal value) how much of the ordinary share capital of the company at the time of its flotation was represented by the publicly-owned shares in the company offered for disposal on the occasion of the company's flotation.

*Total profits for the initial period*

5.—(1) For the purposes of paragraph 2 above the amount of the total profits for a company's initial period is the sum of the amounts falling within sub-paragraph (2) below.

(2) Subject to sub-paragraph (3) and paragraph 6(3) below, those amounts are every amount which, for a financial year of the company ending in or at the end of its initial period, is shown in the relevant accounts for that year—

- (a) where those accounts are prepared in accordance with section 227 of the Companies Act 1985 (group accounts), as the profit of that company and its subsidiary undertakings for that year; and
- (b) in any other case, as the profit of that company for that year.

1985 c. 6.

(3) Where—

- (a) any profit shown in the relevant accounts of a company for any financial year has been computed using a current cost accounting method, but
- (b) the information which was contained in those accounts, or which was provided to the registrar together with those accounts, included information from which it can be ascertained what that profit would have been if an historical cost accounting method had been used,

the amount shown as that profit in those accounts shall be deemed to be the amount (as ascertained from that information) which would have been so shown if that historical cost accounting method had been used.

(4) In this paragraph references, in relation to any financial year of a company, to the relevant accounts are references to any such accounts for that year as have been or are delivered to the registrar under section 242 of the Companies Act 1985 and consist—

- (a) in the case of a financial year at the end of which the company was a parent undertaking, in consolidated group accounts prepared in accordance with section 227 of that Act (group accounts); and
- (b) in any other case, in accounts prepared in accordance with section 226 of that Act (individual accounts).

(5) Subject to sub-paragraph (6) below, references in this paragraph to the amount shown in any accounts as the profit for any financial year are references to the amount of the profit (if any) for that year which is set out in the profit and



## SCH. 1

loss account comprised in those accounts as the item which is, or is the equivalent of, the final item of the statutory format which for that year was used for that profit and loss account.

(6) Where any amount shown in any accounts is less than it would have been if no provision or other deduction had been made—

- (a) in relation to the windfall tax, or
- (b) in anticipation of the imposition of a charge with characteristics similar to those of the windfall tax,

this Schedule shall have effect as if the amount shown were the amount it would have been if that provision or deduction had not been made.

(7) Nothing in this paragraph shall, in the case of any company—

- (a) prevent any charge to windfall tax from being treated as having arisen on 2nd July 1997 by reference to accounts delivered to the registrar after that date; or
- (b) prevent any requirement to pay an instalment of windfall tax, or any other liability under Schedule 2 to this Act, from arising before the delivery to the registrar of the accounts by reference to which the amount of that charge is computed;

and any power of the Board under that Schedule to make an assessment shall include power to make an assessment on the basis that accounts will be delivered to the registrar showing such amounts as may, to the best of their judgement, be determined by the Board.

(8) Subject to sub-paragraph (9) below, this paragraph shall have effect in relation to any time at which the Companies Act 1985 had effect without the amendments made by the Companies Act 1989—

1985 c. 6.  
1989 c. 40.

- (a) as if the references in sub-paragraphs (2) and (4) above to sections 226, 227 and 242 of the Companies Act 1985 were references, respectively, to sections 227, 229 and 241 of that Act, as it had effect without those amendments;
- (b) as if the reference in sub-paragraph (2) above to a company's subsidiary undertakings were a reference to its subsidiaries (within the meaning of that Act as it so had effect); and
- (c) as if the reference in sub-paragraph (4)(a) above to a company's being a parent undertaking were a reference to its having such subsidiaries.

(9) In relation to a company formed and registered in Northern Ireland, this paragraph shall have effect as if the references in sub-paragraphs (2) and (4) above to sections 226, 227 and 242 of the Companies Act 1985 were references, respectively, to Articles 234, 235 and 250 of the Companies (Northern Ireland) Order 1986.

S.I. 1986/1032  
(N.I. 6).

(10) In this paragraph—

“the registrar” means—

- (a) except in relation to a company formed and registered in Northern Ireland, the registrar within the meaning of the Companies Act 1985; and
- (b) in relation to a company so formed and registered, the registrar within the meaning of the Companies (Northern Ireland) Order 1986;

and

“statutory format”, in relation to a profit and loss account, means a format set out in the provisions (as they had effect in relation to that account) of Schedule 4 to the Companies Act 1985 or Schedule 4 to the Companies (Northern Ireland) Order 1986.

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*Meaning of the initial period etc*

6.—(1) In this Schedule “initial period”, in relation to a company privatised by means of a flotation, means (subject to sub-paragraph (2) below) the period which—

- (a) begins with the first day of the first financial year of the company to begin after the time of its flotation; and
- (b) ends with the end of the fourth financial year of the company to begin after the time of its flotation.

(2) Where the initial period of a company privatised by means of a flotation would (but for this sub-paragraph) include any time on or after 1st April 1997, sub-paragraph (1) above shall not apply and the initial period of that company shall be taken, instead, to be the period which—

- (a) begins with the day on which the time of its flotation falls; and
- (b) ends with the end of the last financial year of the company to end before 1st April 1997.

(3) Where—

- (a) sub-paragraph (2) above applies for determining a company’s initial period, and
- (b) there is a financial year of that company beginning before but ending after the beginning of that initial period,

the amount which for that year is shown as mentioned in paragraph 5(2) above shall be included in the sums added together for the purposes of paragraph 5(1) above to the extent only that that amount is attributable, on an apportionment made in accordance with the following provisions of this paragraph, to the part of that year falling within the company’s initial period.

(4) Except in a case where sub-paragraph (5) below applies, an apportionment for the purposes of sub-paragraph (3) above shall be made on a time basis according to the respective lengths of—

- (a) the part of the financial year falling before the beginning of the company’s initial period; and
- (b) the remainder of that financial year.

(5) Where the circumstances of a particular case are such that—

- (a) the making of an apportionment on the basis mentioned in sub-paragraph (4) above would work in a manner that would be unjust or unreasonable, but
- (b) it would be just and reasonable to make the apportionment on the alternative basis,

the apportionment shall be made, instead, on the alternative basis.

(6) For the purposes of this paragraph an apportionment in the case of any company of the amount shown for any financial year as a profit for that year is made on the alternative basis where it is made according to how much of that profit accrued in each of the two parts of that financial year that are mentioned in sub-paragraph (4) above.

*Apportionment between demerged successors and predecessors*

7.—(1) This paragraph applies where—

- (a) a company (“the predecessor company”) was benefitting on 2nd July 1997 from a windfall from the flotation of an undertaking whose privatisation involved the imposition of economic regulation; and
- (b) another company which on that date was a demerged successor of the predecessor company is also taken for the purposes of this Part to have been benefitting from such a windfall on that date.

(2) Where this paragraph applies—

- (a) the amount of the windfall from which the predecessor company was benefitting on 2nd July 1997 shall be equal to only the appropriate fraction of the amount (“the total windfall”) which (but for this paragraph) would have been the amount of that windfall under paragraphs 1 to 6 above; and
- (b) the amount of the windfall from which the demerged successor shall be taken to have been benefitting on that date shall be equal to the remainder of the total windfall.

(3) In this paragraph “the appropriate fraction” means the following fraction—

$$\frac{P}{P + S}$$

Where—

P is the amount produced by multiplying the number of shares comprised at the end of the relevant day in the ordinary share capital of the predecessor company by the market price on that day of an ordinary share in that company; and

S is the amount produced by multiplying the number of shares comprised at the end of the relevant day in the ordinary share capital of the demerged successor by the market price on that day of an ordinary share in the demerged successor.

(4) For the purposes of this paragraph references to the market price of shares on any day are references to the sum of—

- (a) the lower of the two prices shown in the Stock Exchange Daily Official List for that day as the closing prices for the shares on that day; and
- (b) one half of the difference between those two prices.

(5) In this paragraph “the relevant day” means the day on which shares in the demerged successor were first listed on the Official List of the Stock Exchange.

#### *General interpretation of the Schedule*

8.—(1) In this Schedule “financial year”, in relation to a company, means (subject to sub-paragraph (2) below)—

- (a) a financial year of that company within the meaning of Part VII of the Companies Act 1985; or
- (b) any period which—
  - (i) began before the coming into force of section 3 of the Companies Act 1989 (new definition of financial year); and
  - (ii) was a financial year of that company for the purposes of that Part, as it had effect without the amendments made by that section.

1985 c. 6.

1989 c. 40.

(2) Sub-paragraph (1) above does not apply to a company formed and registered in Northern Ireland; and in relation to such a company, references in this Schedule to a financial year are references to a financial year within the meaning of Part VIII of the Companies (Northern Ireland) Order 1986.

S.I. 1986/1032  
(N.I. 6).

(3) In this Schedule references, in relation to a company privatised by means of a flotation, to the shares offered for disposal on the occasion of the company's flotation are references to the following shares in that company, that is to say—

- (a) those that were the subject-matter of the offer to the public in respect of which that company is regarded for the purposes of this Part as having been so privatised; and

## SCH. 1

- (b) any publicly-owned shares not falling within paragraph (a) above that were the subject-matter of an offer for disposal made on the same occasion as the offer mentioned in that paragraph.

(4) References in this Schedule to an offer for the disposal of shares in a company include references to any offer to transfer or confer an immediate or contingent right to or interest in any such shares, whether or not for a consideration; and (subject to sub-paragraph (5) below) references to the shares that are the subject-matter of such an offer shall be construed accordingly.

(5) For the purposes of sub-paragraph (3) above where—

- (a) an offer for the disposal of publicly-owned shares in a company contained provision for a person to become entitled to further shares in that company if he satisfied conditions specified in the offer, and  
 (b) those conditions included a condition as to the period for which shares in that company continued to be held by that person,

shares which (apart from this sub-paragraph) would fall to be treated as the subject-matter of the offer by virtue only of that provision shall be treated as the subject-matter of the offer to the extent only that persons did in fact become entitled to them before 2nd July 1997 as a result of having satisfied the conditions in question.

(6) In this Schedule a reference, in relation to any time, to the ordinary share capital of a company is a reference to the following, taken together, that is to say—

- (a) the shares comprised in the ordinary share capital of the company (within the meaning of the Tax Acts); and  
 (b) any shares that would have been so comprised at that time if the issued share capital of the company at that time had included any shares in the company that had been allotted but not issued.

## Section 3.

## SCHEDULE 2

## ADMINISTRATION AND COLLECTION OF WINDFALL TAX

*Returns*

1.—(1) The Board may by notice require any company which in their opinion is or may be a chargeable company to deliver to the Board a return complying with this paragraph.

(2) A company which has been required under this paragraph to deliver a return to the Board shall do so—

- (a) except in a case where the Board's notice requiring the return is given after 1st November 1997, on or before 1st December 1997; and  
 (b) in the excepted case, before the end of the period of 30 days beginning with the day after that on which that notice is given.

(3) A return delivered to the Board under this paragraph must—

- (a) set out the amount of windfall tax (if any) with which the company is charged;  
 (b) contain all such information about the matters mentioned in sub-paragraph (4) below as the Board may reasonably require; and  
 (c) be accompanied by all such accounts, statements and other records as the Board may reasonably require.

- (4) Those matters are—
- (a) the method used for the computation of any amount set out in the return as the amount of windfall tax with which the company is charged;
  - (b) the accounts, statements and other records by reference to which the computation of any amount so set out has been made;
  - (c) any group of companies of which that company is or has at any time been a member; and
  - (d) any other matters relevant to the extent of any liability of the company under this Part.
- (5) A return delivered to the Board under this paragraph—
- (a) shall be in such form as the Board may require; and
  - (b) shall contain a declaration by the person making the return that it is correct and complete.
- (6) Where—
- (a) a company has delivered a return to the Board under this paragraph, and
  - (b) that return sets out any amount as the amount of windfall tax with which the company is charged,

that amount shall be taken, except in so far as any other amount is assessed or otherwise determined under the following provisions of this Schedule, to be the amount of windfall tax with which that company is charged.

- (7) Where—
- (a) the Board have, at any time before the passing of this Act, given notice to any company requiring it to deliver a return, and
  - (b) that notice stated that it was given in anticipation of the passing of this Act and that, in the opinion of the Board, the company is likely to be a chargeable company,

that notice shall have effect on and after the day on which this Act is passed as if it were a notice given on that day in exercise of the power conferred by sub-paragraph (1) above.

*Notification of liability and failure to make return*

- 2.—(1) If a chargeable company has not, before 1st December 1997, either—
- (a) given notice to the Board that it is a chargeable company, or
  - (b) been required by a notice under paragraph 1(1) above to deliver a return to the Board,

that company shall be liable to a penalty of an amount not exceeding the amount of the windfall tax with which it is charged.

- (2) A company which—
- (a) has been required by a notice under sub-paragraph (1) of paragraph 1 above to deliver a return to the Board, and
  - (b) fails to deliver the required return in accordance with that paragraph,
- shall be liable to the penalties set out in sub-paragraph (3) below.
- (3) Those penalties are—
- (a) a penalty of £3,000;
  - (b) in a case where the required return has not been delivered by the end of three months from the relevant time, a penalty (in addition to the penalty under paragraph (a) above) of an amount not exceeding 10 per cent. of the amount of windfall tax with which that company is charged; and

## SCH. 2

(c) in a case where the required return has not been delivered by the end of six months from the relevant time, a penalty (in addition to the penalties under paragraphs (a) and (b) above) of an amount not exceeding 20 per cent. of the amount of windfall tax with which that company is charged.

(4) In sub-paragraph (3) above "the relevant time", in relation to the delivery of a return, means the time by which that return should under paragraph 1(2) above have been delivered.

*Payment of windfall tax*

3.—(1) The amount of windfall tax with which a chargeable company is charged shall be paid by that company in two instalments as follows—

- (a) one half of the amount charged shall be paid on or before 1st December 1997; and
- (b) the rest shall be paid on or before 1st December 1998.

(2) The Board, if requested to do so, shall give a receipt for any windfall tax paid.

(3) The application by this Schedule of any enactment referring to the time at which an amount of tax becomes due and payable shall have effect, in relation to an amount of windfall tax, as if it referred to the time by which that amount is required to be paid under this paragraph.

*General power to make assessments*

4.—(1) Subject to the following provisions of this Schedule, the amount of windfall tax with which a company is charged may be assessed on that company by the Board.

(2) An assessment of the amount of windfall tax with which a company is charged may be made whether or not any amount has been paid by that company in respect of that tax when the assessment is made.

(3) Subject to sub-paragraph (4) below, where—

- (a) a company has delivered a return to the Board in pursuance of paragraph 1 above, and
- (b) the Board are satisfied that the return is correct and complete,

the Board shall make an assessment in accordance with the return.

(4) The Board shall not be required to make an assessment under sub-paragraph (3) above in the case of a company whose return shows that it is not charged with windfall tax.

(5) Where the Board make an assessment under this paragraph in a case in which the assessment is not one which the Board are required to make under sub-paragraph (3) above in accordance with a return, the Board's assessment shall be made to the best of their judgement.

