



# Finance Act 1998

## 1998 CHAPTER 36

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 1998]

Most Gracious Sovereign,

WE, Your Majesty's most dutiful and loyal subjects, the Commons of the United Kingdom in Parliament assembled, towards raising the necessary supplies to defray Your Majesty's public expenses, and making an addition to the public revenue, have freely and voluntarily resolved to give and grant unto Your Majesty the several duties hereinafter mentioned; and do therefore most humbly beseech Your Majesty that it may be enacted, and be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

### Modifications etc. (not altering text)

- C1** Act applied in part (with modifications) (29.3.2007) by [The Corporation Tax \(Taxation of Films\) \(Transitional Provisions\) Regulations 2007 \(S.I. 2007/1050\)](#), regs. 1(1), **3-13** (as amended by 2009 c. 4, Sch. 2 para. 131)

## PART I

### EXCISE DUTIES

#### *Alcoholic liquor duties*

#### **1 Rate of duty on beer.**

- (1) In section 36(1) of the <sup>M1</sup>Alcoholic Liquor Duties Act 1979 (rate of duty on beer), for "£11.14" there shall be substituted " £11.50 ".

*Status: Point in time view as at 19/07/2011.*

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(2) This section shall come into force on 1st January 1999.

**Marginal Citations**

M1 1979 c. 4.

**2 Adjustment of rates of duty on sparkling liquors.**

- (1) The <sup>M2</sup>Alcoholic Liquor Duties Act 1979 shall be amended as follows.
- (2) In Part I of the Table of rates of duty in Schedule 1, in column 2 of the fourth entry (rate of duty per hectolitre on sparkling wine or made-wine of a strength exceeding 5.5 per cent. but less than 8.5 per cent.), for “201.50” there shall be substituted “ 161.20 ”.
- (3) In section 62(1A)(a) (rate of duty per hectolitre on sparkling cider of a strength exceeding 5.5 per cent.), for “£37.54” there shall be substituted “ £45.05 ”.
- (4) This section shall be deemed to have come into force at 6 o’clock in the evening of 17th March 1998.

**Marginal Citations**

M2 1979 c. 4.

**3 Rates of duty on wine and made-wine.**

- (1) For Part I of the Table of rates of duty in Schedule 1 to the <sup>M3</sup>Alcoholic Liquor Duties Act 1979 (wine and made-wine of a strength not exceeding 22 per cent.) there shall be substituted—

**“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>
	<b>£</b>
Wine or made-wine of a strength not exceeding 4 per cent.	46.01
Wine or made-wine of a strength exceeding 4 per cent. but not exceeding 5.5 per cent.	63.26
Wine or made-wine of a strength exceeding 5.5 per cent. but not exceeding 15 per cent. and not being sparkling	149.28
Sparkling wine or sparkling made-wine of a strength exceeding 5.5 per cent. but less than 8.5 per cent.	161.20

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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.	213.27
Wine or made-wine of a strength exceeding 15 per cent. but not exceeding 22 per cent.	199.03

(2) This section shall come into force on 1st January 1999.”

#### Marginal Citations

M3 1979 c. 4.

#### 4 Rates of duty on cider.

(1) In section 62(1A) of the <sup>M4</sup>Alcoholic Liquor Duties Act 1979 (rates of duty on cider), for paragraphs (b) and (c) there shall be substituted the following paragraphs—

- “(b) £37.92 per hectolitre in the case of cider of a strength exceeding 7.5 per cent. which is not sparkling cider; and  
(c) £25.27 per hectolitre in any other case.”

(2) This section shall come into force on 1st January 1999.

#### Marginal Citations

M4 1979 c. 4.

#### 5 Drawback of excise duty on beer.

(1) Section 42 of the <sup>M5</sup>Alcoholic Liquor Duties Act 1979 (drawback on exportation, shipment as stores etc.) shall cease to have effect.

(2) Subsection (1) above shall come into force on such day as the Commissioners of Customs and Excise may by order made by statutory instrument appoint.

#### Commencement Information

I1 S. 5 partly in force at 31.7.1998 see s. 5(2).

#### Marginal Citations

M5 1979 c. 4.

### *Hydrocarbon oil duties*

#### 6 Charge on production without delivery.

(1) In section 6 of the <sup>M6</sup>Hydrocarbon Oil Duties Act 1979 (excise duty on imported hydrocarbon oil and on oil produced and delivered for home use), in subsection (1)—

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F1(a) .....

(b) the words from “and delivered” to “above” shall be omitted.

(2) For subsection (2) of that section there shall be substituted the following subsections—

“(2) Where—

- (a) imported hydrocarbon oil is removed to relevant premises,
- (b) the oil undergoes a production process at those premises or any other relevant premises, and
- (c) any duty charged on the importation of the oil has not become payable at any time before the production time,

the duty charged on importation shall not become payable at any time after the production time.

(2AA) In subsection (2) above—

“the production time” means the time at which the oil undergoes the production process; and

“relevant premises” means—

- (a) a refinery;
- (b) other premises used for the production of hydrocarbon oil; or
- (c) premises of such other description as may be specified in regulations made by the Commissioners.

(2AB) For the purposes of subsection (2) above, oil undergoes a production process if—

- (a) hydrocarbon oil of another description is obtained from it, or
- (b) it is subjected to any process of purification or blending.”

(3) The preceding provisions of this section shall come into force on such day as the Commissioners of Customs and Excise may by order made by statutory instrument appoint.

#### Textual Amendments

F1 S. 6(1)(a) omitted (1.11.2008) by virtue of [Finance Act 2008 \(c. 9\)](#), [Sch. 6 paras. 8\(c\)](#), 21

#### Marginal Citations

M6 1979 c. 5.

## 7 Rates of duties and rebates.

(1) In section 6(1A) of the <sup>M7</sup>Hydrocarbon Oil Duties Act 1979 (rates of duty on hydrocarbon oil)—

- (a) in paragraph (a) (light oil), for “£0.4510” there shall be substituted “ £0.4926 ”;
- (b) in paragraph (b) (ultra low sulphur diesel), for “£0.3928” there shall be substituted “ £0.4299 ”; and
- (c) in paragraph (c) (heavy oil that is not ultra low sulphur diesel), for “£0.4028” there shall be substituted “ £0.4499 ”.

(2) In section 11(1) of that Act (rebate on heavy oil)—



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- (a) in paragraph (a) (fuel oil), for “£0.0200” there shall be substituted “ £0.0218 ”; and
  - (b) in each of paragraphs (b) and (ba) (gas oil which is not ultra low sulphur diesel and ultra low sulphur diesel), for “£0.0258” there shall be substituted “ £0.0282 ”.
- (3) In section 13A(1A) of that Act (rebate on unleaded petrol)—
- (a) in paragraph (a) (higher octane unleaded petrol), for “£0.0150” there shall be substituted “ £0.0050 ”; and
  - (b) in paragraph (b) (other unleaded petrol), for “£0.0482” there shall be substituted “ £0.0527 ”.
- (4) In section 14(1) of that Act (rebate on light oil for use as furnace fuel), for “£0.0200” there shall be substituted “ £0.0218 ”.
- (5) This section shall be deemed to have come into force at 6 o’clock in the evening of 17th March 1998.

#### Marginal Citations

M7 1979 c. 5.

## 8 Ultra low sulphur diesel.

- (1) In section 1 of the <sup>M8</sup>Hydrocarbon Oil Duties Act 1979, for subsection (6) (meaning of “ultra low sulphur diesel”) there shall be substituted the following subsection—
- “(6) “Ultra low sulphur diesel” means gas oil—
- (a) the sulphur content of which does not exceed 0.005 per cent. by weight or is nil;
  - (b) the density of which does not exceed 835 kilograms per cubic metre at a temperature of 15° C; and
  - (c) of which not less than 95 per cent. by volume distils at a temperature not exceeding 345° C.”
- (2) This section shall be deemed to have come into force at 6 o’clock in the evening of 17th March 1998.

#### Marginal Citations

M8 1979 c. 5.

## 9 Mixtures of heavy oils.

- (1) In section 20AAA of the <sup>M9</sup>Hydrocarbon Oil Duties Act 1979 (charge to duty on mixtures of oils), after subsection (2) there shall be inserted the following subsection—
- “(2A) Where—
- (a) a mixture of heavy oils is produced in contravention of Part IIA of Schedule 2A to this Act, and
  - (b) the mixture is not produced as a result of approved mixing,

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a duty of excise shall be charged on the mixture.”

[<sup>F2</sup>(2) In subsection (3) of that section, after “subsection (1)” there shall be inserted “ or (2A) ”.

<sup>F2</sup>(3) In section 20AAB of that Act (supplementary provisions about mixing of oils), in subsection (1), after “section 20AAA(1)” there shall be inserted “ or (2A) ”.]

(4) In Schedule 2A to that Act (mixtures of oils to which duty applies), after paragraph 7 there shall be inserted the following—

## “PART IIA

### UNREBATED HEAVY OIL

7A A mixture of heavy oils is produced in contravention of this paragraph if such a mixture is produced by mixing—

- (a) ultra low sulphur diesel in respect of which, on its delivery for home use, a declaration was made that it was intended for use as fuel for a road vehicle; and
- (b) heavy oil of any other description in respect of which, on its delivery for home use, such a declaration was made.”

(5) In paragraph 9 of that Schedule (rate of duty for mixtures of heavy oil), after sub-paragraph (1) there shall be inserted the following sub-paragraph—

“(1A) Subject to paragraph 10 below, duty charged under subsection (2A) of section 20AAA of this Act shall be charged at the rate for heavy oil in force at the time when the mixture is produced.”

(6) This section shall be deemed to have come into force at 6 o’clock in the evening of 17th March 1998.

#### Textual Amendments

**F2** S. 9(2)(3) repealed (24.7.2002) by 2002 c. 23, s. 141, Sch. 40 Pt. 1(2). Note 2 to Sch. 40 Pt. 1(2) provides that “The repeals in the Finance Act 1988 have effect in accordance with section 5(8)(b) of this Act.”

#### Marginal Citations

**M9** 1979 c. 5.

### *Tobacco products duty*

## 10 Rates of tobacco products duty.

(1) For the Table of rates of duty in Schedule 1 to the <sup>M10</sup>Tobacco Products Duty Act 1979 there shall be substituted—

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“ TABLE

1. Cigarettes	An amount equal to 22 per cent. of the retail price plus £77.09 per thousand cigarettes.
2. Cigars	£114.79 per kilogram.
3. Hand-rolling tobacco	£87.74 per kilogram.
4. Other smoking tobacco and chewing tobacco	£50.47 per kilogram.”