*Power to make assessments on discovery of unassessed liabilities*

5.—(1) If the Board discover that any company which—

- (a) has made a return in relation to which paragraph 4(4) above applied, or
- (b) has been assessed to an amount of windfall tax,

has not been assessed to as much windfall tax as it should have been, they may make an assessment or further assessment of the amount which, in their opinion, is windfall tax with which that company is charged but to which it has not been assessed.

(2) Where—

- (a) the Board discover that an amount of windfall tax has been repaid which ought not to have been repaid, and
- (b) that amount is not assessable under sub-paragraph (1) above,

that amount may be assessed by the Board, and recovered under this Schedule from the company to which it was repaid, as if it were an amount of windfall tax which that company is liable to pay.

(3) Where the amount of any assessment to windfall tax is reduced, the company assessed shall not for the purposes of this paragraph be treated, at any time after the reduction, as having been already assessed to the amount of windfall tax comprised in the reduction.

*Supplemental provisions about assessments*

6.—(1) An assessment shall not be made under this Schedule at any time on or after 1st December 2003.

(2) Where an assessment is made under this Schedule, notice of that assessment shall be served on the company assessed.

(3) The notice of any assessment under this Schedule must state—

- (a) the date on which it is issued; and
- (b) the time within which any appeal against the assessment may be made.

(4) After the notice of any assessment under this Schedule has been served on the company assessed—

- (a) the assessment shall not be withdrawn;
- (b) the assessment shall not be amended, except in accordance with provision made or applied by this Schedule; and
- (c) the company shall not, except in accordance with any provision so made or applied, be entitled to the repayment of any amount on the grounds that the amounts of windfall tax assessed on that company are excessive.

(5) Where notice of any assessment under this Schedule has been served on the company assessed, the amount of the assessment—

- (a) shall be deemed (subject to the provisions of this Schedule) to be an amount of windfall tax with which that company is charged; and
- (b) subject to the provisions of this Part about the payment of windfall tax in instalments, may be recovered accordingly.

(6) Liability to pay an instalment of windfall tax does not depend on the making of an assessment; and nothing in the provisions of this Schedule about the making of assessments shall affect the times which are taken for the purposes of this Part to be the times by which companies are required under paragraph 3 above to pay instalments of windfall tax.

*Claims to relieve double assessment*

7.—(1) If, on a claim made to the Board, it appears to their satisfaction that a company has been assessed to the same amount of windfall tax more than once, the Board shall direct that so much of any assessment made on that company under this Schedule as appears to them to be excessive is to be vacated.

(2) A claim under sub-paragraph (1) above—

- (a) must be made in such form as the Board may require; and
- (b) shall not be made after the end of the period of six years beginning with the day of the service on the claimant of the notice of the most recent assessment to which the claim relates.

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(3) On the giving of a direction under this paragraph with respect to any assessment, that assessment shall be vacated to the extent specified in the direction.

*Claims to correct errors or mistakes in returns etc.*

8.—(1) If any company which has paid an amount of windfall tax assessed under this Schedule alleges that it has been, or continues to be, assessed to too much windfall tax by reason of—

- (a) some error or mistake in a return under paragraph 1 above, or
- (b) some error or mistake discovered by the claimant in a previous claim made by the claimant under paragraph 7 above or this paragraph,

the company may make a claim for relief under this paragraph in respect of that error or mistake.

(2) A claim under this paragraph—

- (a) must be made in such form as the Board may require; and
- (b) shall not be made—

(i) if it relates to an error or mistake in a return, at any time on or after 1st December 2003; or

(ii) if it relates to an error or mistake in a claim, at any time after the latest time at which that claim could have been made.

(3) On receiving a claim under this paragraph, the Board shall—

- (a) inquire into the matter; and
- (b) give, by way of repayment to the claimant, such relief (if any) as, having regard to all the relevant circumstances, they consider just and reasonable in respect of the error or mistake in question.

*Appeals against assessments and decisions on claims*

9.—(1) An appeal to the Special Commissioners shall lie against each of the following, that is to say—

- (a) an assessment under this Schedule;
- (b) a decision by the Board on a claim under paragraph 7 or 8 above.

(2) An appeal under sub-paragraph (1) above shall be made by notice to the Board.

(3) Subject to the following provisions of this paragraph, a notice of appeal under sub-paragraph (2) above—

- (a) shall not be given more than 30 days after the day on which notice of the assessment or decision appealed against was given to the appellant; and
- (b) must specify the grounds of appeal.

(4) An appeal under this paragraph may be brought out of time if, on an application made for the purpose by the appellant, the Board are satisfied—

- (a) that the appellant has a reasonable excuse for not having brought the appeal within the time allowed by sub-paragraph (3) above; and
- (b) that there was no unreasonable delay in the making of that application;

and, where the Board are not so satisfied, they shall refer the application to the Special Commissioners, who (if they are so satisfied) may themselves allow the appeal to be brought out of time.

(5) The Special Commissioners—

- (a) may allow grounds in addition to those specified in the notice of appeal to be put forward on an appeal under this paragraph; and



- (b) may take the additional grounds into consideration if they are satisfied that their omission from the notice was neither wilful nor unreasonable.

(6) Section 55 of the Management Act (postponement of tax to which an appeal relates) shall apply to an appeal under this paragraph against an assessment under this Schedule as it applies to an appeal against an assessment mentioned in subsection (1) of that section but as if, in that section—

- (a) references to tax were references to windfall tax;
- (b) references to the inspector were references to the Board; and
- (c) subsections (6)(a) and (b)(i), (6A) and (9)(a) were omitted.

*Powers of Special Commissioners on an appeal*

10.—(1) Where there is an appeal to the Special Commissioners against an assessment under this Schedule—

- (a) the Commissioners may, if it appears to them that the amount of the assessment is too much or too little, reduce or increase the amount of the assessment accordingly; and
- (b) the assessment shall stand good if it is not reduced or increased under paragraph (a) above.

(2) Where an appeal is brought under paragraph 9 above against a decision of the Board on a claim under paragraph 7 or 8 above, the Special Commissioners shall hear and determine that appeal in accordance with the principles to be followed by the Board in determining claims under that paragraph.

(3) On an appeal to the Special Commissioners against a decision of the Board on a claim under paragraph 7 or 8 above, the powers of the Special Commissioners shall include power, if they think fit, to modify or cancel any decision made by the Board on that claim, including one made in favour of the appellant.

*Procedures on appeal*

11.—(1) Subject to the following provisions of this paragraph, the following provisions of the Management Act shall apply for the purposes of and in relation to appeals to the Special Commissioners under paragraph 9 above as they apply for the purposes of or in relation to appeals to the Special Commissioners under the Tax Acts, that is to say—

- (a) section 46A (regulations about the jurisdiction of the Special Commissioners);
- (b) section 54 (settling appeals by agreement);
- (c) section 56A (appeals from the Special Commissioners);
- (d) sections 56B to 56D (regulations about practice and procedure etc.).

(2) The Special Commissioners (Jurisdiction and Procedure) Regulations 1994 shall have effect, with the necessary modifications, in relation to appeals to the Special Commissioners under this Schedule as they have effect in relation to appeals to the Special Commissioners under the Tax Acts; but this sub-paragraph shall be without prejudice to the power of the Lord Chancellor, by virtue of sub-paragraph (1) above, to modify those regulations as applied by this sub-paragraph.

S.I. 1994/1811.

(3) Subject to paragraph 5 above and the provisions applied by sub-paragraphs (1) and (2) above, the determination of the Special Commissioners on an appeal under this Schedule shall be final and conclusive.

(4) Where an appeal has been made to the Special Commissioners against a decision of the Board on a claim under paragraph 8 above, neither the appellant

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nor the Board shall be entitled, by virtue of anything in sub-paragraph (1) above, to appeal except against so much (if any) of the decision of the Special Commissioners as relates to a point of law arising in connection with the computation in accordance with Schedule 1 to this Act of the amount of the windfall from which any company was benefitting on 2nd July 1997.

(5) Section 53 of the Management Act (appeal against the summary determination of a penalty) shall apply in relation to any summary determination of a penalty pursuant to—

(a) the regulations applied by sub-paragraph (2) above, or

(b) any modification of those regulations made by virtue of this Schedule, as it applies in relation to any other such summary determination as is mentioned in that section.

(6) Subsections (2B) and (2C) of section 58 of the Management Act (Northern Ireland modifications) shall apply as if the reference to the Taxes Acts included a reference to this Schedule and, accordingly, as if the reference to section 56A of that Act included a reference to that section as applied by this paragraph.

(7) In the application for the purposes of this Schedule of—

(a) section 58(2B) and (2C) of the Management Act, and

(b) the regulations mentioned in sub-paragraph (2) above,

references to proceedings in Northern Ireland shall have effect as references to proceedings on an appeal to the Special Commissioners by a company whose head office or principal place of business is in Northern Ireland.

1954 c. 33 (N.I.).

(8) Sections 21 and 22 of the Interpretation Act (Northern Ireland) 1954 (rules of court and powers of appellate courts) shall apply as if references in those sections to an enactment included a reference to sub-paragraphs (6) and (7) above.

*Interest*

12.—(1) Where any amount of windfall tax with which a company is charged is not paid before the time by which it is required to be paid under paragraph 3 above, that amount of that tax shall carry interest from that time until payment.

(2) Sub-paragraph (1) above applies to an amount whether or not the payment of that amount is postponed under section 55 of the Management Act (as applied by paragraph 9(6) above).

(3) Any amount paid by way of windfall tax which is repayable shall carry interest from whichever is the later of—

(a) the time by which that amount was required to be paid under paragraph 3 above, and

(b) the time when that amount was in fact paid,

until the time when that amount is repaid.

(4) The rate of interest under this paragraph for any period shall be—

(a) in the case of interest under sub-paragraph (1) above, the rate applicable under section 178 of the Finance Act 1989 for the purposes of section 87A of the Management Act (interest on unpaid corporation tax); and

(b) in the case of interest under sub-paragraph (3) above, the rate applicable under section 178 of the Finance Act 1989 for the purposes of section 826 of the Taxes Act 1988 (interest on overpaid corporation tax).

1989 c. 26.

(5) Where any amount paid by way of windfall tax is repayable to a person who has paid interest under sub-paragraph (1) above, that person shall be entitled to a repayment of so much of that interest as would represent the interest paid on that amount if, after—

- (a) making an appropriate apportionment of the payments made to the Board between the instalments due from the person making them, and
  - (b) taking account of any previous repayment,
- it is assumed that the amount repayable is to be equated with the most recent payment or payments made to the Board.

(6) Interest under sub-paragraph (1) above—

- (a) shall be paid without any deduction of income tax; and
  - (b) shall not be allowed as a deduction in computing income, profits or losses for any of the purposes of the Tax Acts;
- and interest paid under sub-paragraph (3) above shall be disregarded in computing income, profits or losses for any such purposes.

#### *Collection of information*

13.—(1) For the purposes of this Part, section 20 of the Management Act (power to call for documents of taxpayer and others), together with sections 20B, 20BB and 20D(3) of that Act so far as they relate to section 20, shall be deemed to apply with the modifications set out in sub-paragraph (2) below.

(2) Those modifications are as follows—

- (a) references to a tax liability shall be deemed to be references to a liability to pay an amount of windfall tax;
  - (b) references to an inspector shall be deemed to be references to any officer of the Board and references to the Taxes Acts shall be deemed to be references to this Part;
  - (c) in sections 20(7) and (8H) and 20B(1B) and (6)(b), the words “General or” shall be deemed to be omitted.
- (3) For the purposes of this Part subsection (1) of section 98 of the Management Act (failure to comply with notice) shall apply as if this paragraph were included in the reference in column 1 of the Table in that section to Part III of that Act.

#### *Penalties for furnishing false information*

14.—(1) Where a chargeable company fraudulently or negligently delivers an incorrect return in response to a requirement under paragraph 1 above, that company shall be liable to a penalty of an amount not exceeding the understated amount.

(2) In sub-paragraph (1) above “the understated amount”, in relation to a return delivered by a chargeable company, means the amount (if any) by which the amount of windfall tax with which that company is charged exceeds the amount set out in the return as the amount with which it is charged.

(3) For the purposes of this Part—

- (a) subsection (2) of section 98 of the Management Act (penalties for furnishing incorrect information etc.) shall apply as if the provisions of this Schedule (except paragraph 1) were specified in one of the columns of the Table in that section; and
- (b) section 99 of that Act (penalty for assisting in preparation of incorrect return) shall apply as if the reference in paragraph (a) of that section to tax included a reference to windfall tax.

(4) Section 97(1) of the Management Act (obligation to correct incorrect return) shall apply for the purposes of this paragraph in relation to a return delivered in response to a requirement under paragraph 1 above as it applies for the purposes of section 96 of that Act in relation to such a return as is mentioned in that section.

## SCH. 2

*Recovery of tax*

15.—(1) The provisions of the Management Act which are set out in sub-paragraph (2) below (which all relate to the recovery of tax) shall apply, subject to the modifications set out in sub-paragraph (3) below, in relation to—

- (a) amounts of windfall tax due from any company,
- (b) any penalty under this Schedule, or
- (c) any interest for which a company is liable under paragraph 12 above or 17(5)(g) below,

as they apply in relation to sums charged by way of tax; and, in the case of amounts falling within paragraph (b) or (c) above, those provisions shall so apply as if those amounts were amounts of tax due and payable under an assessment.

(2) The provisions applied by sub-paragraph (1) above are—

- (a) section 61 (distrain);
- (b) sections 63 and 63A (recovery in Scotland);
- (c) sections 66 to 68 (court proceedings for the recovery of tax);
- (d) section 70(1) (certificate of non-payment); and
- (e) section 70A (payment by cheque).

(3) The modifications mentioned in that sub-paragraph are as follows—

- (a) in all those provisions references to the collector shall be deemed to include references to any other officer of the Board;
- (b) in section 63, the words “under section 60 of this Act” in subsection (1)(b) shall be deemed to be omitted and so shall subsections (3) and (4); and
- (c) in section 70A—
  - (i) the reference in subsection (1) to the purposes of the Management Act and the provisions mentioned in subsection (2) of that section shall be deemed to be a reference to the purposes of this Part; and
  - (ii) subsection (2) shall be deemed to be omitted.

*Recovery against other group members*

16.—(1) Subject to sub-paragraph (3) below, where any amount of windfall tax with which a company is charged is not paid before the end of the period of six months beginning with the time by which it was required to be paid under paragraph 3 above (“the six month period”), any company falling within sub-paragraph (2) below may be assessed (in the name of the chargeable company) to all or any part of the unpaid windfall tax with which the chargeable company is charged.

(2) A company falls within this sub-paragraph if it is one or other or both of the following, that is to say—

- (a) a member of the same group as the chargeable company at the end of the six month period; or
- (b) a company which has been a member of the same group as the chargeable company at some time on or after 2nd July 1997 and before the end of the six month period.