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

**Marginal Citations**

**M10** 1979 c. 7.

*Gaming duty*

**11 Rates of gaming duty.**

(1) For the Table in section 11(2) of the <sup>M11</sup>Finance Act 1997 (rates of gaming duty) there shall be substituted the following table—

“TABLE

<i>Part of gross gaming yield</i>	<i>Rate</i>
The first £450,000	2½ per cent.
The next £1,000,000	12½ per cent.
The next £1,000,000	20 per cent.
The next £1,750,000	30 per cent.
The remainder	40 per cent.”

(2) In section 11(3) of that Act (rate of duty for unregistered gaming), for “ 131/3per cent.” there shall be substituted “ 40 per cent. ”

(3) This section has effect in relation to accounting periods beginning on or after 1st April 1998.

**Marginal Citations**

**M11** 1997 c. 16.

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- (1) In section 23 of the <sup>M12</sup>Betting and Gaming Duties Act 1981 (rates of amusement machine licence duty), for the Table in subsection (2) there shall be substituted the following Table—

“ TABLE

<i>(1)</i> <i>Period (in months)</i> <i>for which licence</i> <i>granted</i>	<i>(2)</i> <i>Machines that</i> <i>are not gaming</i> <i>machines</i>	<i>(3)</i> <i>Gaming machines</i> <i>that are small-</i> <i>prize machines</i> <i>or are five-penny</i> <i>machines without</i> <i>being small-prize</i> <i>machines</i>	<i>(4)</i> <i>Other machines</i>
	£	£	£
1	30	80	220
2	50	150	425
3	75	220	615
4	95	285	800
5	120	345	970
6	140	400	1,125
7	160	450	1,270
8	185	500	1,405
9	205	540	1,525
10	225	580	1,635
11	240	615	1,730
12	250	645	1,815”

- (2) This section shall apply in relation to any amusement machine licence for which an application is received by the Commissioners of Customs and Excise after 17th March 1998.

**Marginal Citations**

M12 1981 c. 63.

**13 Further exception for thirty-five-penny machines.**

- (1) In section 21(3A) of the <sup>M13</sup>Betting and Gaming Duties Act 1981 (excepted machines), for paragraphs (b) and (c) there shall be substituted the following paragraphs—

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- “(b) a five-penny machine which is a small prize machine; or
- (c) a thirty-five-penny machine which is not a prize machine or which, if it is a prize machine, is not a gaming machine.”

- (2) This section has effect in relation to the provision of an amusement machine at any time on or after 1st April 1998.

#### Marginal Citations

M13 1981 c. 63.

## 14 Video machines.

- (1) In section 21(3A) of the<sup>M14</sup>Betting and Gaming Duties Act 1981 (excepted machines), after paragraph (c) there shall be inserted “; or

(d) an excepted video machine.”

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

“(3B) For the purposes of this section an amusement machine is an excepted video machine if—

- (a) it is a video machine which is not a prize machine;
- (b) it is a machine on which a game can be played solo;
- (c) the price for a solo game on the machine does not exceed 35p; and
- (d) the price to participate in a game on the machine for two or more players does not exceed 50p.

(3C) For the purposes of this section the price for a solo game on a machine does not exceed 35p if the denomination or aggregate denomination of the coin or coins that must be inserted into the machine to play the game solo does not or, where the machine provides differing numbers of games in different circumstances, cannot exceed 35p for each time the game is played.

(3D) For the purposes of this section the price to participate in a game on the machine for two or more players does not exceed 50p if the denomination or aggregate denomination of the coin or coins that must be inserted into the machine to play the game simultaneously with more than one player does not exceed or, where the machine provides differing numbers of games in different circumstances, cannot exceed 50p per player for each time the game is played.

(3E) For the purposes of this section a game is played solo if it is played by one person at a time (whether or not against a previous player).”

- (3) Accordingly, in section 25 of that Act—

- (a) in subsection (4) (no account to be taken of the fact that a machine may be played by more than one person at a time), after “description” there shall be inserted “ other than an excepted video machine falling within section 21(3A) (d) above ”; and
- (b) in subsection (6) (excepted machine not to be treated as a number of machines), for the words “in the case of any machine” onwards there shall be substituted “ for the purpose of determining whether a machine is an excepted

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video machine falling within section 21(3A)(d) above, or in the case of a pinball machine or a machine that is an excepted machine ”.

- (4) This section has effect in relation to the provision of an amusement machine at any time on or after the day on which this Act is passed.

#### Marginal Citations

M14 1981 c. 63.

#### *Air passenger duty*

### 15 Fiscal representatives.

- (1) After section 34 of the <sup>M15</sup>Finance Act 1994 (fiscal representatives) there shall be inserted the following section—

#### “34A Administrative representatives.

- (1) Subject to the following provisions of this section, where—
- (a) the appointment of any person to be the fiscal representative of an aircraft operator contains a statement that the appointment is made for administrative purposes only,
  - (b) the operator has complied with any obligations for the provision of security imposed, in relation to appointments containing such statements, by any general directions given by the Commissioners, and
  - (c) the operator is not for the time being in contravention of any requirement to provide any security that he is required to provide under section 36 below,
- that appointment shall have effect in accordance with subsection (2) below.
- (2) Where the appointment of any person as a fiscal representative has effect in accordance with this subsection section 34(4)(b) and (c) above shall be taken, in the case of that person—
- (a) not to impose any requirement on the representative to secure the payment of amounts of duty which are or may become due from his principal, and
  - (b) not to make him personally liable either to pay any such amounts or in respect of any failure by his principal to pay them.
- (3) The security that may be required by general directions given by the Commissioners for the purposes of this section is any such security for the payment of amounts of duty which are or may become due from the person providing the security as may be determined in accordance with the directions.
- (4) The power of the Commissioners under section 36 below to require the provision of security shall not include any power to require a fiscal representative of an aircraft operator whose appointment has effect in accordance with subsection (2) above to provide any security for the payment of amounts of duty which are or may become due from his principal.

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- (5) In this section references to an amount of duty include references to any penalty or interest that is recoverable as if it were an amount of duty, but only in so far as the penalty or interest is in respect of a failure by an aircraft operator to pay an amount of duty, or to pay such an amount before a certain time.”
- (2) In section 34(4) of that Act (effect of appointment of fiscal representative), after “subsection (5)” there shall be inserted “ and section 34A ”.

**Marginal Citations**

**M15** 1994 c. 9.

*Vehicle excise duty*

**16 Rates of duty where pollution reduced.**

Schedule 1 to this Act (which makes provision for reduced rates of vehicle excise duty to be applicable to certain vehicles adapted so as to reduce pollution) shall have effect.

**17 Restriction of exemption for old vehicles.**

In paragraph 1A(1) of Schedule 2 to the <sup>M16</sup>Vehicle Excise and Registration Act 1994 (exemption for vehicles more than 25 years old), for the words “more than 25 years before the beginning of the year in which that time falls” there shall be substituted “ before 1st January 1973. ”

**Marginal Citations**

**M16** 1994 c. 22.

**18 Regulations relating to nil licences.**

In section 22(2A) of the <sup>M17</sup>Vehicle Excise and Registration Act 1994 (provisions that may be made about nil licences), after paragraph (b) there shall be inserted the following paragraphs—

- “(c) make provision (including provision requiring the payment of a fee) for cases where a nil licence is or may be lost, stolen, destroyed or damaged or contains particulars which have become illegible or inaccurate,
- (d) require a person issued with a nil licence which ceases to be in force in circumstances prescribed by the regulations to furnish to the Secretary of State such particulars and make such declarations as may be so prescribed, and to do so at such times and in such manner as may be so prescribed.”

**Marginal Citations**

**M17** 1994 c. 22.

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## **19 Failure to pay amount required in respect of void licence.**

- (1) In subsection (1) of section 35A of the <sup>M18</sup>Vehicle Excise and Registration Act 1994 (offence of failing to return void licence)—
- (a) in paragraph (a), for the words from “requires” to “the notice” there shall be substituted “contains a relevant requirement”; and
  - (b) in paragraph (b), for “within that period” there shall be substituted “contained in the notice”.
- (2) After subsection (2) of that section there shall be inserted the following subsections—
- “(3) For the purposes of subsection (1)(a), a relevant requirement is—
- (a) a requirement to deliver up the licence within such reasonable period as is specified in the notice; or
  - (b) a requirement to deliver up the licence within such reasonable period as is so specified and, on doing so, to pay the amount specified in subsection (4).
- (4) The amount referred to in subsection (3)(b) is an amount equal to one-twelfth of the appropriate annual rate of vehicle excise duty for each month, or part of a month, in the relevant period.
- (5) The reference in subsection (4) to the appropriate annual rate of vehicle excise duty is a reference to the annual rate which at the beginning of the relevant period—
- (a) in the case of a vehicle licence, was applicable to a vehicle of the description specified in the application, or
  - (b) in the case of a trade licence, was applicable to a vehicle falling within paragraph 1 of Schedule 1 (or to a vehicle falling within subparagraph (1)(c) of paragraph 2 of that Schedule if the licence was to be used only for vehicles to which that paragraph applies).
- (6) For the purposes of subsection (4) the relevant period is the period—
- (a) beginning with the first day of the period for which the licence was applied for or, if later, the day on which the licence first was to have effect, and
  - (b) ending with whichever is the earliest of the times specified in subsection (7).
- (7) In a case where the requirement is a requirement to deliver up a vehicle licence, those times are—
- (a) the end of the month during which the licence was required to be delivered up,
  - (b) the end of the month during which the licence was actually delivered up,
  - (c) the date on which the licence was due to expire, and
  - (d) the end of the month preceding that in which there first had effect a new vehicle licence for the vehicle in question;
- and, in a case where the requirement is a requirement to deliver up a trade licence, those times are the times specified in paragraphs (a) to (c).”



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(3) In section 36 of that Act (additional liability to be imposed on persons convicted of offences under section 35A), for subsection (4) of that section there shall be substituted the following subsections—

“(4) For the purposes of this section the relevant period is the period—

- (a) beginning with the first day of the period for which the licence was applied for or, if later, the day on which the licence first was to have effect, and
- (b) ending with whichever is the earliest of the times specified in subsection (4A).

(4A) the case of a vehicle licence those times are—

- (a) the end of the month in which the order is made,
- (b) the date on which the licence was due to expire,
- (c) the end of the month during which the licence was delivered up, and
- (d) the end of the month preceding that in which there first had effect a new licence for the vehicle in question;

and, in the case of a trade licence, those times are the times specified in paragraphs (a) to (c).”