(3) A company shall not be assessed under sub-paragraph (1) above to any amount of windfall tax at any time more than two years after that company first became assessable to that amount under that sub-paragraph.

(4) This Schedule shall have effect for the purposes of, and in relation to, an assessment under sub-paragraph (1) above as if the amount to which a company is assessable under this paragraph were an amount of windfall tax with which that company is charged.

(5) Where, by virtue of this paragraph, any company (“the group member”) pays any amount of windfall tax with which another company (“the charged company”) is charged—

- (a) that payment shall discharge the liability of the charged company to pay that amount of windfall tax; but
- (b) the group member shall be entitled to recover from the charged company the whole amount paid, together with any interest paid by the group member on that amount by virtue of paragraph 12 above.

*General provisions about penalties etc.*

17.—(1) Where a company which has become liable to a tax-geared penalty subsequently becomes liable to another such penalty, the amount or, as the case may be, maximum amount of the subsequent penalty shall be treated as reduced so that the aggregate of the tax-geared penalties to which the company has become liable does not exceed the greater or greatest of them.

(2) In sub-paragraph (1) above “tax-geared penalty” means (subject to sub-paragraph (3) below)—

- (a) a penalty under paragraph 2(1) or 14(1) above, or
- (b) a penalty under paragraph 2(2) above falling within paragraph 2(3)(b) or (c) above.

(3) Where a company has become liable to both—

- (a) a penalty falling within paragraph 2(3)(b) above, and
- (b) a penalty falling within paragraph 2(3)(c) above,

the aggregate of those penalties shall be treated as only one tax-geared penalty for the purposes of sub-paragraph (1) above.

(4) The provisions of the Management Act set out in sub-paragraph (5) below shall apply, subject to the modifications set out in sub-paragraph (6) below, in relation to penalties under this Schedule as they apply in relation to the penalties mentioned in those provisions.

(5) The provisions applied by sub-paragraph (4) above are—

- (a) section 100 (determination of penalties);
- (b) section 100A(2) and (3) (provision supplementary to section 100);
- (c) section 100C (penalty proceedings before Commissioners);
- (d) section 100D (penalty proceedings before courts);
- (e) section 102 (mitigation of penalties);
- (f) section 103 (time limit for penalty proceedings); and
- (g) section 103A (interest on penalties).

(6) The modifications mentioned in that sub-paragraph are—

- (a) in section 100(2), for the words from “a penalty” onwards there shall be deemed to be substituted a reference to a penalty by virtue of paragraph 13(3) above;
- (b) subsection (6) of section 100 shall be deemed to be omitted;
- (c) in section 100A(3), the reference to tax shall be deemed to be a reference to windfall tax;
- (d) in section 100C(1), the words “General or” shall be deemed to be omitted; and
- (e) in section 103, the references to tax in subsection (1) shall be deemed to be references to windfall tax, and subsection (2) shall be deemed to be omitted.

## SCH. 2

(7) An appeal may be brought against any determination under section 100 of the Management Act of a penalty under this Schedule.

(8) Subject to sub-paragraph (9) below, the provisions of this Schedule relating to an appeal against an assessment to windfall tax shall apply (with the necessary modifications) in relation to any appeal under sub-paragraph (7) above.

(9) Paragraph 10 above shall not apply to an appeal under sub-paragraph (7) above and the powers of the Special Commissioners on an appeal under that sub-paragraph shall be those set out in section 100B(2)(a) and (b) of the Management Act.

(10) Subsection (3) of section 100B of the Management Act (further appeals) shall apply where there has been an appeal under sub-paragraph (7) above as it applies where there has been an appeal under subsection (1) of that section.

(11) The liabilities of any person under this Part shall be without prejudice to any criminal liability arising in relation to the same matter.

*Miscellaneous applications*

18.—(1) The provisions of the Management Act which are set out in sub-paragraph (2) below shall apply for the purposes of this Schedule—

- (a) as they apply for the purposes of the enactments for the purposes of which they have effect apart from this paragraph; but
- (b) as if any reference in those provisions to a tax included a reference to windfall tax.

(2) Those provisions are—

- (a) section 75 (receivers);
- (b) section 105 (evidence in cases of fraudulent conduct);
- (c) section 108 (company officers);
- (d) section 112 (lost documents etc.);
- (e) section 113(3) (prescription of form of assessments, penalty determinations);
- (f) section 114 (provision for errors not to invalidate an assessment);
- (g) section 115 (delivery and service of documents) and the regulations made under that section; and
- (h) section 118(2) and (4) (extensions of time, reasonable excuse for delay and finality of assessments).

*Interpretation*

19.—(1) In this Schedule—

“the Board” means the Commissioners of Inland Revenue;

“chargeable company” means a company which, on 2nd July 1997, was benefitting from a windfall from the flotation of an undertaking whose privatisation involved the imposition of economic regulation;

“group” means a parent undertaking (within the meaning of the Companies Act 1985 or the Companies (Northern Ireland) Order 1986), together with all of its subsidiary undertakings;

“the Management Act” means the Taxes Management Act 1970;

“notice” means notice in writing;

“Special Commissioners” has the same meaning as in the Tax Acts.

(2) In this Schedule references to the repayment of an amount of windfall tax include references to making an allowance by way of set-off of an amount of windfall tax against any liability.

(3) References in this Schedule to a penalty under this Schedule include references to a penalty under a provision of the Management Act as applied by this Schedule.

### SCHEDULE 3

Section 23.

#### INSURANCE COMPANIES AND FRIENDLY SOCIETIES

##### *Section 76 of the Taxes Act 1988*

1.—(1) Section 76 of the Taxes Act 1988 (expenses of management: insurance companies) shall be amended as follows.

(2) In subsection (2B) (relevant income from life assurance business to be sum of items in paragraphs (a) and (b)) for paragraph (b) (relevant franked investment income) there shall be substituted—

“(b) the franked investment income of, and foreign income dividends arising to, the company which are referable to its basic life assurance and general annuity business.”

(3) In subsection (8) (interpretation) the definition of “relevant franked investment income” shall cease to have effect.

(4) This paragraph has effect in relation to distributions made on or after 2nd July 1997.

##### *Section 432E of the Taxes Act 1988*

2.—(1) In section 432E of the Taxes Act 1988 (section 432B apportionment: participating funds) paragraph (b) of subsection (6) (which provides for the adjustment of the net amount referable to overseas life assurance business) shall cease to have effect.

(2) This paragraph has effect in relation to distributions made on or after 2nd July 1997.

##### *Section 434 of the Taxes Act 1988*

3.—(1) Section 434 of the Taxes Act 1988 (franked investment income etc) shall be amended as follows.

(2) For subsection (1) (nothing in section 208 prevents franked investment income or foreign income dividends from being taken into account in computations made for the purposes of section 89(7) of the Finance Act 1989 or section 76(2)) there shall be substituted—

“(1) Section 208 shall not apply in relation to—

- (a) the charge to corporation tax on the life assurance profits of an insurance company computed in accordance with the provisions of this Act applicable to Case I of Schedule D; or
- (b) any computation of such profits in accordance with those provisions.

(1A) Paragraph 2 of Schedule F shall not have effect for the purposes of subsection (1)(a) or (b) above, but this subsection shall not apply in relation to distributions in respect of which an insurance company is entitled to a tax credit under section 441A.

1989 c. 26.

## SCH. 3

(1B) The reference in subsection (1) above to the life assurance profits of an insurance company is a reference to the profits of the company—

- (a) in respect of its life assurance business; or
- (b) in respect of any category of life assurance business which it carries on.”

(3) In subsection (3) (certain franked investment income not to be used to frank distributions but may be the subject of claim under section 242) the words from “but it may be the subject of a claim” onwards shall cease to have effect.

(4) In subsection (8) (which provides amongst other things for the payment of tax credit) the words from “or by payment of tax credit” onwards shall cease to have effect.

(5) Sub-paragraph (2) above has effect in relation to distributions made on or after 2nd July 1997.

(6) Sub-paragraph (3) above has effect for accounting periods beginning on or after 2nd July 1997.

(7) Sub-paragraph (4) above has effect for accounting periods beginning on or after 1st January 1998.

(8) In determining, for the purposes of any claim under section 242 of the Taxes Act 1988 made by virtue of section 434(3) of that Act for an accounting period beginning before 2nd July 1997 and ending on or after that date, the policy holders’ share of the franked investment income from investments held in connection with an insurance company’s life assurance business, there shall be left out of account any distributions which are made on or after 2nd July 1997.

(9) Any amount which, by virtue of sub-paragraph (8) above, is treated as a surplus of franked investment income for the purposes of any such claim as is mentioned in that sub-paragraph shall be disregarded for the purposes of section 20(4) of this Act.

*Section 434A of the Taxes Act 1988*

4.—(1) In section 434A of the Taxes Act 1988 (computation of losses and limitation on relief) subsection (1) (which falls as a result of new section 434(1) to (1B)) shall cease to have effect.

(2) This paragraph has effect for accounting periods beginning on or after 2nd July 1997.

*Section 436 of the Taxes Act 1988*

5.—(1) In section 436 of the Taxes Act 1988 (pension business: separate charge on profits) in subsection (3), paragraphs (d) and (e) (which make provision, for the purposes of the computation of profits arising from pension business, for group income and non-qualifying distributions to be left out of account) shall cease to have effect.

(2) This paragraph has effect in relation to distributions made on or after 2nd July 1997.

*Section 438 of the Taxes Act 1988*

6.—(1) Section 438 of the Taxes Act 1988 (pension business: exemption from tax) shall be amended as follows.

(2) Subsections (3) and (3AA) (which fall as a result of new section 434(1) to (1B)) shall cease to have effect.

(3) For subsection (4) (which makes provision in relation to the payment of tax credits) there shall be substituted—



“(4) This section shall be disregarded in determining, in relation to an insurance company which is entitled to a tax credit in respect of a distribution, whether the condition in paragraph (a) or (b) of section 231(2) is satisfied.”

(4) Subsection (5) (which falls with the substitution of subsection (4)) shall cease to have effect.

(5) Subsections (6) to (7) (which fall with the repeal of subsections (3), (3AA) and (5) and the substitution of subsection (4)) shall cease to have effect.

(6) Subsection (9) (which falls with the repeal of subsections (6), (6B) and (6E) and the repeal of section 440B(2)) shall cease to have effect.

(7) Sub-paragraphs (2) to (4) above have effect in relation to distributions made on or after 2nd July 1997.

(8) Sub-paragraphs (5) and (6) above have effect for accounting periods beginning on or after 2nd July 1997.

(9) In determining, for the purposes of subsections (6) to (7) of section 438 of the Taxes Act 1988, the franked investment income of, or foreign income dividends arising to, an insurance company for an accounting period beginning before 2nd July 1997 and ending on or after that date, there shall be left out of account any distributions which are made on or after 2nd July 1997.

#### *Section 439B of the Taxes Act 1988*

7.—(1) In section 439B of the Taxes Act 1988 (life reinsurance business: separate charge on profits) subsection (7) (which falls as a result of new section 434(1) to (1B)) shall cease to have effect.

(2) This paragraph has effect in relation to distributions made on or after 2nd July 1997.

#### *Section 440B of the Taxes Act 1988*

8.—(1) Section 440B of the Taxes Act 1988 (modifications where tax charged under Case I of Schedule D) shall be amended as follows.

(2) Subsection (1A) (which falls as a result of new section 434(1) to (1B)) shall cease to have effect.

(3) Subsection (2) (which falls with the repeal of section 438(6), (6B) and (6E)) shall cease to have effect.

(4) Sub-paragraph (2) above has effect in relation to distributions made on or after 2nd July 1997.

(5) Sub-paragraph (3) above has effect for accounting periods beginning on or after 2nd July 1997.

#### *Section 441A of the Taxes Act 1988*

9.—(1) Section 441A of the Taxes Act 1988 (section 441: distributions) shall be amended as follows.

(2) Subsection (1) (which falls as a result of new section 434(1) to (1B)) shall cease to have effect.

(3) In subsection (2), for “such a distribution” there shall be substituted “a distribution in respect of any asset of its overseas life assurance fund”.

(4) This paragraph has effect in relation to distributions made on or after 2nd July 1997.

## SCH. 3

*Schedule 19AB to the Taxes Act 1988*

10.—(1) Schedule 19AB to the Taxes Act 1988 (payments on account of tax credits and deducted tax) shall be amended as follows.

(2) In paragraph 1 (entitlement to certain payments on account) in sub-paragraph (1)—

- (a) the words “the aggregate of” shall cease to have effect; and
- (b) paragraph (b) (which confers entitlement to payments in respect of tax credits) shall cease to have effect.

1996 c. 8. (3) In sub-paragraph (7) of that paragraph, as that sub-paragraph has effect apart from the provisions of paragraph 1(6) of Schedule 34 to the Finance Act 1996—

- (a) the words “paid or” shall cease to have effect;
- (b) paragraph (b) shall cease to have effect; and
- (c) in the words following paragraph (b), the words “or in section 42(5A) of the Management Act” shall cease to have effect.

(4) Sub-paragraph (8) (which falls with the repeal of section 438(6)) shall cease to have effect.

(5) In sub-paragraph (10) (which defines “pension business repayments”)—

- (a) the words “and payments of tax credits”, and
- (b) the words “or in section 42(5A) of the Management Act”,

shall cease to have effect.

(6) Sub-paragraph (2) above has effect in relation to distributions made on or after 2nd July 1997.

(7) Sub-paragraphs (3) to (5) above have effect for accounting periods beginning on or after 2nd July 1997.

11.—(1) Schedule 19AB to the Taxes Act 1988, as it has effect in relation to provisional repayment periods 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, shall be amended as follows.

1994 c. 9.

(2) In paragraph 1, in sub-paragraph (7)—

- (a) the words “paid or” shall cease to have effect;
- (b) paragraph (b) shall cease to have effect; and
- (c) in the words following paragraph (b), the words “or section 42(4) of the Management Act” shall cease to have effect.

(3) In paragraph 3 (repayment with interest of excessive provisional repayments) in sub-paragraph (1A)—

- (a) the words “paid or” shall cease to have effect;
- (b) the words “or section 42(4) of the Management Act” shall cease to have effect; and
- (c) paragraph (b) shall cease to have effect.

(4) In sub-paragraph (1B) of that paragraph—

- (a) the words “payments or” shall cease to have effect; and
- (b) paragraph (b) shall cease to have effect.

(5) In sub-paragraph (8) of that paragraph—

- (a) the words “paid or” shall cease to have effect; and
- (b) paragraph (b) shall cease to have effect.

12.—(1) For the purposes of section 121 of the Finance Act 1993 (repayments and payments to friendly societies), Schedule 19AB to the Taxes Act 1988 shall be deemed to have effect without the amendments made by this Schedule.

(2) In relation to distributions made on or after 6th April 1999, sub-paragraph (1) above shall not prevent Schedule 19AB to the Taxes Act 1988 having effect for the purposes of section 121 of the Finance Act 1993 with the amendments made by this Schedule.