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

“(6) Where—

- (a) a person has been convicted of an offence under section 35A in relation to a vehicle licence or a trade licence, and
- (b) a requirement to pay an amount with respect to that licence has been imposed on that person by virtue of section 35A(3)(b),

the order to pay an amount under this section shall have effect instead of that requirement and the amount to be paid under the order shall be reduced by any amount actually paid in pursuance of the requirement.”

(5) The preceding provisions of this section apply to notices sent and orders made on or after the day on which this Act is passed.

#### **Marginal Citations**

**M18** 1994 c. 22.

#### *Assessments*

### **20 Assessments for excise duty purposes.**

Schedule 2 to this Act (assessments for excise duty purposes) shall have effect.

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## PART II

### VALUE ADDED TAX

#### 21 Deemed supplies.

- (1) Paragraph 5 of Schedule 4 to the <sup>M19</sup>Value Added Tax Act 1994 (disposal of business assets) shall be amended as follows.
- (2) In sub-paragraph (2)(a) (exception for gifts of small value), for “is” there shall be substituted “ of acquiring or, as the case may be, producing the goods was ”.
- (3) After sub-paragraph (2) there shall be inserted the following sub-paragraph—
  - “(2A) For the purposes of determining the cost to the donor of acquiring or producing goods of which he has made a gift, where—
    - (a) the acquisition by the donor of the goods, or anything comprised in the goods, was by means of a transfer of a business, or a part of a business, as a going concern,
    - (b) the assets transferred by that transfer included those goods or that thing, and
    - (c) the transfer of those assets is one falling by virtue of an order under section 5(3) (or under an enactment re-enacted in section 5(3)) to be treated as neither a supply of goods nor a supply of services,
 the donor and his predecessor or, as the case may be, all of his predecessors shall be treated as if they were the same person.”
- (4) In sub-paragraph (5) (transactions without consideration to be treated as supplies under paragraph 5 only where the supplier is a person entitled to credit for input tax), for “is” there shall be substituted “ or any of his predecessors is a person who (disregarding this paragraph) has or will become ”.
- (5) After that sub-paragraph there shall be inserted the following sub-paragraph—
  - “(5A) In relation to any goods or anything comprised in any goods, a person is the predecessor of another for the purposes of this paragraph if—
    - (a) that other person is a person to whom he has transferred assets of his business by a transfer of that business, or a part of it, as a going concern;
    - (b) those assets consisted of or included those goods or that thing; and
    - (c) the transfer of the assets is one falling by virtue of an order under section 5(3) (or under an enactment re-enacted in section 5(3)) to be treated as neither a supply of goods nor a supply of services;
 and references in this paragraph to a person’s predecessors include references to the predecessors of his predecessors through any number of transfers.”
- (6) The preceding provisions of this section apply to any case where the time when the goods are transferred or disposed of or, as the case may be, put to use, used or made available for use is on or after 17th March 1998.

#### Marginal Citations

M19 1994 c. 23.

*Status: Point in time view as at 19/07/2011.*

*Changes to legislation: Finance Act 1998 is up to date with all changes known to be in force on or before 18 October 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

## **22 Changes of place of supply: transitional.**

- (1) In the <sup>M20</sup>Value Added Tax Act 1994 the following section shall be inserted after section 97 (orders, rules and regulations)—

### **“97A Place of supply orders: transitional provision.**

- (1) This section shall have effect for the purpose of giving effect to any order made on or after 17th March 1998 under section 7(11), if—
- (a) the order provides for services of a description specified in the order to be treated as supplied in the United Kingdom;
  - (b) the services would not have fallen to be so treated apart from the order;
  - (c) the services are not services that would have fallen to be so treated under any provision re-enacted in the order; and
  - (d) the order is expressed to come into force in relation to services supplied on or after a date specified in the order (“the commencement date”).
- (2) Invoices and other documents provided to any person before the commencement date shall be disregarded in determining the time of the supply of any services which, if their time of supply were on or after the commencement date, would be treated by virtue of the order as supplied in the United Kingdom.
- (3) If there is a payment in respect of any services of the specified description that was received by the supplier before the commencement date, so much (if any) of that payment as relates to times on or after that date shall be treated as if it were a payment received on the commencement date.
- (4) If there is a payment in respect of services of the specified description that is or has been received by the supplier on or after the commencement date, so much (if any) of that payment as relates to times before that date shall be treated as if it were a payment received before that date.
- (5) Subject to subsection (6) below, a payment in respect of any services shall be taken for the purposes of this section to relate to the time of the performance of those services.
- (6) Where a payment is received in respect of any services the performance of which takes place over a period a part of which falls before the commencement date and a part of which does not—
- (a) an apportionment shall be made, on a just and reasonable basis, of the extent to which the payment is attributable to so much of the performance of those services as took place before that date;
  - (b) the payment shall, to that extent, be taken for the purposes of this section to relate to a time before that date; and
  - (c) the remainder, if any, of the payment shall be taken for those purposes to relate to times on or after that date.”
- (2) In section 6 of the <sup>M21</sup>Value Added Tax Act 1994 (time of supply), after subsection (14) there shall be inserted the following subsection—

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“(14A) In relation to any services of a description specified in an order under section 7(11), this section and any regulations under this section or section 8(4) shall have effect subject to section 97A.”

(3) This section shall be deemed to have come into force on 17th March 1998.

#### Marginal Citations

**M20** 1994 c. 23.

**M21** 1994 c. 23.

## 23 Bad debt relief.

(1) In subsection (1)(a) of section 36 of the <sup>M22</sup>Value Added Tax Act 1994 (bad debts), the words “for a consideration in money” shall be omitted.

(2) In subsection (3) of that section—

- (a) in paragraph (a), for “payment by way” there shall be substituted “ part ”; and
- (b) in paragraph (b), for “a payment or payments by way” there shall be substituted “ any part ” and for “the payment (or the aggregate of the payments)” there shall be substituted “ that part ”.

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

“(3A) For the purposes of this section, where the whole or any part of the consideration for the supply does not consist of money, the amount in money that shall be taken to represent any non-monetary part of the consideration shall be so much of the amount made up of—

- (a) the value of the supply, and
- (b) the VAT charged on the supply,

as is attributable to the non-monetary consideration in question.”

(4) In subsection (5) of that section—

- (a) in paragraph (c), for “subsequent payments” there shall be substituted “ anything subsequently received ”; and
- (b) in paragraph (e), for “payment (or further payment) by way” there shall be substituted “ part (or further part) ”.

(5) In subsection (6) of that section, in paragraphs (b) and (c) for “a payment” there shall in each place be substituted “ anything received ”.

(6) In subsection (7) of that section, for “part payment” there shall be substituted “ receipt of part of the consideration ”.

(7) Subsections (1) to (3) above have effect in relation to claims made on or after the day on which this Act is passed.

#### Marginal Citations

**M22** 1994 c. 23.

*Status:* Point in time view as at 19/07/2011.

*Changes to legislation:* Finance Act 1998 is up to date with all changes known to be in force on or before 18 October 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

## 24 Long leases in Scotland.

In section 96(1) of the <sup>M23</sup>Value Added Tax Act 1994, in paragraph (b) of the definition of “major interest” (land in Scotland not held on feudal tenure: lessee’s interest must be for a period exceeding 21 years), for “exceeding 21 years” there shall be substituted “of not less than 20 years”.

### Marginal Citations

M23 1994 c. 23.

## PART III

### INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

## CHAPTER I

### INCOME TAX AND CORPORATION TAX

#### *Income tax charge, rates and reliefs*

## <sup>F3</sup>25 Charge and rates for 1998-99.

.....

### Textual Amendments

F3 S. 25 repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 3 Pt. 1](#) (with [Sch. 2](#))

## <sup>F4</sup>26 .....

### Textual Amendments

F4 S. 26 repealed (27.7.1999 with effect for the year 2000-01 and subsequent years of assessment) by [1999 c. 16](#), s. 139, [Sch. 20 Pt. III\(4\)](#), Note

## 27 Married couple’s allowance etc. in and after 1999-00.

(1) The Taxes Act 1988 shall have effect for the year 1999-00 and subsequent years of assessment with the following amendments—

- <sup>F5</sup>(a) .....
- <sup>F6</sup>(b) .....

(2) For the purposes only of applying section 257C of the Taxes Act 1988 (indexation) for the year 1999-00, the amounts specified for the year 1998-99 in subsections (2) and (3) of section 257A of that Act (married couple’s allowance for persons of 65 or more) shall be taken to have been £4,965 and £5,025, respectively.

*Status: Point in time view as at 19/07/2011.*

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**Textual Amendments**

- F5** S. 27(1)(a) omitted (with effect in accordance with Sch. 1 para. 7 of the amending Act) by virtue of Finance Act 2009 (c. 10), **Sch. 1 para. 6(i)**
- F6** S. 27(1)(b) repealed (with effect in accordance with s. 381(1) of the amending Act) by Taxation (International and Other Provisions) Act 2010 (c. 8), s. 381(1), **Sch. 10 Pt. 13** (with Sch. 9 paras. 1-9, 22)

*Corporation tax charge and rates*

**28 Charge and rates for financial year 1998.**

(1) Corporation tax shall be charged for the financial year 1998 at the rate of 31 per cent.

<sup>F7</sup>(2) .....

**Textual Amendments**

- F7** S. 28(2) repealed (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), **Sch. 3 Pt. 1** (with Sch. 2)

**29 Charge and rates for financial year 1999.**

(1) Corporation tax shall be charged for the financial year 1999 at the rate of 30 per cent.

<sup>F8</sup>(2) .....

**Textual Amendments**

- F8** S. 29(2) repealed (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), **Sch. 3 Pt. 1** (with Sch. 2)

*Corporation tax: periodic payments etc*

**30 Corporation tax: due and payable date.**

(1) After section 59DA of the <sup>M24</sup>Taxes Management Act 1970 there shall be inserted—

**“59E Further provision as to when corporation tax is due and payable.**

- (1) The Treasury may by regulations make provision, in relation to companies of such descriptions as may be prescribed, for or in connection with treating amounts of corporation tax for an accounting period as becoming due and payable on dates which fall on or before the date on which corporation tax for that period would become due and payable apart from this section.
- (2) Without prejudice to the generality of subsection (1) above, regulations under this section may make provision—

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- (a) for or in connection with the determination of amounts of corporation tax which are treated as becoming due and payable under the regulations;
  - (b) for or in connection with the determination of the dates on which amounts of corporation tax are treated as becoming due and payable under the regulations;
  - (c) for or in connection with the making of payments to the Board in respect of amounts of corporation tax which are treated as becoming due and payable under the regulations;
  - (d) for or in connection with the determination of the amount of any such payments as are mentioned in paragraph (c) above;
  - (e) for or in connection with the determination of the dates on which any such payments as are mentioned in paragraph (c) above become due and payable;
  - (f) for or in connection with any assumptions which are to be made for any purposes of the regulations;
  - (g) for or in connection with the payment to the Board of interest on amounts of corporation tax which are treated as becoming due and payable under the regulations;
  - (h) for or in connection with the repayment of amounts paid under the regulations;
  - (i) for or in connection with the payment of interest by the Board on amounts paid or repaid under the regulations;
  - (j) with respect to the furnishing of information to the Board;
  - (k) with respect to the keeping, production or inspection of any books, documents or other records;
  - (l) for or in connection with the imposition of such requirements as the Treasury think necessary or expedient for any purposes of the regulations;
  - (m) for or in connection with appeals in relation to questions arising under the regulations.
- (3) Regulations under this section may make provision—
- (a) for amounts of corporation tax for an accounting period to be treated as becoming due and payable on dates which fall within the accounting period;
  - (b) for payments in respect of any such amounts of corporation tax for an accounting period as are mentioned in paragraph (a) above to become due and payable on dates which fall within the accounting period.
- (4) Where interest is charged by virtue of regulations under this section on any amounts of corporation tax for an accounting period which are treated as becoming due and payable under the regulations, the company shall, in such circumstances as may be prescribed, be liable to a penalty not exceeding twice the amount of that interest.
- (5) Regulations under this section—
- (a) may make such modifications of any provisions of the Taxes Acts, or
  - (b) may apply such provisions of the Taxes Acts,
- as the Treasury think necessary or expedient for or in connection with giving effect to the provisions of this section.

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- (6) Regulations under this section which apply any provisions of the Taxes Acts may apply those provisions either without modifications or with such modifications as the Treasury think necessary or expedient for or in connection with giving effect to the provisions of this section.
- (7) Regulations under this section—
- (a) may make different provision for different purposes, cases or circumstances;
  - (b) may make different provision in relation to companies or accounting periods of different descriptions;
  - (c) may make such supplementary, incidental, consequential or transitional provision as appears to the Treasury to be necessary or expedient.
- (8) Subject to subsection (9) below, regulations under this section may make provision in relation to accounting periods beginning before (as well as accounting periods beginning on or after) the date on which the regulations are made.
- (9) Regulations under this section may not make provision in relation to accounting periods ending before the day appointed under section 199 of the <sup>M25</sup>Finance Act 1994 for the purposes of Chapter III of Part IV of that Act (corporation tax self-assessment).
- (10) In this section—
- “modifications” includes amendments, additions and omissions;
- “prescribed” means prescribed by regulations made under this section.
- (11) Any reference in this section to corporation tax includes a reference—
- (a) to any amount due from a company under section 419 of the principal Act (loans to participators etc) as if it were an amount of corporation tax chargeable on the company;
  - (b) to any sum chargeable on a company under section 747(4)(a) of the principal Act (controlled foreign companies) as if it were an amount of corporation tax.”
- (2) The Treasury may by regulations make provision for or in connection with the payment to the Board of an amount or amounts determined by or under the regulations in any case where, on or after 25th November 1997 and before 30th June 2002, a company takes any action specified in the regulations which has the effect—
- (a) of delaying the application, or
  - (b) of delaying or avoiding the full effect,
- in relation to the company of any regulations made under section 59E of the <sup>M26</sup>Taxes Management Act 1970.
- (3) Any amount determined by or under regulations under this section shall be computed as if it were interest on a sum determined by or under the regulations; and any amount so determined shall be treated for the purposes of the Tax Acts as if it were interest due to the Board.
- (4) The action which may be specified in regulations under this section includes—



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- (a) a change by a company in the date or dates on which any of its accounting periods begin or end; or
  - (b) a transfer by a company of any property, rights or liabilities to a company which belongs to the same group as that company.
- (5) In subsection (4) above “group” means a company which has one or more 51 per cent. subsidiaries together with that or those subsidiaries.
- (6) Regulations under this section—
- (a) may make different provision in relation to different cases or in relation to companies of different descriptions;
  - (b) may make such supplementary, incidental, consequential or transitional provision as appears to the Treasury to be necessary or expedient.

#### **Marginal Citations**

**M24** 1970 c. 9.

**M25** 1994 c. 9.

**M26** 1970 c. 9.

### **31 Abolition of advance corporation tax.**

- (1) No company resident in the United Kingdom shall be liable to pay advance corporation tax in respect of any qualifying distribution made on or after 6th April 1999.
- (2) For the purposes of the Tax Acts, no distribution made on or after 6th April 1999 shall be treated as giving rise to the making of a franked payment.
- (3) No franked investment income which is attributable to a distribution made on or after 6th April 1999 shall be used to frank any distributions of a company.
- (4) Section 238(3) of the Taxes Act 1988 shall apply for the purposes of subsection (3) above as it applies for the purposes of Chapter V of Part VI of that Act.
- (5) Schedule 3 to this Act (which makes provision for and in connection with the abolition of advance corporation tax) shall have effect.

### **32 Unrelieved surplus advance corporation tax.**

- (1) The Treasury may by regulations make provision for or in connection with enabling unrelieved surplus advance corporation tax to be set against liability to corporation tax on profits charged to corporation tax for accounting periods ending on or after 6th April 1999 (and thus to discharge a corresponding amount of any such liability).
- (2) Without prejudice to the generality of subsection (1) above, regulations under this section may make provision—
  - (a) for or in connection with imposing a limit or limits on the amount of unrelieved surplus advance corporation tax which may be set against liability to corporation tax on profits charged to corporation tax for an accounting period;
  - (b) for or in connection with the carrying forward of unrelieved surplus advance corporation tax from earlier accounting periods to later accounting periods;

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- (c) for or in connection with the recovery of corporation tax from companies in prescribed circumstances where any such liability as is mentioned in paragraph (a) above is or has been discharged by the set-off of unrelieved surplus advance corporation tax;
  - (d) for or in connection with the reduction or extinguishment of unrelieved surplus advance corporation tax;
  - (e) for or in connection with treating notional amounts of advance corporation tax ("shadow ACT") as paid by companies in respect of distributions made on or after 6th April 1999;
  - (f) for or in connection with the determination of amounts of shadow ACT which are treated as paid by companies in respect of distributions made on or after 6th April 1999;
  - (g) in relation to the treatment of shadow ACT;
  - (h) in relation to the treatment of companies which have prescribed relationships or connections with each other;
  - (i) in relation to the treatment of prescribed events, arrangements or transactions involving companies with unrelieved surplus advance corporation tax.
- (3) The provision which may be made by regulations under this section includes provision—
- (a) for or in connection with treating shadow ACT as reducing any limit or limits on the amount of unrelieved surplus advance corporation tax which may be set against any such liability as is mentioned in subsection (2)(a) above;
  - (b) for or in connection with the carrying forward of shadow ACT from earlier accounting periods to later accounting periods;
  - (c) for or in connection with the carrying back of shadow ACT from later accounting periods to earlier accounting periods;
  - (d) for or in connection with the transfer of shadow ACT between companies;
  - (e) for or in connection with the reduction or extinguishment of shadow ACT.
- (4) The provision which may be made by virtue of subsection (2)(c) above includes provision for or in connection with the recovery of corporation tax from a company which has a prescribed relationship or connection with a company whose liability to corporation tax is or has been discharged by the set-off of unrelieved surplus advance corporation tax.
- (5) The provision which may be made by regulations under this section includes provision for or in connection with enabling unrelieved surplus advance corporation tax to be set against liability to a sum chargeable under section 747(4)(a) of the Taxes Act 1988 (controlled foreign companies) as if it were an amount of corporation tax for an accounting period.
- (6) In this section "unrelieved surplus advance corporation tax" means the advance corporation tax (if any) which, apart from sub-paragraph (3) of [F<sup>9</sup>paragraph 12] of Schedule 3 to this Act but otherwise in accordance with that paragraph, would be treated by virtue of section 239(4) of the Taxes Act 1988 as paid in respect of distributions made by a company in the first accounting period of the company to begin on or after 6th April 1999.
- (7) The reference in subsection (6) above to an accounting period beginning on or after 6th April 1999 includes a reference to a separate accounting period mentioned in section 245(2) of the Taxes Act 1988 which begins on 6th April 1999.

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- (8) Regulations under this section—
  - (a) may make such modifications of any provisions of the Tax Acts, or
  - (b) may apply such provisions of the Tax Acts,as the Treasury think necessary or expedient for or in connection with giving effect to the provisions of this section.
- (9) Regulations under this section which apply any provisions of the Tax Acts may apply those provisions either without modifications or with such modifications as the Treasury think necessary or expedient for or in connection with giving effect to the provisions of this section.
- (10) Regulations under this section—
  - (a) may make different provision for different purposes, cases or circumstances;
  - (b) may make different provision in relation to companies or accounting periods of different descriptions;
  - (c) may make such supplementary, incidental, consequential or transitional provision as appears to the Treasury to be necessary or expedient.
- (11) Regulations under this section may make provision in relation to accounting periods beginning before (as well as accounting periods beginning on or after) the date on which the regulations are made.
- (12) In this section—
  - “modifications” includes amendments, additions and omissions;
  - “prescribed” means prescribed by regulations made under this section.

**Textual Amendments**

**F9** Words in s. 32(6) substituted (*retrospective* to 31.7.1998) by 1999 c. 16, s. 91(4)(6)

**33 Relief for interest payable under the Tax Acts.**

- (1) Section 90 of the <sup>M27</sup>Taxes Management Act 1970 (interest on overdue tax to be paid without deduction of income tax and not to be allowed as a deduction in computing income, profits or losses) shall be amended as follows.
- (2) At the beginning there shall be inserted “(1)” and in the subsection (1) so formed—
  - (a) after “Interest payable under this Part of this Act” there shall be inserted “ (a) <sup>F10</sup>...  
<sup>F10</sup>(b) .....
  - <sup>F11</sup>(3) .....
  - <sup>F11</sup>(4) .....
  - <sup>F11</sup>(5) .....