*Schedule 19AC to the Taxes Act 1988*

13.—(1) Schedule 19AC to the Taxes Act 1988 (modification of Taxes Act 1988 in relation to overseas life insurance companies) shall be amended as follows.

(2) Paragraph 2 (which falls with the repeal of paragraph 5B(1) to (3)) shall cease to have effect.

(3) In paragraph 5(1) (which notionally inserts subsections (6A) and (6B) into section 76) the notionally inserted subsection (6B) shall cease to have effect.

(4) In paragraph 5A (which confers entitlement to tax credits on overseas life insurance companies) after sub-paragraph (2) there shall be inserted—

“(3) Nothing in this paragraph shall be taken to confer on an overseas life insurance company any entitlement to make a claim under section 231(3).”

(5) In paragraph 5B (which makes provision similar to section 242) sub-paragraphs (1) to (3) shall cease to have effect.

(6) For sub-paragraph (1) of paragraph 9 (which makes provision similar to section 434(1)) there shall be substituted—

“(1) In section 434, the following subsections shall be treated as inserted after subsection (1B)—

“(1C) The exclusion from section 11(2)(a), (aa) or (ab) of distributions received from companies resident in the United Kingdom shall not apply in relation to—

- (a) the charge to corporation tax on the life assurance profits of an overseas life insurance company computed in accordance with the provisions of this Act applicable to Case I of Schedule D; or
- (b) any computation of such profits in accordance with those provisions.

(1D) Paragraph 2 of Schedule F shall not have effect for the purposes of subsection (1C)(a) or (b) above, but this subsection shall not apply in relation to distributions in respect of which an overseas life insurance company is entitled to a tax credit under section 441A.

(1E) The reference in subsection (1C) above to the life assurance profits of an overseas life insurance company is a reference to the profits of the company—

- (a) in respect of its life assurance business; or
- (b) in respect of any category of life assurance business which it carries on.”

(7) Paragraph 9A (which falls with the repeal of section 434A(1)) shall cease to have effect.

(8) Sub-paragraph (1) of paragraph 10 (which notionally inserts into section 438 a provision similar to section 438(3) and (3AA)) shall cease to have effect.

(9) Sub-paragraph (2) of paragraph 10 (which notionally modifies subsections (6), (6A), (6D) and (6E) of section 438) shall cease to have effect.

## SCH. 3

(10) Paragraph 10A (which notionally inserts into section 439B a provision similar to section 439B(7)) shall cease to have effect.

(11) In paragraph 11A, sub-paragraph (1) (which notionally inserts into section 441A a provision similar to section 441A(1)) shall cease to have effect.

(12) Paragraph 12(1) (which falls with the repeal of paragraph 5B(1) to (3)) shall cease to have effect.

(13) In paragraph 15, sub-paragraph (1) (which falls with the repeal of paragraph 1(8) of Schedule 19AB) shall cease to have effect.

(14) Sub-paragraphs (2), (3), (5), (7), (9), (12) and (13) above have effect for accounting periods beginning on or after 2nd July 1997.

(15) Sub-paragraphs (4), (6), (8), (10) and (11) above have effect in relation to distributions made on or after 2nd July 1997.

(16) In determining, for the purposes of paragraph 5B(1) to (3) of Schedule 19AC to the Taxes Act 1988, the UK distribution income of an overseas life insurance company for an accounting period beginning before 2nd July 1997 and ending on or after that date, there shall be left out of account any distributions which are made on or after 2nd July 1997.

(17) In determining, for the purposes of subsections (6) to (7) of section 438 of the Taxes Act 1988 (as notionally amended by paragraph 10(2) of Schedule 19AC to that Act), the UK distribution income of, or foreign income dividends arising to, an overseas life insurance company for an accounting period beginning before 2nd July 1997 and ending on or after that date, there shall be left out of account any distributions which are made on or after 2nd July 1997.

*Section 89 of the Finance Act 1989*

1989 c. 26.

14.—(1) Section 89 of the Finance Act 1989 (policy holders' share of profits) shall be amended as follows.

(2) In subsection (2)—

(a) paragraph (a) (which provides for Case I profits to be reduced by unrelieved franked investment income in respect of which an election under section 438(6) has been made) shall cease to have effect;

(b) in paragraph (b) (which provides for Case I profits to be reduced by the shareholders' share of any other unrelieved franked investment income from investments held in connection with life assurance business)—

(i) the words "other unrelieved" shall cease to have effect; and

(ii) for "from investments held in connection with the company's life assurance business" there shall be substituted "which is referable to the company's basic life assurance and general annuity business"; and

(c) in paragraph (c) (which provides for Case I profits to be reduced by the shareholders' share of foreign income dividends in respect of such investments) for "in respect of investments held in connection with the company's life assurance business" there shall be substituted "which are referable to the company's basic life assurance and general annuity business".

(3) Subsection (8) (meaning of "unrelieved" franked investment income) shall cease to have effect.

(4) This paragraph has effect in relation to distributions made on or after 2nd July 1997.

*Section 65 of the Finance (No.2) Act 1992*

15. In section 65 of the Finance (No.2) Act 1992 (life assurance business: I minus E) in subsection (2) (meaning of relevant provisions) before paragraph (a) there shall be inserted—

- “(aa) section 434(1) and (1A) of the Taxes Act 1988 (section 208 not to apply in relation to life assurance profits computed in accordance with Case I of Schedule D etc);
- (ab) section 434(1C) and (1D) of the Taxes Act 1988 (which makes corresponding provision in relation to overseas life insurance companies and is notionally inserted by paragraph 9(1) of Schedule 19AC to that Act);”.

## SCHEDULE 4

Section 34.

## TAX CREDITS, TAXATION OF DISTRIBUTIONS ETC

## PART I

## GENERAL

**The Taxes Management Act 1970***Section 7*

1.—(1) In section 7 of the Taxes Management Act 1970 (notice of liability to income tax and capital gains tax) in subsection (6) (sources of income which fall within that subsection) after the words “other than the basic rate” there shall be inserted “, the Schedule F ordinary rate”.

(2) This paragraph has effect for the year 1999-00 and subsequent years of assessment.

*Section 42 (pre-corporation tax self-assessment version)*

2.—(1) In section 42 of the Taxes Management Act 1970 (procedure for making claims), as it has effect in relation to corporation tax for accounting periods ending before the day appointed under section 199 of the Finance Act 1994, the following provisions shall cease to have effect—

- (a) in subsection (5) (form of claim) the words “Subject to subsection (5A) below,”;
- (b) subsection (5A) (claims by companies for payment of tax credits); and
- (c) subsection (10A) (extended meaning of terms used in subsection (5A)).

(2) This paragraph has effect in relation to tax credits in respect of distributions made on or after 6th April 1999.

*Section 42 (corporation tax self-assessment version)*

3.—(1) In section 42 of the Taxes Management Act 1970 (procedure for making claims), as it has effect in relation to corporation tax for accounting periods ending on or after the day appointed under section 199 of the Finance Act 1994, the following provisions shall cease to have effect—

- (a) subsections (4) and (4A) (claims by companies for payment of tax credits); and
- (b) in subsection (5), the words from “and the reference in subsection (4) above” onwards.

(2) This paragraph has effect in relation to tax credits in respect of distributions made on or after 6th April 1999.

## SCH. 4

**The Taxes Act 1988***Section 231*

4.—(1) In section 231 of the Taxes Act 1988 (tax credits for certain recipients of qualifying distributions) in subsection (1) (whose provisions are expressed to be subject to sections 247 and 441A) for “441A” there shall be substituted “469(2A)”.

(2) This paragraph has effect in relation to distributions made on or after 6th April 1999.

*Section 232*

5.—(1) In section 232 of the Taxes Act 1988 (tax credits for non-UK residents) the following provisions shall cease to have effect—

- (a) subsection (2) (funds to which section 615(2)(b) or (c) applies); and
- (b) subsection (3) (sovereign powers, governments and international organisations).

(2) This paragraph has effect in relation to distributions made on or after 6th April 1999.

*Section 233*

6.—(1) Section 233 of the Taxes Act 1988 (taxation of certain recipients of distributions and in respect of non-qualifying distributions) shall be amended as follows.

(2) In subsections (1) to (1B), for the words “lower rate”, wherever occurring, there shall be substituted “Schedule F ordinary rate”.

(3) In subsection (1B), for the words “rate applicable to trusts”, in both places where they occur, there shall be substituted “Schedule F trust rate”.

(4) In subsection (2), in the definition of “excess liability”, for “were charged at the lower rate to the exclusion of the higher rate or, as the case may be, the rate applicable to trusts” there shall be substituted “were charged—

- (a) in the case of income chargeable under Schedule F, at the Schedule F ordinary rate, and
- (b) in the case of any other income, at the lower rate,

to the exclusion of the higher rate, the Schedule F upper rate or, as the case may be, the Schedule F trust rate”.

(5) This paragraph has effect in relation to distributions made on or after 6th April 1999.

*Sections 235 to 237*

7.—(1) Sections 235 to 237 of the Taxes Act 1988 (distributions of exempt funds and bonus issues) shall cease to have effect.

(2) This paragraph has effect in relation to distributions made on or after 6th April 1999.

*Section 238*

8.—(1) In section 238(1) of the Taxes Act 1988 (interpretation etc) in the definition of “franked payment” for “rate of advance corporation tax” there shall be substituted “tax credit fraction”.

(2) This paragraph has effect in relation to distributions made on or after 6th April 1999.

*Section 241*

9.—(1) In section 241 of the Taxes Act 1988, for subsection (2) (amount on which ACT is payable where there is in an accounting period an excess of franked payments over franked investment income) there shall be substituted—

“(2) If in an accounting period there is such an excess, advance corporation tax shall be payable on the excess at nine-tenths of the rate of advance corporation tax.”

(2) Sub-paragraph (1) above has effect in relation to accounting periods beginning on or after 6th April 1999.

(3) In the case of an accounting period beginning before, and ending on or after, 6th April 1999, the advance corporation tax payable shall be computed—

- (a) in accordance with section 241, as amended by sub-paragraph (1) above, in the case of that part of the excess, if any, which, had there been such a period, would have accrued in an accounting period beginning with 6th April 1999 and ending with the true accounting period; and
- (b) in accordance with that section as it has effect apart from subsection (1) above in the case of that part of the excess, if any, which, had there been such a period, would have accrued in an accounting period beginning with the true accounting period and ending with 6th April 1999.

*Section 249*

10.—(1) Section 249 of the Taxes Act 1988 (stock dividends treated as income) shall be amended as follows.

(2) In subsection (4) (taxation of individuals)—

- (a) in the words preceding paragraph (a), for “lower rate” there shall be substituted “Schedule F ordinary rate”;
- (b) in paragraph (a), for “lower rate” there shall be substituted “Schedule F ordinary rate”; and
- (c) in paragraph (c), after “as if it were income to which section 1A applies” there shall be inserted “as it applies to income chargeable under Schedule F”.

(3) In subsection (6) (taxation of trustees) in paragraph (b) for “lower rate” there shall be substituted “Schedule F ordinary rate”.

(4) This paragraph has effect in relation to share capital, within the meaning of section 249 of the Taxes Act 1988, issued on or after 6th April 1999.

*Section 421*

11.—(1) In section 421 of the Taxes Act 1988 (taxation of borrower when loan under s.419 released etc) in subsection (1)—

- (a) in paragraphs (a) and (b), for the words “lower rate”, in both places where they occur, there shall be substituted “Schedule F ordinary rate”; and
- (b) in paragraph (c), after the words “as if it were income to which section 1A applies” there shall be inserted “by virtue of subsection (2)(b) of that section”.

(2) This paragraph has effect in relation to the release or writing off of the whole or part of a debt on or after 6th April 1999.

## SCH. 4

*Section 469*

12.—(1) Section 469 of the Taxes Act 1988 (unit trusts other than authorised unit trusts) shall be amended as follows.

(2) In subsection (2) (income of the trustees to which section 1A applies to be chargeable at the basic rate instead of the lower rate) for “lower rate” there shall be substituted “rate applicable in accordance with subsection (1A) of that section”.

(3) After subsection (2) there shall be inserted—

“(2A) Section 231(1) shall not apply where the recipient of the distribution there mentioned is the trustees of the scheme.

(2B) Section 233(1) shall not apply where the person there mentioned is the trustees of the scheme.”

(4) In subsection (9) (sections 686 and 687 not to apply) after “686” there shall be inserted “, 686A”.

(5) This paragraph has effect in relation to distributions made on or after 6th April 1999.

*Section 549*

13.—(1) In section 549 of the Taxes Act 1988 (policies of life insurance etc: corresponding deficiency relief) in subsection (2) (which contains a definition of “excess liability”)—

(a) after “(so far as applicable in accordance with section 1A) the lower rate” there shall be inserted “or the Schedule F ordinary rate”; and

(b) for “any higher rate” there shall be substituted “the higher rate and the Schedule F upper rate”.

(2) This paragraph has effect for the year 1999-00 and subsequent years of assessment.

*Section 660C*

14.—(1) Section 660C of the Taxes Act 1988 (settlements where the settlor retains an interest: nature of the charge on settlor) shall be amended as follows.

(2) In subsection (1) (tax to be charged under Case VI of Schedule D) for “under Case VI of Schedule D” there shall be substituted—

“(a) in the case of income falling within subsection (1A) below, as if it were income to which section 1A applies by virtue of subsection (2)(b) of that section; and

(b) in the case of any other income, under Case VI of Schedule D”.

(3) After subsection (1) there shall be inserted—

“(1A) Income falls within this subsection if it is—

(a) income chargeable under Schedule F;

(b) income to which section 1A applies by virtue of its being equivalent foreign income falling within subsection (3)(b) of that section and chargeable under Case V of Schedule D;

(c) a distribution in relation to which section 233(1) applies;

(d) a qualifying distribution whose amount or value is determined in accordance with section 233(1A);

(e) a non-qualifying distribution, within the meaning of section 233(1B);

(f) income treated as arising by virtue of section 249;



(g) income treated as received by virtue of section 421(1)(a).”

(4) This paragraph has effect for the year 1999-00 and subsequent years of assessment.

#### Section 687

15.—(1) In section 687 of the Taxes Act 1988 (payments under discretionary trusts) subsection (3) (amounts which may be set against the amount assessable on trustees) shall be amended as follows.

(2) For paragraphs (a) and (aa) there shall be substituted—

“(a) the amount of any tax on income arising to the trustees which (not being income the tax on which falls within paragraphs (a1) to (bc) below) is charged in pursuance of section 686 at the rate applicable to trusts or the Schedule F trust rate;

(a1) the amount of tax at a rate equal to the difference between the Schedule F ordinary rate and the Schedule F trust rate on any income of the trustees chargeable under Schedule F;

(a2) the amount of tax which, by virtue of section 233(1A), is charged, at a rate equal to the difference between the Schedule F ordinary rate and the Schedule F trust rate, on the amount or value of the whole or any part of any qualifying distribution included in the income arising to the trustees;

(aa) the amount of tax which, by virtue of section 233(1B), is charged, at a rate equal to the difference between the Schedule F ordinary rate and the Schedule F trust rate, on the amount or value of the whole or any part of any non-qualifying distribution included in the income arising to the trustees;”.