**Textual Amendments**

**F10** S. 33(2)(b) and preceding word repealed (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), Sch. 3 Pt. 1 (with Sch. 2 Pts. 1, 2)

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**F11** S. 33(3)-(5) repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

**Marginal Citations**

**M27** 1970 c. 9.

**34 Charge to tax on interest payable under the Tax Acts.**

- (1) Section 826 of the Taxes Act 1988 (interest on tax overpaid) shall be amended as follows.
- (2) In subsection (5) (interest on overpaid tax to be paid without deduction of income tax and not to be brought into account in computing profits or income)—
  - (a) after “Interest paid under this section” there shall be inserted “ (a) ”; and
  - (b) after “and” there shall be inserted “ (b) ”.
- (3) At the beginning of the paragraph (b) formed by subsection (2)(b) above (interest not to be brought into account in computing profits or income) there shall be inserted “subject to subsection (5A) below,”.
- (4) After subsection (5) there shall be inserted—
 

“(5A) Paragraph (b) of subsection (5) above does not apply in relation to interest payable to a company within the charge to corporation tax.”
- (5) The amendments made by subsections (3) and (4) above have effect in relation to interest payable by virtue of any paragraph of section 826(1) of the <sup>M28</sup>Taxes Act 1988 if the accounting period mentioned in that paragraph is one which ends on or after the day appointed under section 199 of the Finance Act 1994 for the purposes of Chapter III of Part IV of that Act (corporation tax self-assessment).

**Marginal Citations**

**M28** 1994 c. 9.

**35 Further provision about interest payable under the Tax Acts.**

Schedule 4 to this Act (which makes further amendments relating to interest payable under the Tax Acts by or to companies) shall have effect.

**<sup>F12</sup>36 Arrangements with respect to payment of corporation tax.**

**Textual Amendments**

**F12** S. 36 repealed (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\)](#), s. 381(1), Sch. 7 para. 82, **Sch. 10 Pt. 12** (with Sch. 9 paras. 1-9, 22)

*Status: Point in time view as at 19/07/2011.*

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### *Gilt-edged securities*

#### **37 Abolition of periodic accounting.**

(1) Section 51B of the Taxes Act 1988 (which enables provision to be made requiring tax on interest on gilt-edged securities to be accounted for periodically) shall cease to have effect.

<sup>F13</sup>(2) . . . . .

(3) The preceding provisions of this section have effect in relation only to payments of interest falling due on or after such day as the Treasury may by order appoint.

#### **Subordinate Legislation Made**

**P1** S. 37(3) power exercised (9.3.1999): 1.4.1999 appointed by S.I. 1999/619, art. 2

#### **Textual Amendments**

**F13** S. 37(2) repealed (11.5.2001 with effect as mentioned in s. 87 of the amending Act) by 2001 c. 9, ss. 87, 110, Sch. 33 Pt. II(12) Note

### *Rents and other receipts from land*

#### **38 Taxation of rents and other receipts from land.**

(1) The provisions of Schedule 5 to this Act have effect with respect to tax on rents and other receipts from land.

Part I contains amendments relating to the charge to tax under Schedule A or Case V of Schedule D on rents and other receipts from land.

Part II contains amendments about relief for losses incurred in a Schedule A business or overseas property business, and the relationship between such relief and other reliefs.

Part III contains minor and consequential amendments.

(2) So far as relating to income tax, the provisions of Parts I to III of that Schedule have effect for the year 1998-99 and subsequent years of assessment.

(3) So far as relating to corporation tax, the provisions of Parts I to III of that Schedule come into force on 1st April 1998, subject to the transitional provisions in Part IV of the Schedule.

#### **39 Land managed as one estate and maintenance funds for historic buildings.**

Sections 26 and 27 of the Taxes Act 1988 (deductions from rent: land managed as one estate and maintenance funds for historic buildings) shall cease to have effect—

(a) for income tax purposes, on and after 6th April 2001;

(b) for corporation tax purposes, for accounting periods beginning on or after 1st April 2001.

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**F14 40 Treatment of premiums as rent.**

.....

**Textual Amendments**

**F14** S. 40 repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\), s. 1329\(1\), Sch. 3 Pt. 1](#) (with [Sch. 2 Pts. 1, 2](#))

**41 Tied premises: receipts and expenses treated as those of trade.**

**F15**(1) .....

(2) In section 156 of the <sup>M29</sup>Taxation of Chargeable Gains Act 1992 (replacement of business assets: buildings and land), for subsection (4) substitute—

“(4) Where section 98 of the Taxes Act applies (tied premises: receipts and expenses treated as those of trade), the trader shall be treated, to the extent that the conditions in subsection (1) of that section are met in relation to premises, as occupying as well as using the premises for the purposes of the trade.”.

(3) The above amendments have effect on and after 17th March 1998, subject to the following transitional provisions.

In those provisions—

“before commencement” and “after commencement” mean, respectively, before 17th March 1998 and on or after that date; and

“the new section 98” means the section as substituted by subsection (1) above.

**F16**(4) .....

**F16**(5) .....

**F16**(6) .....

**F16**(7) .....

**Textual Amendments**

**F15** S. 41(1) repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\), s. 1329\(1\), Sch. 3 Pt. 1](#) (with [Sch. 2 Pts. 1, 2](#))

**F16** S. 41(4)-(7) repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\), s. 1329\(1\), Sch. 3 Pt. 1](#) (with [Sch. 2 Pts. 1, 2](#))

**Marginal Citations**

**M29** 1992 c. 12.

*Computation of profits of trade, profession or vocation*

**F17 42 Computation of profits of trade, profession or vocation.**

.....

*Status: Point in time view as at 19/07/2011.*

*Changes to legislation: Finance Act 1998 is up to date with all changes known to be in force on or before 18 October 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

**Textual Amendments**

**F17** S. 42 repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), [Sch. 1 para. 452](#), [Sch. 3 Pt. 1](#) (with [Sch. 2 Pts. 1, 2](#))

**F18 43 Barristers and advocates in early years of practice.**

**Textual Amendments**

**F18** S. 43 repealed (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), s. 883(1), [Sch. 1 para. 501](#), [Sch. 3](#) (with [Sch. 2](#))

**F19 44** .....

**Textual Amendments**

**F19** S. 44 repealed (24.7.2002 with effect as mentioned in [Sch. 40 Pt. 3\(8\) Note 2](#) and [Sch. 22 paras. 16, 17](#) of the amending Act) by [2002 c. 23](#), s. 141, [Sch. 40 Pt. 3\(8\) Note 2](#)

**Modifications etc. (not altering text)**

**C2** S. 44 excluded (24.7.2002) by [2002 c. 23](#), s. [64\(6\)](#)

**F20 45** .....

**Textual Amendments**

**F20** S. 45 repealed (24.7.2002) by [2002 c. 23](#), s. 141, [Sch. 40 Pt. 3\(16\)](#)

**46 Minor and consequential provisions about computations.**

**F21(1)** .....

**F22(2)** .....

(3) In the provisions of the Tax Acts which refer to the subject of the charge under Case I or II of Schedule D as “profits or gains” or “profits and gains” of a trade, profession or vocation—

- (a) for “profits or gains” or “profits and gains”, wherever occurring, substitute “profits”, and
- (b) for “arising or accruing”, in reference to such profits or gains, substitute “arising”.

The provisions affected are listed in Schedule 7 to this Act.

*Status: Point in time view as at 19/07/2011.*

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#### Textual Amendments

- F21** S. 46(1) repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), [Sch. 1 para. 453](#), [Sch. 3 Pt. 1](#) (with [Sch. 2 Pts. 1, 2](#))
- F22** S. 46(2) repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), [Sch. 1 para. 453](#), [Sch. 3 Pt. 1](#) (with [Sch. 2 Pts. 1, 2](#))

### *Gifts to charities*

**F23** **47** .....

#### Textual Amendments

- F23** S. 47 repealed (27.7.1999 with effect in relation to gifts made on or after 27.7.1999) by [1999 c. 16](#), ss. 55(2)(3), 139, [Sch. 20 Pt. III\(12\)](#), Note

**F24** **48** **Gifts of money for relief in poor countries.**

.....

#### Textual Amendments

- F24** S. 48 repealed (19.7.2011) by [Finance Act 2011 \(c. 11\)](#), [Sch. 26 para. 2\(1\)](#)

### *Employee share incentives*

**F25** **49** **Employee share options.**

.....

#### Textual Amendments

- F25** Ss. 49-53 repealed (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\)](#), s. 723, [Sch. 8 Pt. 1](#) (with [Sch. 7](#))

**F25** **50** **Conditional acquisition of shares.**

.....

#### Textual Amendments

- F25** Ss. 49-53 repealed (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\)](#), s. 723, [Sch. 8 Pt. 1](#) (with [Sch. 7](#))



*Status: Point in time view as at 19/07/2011.*

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**F25 51 Convertible shares provided to directors and employees.**

**Textual Amendments**

**F25** Ss. 49-53 repealed (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\), s. 723, Sch. 8 Pt. 1](#) (with [Sch. 7](#))

**F25 52 Information powers.**

**Textual Amendments**

**F25** Ss. 49-53 repealed (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\), s. 723, Sch. 8 Pt. 1](#) (with [Sch. 7](#))

**F25 53 Provision supplemental to sections 50 to 52.**

**Textual Amendments**

**F25** Ss. 49-53 repealed (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\), s. 723, Sch. 8 Pt. 1](#) (with [Sch. 7](#))

**54 Amendments consequential on sections 50 to 53.**

- (1) The <sup>M30</sup>Taxation of Chargeable Gains Act 1992 shall be amended as follows.
- (2) After subsection (5) of section 120 (increase of expenditure by reference to tax charged in relation to shares) there shall be inserted the following subsections—
  - “(5A) Where an amount is chargeable to tax under section 140A of the Taxes Act in respect of—
    - (a) the acquisition or disposal of any interest in shares, or
    - (b) any interest in shares ceasing to be only conditional,the relevant amount is a sum equal to the amount so chargeable.
  - (5B) Where an amount is chargeable to tax under section 140D of the Taxes Act in respect of the conversion of shares, the relevant amount is a sum equal to the amount so chargeable.”
- (3) In subsection (7) of that section—
  - (a) after “(5),” there shall be inserted “, (5A), (5B) ”; and
  - (b) after “138” there shall be inserted “, 140A, 140D ”.
- (4) After that subsection there shall be inserted the following subsection—

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“(8) For the purposes of subsection (5A) above this section shall have effect as if references in this section to shares included anything referred to as shares in section 140A of the Taxes Act.”

(5) After section 149A there shall be inserted the following section—

**“149B Employee incentive schemes: conditional interests in shares.**

(1) Where—

- (a) an individual has acquired an interest in any shares or securities which is only conditional,
- (b) that interest is one which for the purposes of section 140A of the Taxes Act is taken to have been acquired by him as a director or employee of a company, and
- (c) by virtue of section 17(1)(b) the acquisition of that interest would, apart from this section, be an acquisition for a consideration equal to the market value of the interest,

section 17 shall not apply for calculating the consideration.