(3) For paragraph (b) there shall be substituted—

“(b) the amount of tax at a rate equal to the difference between the Schedule F ordinary rate and the Schedule F trust rate on any sum treated, under section 249(6), as income of the trustees;”.

(4) After paragraph (b) there shall be inserted—

“(bb) the amount of tax at a rate equal to the difference between the Schedule F ordinary rate and the Schedule F trust rate on any sum treated under section 421(1)(a) as income of the trustees;

(bc) the amount of tax at a rate equal to the difference between the Schedule F ordinary rate and the Schedule F trust rate on any sum treated under section 686A as income of the trustees;”.

(5) This paragraph has effect for the year 1999-00 and subsequent years of assessment.

#### Section 689B

16.—(1) Section 689B of the Taxes Act 1988 (order in which expenses of trustees are to be set against income) shall be amended as follows.

(2) In subsection (1)—

(a) in paragraph (a) (set against income within subsection (2) or (3) before other income) after “subsection (2)” there shall be inserted “; (2A)”;

(b) in paragraph (b) (set against income within subsection (2) before subsection (3)) after “subsection (2)” there shall be inserted “or (2A)”; and

(c) at the end of paragraph (b) there shall be added “and

## SCH. 4

(c) 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 (2A) below”.

(3) In subsection (2) (income against which expenses are to be first set)—

(a) before paragraph (a) there shall be inserted—

“(za) so much of the income of the trustees as is income chargeable under Schedule F;” and

(b) after paragraph (a) there shall be inserted—

“(aa) so much of the income of the trustees as is a non-qualifying distribution, within the meaning of section 233(1B);”.

(4) After subsection (2) there shall be inserted—

“(2A) Income falls within this subsection if it is income to which section 1A applies by virtue of its being equivalent foreign income falling within subsection (3)(b) of that section and chargeable under Case V of Schedule D.”

(5) In subsection (3) (income to which section 1A applies but which does not fall within subsection (2) of s.689B) after “subsection (2)” there shall be inserted “or (2A)”.

(6) This paragraph has effect for the year 1999-00 and subsequent years of assessment.

*Section 699*

17.—(1) In section 699 of the Taxes Act 1988 (relief from higher rate tax for inheritance tax on accrued income) in subsection (2) (definition of “excess liability”)—

(a) after “(so far as applicable in accordance with section 1A) the lower rate” there shall be inserted “or the Schedule F ordinary rate”; and

(b) for “any higher rate” there shall be substituted “the higher rate and the Schedule F upper rate”.

(2) This paragraph has effect for the year 1999-00 and subsequent years of assessment.

*Section 703*

18.—(1) In section 703 of the Taxes Act 1988 (cancellation of tax advantage) in subsection (5)(b) (which requires a notice under that section to specify the amount equal to tax at the lower rate on the amount there mentioned) for “lower rate” there shall be substituted “Schedule F ordinary rate”.

(2) This paragraph has effect for the year 1999-00 and subsequent years of assessment.

*Section 709*

19.—(1) In section 709 of the Taxes Act 1988 (meaning of tax advantage etc) in subsection (2A) (references to a relief and to repayment of tax to include references to a tax credit and payment of any amount in respect of a tax credit) the words “and to a repayment of tax”, “respectively” and “and to a payment of any amount in respect of a tax credit” shall be omitted.

(2) This paragraph has effect for the year 1999-00 and subsequent years of assessment.

*Section 743*

20.—(1) Section 743 of the Taxes Act 1988 (provisions supplemental to section 739 etc) shall be amended as follows.

(2) In subsection (1) (subject to an exception for income which has borne tax by deduction at the basic rate or the lower rate, income chargeable under s.739 to be charged under Case VI of Schedule D)—

(a) for “or the lower rate” there shall be substituted “, the lower rate or the Schedule F ordinary rate”; and

(b) for “under Case VI of Schedule D” there shall be substituted—

“(a) in the case of income falling within subsection (1A) below, as if it were income to which section 1A applies by virtue of subsection (2)(b) of that section; and

(b) in the case of any other income, under Case VI of Schedule D”.

(3) After subsection (1) there shall be inserted—

“(1A) Income falls within this subsection if it is—

(a) income chargeable under Schedule F;

(b) income to which section 1A applies by virtue of its being equivalent foreign income falling within subsection (3)(b) of that section and chargeable under Case V of Schedule D;

(c) a distribution in relation to which section 233(1) applies;

(d) a qualifying distribution whose amount or value is determined in accordance with section 233(1A);

(e) a non-qualifying distribution, within the meaning of section 233(1B);

(f) income treated as arising by virtue of section 249;

(g) income treated as received by virtue of section 421(1)(a).”

(4) This paragraph has effect for the year 1999-00 and subsequent years of assessment.

*Section 819*

21.—(1) In section 819 of the Taxes Act 1988 (old references to standard rate tax) in subsection (2)—

(a) after “(so far as applicable in accordance with section 1A) the lower rate” there shall be inserted “or the Schedule F ordinary rate”; and

(b) for “any higher rate” there shall be substituted “the higher rate and the Schedule F upper rate”.

(2) This paragraph has effect for the year 1999-00 and subsequent years of assessment.

*Section 832*

22.—(1) In section 832 of the Taxes Act 1988 (interpretation of the Tax Acts) the following definitions shall be inserted in subsection (1) at the appropriate places—

(a) ““the Schedule F ordinary rate” shall be construed in accordance with section 1B(2);”;

(b) ““the Schedule F trust rate” shall be construed in accordance with section 686(1A);”;

(c) ““the Schedule F upper rate” shall be construed in accordance with section 1B(2);”.

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(2) This paragraph has effect for the year 1999-00 and subsequent years of assessment.

*Schedule 13*

23.—(1) Schedule 13 to the Taxes Act 1988 (collection of ACT) shall be amended as follows.

(2) In paragraph 2, in sub-paragraph (4) (calculation of amount to be paid where the franked payments for the return period exceed the franked investment income or where there is no franked investment income) for the words following “shall be calculated” there shall be substituted “in accordance with sub-paragraph (4A) below”.

(3) After that sub-paragraph there shall be inserted—

“(4A) The tax mentioned in sub-paragraph (4) above shall be calculated at a rate equal to nine-tenths of the rate of advance corporation tax in force for the financial year in which the return period ends—

- (a) in a case falling within paragraph (a) of that sub-paragraph, on the excess mentioned in that paragraph; or
- (b) in a case falling within paragraph (b) of that sub-paragraph, on the amount shown under sub-paragraph (1)(a) above.”

(4) In paragraph 4 (receipt of franked investment income after payment of ACT) for sub-paragraph (3) (which imposes a limit on repayment) there shall be substituted—

“(3) The amount of the repayment—

- (a) if no franked payments were made by the company in the return period for which a return is made by virtue of sub-paragraph (2) above, shall not exceed an amount equal to the advance corporation tax that would be payable in respect of a distribution equal to the difference between—
  - (i) the franked investment income received, and
  - (ii) the tax credit comprised in that franked investment income; and
- (b) in any other case, shall not exceed an amount equal to the advance corporation tax that would be payable in respect of a distribution equal to the amount by which—
  - (i) the franked investment income received, exceeds
  - (ii) the franked payments made in the return period, at the rate provided in paragraph 2(4A) above.”

(5) The preceding provisions of this paragraph have effect in relation to return periods, within the meaning of Schedule 13 to the Taxes Act 1988, ending on or after 6th April 1999.

(6) If, in the period beginning with 1st April 1999 and ending with 5th April 1999—

- (a) any franked investment income is received by a company, or
- (b) any franked payments are made by a company,

that period shall, in the case of the company, be treated for the purposes of Schedule 13 to the Taxes Act 1988 as if it were a separate return period.

**The Taxation of Chargeable Gains Act 1992***Section 4*

24.—(1) Section 4 of the Taxation of Chargeable Gains Act 1992 (rates of capital gains tax) shall be amended as follows.

(2) In subsection (2) (case where income tax is chargeable at the higher rate on part of income of an individual) after “the higher rate”, where first occurring, there shall be inserted “or the Schedule F upper rate”.

(3) In subsection (3) (case where income tax is not chargeable at the higher rate on income of an individual but his gains exceed the unused basic rate band) after “the higher rate”, where first occurring, there shall be inserted “or the Schedule F upper rate”.

(4) In subsection (3A) (disregard of income chargeable at the lower rate in accordance with section 1A of the Taxes Act 1988 etc)—

(a) after “the lower rate” there shall be inserted “or the Schedule F ordinary rate”; and

(b) after “the higher rate” there shall be inserted “or the Schedule F upper rate”.

(5) In subsection (3B), in paragraph (a) (determination in certain cases of the amount of income comprised in an individual’s total income which is chargeable at the higher rate) after “the higher rate” there shall be inserted “or the Schedule F upper rate”.

(6) This paragraph has effect for the year 1999-00 and subsequent years of assessment.

#### *Section 6*

25.—(1) In section 6 of the Taxation of Chargeable Gains Act 1992 (other special cases) in subsection (3) (cases where income includes gains on policies of life insurance etc) in paragraph (b) after “as if no income were chargeable at the higher rate” there shall be inserted “or the Schedule F upper rate”. 1992 c. 12.

(2) This paragraph has effect for the year 1999-00 and subsequent years of assessment.

### PART II

#### INSURANCE COMPANIES AND LLOYD’S UNDERWRITERS

#### **The Taxes Act 1988**

#### *Section 231B*

26.—(1) In section 231B of the Taxes Act 1988, in subsection (4)(b), the words “or 441A(7)” shall be omitted.

(2) This paragraph has effect in relation to distributions made on or after 6th April 1999.

#### *Section 434*

27.—(1) In section 434 of the Taxes Act 1988 (franked investment income etc) in subsection (1A) (which modifies paragraph 2 of Schedule F) the words from “but this subsection” onwards shall cease to have effect.

(2) This paragraph has effect in relation to distributions made on or after 6th April 1999.

#### *Section 441A*

28.—(1) In section 441A, subsections (2) to (8) (regulations about tax credits to which insurance companies are entitled) shall cease to have effect.

(2) This paragraph has effect in relation to distributions made on or after 6th April 1999.

## SCH. 4

*Schedule 19AC*

29.—(1) Schedule 19AC to the Taxes Act 1988 (overseas life insurance companies) shall be amended as follows.

(2) In paragraph 9(1) (which notionally inserts subsections (1C) to (1E) into section 434 of the Taxes Act 1988) in the notionally inserted subsection (1D), the words from “but this subsection” onwards shall cease to have effect.

(3) Paragraph 11A(2) (which modifies section 441A(2) and (3) of the Taxes Act 1988) shall cease to have effect.

(4) This paragraph has effect in relation to distributions made on or after 6th April 1999.

**The Finance Act 1993***Schedule 20*

1993 c. 34.

30.—(1) In Schedule 20 to the Finance Act 1993 (Lloyd’s underwriters: special reserve funds) the following provisions shall cease to have effect—

- (a) paragraph 9(3) (claims for payment of tax credits); and
- (b) in paragraph 11(3)(c) (value of fund as increased by tax repayment or tax credit received under paragraph 9(2) or (3)) the words “or tax credit received” and “or (3)”.

(2) Sub-paragraph (1) above has effect in relation to distributions made on or after 6th April 1999.

Section 35.

**SCHEDULE 5****LIMITATION OF ENTITLEMENT TO RELIEF UNDER SECTION 35****PART I****QUALIFYING DISTRIBUTIONS OTHER THAN BONUS ISSUES**

1. This Part of this Schedule applies where a person (“the claimant”)—

- (a) would, apart from paragraph 2 below, be entitled to a payment under section 35(1) of this Act in respect of a distribution, and
- (b) his holding (together with any associated holding) of any one class of the shares, securities or rights by virtue of which he is entitled to the distribution amounts to not less than 10 per cent of that class.

2. Where this Part of this Schedule applies, if any part of the distribution is not a part—

- (a) to which profits arising after the date of acquisition are attributable in accordance with section 236 of the Taxes Act 1988, or
- (b) in relation to which the date of acquisition is earlier than 6th April 1965, then no payment under section 35(1) of this Act shall be made to the claimant in respect of the distribution.

3. This Part of this Schedule applies to any qualifying distribution except any amount which is treated as such in accordance with section 209(3) or sections 210 and 211 of the Taxes Act 1988.

4. Notwithstanding the repeal of sections 235 and 236 of the Taxes Act 1988 by this Act, section 236 of the Taxes Act 1988 as it applies in relation to distributions made before 6th April 1999 shall continue to apply for the purposes of this Part of this Schedule as it applies for the purposes of section 235 of the Taxes Act 1988 in relation to such distributions.

5. For the purposes of this Part of this Schedule and section 236 of the Taxes Act 1988 as it applies by virtue of paragraph 4 above, the date of acquisition, in relation to any part of a distribution or profits attributable to it, is the date on which the shares, securities or rights by virtue of which a person is entitled to that part were acquired by him.

## PART II

### BONUS ISSUES

6. A person ("the claimant") who receives an amount treated as a distribution by virtue of section 209(3), 210 or 211(1) of the Taxes Act 1988 ("a bonus issue") shall not be entitled to a payment under section 35(1) of this Act in respect of that distribution, except to the extent that paragraph 7 below otherwise provides.

7. Paragraph 6 above shall not affect a person's entitlement to a payment under section 35 of this Act in respect of that part (if any) of a bonus issue made in respect of any shares or securities which, if it had been declared as a dividend, would represent a normal return to the claimant—

- (a) on the consideration provided by him for the relevant shares or securities, that is to say, those in respect of which the bonus issue was made; and
- (b) if the relevant shares or securities are derived from shares or securities previously acquired by the claimant, on the shares or securities which were previously acquired.

8. For the purposes of paragraph 7 above—

- (a) if the consideration provided by the claimant for any of the relevant shares or securities was in excess of their market value at the time he acquired them, or if no consideration was provided by him for any of the relevant shares or securities, the claimant shall be taken to have provided for those shares or securities consideration equal to their market value at the time he acquired them; and
- (b) in determining whether an amount received by way of dividend exceeds a normal return, regard shall be had to the length of time previous to the receipt of that amount since the claimant first acquired any of the relevant shares or securities and to any dividends and other distributions made in respect of them during that time.

## SCHEDULE 6

Section 36.

### FOREIGN INCOME DIVIDENDS

#### *Section 13 of the Taxes Act 1988*

1.—(1) Section 13 of the Taxes Act 1988 (small companies' relief) shall be amended as follows.

(2) In subsection (7) (profits of a company for an accounting period to include foreign income dividends) the words "and with the addition of foreign income dividends arising to the company" shall cease to have effect.

(3) Subsection (8A) (definition of "foreign income dividends") shall cease to have effect.

(4) This paragraph has effect for accounting periods beginning on or after 6th April 1999.

## SCH. 6

*Section 75 of the Taxes Act 1988*

2.—(1) Section 75 of the Taxes Act 1988 (expenses of management: investment companies) shall be amended as follows.

(2) In subsection (2) (deductions from amount treated as expenses of management) the words “foreign income dividends” shall cease to have effect.

(3) Subsection (6) (definition of “foreign income dividends”) shall cease to have effect.

(4) This paragraph has effect in relation to distributions made on or after 6th April 1999.

*Chapter VA of Part VI of the Taxes Act 1988*

3.—(1) Sections 246A to 246Y of the Taxes Act 1988 (foreign income dividends) shall cease to have effect.

(2) The repeal of sections 246A to 246E and 246G of the Taxes Act 1988 has effect in relation to distributions made on or after 6th April 1999.

(3) The repeal of sections 246F, 246H to 246J and 246N to 246Y of the Taxes Act 1988 has effect for accounting periods beginning on or after 6th April 1999.

(4) The repeal of sections 246K to 246M of the Taxes Act 1988 has effect for accounting periods of the parent (within the meaning of those sections) beginning on or after 6th April 1999.

*Section 247 of the Taxes Act 1988*

4.—(1) In section 247 of the Taxes Act 1988 (dividends etc paid by one member of a group to another) subsections (5A) to (5D) (which relate to foreign income dividends) shall cease to have effect.

(2) This paragraph has effect in relation to distributions made on or after 6th April 1999.

*Section 431 of the Taxes Act 1988*

5.—(1) In section 431(2) of the Taxes Act 1988 (interpretation of Chapter I of Part XII) the definition of “foreign income dividends” shall cease to have effect.

(2) This paragraph has effect for accounting periods beginning on or after 6th April 1999.

*Section 434 of the Taxes Act 1988*

6.—(1) Section 434 of the Taxes Act 1988 (franked investment income etc) shall be amended as follows.

(2) Subsections (3B) to (3D) (which relate to foreign income dividends) shall cease to have effect.

(3) In subsection (6A), paragraphs (aa) to (ac) (which define expressions used in subsections (3B) to (3D)) shall cease to have effect.

(4) This paragraph has effect for accounting periods beginning on or after 6th April 1999.



*Section 458 of the Taxes Act 1988*

7.—(1) In section 458 of the Taxes Act 1988 (capital redemption business) in subsection (2) (certain foreign income dividends treated as part of profits in ascertaining loss) the words “and foreign income dividends arising to” shall cease to have effect.

(2) This paragraph has effect in relation to distributions made on or after 6th April 1999.

*Chapter III of Part XII of the Taxes Act 1988*

8.—(1) In section 468H of the Taxes Act 1988 (interpretation of sections 468I to 468R)—

- (a) subsection (5) (construction of references to foreign income dividends) shall cease to have effect; and
- (b) in subsection (6), for “to 468R” there shall be substituted “to 468Q”.

(2) In section 468I of the Taxes Act 1988 (distribution accounts)—

- (a) in subsection (2), the words “which are not foreign income dividends” shall cease to have effect; and
- (b) subsections (3), (5), (5A) and (7) shall cease to have effect.

(3) In section 468J of the Taxes Act 1988 (dividend distributions)—

- (a) in subsection (1), the words “or a part of the total amount” and “which are not foreign income dividends” shall cease to have effect;
- (b) in subsection (2), the words “or, as the case may be, the part” shall cease to have effect; and
- (c) subsection (3) shall cease to have effect.

(4) Section 468K of the Taxes Act 1988 (foreign income distributions) shall cease to have effect.

(5) In section 468M of the Taxes Act 1988 (deduction of tax: simple case) in subsection (5) (definition of “eligible income”) paragraph (c) shall cease to have effect.

(6) In section 468Q of the Taxes Act 1988 (dividend distribution to corporate unit holder)—

- (a) in subsection (2)(a), the words “a foreign income distribution” shall cease to have effect;
- (b) in subsection (3)—
  - (i) for the formula there shall be substituted the following formula—

$$U = \frac{A \times C}{D}$$

- (ii) the definition of “B” shall cease to have effect; and
- (c) subsection (4) shall cease to have effect.

(7) Section 468R of the Taxes Act 1988 (foreign income distribution to corporate holder) shall cease to have effect.

(8) Sub-paragraphs (1)(a), (5) and (6) above have effect for distribution periods beginning on or after 6th April 1999.

(9) Sub-paragraphs (1)(b), (2) to (4) and (7) above have effect for distribution periods the distribution date for which falls on or after 6th April 1999.

## SCH. 6

*Section 490 of the Taxes Act 1988*

9.—(1) Section 490 of the Taxes Act 1988 (companies carrying on a mutual business or not carrying on a business) shall be amended as follows.

(2) In subsection (1) (which contains a reference to foreign income dividends) the words “or out of foreign income dividends” shall cease to have effect.

(3) In subsection (4) (which contains a reference to foreign income dividends) the words “or foreign income dividends” shall cease to have effect.

(4) Subsection (5) (definition of “foreign income dividends”) shall cease to have effect.

(5) This paragraph has effect in relation to distributions made on or after 6th April 1999.

*Section 687 of the Taxes Act 1988*

10.—(1) In section 687 of the Taxes Act 1988 (payments under discretionary trusts) in subsection (3), paragraph (aaa) (which concerns any sums treated under section 246D(4) as income of trustees) shall cease to have effect.

(2) This paragraph has effect in relation to distributions made on or after 6th April 1999.

*Section 689B of the Taxes Act 1988*

11.—(1) In section 689B of the Taxes Act 1988 (order in which expenses to be set against income) in subsection (2)(b) the words “246D(4) or” shall cease to have effect.

(2) This paragraph has effect in relation to distributions made on or after 6th April 1999.

*Section 699A of the Taxes Act 1988*

12.—(1) In section 699A of the Taxes Act 1988 (untaxed sums comprised in the income of the estate)—

(a) in subsection (1)(a), and

(b) in subsection (4)(a),

the word “246D(3)” shall cease to have effect.

(2) This paragraph has effect in relation to distributions made on or after 6th April 1999.

*Section 701 of the Taxes Act 1988*

13.—(1) In section 701 of the Taxes Act 1988 (interpretation) in subsection (8) (subsection for section 246D(3) etc) the word “246D(3)” shall cease to have effect.

(2) This paragraph has effect in relation to distributions made on or after 6th April 1999.

*Section 731 of the Taxes Act 1988*

14.—(1) Section 731 of the Taxes Act 1988 (application and interpretation of sections 732 to 734) shall be amended as follows.

(2) In subsection (9A) (application of references to interest in relation to a qualifying distribution other than a foreign income dividend) the words “other than a foreign income dividend” shall cease to have effect.

(3) Subsections (9B) to (9D) (which make provision in relation to foreign income dividends) shall cease to have effect.

(4) This paragraph has effect in relation to distributions made on or after 6th April 1999.

*Section 802 of the Taxes Act 1988*

15.—(1) Section 802 of the Taxes Act 1988 (UK insurance companies trading overseas) shall be amended as follows.

(2) In subsection (2) (which contains a reference to foreign income dividends) the words “foreign income dividends” shall cease to have effect.

(3) Subsection (4) (definition of “foreign income dividends”) shall cease to have effect.

(4) This paragraph has effect in relation to distributions made on or after 6th April 1999.

*Schedule 13 to the Taxes Act 1988*

16.—(1) Schedule 13 to the Taxes Act 1988 shall be amended as follows.

(2) In paragraph 1 (duty to make returns), in sub-paragraph (1)—

- (a) paragraph (b) (duty to make returns of foreign income dividends paid and received) shall cease to have effect;
- (b) in paragraph (c), the words “and foreign income dividends paid” shall cease to have effect; and
- (c) the words following paragraph (c) (construction of references to foreign income dividends) shall cease to have effect.

(3) In sub-paragraph (4) of that paragraph—

- (a) the word “4A(2),” and
- (b) paragraph (b) and the word “and” immediately preceding it,

shall cease to have effect.

(4) In paragraph 2 (content of returns)—

- (a) in sub-paragraph (1)—
  - (i) for “paragraphs 7(2), 3A(2) and 9A(2)” there shall be substituted “paragraph 7(2)”; and
  - (ii) paragraphs (d) to (f) (which require the return to include information in relation to foreign income dividends) shall cease to have effect; and
- (b) sub-paragraphs (5) and (6) (which supplement paragraphs (e) and (f) of sub-paragraph (1)) shall cease to have effect.

(5) In paragraph 3 (payment of tax)—

- (a) in sub-paragraph (1), the words “and foreign income dividends”, and
- (b) in sub-paragraph (3), the words “or foreign income dividend”,

shall cease to have effect.

(6) Paragraphs 3A and 3B (which make provision in relation to international headquarters companies paying foreign income dividends) shall cease to have effect.

(7) In paragraph 4 (receipt of franked investment income after payment of advance corporation tax) in sub-paragraph (2) the words “or paid any foreign income dividends” shall cease to have effect.

(8) Paragraph 4A (receipt of foreign income dividends after payment of advance corporation tax) shall cease to have effect.

(9) Paragraph 6A (claims for set-off in respect of foreign income dividends received by a company) shall cease to have effect.

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(10) In paragraph 7 (qualifying distributions which are not payments and payments of uncertain nature) in sub-paragraph (3) the words “and no foreign income dividend is paid” shall cease to have effect.

(11) Paragraph 9A (manufactured foreign income dividends) shall cease to have effect.

(12) Sub-paragraph (2) above has effect for accounting periods beginning on or after 6th April 1999.

(13) Sub-paragraphs (3) to (10) above have effect for return periods beginning on or after 6th April 1999.

(14) Sub-paragraph (11) above has effect in relation to manufactured dividends which are representative of dividends paid on or after 6th April 1999.

*Schedule 23A to the Taxes Act 1988*

17.—(1) Schedule 23A to the Taxes Act 1988 (manufactured dividends and interest) shall be amended as follows.

(2) In paragraph 1(1) (interpretation) the definition of “foreign income dividend” shall cease to have effect.

(3) In paragraph 2 (manufactured dividends on UK equities: general) in sub-paragraph (6) the words “Subject to paragraph 2B(2)(b) below” shall cease to have effect.

(4) Paragraph 2B (manufactured dividends representative of foreign income dividends) shall cease to have effect.

(5) This paragraph has effect in relation to manufactured dividends which are representative of dividends paid on or after 6th April 1999.

*Section 88A of the Finance Act 1989*

1989 c. 26.

18.—(1) In section 88A of the Finance Act 1989 (lower corporation tax rate on certain insurance company profits) in subsection (3)—

(a) paragraph (d)(ii) (which relates to foreign income distributions) shall cease to have effect; and

(b) the words “(or by that subsection as applied by section 468R(2) of that Act)” shall cease to have effect.

(2) This paragraph has effect in relation to distributions made on or after 6th April 1999.

*Section 89 of the Finance Act 1989*

19.—(1) Section 89 of the Finance Act 1989 (policy holders' share of profits) shall be amended as follows.

(2) In subsection (2), paragraph (c) (which provides for Case I profits to be reduced by the shareholders' share of any foreign income dividends from investments held in connection with life assurance business) shall cease to have effect.

(3) Subsection (2A) (which explains certain expressions used in subsection (2)(c)) shall cease to have effect.

(4) This paragraph has effect in relation to distributions made on or after 6th April 1999.

*Section 171 of the Finance Act 1993*

20.—(1) Section 171 of the Finance Act 1993 (taxation of profits and allowance of losses of Lloyd's underwriters) shall be amended as follows. 1993 c. 34.

(2) Subsection (2A) (which makes provision in relation to foreign income dividends) shall cease to have effect.

(3) This paragraph has effect in relation to distributions made on or after 6th April 1999.

*Schedule 7 to the Finance Act 1997*

21.—(1) Schedule 7 to the Finance Act 1997 shall be amended as follows. 1997 c. 16.

(2) Paragraph 2 (distributions treated as FIDs) shall cease to have effect.

(3) Paragraphs 4 to 6 (exceptions for stock options, dividends on fixed rate preference shares and pre-sale distributions) shall cease to have effect.

(4) Sub-paragraphs (2) and (3) above have effect in relation to distributions made on or after 6th April 1999.

*Transitional provisions*

22.—(1) Where, in the case of an accounting period of a company beginning before 6th April 1999 and ending on or after 5th April 1999 ("a transitional period"), there would (apart from this sub-paragraph) be such an excess as is mentioned in section 246F(3) of the Taxes Act 1988, no such excess shall be deemed to have arisen.

(2) In their application in relation to foreign income dividends paid in an accounting period of a company beginning before 6th April 1999, sections 246J(5) and 246K(10) of the Taxes Act 1988 shall have effect as if the reference to any subsequent accounting period—

- (a) included an accounting period which immediately follows a transitional period, but
- (b) did not include any later accounting period.

23. Where a foreign income dividend paid by a company before 6th April 1999—

- (a) is received by a person on or after that date, and
- (b) is not one in relation to which section 246D of the Taxes Act 1988 applies,

the recipient shall be treated, for all purposes of the Tax Acts, as receiving instead a qualifying distribution made by a company resident in the United Kingdom of an amount equal to nine tenths of the amount of the foreign income dividend.

**SCHEDULE 7**

Section 41.

**RESTRICTIONS ON GROUP RELIEF***Introductory*

1. Chapter IV of Part X of the Taxes Act 1988 (group relief) shall be amended in accordance with paragraphs 2 to 7 below.

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*New limits*

2. The following sections shall be inserted after section 403—

- “Limits on group relief. 403A.—(1) The amount which, on a claim for group relief, may be set off against the total profits of the claimant company for an accounting period (‘the claim period’), and accordingly the amount to which any consent required in respect of that claim may relate, shall not exceed whichever is the smaller of the following amounts—
- (a) the unused part of the surrenderable amount for the overlapping period; and
  - (b) the unrelieved part of the claimant company’s total profits for the overlapping period.
- (2) For the purposes of any claim for group relief—
- (a) the unused part of the surrenderable amount for the overlapping period is the surrenderable amount for that period reduced by the amount of any prior surrenders attributable to the overlapping period; and
  - (b) the unrelieved part of the claimant company’s total profits for the overlapping period is the amount of its total profits for that period reduced by the amount of any previously claimed group relief attributable to the overlapping period.
- (3) For the purposes of any claim for group relief—
- (a) the surrenderable amount for the overlapping period is so much of the surrenderable amount for the accounting period of the surrendering company to which the claim relates as is attributable, on an apportionment in accordance with section 403B, to the overlapping period;
  - (b) the surrenderable amount for an accounting period of the surrendering company is the total amount for that accounting period of the losses and other amounts which (disregarding this section and section 403C) are available in that company’s case for set off by way of group relief; and
  - (c) the amount of the claimant company’s total profits for the overlapping period is so much of its total profits for the claim period as is attributable, on an apportionment in accordance with section 403B, to the overlapping period.
- (4) In relation to any claim for group relief (‘the relevant claim’) the amount of the prior surrenders attributable to the period which is the overlapping period in the case of the relevant claim is equal to the aggregate amount (if any) produced by—
- (a) taking the amount of every claim for group relief (whether a group claim or a consortium claim) which—
    - (i) has been made before the relevant claim,
    - (ii) was made in respect of the whole or any part of the amount which, in relation to the relevant claim, is the surrenderable amount for the accounting period of the surrendering company to which the claim relates, and
    - (iii) has not been withdrawn;

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- (b) treating the amount of group relief which (having regard to the provisions of this section) is allowable under each such claim as an amount of relief for the period which is the overlapping period in the case of that claim;
- (c) determining how much of each amount treated in accordance with paragraph (b) above as an amount of relief for a particular period is attributable, on an apportionment in accordance with section 403B, to the period (if any) which is common to both—
  - (i) that period; and
  - (ii) the period which is the overlapping period in the case of the relevant claim;
 and
- (d) aggregating all the amounts determined under paragraph (c) above in respect of the previously made claims.