(2) Instead, the consideration for the acquisition shall be taken (subject to section 120) to be equal to the actual amount or value of the consideration given for that interest as computed in accordance with section 140B of the Taxes Act.

(3) This section shall apply in relation only to the individual making the acquisition and, accordingly, shall be disregarded in calculating the consideration received by the person from whom the interest is acquired.

(4) Expressions used in this section and in section 140A of the Taxes Act have the same meanings in this section as in that section.”

(6) This section has effect in relation to disposals on or after 17th March 1998 of interests and shares acquired on or after that date.

**Marginal Citations**

M30 1992 c. 12.

*Construction industry workers*

**55 Construction workers supplied by agencies.**

<sup>F26</sup>(1) . . . . .

<sup>F27</sup>(2) . . . . .

(3) Subsections (1) and (2) above have effect in relation to—

- (a) any payments made on or after 6th April 1998 other than any made in respect of services rendered before that date; and
- (b) any payments made before 6th April 1998 in respect of services to be rendered on or after that date.

*Status: Point in time view as at 19/07/2011.*

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#### Textual Amendments

- F26** S. 55(1) repealed (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\)](#), s. 723, [Sch. 8 Pt. 1](#) (with [Sch. 7](#))
- F27** S. 55(2) repealed (with effect in accordance with s. 77 of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 42 Pt. 2\(7\)](#)

### 56 Transitional provisions in connection with section 55.

- (1) Subject to subsection (6) below, subsection (2) below applies if—
- a construction trade is being carried on by a person (“the sub-contractor”) at the end of the year 1997-98; and
  - there are receipts of that trade which, but for section 134(5)(c) of the Taxes Act 1988, would have fallen to be treated for the year 1997-98 as the emoluments of an office or employment.
- (2) Where this subsection applies, then, subject to subsections (4) and (5) below—
- the trade shall be deemed to have been permanently discontinued at the end of the year 1997-98; and
  - to the extent (if any) that the trade includes activities in addition to the rendering of services falling by virtue of section 55 to be treated as the duties of an office or employment, a new trade shall be deemed to have been set up and commenced on 6th April 1998.
- (3) Subsection (4) below applies if—
- a construction trade (“the old trade”) is deemed by virtue of subsection (2)(a) above to have been permanently discontinued; and
  - a construction trade (“the new trade”)—
    - is deemed by virtue of subsection (2)(b) above to have been set up and commenced; or
    - (where sub-paragraph (i) above does not apply) is actually set up and commenced in the year 1998-99.
- (4) Where this subsection applies then, notwithstanding the deemed discontinuance, the old trade and the new trade shall be treated as the same for the purposes of <sup>[F28]</sup>section 83 of the Income Tax Act 2007] (carry-forward of losses against subsequent profits).
- (5) An officer of the Board shall not become entitled by virtue of anything in this section to give a direction under paragraph 3(2) of Schedule 20 to the <sup>M31</sup>Finance Act 1994 (power to revise assessment so that made on the actual basis) in the case of a person whose trade is deemed under subsection (2) above to cease on 5th April 1998.
- (6) Subsection (2) above does not apply if the sub-contractor by notice to an officer of the Board otherwise elects.
- (7) An election under subsection (6) above—
- if it relates to a trade carried on by an individual, must be included in a return under section 8 of the <sup>M32</sup>Taxes Management Act 1970 which is made and delivered in that individual’s case on or before the day on which it is required to be made and delivered under that section; and

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- (b) if it relates to a trade carried on by persons in partnership, must be included in a return under section 12AA of that Act which is made and delivered in the partners' case, or in the case of any one or more of them, on or before the day specified in relation to that return under subsection (2) or (3) of that section.
- (8) In this section “construction trade” means a trade consisting in or including the rendering of services under contracts relating to construction operations (within the meaning of [<sup>F29</sup>section 74 of the Finance Act 2004]).
- (9) Where at any time on or after 17th March 1998 and before the day on which this Act is passed any election corresponding to an election under subsection (6) above has been made under a resolution of the House of Commons having effect in accordance with the provisions of the <sup>M33</sup>Provisional Collection of Taxes Act 1968, this section has effect, on and after the day on which this Act is passed, as if that election were an election under subsection (6) above.

#### Textual Amendments

- F28** Words in s. 56(4) substituted (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 381](#) (with [Sch. 2](#))
- F29** Words in s. 56(8) substituted (with effect in accordance with s. 77 of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 12 para. 15\(2\)](#)

#### Marginal Citations

- M31** 1994 c. 9.
- M32** 1970 c. 9.
- M33** 1968 c. 2.

### <sup>F30</sup>57 **Sub-contractors in the construction industry.**

.....

#### Textual Amendments

- F30** [S. 57](#) repealed (with effect in accordance with s. 77 of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 42 Pt. 2\(7\)](#)

*Payments and other benefits in connection with termination of employment etc.*

### <sup>F31</sup>58 **Payments and other benefits in connection with termination of employment, etc.**

.....

#### Textual Amendments

- F31** [S. 58](#) repealed (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\)](#), s. 723, [Sch. 8 Pt. 1](#) (with [Sch. 7](#))

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*Benefits in kind*

**59 Car fuel.**

(1) In section 158 of the Taxes Act 1988 (car fuel) for the Tables in subsection (2) (tables of cash equivalents) there shall be substituted—

“ TABLE A

<i>Cylinder capacity of car in cubic centimetres</i>	<i>Cash equivalent</i>
1,400 or less	£1,010
More than 1,400 but not more than 2,000	£1,280
More than 2,000	£1,890

TABLE AB

<i>Cylinder capacity of car in cubic centimetres</i>	<i>Cash equivalent</i>
2,000 or less	£1,280
More than 2,000	£1,890

TABLE B

<i>Description of car</i>	<i>Cash equivalent</i>
Any car	£1,890”

(2) This section shall have effect for the year 1998-99 and subsequent years of assessment.

<sup>F32</sup>**60 Reductions for road fuel gas cars.**

.....

**Textual Amendments**

**F32** S. 60 repealed (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\)](#), s. 723, [Sch. 8 Pt. 1](#) (with [Sch. 7](#))

<sup>F33</sup>**61 Travelling expenses.**

.....

**Textual Amendments**

**F33** S. 61 repealed (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\)](#), s. 723, [Sch. 8 Pt. 1](#) (with [Sch. 7](#))

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*Profit-related pay*

**62 Provision preventing manipulation of profit periods.**

Schedule 11 to this Act (which makes provision to prevent the manipulation of profit periods in relation to the phasing out of relief for profit-related pay) shall have effect.

*Foreign earnings deduction*

<sup>F34</sup>**63 Withdrawal except in relation to seafarers.**

.....

**Textual Amendments**  
**F34** Ss. 63-69 repealed (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\)](#), s. 723, **Sch. 8 Pt. 1** (with Sch. 7)

*PAYE: non-cash benefits etc.*

<sup>F34</sup>**64 Transitory provision relating to tradeable assets.**

.....

**Textual Amendments**  
**F34** Ss. 63-69 repealed (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\)](#), s. 723, **Sch. 8 Pt. 1** (with Sch. 7)

<sup>F34</sup>**65 Payment in the form of a readily convertible asset.**

.....

**Textual Amendments**  
**F34** Ss. 63-69 repealed (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\)](#), s. 723, **Sch. 8 Pt. 1** (with Sch. 7)

<sup>F34</sup>**66 Enhancing the value of an asset.**

.....

**Textual Amendments**  
**F34** Ss. 63-69 repealed (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\)](#), s. 723, **Sch. 8 Pt. 1** (with Sch. 7)

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**F34 67 Gains from share options etc.**

.....

**Textual Amendments**

**F34** Ss. 63-69 repealed (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\)](#), s. 723, **Sch. 8 Pt. 1** (with [Sch. 7](#))

**F34 68 Vouchers and credit-tokens.**

.....

**Textual Amendments**

**F34** Ss. 63-69 repealed (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\)](#), s. 723, **Sch. 8 Pt. 1** (with [Sch. 7](#))

**F34 69 Intermediaries, non-UK employers, agencies etc.**

.....

**Textual Amendments**

**F34** Ss. 63-69 repealed (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\)](#), s. 723, **Sch. 8 Pt. 1** (with [Sch. 7](#))

*The enterprise investment scheme and venture capital trusts*

**70 Qualifying trades for EIS and VCTs.**

**F35**(1) .....

**F35**(2) .....

**F36**(3) .....

**F37**(4) .....

**Textual Amendments**

**F35** S. 70(1)(2) repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034, **Sch. 3 Pt. 2** (with [Sch. 2](#))

**F36** S. 70(3) repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), **Sch. 3 Pt. 1** (with [Sch. 2](#))

**F37** S. 70(4) repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034, **Sch. 3 Pt. 2** (with [Sch. 2](#))

**F38 71 Pre-arranged exits from EIS.**

.....

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**Textual Amendments**

**F38** S. 71 repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034, **Sch. 3 Pt. 2** (with [Sch. 2](#))

**<sup>F39</sup>72 Qualifying holdings for VCTs after 2nd July 1997.**

.....

**Textual Amendments**

**F39** S. 72 repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), **Sch. 3 Pt. 1** (with [Sch. 2](#))

**<sup>F40</sup>73 Other changes to requirements for VCTs.**

.....

**Textual Amendments**

**F40** S. 73 repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), **Sch. 3 Pt. 1** (with [Sch. 2](#))

**74 Other changes to EIS etc.**

- (1) Schedule 13 to this Act, which amends the provisions mentioned in subsection (2) below, shall have effect.
- (2) The provisions are—
  - <sup>F41</sup>(a) .....
  - (b) sections 150A and 150B of the <sup>M34</sup>Taxation of Chargeable Gains Act 1992 (EIS relief in respect of chargeable gains);
  - (c) Schedule 5B to that Act (EIS deferral of chargeable gains); and
  - (d) that Chapter as it has effect in relation to shares issued before 1st January 1994 (BES income tax relief) and section 150 of that Act (BES relief in respect of chargeable gains).
- (3) Unless the contrary intention appears, the amendments made by that Schedule have effect in relation to shares issued on or after 6th April 1998.

**Textual Amendments**

**F41** S. 74(2)(a) repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), **Sch. 3 Pt. 2** (with [Sch. 2](#))

**Marginal Citations**

**M34** 1992 c. 12.



*Status: Point in time view as at 19/07/2011.*

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*Individual savings accounts etc.*

**F4275 Use of PEPs powers to provide for accounts.**

.....

**Textual Amendments**

**F42** S. 75 repealed (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), s. 883(1), [Sch. 3](#) (with [Sch. 2](#))

**76 Tax credits for accounts and for PEPs.**

**F43**(1) .....

**F43**(2) .....

(3) The Treasury may by regulations make provision for individuals who—

- (a) are not resident in the United Kingdom, but
- (b) have made investments under plans for which provision is made by regulations under [<sup>F44</sup>Chapter 3 of Part 6 of the [Income Tax \(Trading and Other Income\) Act 2005](#)],

to be treated in relation to any such investments as if they were so resident for the purposes of any enactment conferring an entitlement to, or to the payment of, tax credits.

**F45**(4) .....

**F45**(5) .....

**Textual Amendments**

**F43** S. 76(1)(2) repealed (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), s. 883(1), [Sch. 3](#) (with [Sch. 2](#))

**F44** Words in s. 76(3) substituted (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), s. 883(1), [Sch. 1 para. 503](#) (with [Sch. 2](#))

**F45** S. 76(4)(5) repealed (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), s. 883(1), [Sch. 3](#) (with [Sch. 2](#))

**F4677 The insurance element etc.**

.....

**Textual Amendments**

**F46** S. 77 repealed (19.7.2007) by [Finance Act 2007 \(c. 11\)](#), [Sch. 27 Pt. 2\(7\)](#)

**F4778 Phasing out of TESSAs.**

.....

*Status: Point in time view as at 19/07/2011.*

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**Textual Amendments**

**F47** S. 78 repealed (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), s. 883(1), **Sch. 3** (with [Sch. 2](#))

*Relief for interest and losses etc.*

**79 Relief for loan to acquire interest in a close company.**

<sup>F48</sup>(1) .....

<sup>F49</sup>(2) .....

**Textual Amendments**

**F48** S. 79(1) repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), **Sch. 3 Pt. 1** (with [Sch. 2](#))

**F49** S. 79(2) repealed (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\)](#), s. 381(1), **Sch. 10 Pt. 13** (with [Sch. 9](#) paras. 1-9, 22)

<sup>F50</sup>**80 Relief for losses on unlisted shares in trading companies.**

.....

**Textual Amendments**

**F50** S. 80 repealed (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), **Sch. 3 Pt. 1** (with [Sch. 2](#))

<sup>F51</sup>**81** .....

**Textual Amendments**

**F51** S. 81 repealed (*retrospectively*) by [2000 c. 17](#), ss. 100(5), 156, **Sch. 40 Pt. II(11)**

**82 Carry forward of non-trading deficit on loan relationships.**

<sup>F52</sup>(1) .....

<sup>F53</sup>(2) .....

<sup>F54</sup>(3) .....

(4) The amendments made by this section shall be deemed always to have had effect.

*Status: Point in time view as at 19/07/2011.*

*Changes to legislation: Finance Act 1998 is up to date with all changes known to be in force on or before 18 October 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

**Textual Amendments**

- F52** S. 82(1) repealed (24.7.2002 with effect as mentioned in Sch. 40 Pt. 3(12) Note of the amending Act) by 2002 c. 23, s. 141, **Sch. 40 Pt. 3(12)** Note
- F53** S. 82(2) repealed (with effect in accordance with s. 381(1) of the amending Act) by **Taxation (International and Other Provisions) Act 2010 (c. 8)**, s. 381(1), **Sch. 10 Pt. 1** (with Sch. 9 paras. 1-9, 22)
- F54** S. 82(3) repealed (with effect in accordance with s. 1184(1) of the amending Act) by **Corporation Tax Act 2010 (c. 4)**, s. 1184(1), **Sch. 3 Pt. 1** (with Sch. 2)

*Capital allowances*

**<sup>F55</sup>83 First-year allowances for investment in Northern Ireland.**

.....

**Textual Amendments**

- F55** Ss. 83-85 repealed (22.3.2001 with effect as mentioned in s. 579 of the amending Act) by 2001 c. 2, ss. 579, 580, **Sch. 4**

**<sup>F56</sup>84 First-year allowances for small businesses etc.**

.....

**Textual Amendments**

- F56** Ss. 83-85 repealed (22.3.2001 with effect as mentioned in s. 579 of the amending Act) by 2001 c. 2, ss. 579, 580, **Sch. 4**

**<sup>F57</sup>85 First-year allowances: consequential amendments etc.**

.....

**Textual Amendments**

- F57** Ss. 83-85 repealed (22.3.2001 with effect as mentioned in s. 579 of the amending Act) by 2001 c. 2, ss. 579, 580, **Sch. 4**

*Insurance, insurance companies and friendly societies*

**86 Life policies etc.**

Schedule 14 to this Act (which makes provision in relation to the taxation of life policies etc under Chapter II of Part XIII of the Taxes Act 1988) shall have effect.

*Status: Point in time view as at 19/07/2011.*

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## 87 **Non-resident insurance companies: tax representatives.**

After section 552 of the Taxes Act 1988 (duty of insurers to provide certain information) there shall be inserted—

### **“552A Tax representatives.**

- (1) This section has effect for the purpose of securing that, where it applies to an overseas insurer, another person is the overseas insurer’s tax representative.
- (2) In this section “overseas insurer” means a person who is not resident in the United Kingdom who carries on a business which consists of or includes the effecting and carrying out of—
  - (a) policies of life insurance;
  - (b) contracts for life annuities; or
  - (c) capital redemption policies.
- (3) This section applies to an overseas insurer—
  - (a) if the condition in subsection (4) below is satisfied on the designated day; or
  - (b) where that condition is not satisfied on that day, if it has subsequently become satisfied.
- (4) The condition mentioned in subsection (3) above is that—
  - (a) there are in force relevant insurances the obligations under which are obligations of the overseas insurer in question or of an overseas insurer connected with him; and
  - (b) the total amount or value of the gross premiums paid under those relevant insurances is £1 million or more.
- (5) In this section “relevant insurance” means any policy of life insurance, contract for a life annuity or capital redemption policy in relation to which this Chapter has effect and in the case of which—
  - (a) the holder is resident in the United Kingdom;
  - (b) the obligations of the insurer are obligations of a person not resident in the United Kingdom; and
  - (c) those obligations are not attributable to a branch or agency of that person’s in the United Kingdom.
- (6) Before the expiration of the period of three months following the day on which this section first applies to an overseas insurer, the overseas insurer must nominate to the Board a person to be his tax representative.
- (7) A person shall not be a tax representative unless—
  - (a) if he is an individual, he is resident in the United Kingdom and has a fixed place of residence there, or
  - (b) if he is not an individual, he has a business establishment in the United Kingdom,
 and, in either case, he satisfies such other requirements (if any) as are prescribed in regulations made for the purpose by the Board.
- (8) A person shall not be an overseas insurer’s tax representative unless—

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- (a) his nomination by the overseas insurer has been approved by the Board;  
or
  - (b) he has been appointed by the Board.
- (9) The Board may by regulations make provision supplementing this section; and the provision that may be made by any such regulations includes provision with respect to—
- (a) the making of a nomination by an overseas insurer of a person to be his tax representative;
  - (b) the information which is to be provided in connection with such a nomination;
  - (c) the form in which such a nomination is to be made;
  - (d) the powers and duties of the Board in relation to such a nomination;
  - (e) the procedure for approving, or refusing to approve, such a nomination, and any time limits applicable to doing so;
  - (f) the termination, by the overseas insurer or the Board, of a person's appointment as a tax representative;
  - (g) the appointment by the Board of a person as the tax representative of an overseas insurer (including the circumstances in which such an appointment may be made);
  - (h) the nomination by the overseas insurer, or the appointment by the Board, of a person to be the tax representative of an overseas insurer in place of a person ceasing to be his tax representative;
  - (j) circumstances in which an overseas insurer to whom this section applies may, with the Board's agreement, be released (subject to any conditions imposed by the Board) from the requirement that there must be a tax representative;
  - (k) appeals to the Special Commissioners against decisions of the Board under this section or regulations under it.
- (10) The provision that may be made by regulations under subsection (9) above also includes provision for or in connection with the making of other arrangements between the Board and an overseas insurer for the purpose of securing the discharge by or on behalf of the overseas insurer of the relevant duties, within the meaning of section 552B.
- (11) Section 839 (connected persons) applies for the purposes of this section.
- (12) In this section—
- “the designated day” means such day as the Board may specify for the purpose in regulations;
  - “tax representative” means a tax representative under this section.

#### **552B Duties of overseas insurers' tax representatives.**

- (1) It shall be the duty of an overseas insurer's tax representative to secure (where appropriate by acting on the overseas insurer's behalf) that the relevant duties are discharged by or on behalf of the overseas insurer.
- (2) For the purposes of this section “the relevant duties” are—
  - (a) the duties imposed by section 552,

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- (b) any duties imposed by regulations made under subsection (4A)(a) of that section, and
  - (c) any duties imposed by regulations made under subsection (4A)(b) of that section by virtue of subsection (4B) of that section,
- so far as relating to relevant insurances under which the overseas insurer in question has any obligations.
- (3) An overseas insurer’s tax representative shall be personally liable—
    - (a) in respect of any failure to secure the discharge of the relevant duties, and
    - (b) in respect of anything done for purposes connected with acting on the overseas insurer’s behalf,
 as if the relevant duties were imposed jointly and severally on the tax representative and the overseas insurer.
  - (4) In the application of this section in relation to any particular tax representative, it is immaterial whether any particular relevant duty arose before or after his appointment.
  - (5) This section has effect in relation to relevant duties relating to chargeable events happening on or after the day by which section 552A(6) requires the nomination of the overseas insurer’s first tax representative to be made.
  - (6) Expressions used in this section and in section 552A have the same meaning in this section as they have in that section.”

**F58 88 Overseas life assurance business.**

.....

**Textual Amendments**

**F58** S. 88 omitted (with effect in accordance with Sch. 14 para. 18 to the amending Act) by virtue of Finance Act 2008 (c. 9), **Sch. 14 para. 17(g)**

**F59 89 Personal portfolio bonds.**

.....