(5) In relation to any claim for group relief ('the relevant claim'), the amount of previously claimed group relief attributable to the period which is the overlapping period in the case of that claim is the aggregate amount produced by—

- (a) taking the amount of every claim for group relief (whether a group claim or a consortium claim) which—
  - (i) has been made before the relevant claim,
  - (ii) was a claim to set off an amount by way of group relief against the claimant company's total profits for the period which, in relation to the relevant claim, is the claim period, and
  - (iii) has not been withdrawn;
- (b) treating the amount of group relief which (having regard to the provisions of this section) is allowable under each such claim as an amount of relief for the period which is the overlapping period in the case of that claim;
- (c) determining how much of each amount treated in accordance with paragraph (b) above as an amount of relief for a particular period is attributable, on an apportionment in accordance with section 403B, to the period (if any) which is common to both—
  - (i) that period; and
  - (ii) the period which is the overlapping period in the case of the relevant claim;
 and
- (d) aggregating all the amounts determined under paragraph (c) above in respect of the previously made claims.

(6) For the purposes of this section the amount of group relief allowable on any claim ('the finalised claim') shall fall to be determined as at the time when that claim ceases to be capable of being withdrawn as if—

- (a) every claim that became incapable of being withdrawn before that time were a claim made before the finalised claim; and

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- (b) every claim that remains capable of being withdrawn at that time were a claim made after the finalised claim.

(7) Subject to subsection (6) above and without prejudice to any power to withdraw and resubmit claims, where (but for this subsection) more than one claim for group relief would be taken for the purposes of subsections (4) and (5) above to have been made at the same time, those claims shall be deemed, instead, to have been made—

- (a) in such order as the company or companies making them may, by notice to any officer of the Board, elect or, as the case may be, jointly elect; and  
 (b) if there is no such election, in such order as an officer of the Board may direct.

(8) In this section ‘the overlapping period’, in relation to a claim for group relief, means (subject to subsection (9) below and section 406(3) and (7)) the period which is common to both—

- (a) the claim period; and  
 (b) the accounting period of the surrendering company to which the claim relates.

(9) For the purposes of this section any time in the period which, in relation to any claim for group relief, is common to both the accounting periods mentioned in subsection (8) above but which is a time when the qualifying conditions were not satisfied—

- (a) shall be treated as not comprised in the period which is the overlapping period in the case of that claim; and  
 (b) shall be treated instead, in relation to each of those accounting periods, as if it constituted a part of that accounting period which was not common to both periods.

(10) For the purposes of subsection (9) above the qualifying conditions are satisfied in relation to any claim for group relief at the following times, that is to say—

- (a) if the claim is a group claim, whenever the claimant company and the surrendering company are both members of the same group; and  
 (b) if the claim is a consortium claim, whenever the conditions specified in section 402(3) for the making of that claim are satisfied in the case of the claimant company and the surrendering company.

Apportionments  
under section  
403A.

403B.—(1) Subject to subsection (2) below, where an apportionment falls to be made under section 403A for the purpose of determining how much of an amount for any period (‘the first period’) is attributable to any other period (‘the second period’) which comprises the whole or a part of the first period—

- (a) the whole of that amount shall be attributed to the second period if the first and second periods begin and end at the same times; and  
 (b) in any other case, the apportionment shall be made on a time basis according to how much of the first period coincides with the second period.



(2) Where the circumstances of a particular case are such that the making on the time basis mentioned in subsection (1)(b) above of some or all of the apportionments to be made in that case would work in a manner that would be unjust or unreasonable in relation to any person, those apportionments shall be made instead (to the extent only that is necessary in order to avoid injustice and unreasonableness) in such other manner as may be just and reasonable.

Special rules for consortium cases.

403C.—(1) Where—

- (a) in the case of a consortium claim, the surrendering company is a member of the consortium, and
- (b) the amount produced by multiplying the surrenderable amount for the overlapping period by the relevant fraction is less than the smaller of the amounts given by subsection (1)(a) and (b) of section 403A,

the amount which, on that claim, may be set off against the total profits of the claimant company for the claim period shall not exceed the amount produced by that multiplication.

(2) Where—

- (a) in the case of a consortium claim, the claimant company is a member of the consortium, and
- (b) the amount produced by multiplying the claimant company's total profits for the overlapping period by the relevant fraction is less than the smaller of the amounts given by subsection (1)(a) and (b) of section 403A,

the amount which, on that claim, may be set off against the total profits of the claimant company for the claim period shall not exceed the amount produced by that multiplication.

(3) For the purposes of this section the relevant fraction is the fraction equivalent to—

- (a) in a case falling within subsection (1) above, the surrendering company's member's share in the consortium in the accounting period of that company which is or includes the overlapping period; and
- (b) in a case falling within subsection (2) above, the claimant company's member's share in the consortium in the accounting period of that company which is or includes the overlapping period.

(4) Expressions used in this section and in section 403A have the same meanings in this section as in that section."

#### *Consequential amendments*

3. Subsection (9) of section 403 (fraction limiting relief in the case of consortium claims) shall cease to have effect.

4. In section 405(4) (claims relating to losses of members of both groups and consortia), for the words from "a fraction" to "403(9)(b)" there shall be substituted "which an amount may by virtue of that claim be set off by way of group relief".

5.—(1) In section 406 (consortium claims by or in relation to group members and consortium companies), in each of subsections (2) and (6) (which refer to the fraction in section 403(9))—

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- (a) for “appropriate under section 403(9)” there shall be substituted “the relevant fraction for the purposes of section 403C”; and
- (b) for “that which would be appropriate” there shall be substituted “it would be”.

(2) For subsection (3) of that section there shall be substituted the following subsection—

“(3) Sections 403A to 403C shall have effect in relation to a consortium claim made by a group member by virtue of subsection (2) above as if any time when the claimant company was not a member of the group—

- (a) were not comprised in the period which is the overlapping period in the case of that claim; and
- (b) were to be treated instead as if it constituted a part of the claim period which did not coincide with any part of the accounting period of the surrendering company to which the claim relates.”

(3) For subsection (7) of that section there shall be substituted the following subsection—

“(7) Sections 403A to 403C shall have effect in relation to a consortium claim made by a consortium company by virtue of subsection (5) above as if any time when the surrendering company was not a member of the group—

- (a) were not comprised in the period which is the overlapping period in the case of that claim; and
- (b) were to be treated instead as if it constituted a part of the claim period that did not coincide with any part of the accounting period of the surrendering company to which the claim relates.”

(4) In subsection (8) of that section, for the words from “that fraction” to “409(3)(b)” there shall be substituted “the maximum amount of relief available to the claimant company”.

6. Sections 408, 409 and 411(2) to (9) (which limit group relief where the accounting periods of the claimant company and the surrendering company do not coincide and where companies join and leave groups and make other provision for excluding double relief) shall cease to have effect.

7. In section 413 (interpretation), after subsection (2) there shall be inserted the following subsection—

“(2A) For the purposes of group relief an accounting period of the claimant company which falls wholly or partly within an accounting period of the surrendering company shall be taken to correspond to that accounting period of the surrendering company.”

1992 c. 12.

8. In section 179(4) of the Taxation of Chargeable Gains Act 1992 (which specifies when a gain or loss on de-grouping is deemed to accrue), for the words after paragraph (b) there shall be substituted—

“and sections 403A and 403B of the Taxes Act (limits on group relief) shall have effect accordingly as if the actual circumstances were as they are treated as having been.”

*Commencement*

9.—(1) This Schedule has effect, subject to sub-paragraphs (2) to (4) below, in relation to any claim for group relief if—

- (a) the accounting period of the claimant company for which relief is claimed, or

(b) the accounting period of the surrendering company to which that claim relates,  
is an accounting period ending on or after 2nd July 1997.

(2) This Schedule does not apply in relation to any claim for group relief for which the overlapping period for the purposes of section 403A of the Taxes Act 1988 would be a period falling entirely before 2nd July 1997.

(3) Where in the case of any claim for group relief the overlapping period begins before but ends on or after 2nd July 1997, the maximum amount which in the claimant's case is allowable on that claim by way of group relief shall (instead of being determined in accordance with this Schedule) be the amount determined by—

- (a) taking the maximum amount that would have been allowable on that claim if this Schedule had not been enacted; and
- (b) reducing that amount by the amount (if any) of the relief withdrawn in respect of the part of the claimant company's accounting period beginning with 2nd July 1997.

(4) For the purposes of sub-paragraph (3) above the relief withdrawn in respect of the part of the claimant company's accounting period beginning with 2nd July 1997 is the amount (if any) by which the amount specified in paragraph (a) below exceeds the amount specified in paragraph (b) below, that is to say—

- (a) the maximum amount which would have been allowable by way of group relief on the claimant company's claim if this Schedule had not been enacted but it were assumed that the qualifying conditions were not satisfied in relation to that claim at any time before 2nd July 1997; and
- (b) the maximum amount which would be allowable by way of group relief on that claim if that were assumed but relief fell to be given in accordance with Chapter IV of Part X of the Taxes Act 1988 as amended by this Schedule.

(5) For the purposes of sub-paragraph (4) above an assumption in relation to any claim that the qualifying conditions were not satisfied at a particular time is an assumption that, at that time, the claimant company and the surrendering company—

- (a) were not both members of the same group; and
- (b) did not satisfy in relation to each other the conditions specified in section 402(3) of the Taxes Act 1988 for the making of a consortium claim.

## SCHEDULE 8

### REPEALS

Section 52.

#### PART I

#### VEHICLE LICENSING: PAYMENTS WHERE INFORMATION TO BE TRANSMITTED ELECTRONICALLY

Chapter	Short title	Extent of repeal
1994 c. 22.	The Vehicle Excise and Registration Act 1994.	Section 22(3).

## PART II

## INCOME TAX AND CORPORATION TAX

## (1) RELIEF FOR MORTGAGE INTEREST PAYMENTS

Chapter	Short title	Extent of repeal
1988 c. 1.	The Income and Corporation Taxes Act 1988.	In section 353(1G), the words after paragraph (b). In section 369(1A), the words after paragraph (b).

These repeals have effect in accordance with section 15 of this Act.

## (2) MEDICAL INSURANCE RELIEF

Chapter	Short title	Extent of repeal
1989 c. 26.	The Finance Act 1989.	Sections 54 to 57.
1994 c. 9.	The Finance Act 1994.	Section 83. Schedule 10.
1996 c. 8.	The Finance Act 1996.	In section 129— (a) paragraph (a) of subsection (1); (b) in subsection (2), the words “section 54(6)(b) of the 1989 Act and”; and (c) subsections (3) and (5). In Schedule 18— (a) paragraph 12; and (b) in paragraph 17, the words “12(2)(a) and (b)” and “12(2)(c) and (3)” wherever occurring and the words “12(2)(d)” in subparagraph (8).

These repeals have effect for the year 1997-98 and subsequent years of assessment except in relation to the cases in which the relief that has been or may be given under section 54 of the Finance Act 1989 in respect of any payment is unaffected by the provisions of section 17(1) of this Act.

## (3) CORPORATION TAX RATES

Chapter	Short title	Extent of repeal
1997 c. 16.	The Finance Act 1997.	Section 58. Section 59(a).

## (4) TAXATION OF DISTRIBUTIONS: SURPLUS FRANKED INVESTMENT INCOME

Chapter	Short title	Extent of repeal
1988 c. 1.	The Income and Corporation Taxes Act 1988.	In section 6(4), the words "242, 243". In section 75(5), the words "or against a decision on a claim under section 242". Sections 242 to 244. In section 704, in paragraph A, sub-paragraph (e). Section 825(4)(d). Section 826(7B).
1990 c. 1.	The Capital Allowances Act 1990.	In Schedule 1, paragraph 8(11).
1991 c. 31.	The Finance Act 1991.	In Schedule 15, paragraphs 5 and 6.
1993 c. 34.	The Finance Act 1993.	In section 78, subsections (8) to (10), and in subsection (11) the words from "but this subsection" to the end.
1995 c. 4.	The Finance Act 1995.	In Schedule 8, in paragraph 18, sub-paragraphs (7) and (8).
1996 c. 8.	The Finance Act 1996.	In Schedule 14, paragraph 12.
1997 c. 16.	The Finance Act 1997.	Section 71.

These repeals have effect in accordance with section 20 of this Act (and, accordingly, the repeal of subsection (7B) of section 826 of the Income and Corporation Taxes Act 1988 has effect only where the earlier period mentioned in that subsection begins on or after 2nd July 1997).

## (5) LLOYD'S UNDERWRITERS

Chapter	Short title	Extent of repeal
1993 c. 34.	The Finance Act 1993.	In paragraph 13 of Schedule 19— (a) in sub-paragraph (1), paragraph (b) and the word “or” immediately preceding it; (b) in sub-paragraph (3), the words “or paid” and, in paragraph (a), the words “or (as the case may be) that part of that income which includes the qualifying distribution”; (c) sub-paragraph (3A); and (d) sub-paragraph (4A).
1994 c. 9.	The Finance Act 1994.	In section 219(4), the words “(and any associated tax credits)”. In section 221(2), paragraph (b), and paragraph (d) and the word “and” immediately preceding it. In Schedule 21, paragraph 11.

These repeals have effect in relation to distributions made on or after 2nd July 1997.

## (6) INSURANCE COMPANIES AND FRIENDLY SOCIETIES: REPEALS OTHER THAN THOSE RELATING TO SELF-ASSESSMENT

Chapter	Short title	Extent of repeal
1988 c. 1.	The Income and Corporation Taxes Act 1988.	In section 76(8), the definition of “relevant franked investment income”. In section 432E(6), paragraph (b) and the word “and” immediately preceding it. In section 434, in subsection (3), the words from “but it may be the subject of a claim” onwards, and, in subsection (8), the words from “or by payment of tax credit” onwards. Section 434A(1).

Chapter	Short title	Extent of repeal
1988 c. 1.— <i>cont.</i>	The Income and Corporation Taxes Act 1988.— <i>cont.</i>	<p>In section 436(3), paragraphs (d) and (e).</p> <p>In section 438, subsections (3), (3AA), (5) to (7) and (9).</p> <p>Section 439B(7).</p> <p>Section 440B(1A) and (2).</p> <p>Section 441A(1).</p> <p>In paragraph 1 of Schedule 19AB—</p> <p>(a) in sub-paragraph (1), the words “the aggregate of”, and paragraph (b) and the word “and” immediately preceding it;</p> <p>(b) in sub-paragraph (7), the words “paid or”, paragraph (b) and the word “and” immediately preceding it, and the words “or in section 42(5A) of the Management Act”;</p> <p>(c) sub-paragraph (8); and</p> <p>(d) in sub-paragraph (10), the words “and payments of tax credits” and “or in section 42(5A) of the Management Act”.</p> <p>In Schedule 19AC, paragraph 2, in paragraph 5(1), the notionally inserted section 76(6B), in paragraph 5B, sub-paragraphs (1) to (3), and paragraphs 9A, 10, 10A, 11A(1), 12(1) and 15(1).</p>
1989 c. 26.	The Finance Act 1989.	In section 89, in subsection (2), paragraph (a) and, in paragraph (b), the words “other unrelieved”, and subsection (8).
1990 c. 29.	The Finance Act 1990.	Section 45(9). In Schedule 6, paragraph 5.
1994 c. 9.	The Finance Act 1994.	In Schedule 16, paragraph 6.
1995 c. 4.	The Finance Act 1995.	In Schedule 8, paragraphs 19(2), 28(2), 29, 35(2), 36, 41, 43 and 47.

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Chapter	Short title	Extent of repeal
1996 c. 8.	The Finance Act 1996.	Section 164(2)(b) and (3)(a). In Schedule 14, paragraph 51. In Schedule 27, paragraph 5. In Schedule 34, paragraphs 1(7) and 5(2).

Except for the repeals in Schedule 34 to the Finance Act 1996, these repeals have effect in accordance with the provisions of Schedule 3 to this Act, other than paragraph 11.

(7) INSURANCE COMPANIES AND FRIENDLY SOCIETIES: REPEALS RELATING TO SELF-ASSESSMENT

Chapter	Short title	Extent of repeal
1988 c. 1.	The Income and Corporation Taxes Act 1988.	In paragraph 1 of Schedule 19AB, in sub-paragraph (7), the words "paid or", paragraph (b) and the word "and" immediately preceding it, and the words "or section 42(4) of the Management Act". In paragraph 3 of Schedule 19AB— (a) in sub-paragraph (1A), the words "paid or" and "or section 42(4) of the Management Act", and paragraph (b) and the word "and" immediately preceding it; (b) in sub-paragraph (1B), the words "payments or" and paragraph (b) and the word "or" immediately preceding it; and (c) in sub-paragraph (8), the words "paid or" and paragraph (b) and the word "or" immediately preceding it.

These repeals have effect in accordance with paragraphs 11 and 12 of Schedule 3 to this Act.



## (8) TAXATION OF DEALERS IN RESPECT OF DISTRIBUTIONS ETC.

Chapter	Short title	Extent of repeal
1988 c. 1.	The Income and Corporation Taxes Act 1988.	In section 95, in subsection (1A), paragraphs (b) and (d), subsection (1B), in subsection (2), the word "qualifying" in both places where it occurs, and subsections (4) and (5). In section 234(1), the words "but subject to section 95(1A)(c)". In section 732, subsections (2) and (2A), in subsection (4) the words "on a stock exchange outside the United Kingdom", and subsections (5) to (7). Section 738(1)(a) and (b). In Schedule 23A, paragraph 2A(2). In Schedule 28B, in paragraph 13(5), paragraph (b) and the word "and" immediately preceding it.
1990 c. 29.	The Finance Act 1990.	Section 53(1).
1991 c. 31.	The Finance Act 1991.	Section 56.
1997 c. 16.	The Finance Act 1997.	In Schedule 7, paragraph 2(3)(a).

1. The repeals in sections 95 and 234 of, and Schedule 23A to, the Income and Corporation Taxes Act 1988 and in Schedule 7 to the Finance Act 1997 have effect in accordance with section 24 of this Act.

2. The repeals in sections 732 and 738 of the Income and Corporation Taxes Act 1988 and section 53 of the Finance Act 1990, and the repeal of section 56 of the Finance Act 1991, have effect in accordance with section 26 of this Act.

3. The repeal in Schedule 28B to the Income and Corporation Taxes Act 1988 has effect in accordance with section 25 of this Act.

## (9) TAX CREDITS AND SCHEDULE F INCOME

Chapter	Short title	Extent of repeal
1970 c. 9.	The Taxes Management Act 1970.	In section 42, subsections (4) and (4A) and in subsection (5), the words from "and the reference in subsection (4) above" onwards. In section 42, in subsection (5), the words "Subject to subsection (5A) below," and subsections (5A) and (10A).

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Chapter	Short title	Extent of repeal
1988 c. 1.	The Income and Corporation Taxes Act 1988.	In section 231, subsection (2), in subsection (3), the words from "and subject to" onwards and subsections (3A) to (3D). Section 231A. Section 232(2) and (3). Sections 235 to 237. In section 246(6)(a)(ii) the words "section 231(1) and". In section 709(2A), the words "and to a repayment of tax", "respectively" and "and to a payment of any amount in respect of a tax credit".
1989 c. 26.	The Finance Act 1989.	Section 106.
1990 c. 29.	The Finance Act 1990.	Section 97.
1993 c. 34.	The Finance Act 1993.	In Schedule 6, paragraph 3.
1994 c. 9.	The Finance Act 1994.	In Schedule 9, paragraph 2.
1995 c. 4.	The Finance Act 1995.	Section 107(5) and (6).
1997 c. 16.	The Finance Act 1997.	Section 70. In Schedule 7, paragraph 3.
1997 c. 58.	The Finance (No. 2) Act 1997.	Section 19.

1. The repeals in section 42 of the Taxes Management Act 1970 (and the related repeals of section 97 of the Finance Act 1990 and in section 107 of the Finance Act 1995) have effect in accordance with paragraphs 2 and 3 of Schedule 4 to this Act.

2. The repeal in section 709 of the Income and Corporation Taxes Act 1988 has effect for the year 1999-00 and subsequent years of assessment.

3. The other repeals have effect in relation to distributions made on or after 6th April 1999.

## (10) TAX CREDITS ETC: INSURANCE COMPANIES AND LLOYD'S UNDERWRITERS

Chapter	Short title	Extent of repeal
1988 c. 1.	The Income and Corporation Taxes Act 1988.	In section 231B, in subsection (4)(b), the words "or 441A(7)". In section 434(1A), the words from "but this subsection" onwards. Section 441A(2) to (8). In Schedule 19AC, in paragraph 9(1), in the notionally inserted section 434(1D), the

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Chapter	Short title	Extent of repeal
1988 c. 1.— <i>cont.</i>	The Income and Corporation Taxes Act 1988.— <i>cont.</i>	words from “but this subsection” onwards and paragraph 11A(2).
1993 c. 34.	The Finance Act 1993.	In Schedule 20, paragraph 9(3) and, in paragraph 11(3)(c), the words “or tax credit received” and “or (3)”.
1995 c. 4.	The Finance Act 1995.	In Schedule 8, paragraph 31.

These repeals have effect in relation to distributions made on or after 6th April 1999.

## (11) FOREIGN INCOME DIVIDENDS

Chapter	Short title	Extent of repeal
1988 c. 1.	The Income and Corporation Taxes Act 1988.	<p>In section 13, in subsection (7), the words “and with the addition of foreign income dividends arising to the company”, and subsection (8A).</p> <p>In section 75, in subsection (2), the words “foreign income dividends”, and subsection (6).</p> <p>Sections 246A to 246Y.</p> <p>Section 247(5A) to (5D).</p> <p>In section 431(2), the definition of “foreign income dividends”.</p> <p>In section 434, subsections (3B) to (3D) and, in subsection (6A), paragraphs (aa) to (ac).</p> <p>In section 458(2), the words “and foreign income dividends arising to”.</p> <p>Section 468H(5).</p> <p>In section 468I, in subsection (2), the words “which are not foreign income dividends”, and subsections (3), (5), (5A) and (7).</p> <p>In section 468J, in subsection (1), the words “or a part of the total amount” and “which are not foreign income dividends”, in subsection (2), the words “or, as the case may be, the part”, and subsection (3).</p> <p>Section 468K.</p>

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Chapter	Short title	Extent of repeal
1988 c. 1.— <i>cont.</i>	The Income and Corporation Taxes Act 1988.— <i>cont.</i>	<p>Section 468M(5)(c).</p> <p>In section 468Q, in subsection (2)(a), the words “a foreign income distribution”, in subsection (3), the definition of “B”, and subsection (4).</p> <p>Section 468R.</p> <p>In section 490, in subsection (1), the words “or out of foreign income dividends”, in subsection (4), the words “or foreign income dividends”, and subsection (5).</p> <p>In section 687(3), paragraph (aaa).</p> <p>In section 689B(2)(b), the words “246D(4) or”.</p> <p>In section 699A, in subsections (1)(a) and (4)(a), the word “246D(3)”.</p> <p>In section 701(8), the word “246D(3)”.</p> <p>In section 731, in subsection (9A), the words “other than a foreign income dividend”, and subsections (9B) to (9D).</p> <p>In section 802, in subsection (2), the words “foreign income dividends”, and subsection (4).</p> <p>In paragraph 1 of Schedule 13—</p> <p>(a) in sub-paragraph (1), paragraph (b), in paragraph (c) the words “and foreign income dividends paid”, and the words following paragraph (c); and</p> <p>(b) in sub-paragraph (4), the word “4A(2),” and paragraph (b) and the word “and” immediately preceding it.</p> <p>In paragraph 2 of Schedule 13, sub-paragraphs (1)(d) to (f) and (5) and (6).</p> <p>In paragraph 3 of Schedule 13, in sub-paragraph (1), the words “and foreign income dividends”, and in sub-paragraph (3),</p>

Chapter	Short title	Extent of repeal
1988 c. 1.— <i>cont.</i>	The Income and Corporation Taxes Act 1988.— <i>cont.</i>	<p>the words “or foreign income dividend”.</p> <p>In Schedule 13, paragraphs 3A and 3B.</p> <p>In paragraph 4(2) of Schedule 13, the words “or paid any foreign income dividends”.</p> <p>In Schedule 13, paragraphs 4A and 6A.</p> <p>In paragraph 7(3) of Schedule 13, the words “and no foreign income dividend is paid”.</p> <p>In Schedule 13, paragraph 9A.</p> <p>In Schedule 23A, in paragraph 1(1), the definition of “foreign income dividend”, in paragraph 2(6), the words “Subject to paragraph 2B(2)(b) below”, and paragraph 2B.</p>
1989 c. 26.	The Finance Act 1989.	<p>In section 88A(3), paragraph (d)(ii) and the word “or” immediately preceding it, and the words “(or by that subsection as applied by section 468R(2) of that Act)”.</p> <p>In section 89, in subsection (2), paragraph (c) and the word “and” immediately preceding it, and subsection (2A).</p>
1993 c. 34.	The Finance Act 1993.	Section 171(2A).
1994 c. 9.	The Finance Act 1994.	<p>In Schedule 16, paragraph 1, in paragraph 3, subparagraphs (5) to (10) and (12), and paragraphs 4, 5(4) and (5), 7 to 9 and 11 to 16.</p> <p>In Schedule 21, paragraph 1(1) and (3)(a).</p>
1995 c. 4.	The Finance Act 1995.	Section 76(1).
1996 c. 8.	The Finance Act 1996.	<p>Section 122(5)(a).</p> <p>In Schedule 6, paragraph 5.</p> <p>In Schedule 23, paragraphs 4 and 6.</p> <p>In Schedule 27, paragraphs 1 to 4 and 6.</p> <p>In Schedule 38, in paragraph</p>

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Chapter	Short title	Extent of repeal
1996 c. 8.— <i>cont.</i>	The Finance Act 1996.— <i>cont.</i>	6, sub-paragraph (2)(c) and, in sub-paragraph (5), the words “(2)(c) and”.
1997 c. 16.	The Finance Act 1997.	Section 72. In Schedule 7, paragraphs 2, 4 to 6 and 9 to 11. In Schedule 10, paragraphs 9 and 10(2) and (3).

These repeals have effect in accordance with section 36 of, and Schedule 6 to, this Act.

## (12) DISTRIBUTIONS: CONSEQUENTIAL REPEALS

Chapter	Short title	Extent of repeal
1997 c. 16.	The Finance Act 1997.	In Schedule 7, paragraphs 1 and 7.

1. The repeal of paragraph 1 of Schedule 7 to the Finance Act 1997 has effect in relation to distributions made on or after 6th April 1999.

2. The repeal of paragraph 7 of that Schedule has effect in relation to payments which are representative of distributions made on or after 6th April 1999.

## (13) INTEREST ON GILT-EDGED SECURITIES, ETC.

Chapter	Short title	Extent of repeal
1988 c. 1.	The Income and Corporation Taxes Act 1988.	In section 50(1), paragraphs (a), (c) and (d). Section 51A. In section 118G— (a) in subsection (3), paragraphs (b) and (d) to (f); (b) subsections (8) and (10); and (c) in subsection (9), the words “or (8)”, “or subject to deduction of tax at a reduced rate” and “subsection (10) below and to”. In section 118H— (a) in subsection (2), the words from “or (8), or” to the words “case may be” in the first place where they occur and the words “or (8)” in

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Chapter	Short title	Extent of repeal
1988 c. 1.— <i>cont.</i>	The Income and Corporation Taxes Act 1988.— <i>cont.</i>	the second place where they occur; and (b) in subsections (3) and (4), the words “or (8)”, wherever they occur.
1995 c. 4.	The Finance Act 1995.	Section 77.

These repeals have effect in relation to payments falling due on or after 6th April 1998.

## (14) GROUP RELIEF

Chapter	Short title	Extent of repeal
1988 c. 1.	The Income and Corporation Taxes Act 1988.	Section 403(9). Sections 408 and 409. Section 411(2) to (9).
1990 c. 29.	The Finance Act 1990.	Section 96(11).

These repeals have effect, subject to the provisions of paragraph 9 of Schedule 7 to this Act, for accounting periods ending on or after 2nd July 1997.

## PART III

## STATUTORY EFFECT OF RESOLUTIONS ETC

Chapter	Short title	Extent of repeal
1993 c. 34.	The Finance Act 1993.	Section 206(3).

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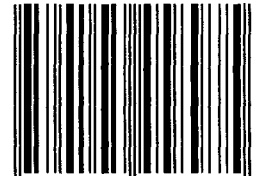
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