**Textual Amendments**

**F59** S. 89 omitted (with effect in accordance with Sch. 14 para. 18 to the amending Act) by virtue of Finance Act 2008 (c. 9), **Sch. 14 para. 17(g)**

**90 Distributions to friendly societies.**

- (1) The repeal by section 30(4) of the <sup>M35</sup>Finance (No. 2) Act 1997 of section 231(2) of the Taxes Act 1988 (payment of tax credit to a company resident in the UK) shall not have effect in relation to any distribution made to a friendly society before 6th April 2004 which is—

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- (a) a distribution to a friendly society all of whose profits are exempt from corporation tax by virtue of section 460(1) of the Taxes Act 1988 (life or endowment business of friendly society); or
  - (b) a distribution not falling within paragraph (a) above in relation to which exemption is given under section 460(1) of that Act.
- (2) In relation to any distribution falling within paragraph (a) or (b) of subsection (1) above—
- (a) paragraph 3 of Schedule 4 to the <sup>M36</sup>Finance (No. 2) Act 1997 (which, from 6th April 1999, repeals certain provisions about claims for tax credits for accounting periods to which self-assessment applies) shall have effect as if the reference in sub-paragraph (2) of that paragraph to 6th April 1999 were a reference to 6th April 2004; and
  - (b) paragraph 2 of that Schedule (which repeals certain provisions about claims for tax credits for earlier periods) shall have no effect.
- <sup>F60</sup>(3) .....
- (4) Schedule 8 to the <sup>M37</sup>Finance (No. 2) Act 1997 (repeals), so far as it relates to any repeal referred to in the preceding provisions of this section, shall have effect subject to those provisions.

**Textual Amendments**

**F60** S. 90(3) repealed (11.5.2001) by 2001 c. 9, s. 110, **Sch. 33 Pt. II(12)**

**Marginal Citations**

**M35** 1997 c. 58.  
**M36** 1997 c. 58.  
**M37** 1997 c. 58.

**<sup>F61</sup>91 Provisional repayments in connection with pension business.**

.....

**Textual Amendments**

**F61** S. 91 repealed (11.5.2001 with effect as mentioned in s. 87 of the amending Act) by 2001 c. 9, ss. 87, 110, **Sch. 33 Pt. II(12)** Note

*Pensions*

**<sup>F62</sup>92 Approved retirement benefit schemes etc.**

.....

**Textual Amendments**

**F62** S. 92 repealed (6.4.2006) by Finance Act 2004 (c. 12), **Sch. 42 Pt. 3** (with Sch. 36)

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**F63 93 Benefits received under non-approved retirement benefits scheme.**

.....

**Textual Amendments**

**F63** S. 93 repealed (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\)](#), s. 723, [Sch. 8 Pt. 1](#) (with [Sch. 7](#))

**F64 94 Approval of personal pension schemes.**

.....

**Textual Amendments**

**F64** [Ss. 94-97](#) repealed (6.4.2006) by [Finance Act 2004 \(c. 12\)](#), [Sch. 42 Pt. 3](#) (with [Sch. 36](#))

**F64 95 Personal pensions: charge on withdrawal of approval.**

.....

**Textual Amendments**

**F64** [Ss. 94-97](#) repealed (6.4.2006) by [Finance Act 2004 \(c. 12\)](#), [Sch. 42 Pt. 3](#) (with [Sch. 36](#))

**F64 96 Information relating to personal pension schemes etc.**

.....

**Textual Amendments**

**F64** [Ss. 94-97](#) repealed (6.4.2006) by [Finance Act 2004 \(c. 12\)](#), [Sch. 42 Pt. 3](#) (with [Sch. 36](#))

**F64 97 Notices to be given to scheme administrator.**

.....

**Textual Amendments**

**F64** [Ss. 94-97](#) repealed (6.4.2006) by [Finance Act 2004 \(c. 12\)](#), [Sch. 42 Pt. 3](#) (with [Sch. 36](#))

**98 Assessments on scheme administrators.**

**F65** (1) .....

(2) In section 9 of the <sup>M38</sup>Taxes Management Act 1970 (self-assessment), in subsection (1), for “subsection (2)” there shall be substituted “ subsections (1A) and (2) ”; and after that subsection there shall be inserted the following subsection—



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“(1A) The tax to be assessed on a person by a self-assessment shall not include any tax which, under Chapter I or IV of Part XIV of the principal Act, is charged on the administrator of a scheme (within the meaning of section 658A of that Act) and is assessable by the Board in accordance with that section.”

(3) Subsection (2) above shall have effect for the year 1998-99 and subsequent years of assessment and shall be deemed to have had effect for the years 1996-97 and 1997-98.

**Textual Amendments**

**F65** S. 98(1) repealed (6.4.2006) by [Finance Act 2004 \(c. 12\)](#), [Sch. 42 Pt. 3](#) (with [Sch. 36](#))

**Marginal Citations**

**M38** 1970 c. 9.

*Futures and options*

**99 Extension of provisions relating to guaranteed returns.**

- F66 (1) .....
- F67 (2) .....
- F67 (3) .....
- F68 (4) .....
- F68 (5) .....

**Textual Amendments**

- F66** S. 99(1) repealed (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), s. 883(1), [Sch. 3](#) (with [Sch. 2](#))
- F67** S. 99(2)(3) repealed (24.7.2002 with effect as mentioned in [Sch. 40 Pt. 3\(13\)](#) Note of the amending Act) by [2002 c. 23](#), s. 141, [Sch. 40 Pt. 3\(13\)](#) Note
- F68** S. 99(4)(5) repealed (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), s. 883(1), [Sch. 3](#) (with [Sch. 2](#))

*Securities*

<sup>F69</sup>**100 Accrued income scheme.**

.....

**Textual Amendments**

**F69** S. 100 repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 3 Pt. 1](#) (with [Sch. 2](#))

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## 101 Dealers in securities etc.

- (1) Section 471 of the Taxes Act 1988 (exchange of securities in connection with conversion operations, nationalisation etc.) shall cease to have effect.
- (2) Section 472 of that Act (distribution of securities issued in connection with nationalisation etc.) shall cease to have effect.
- (3) Subsection (1) above applies in relation to exchanges made after the day on which this Act is passed.
- (4) Subsection (2) above applies in relation to issues of securities occurring after that day.

## 102 Manufactured dividends.

- <sup>F70</sup>(1) .....
- <sup>F71</sup>(2) .....
- (3) In section 737D of the Taxes Act 1988 (power by regulations to provide for manufactured payments to be eligible for relief) in subsection (2) (which defines manufactured payment as any manufactured dividend etc) the words “manufactured dividend” shall cease to have effect.
  - (4) Schedule 23A to the Taxes Act 1988 (manufactured dividends and interest) shall be amended in accordance with subsections (5) to (8) below.
- <sup>F72</sup>(5) .....
- (6) In paragraph 2(3) (manufactured dividends to which paragraph 2(2) does not apply) paragraph (a) (duty to account for notional ACT) shall cease to have effect.
- <sup>F73</sup>(7) .....
- (8) In consequence of subsection (6) above, the following provisions shall also cease to have effect—
    - (a) in paragraph 2, sub-paragraphs (4) and (5) and, in sub-paragraph (6), paragraph (b) and the word “and” immediately preceding it; and
    - (b) in paragraph 2A (deductibility of manufactured payment in the case of the manufacturer) in sub-paragraph (1), the words “together with an amount equal to the notional ACT” and sub-paragraph (3).
- <sup>F74</sup>(9) .....
- (10) Subsections (2) to (8) above have effect in relation to manufactured dividends paid (or treated for the purposes of Schedule 23A to the Taxes Act 1988 as paid) on or after 6th April 1999.

### Textual Amendments

- F70** S. 102(1) repealed (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), **Sch. 3 Pt. 1** (with [Sch. 2](#))
- F71** S. 102(2) repealed (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), **Sch. 3 Pt. 1** (with [Sch. 2](#))
- F72** S. 102(5) repealed (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), **Sch. 3 Pt. 1** (with [Sch. 2](#))

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- F73** S. 102(7) repealed (6.4.2007) by **Income Tax Act 2007 (c. 3)**, s. 1034(1), **Sch. 3 Pt. 1** (with Sch. 2)
- F74** S. 102(9) repealed (with effect in accordance with s. 1184(1) of the amending Act) by **Corporation Tax Act 2010 (c. 4)**, s. 1184(1), **Sch. 3 Pt. 1** (with Sch. 2)

### *Double taxation relief*

## **103 Restriction of relief on certain interest and dividends.**

- (1) For section 798 of the Taxes Act 1988 there shall be substituted the following section—

### **“798 Restriction of relief on certain interest and dividends.**

- (1) This section applies where—
- (a) in any chargeable period the profits of a trade carried on by a qualifying taxpayer include an amount computed in accordance with section 795 in respect of foreign interest or foreign dividends;
  - (b) the taxpayer is entitled in accordance with this Chapter to credit for foreign tax on the foreign interest or foreign dividends; and
  - (c) in the case of foreign dividends, the foreign tax mentioned in paragraph (b) above is or includes underlying tax.
- (2) The amount of the credit for foreign tax referred to in subsection (1)(b) above which, in accordance with this Chapter, is to be allowed against income tax or corporation tax—
- (a) shall be limited by treating the amount of the foreign interest or foreign dividends (as increased or reduced under section 798A) as reduced (or further reduced) for the purposes of this Chapter by an amount equal to the taxpayer’s financial expenditure in relation to the interest or dividends (as determined in accordance with section 798B); and
  - (b) so far as the credit relates to foreign tax on interest or foreign tax on dividends which is not underlying tax, shall not exceed 15 per cent. of the interest or dividends, computed without regard to paragraph (a) above or to any increase or reduction under section 798A.
- (3) In this section and sections 798A and 798B—
- “interest”, in relation to a loan, includes any introductory or other fee or charge which is payable in accordance with the terms on which the loan is made or is otherwise payable in connection with the making of the loan;
  - “foreign dividends” means dividends payable out of or in respect of the stocks, funds, shares or securities of a body of persons not resident in the United Kingdom;
  - “foreign interest” means interest payable by a person not resident in the United Kingdom or by a government or public or local authority in a country outside the United Kingdom.
- (4) In this section and section 798B “qualifying taxpayer” means, subject to subsection (5) below, a person carrying on a trade which includes the receipt of interest or dividends and is not an insurance business.

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- (5) Where a company which is connected or associated with a qualifying taxpayer is acting in accordance with a scheme or arrangement the purpose, or one of the main purposes, of which is to prevent or restrict the application of this section to the taxpayer—
- (a) the company shall be treated for the purposes of this section as a qualifying taxpayer; and
  - (b) any foreign interest or foreign dividends received in pursuance of the scheme or arrangement shall be treated for those purposes as profits of a trade carried on by the company.
- (6) For the purposes of this section and section 798B—
- (a) section 839 applies; and
  - (b) subsection (10) of section 783 applies as it applies for the purposes of that section.”
- (2) This section and sections 104 and 105 do not have effect in relation to foreign interest or foreign dividends paid before 1st January 1999 in pursuance of arrangements which were entered into before, and are not altered on or after, 17th March 1998.
- (3) Subject to subsection (2) above, this section and sections 104 and 105 have effect in relation to foreign interest or foreign dividends paid on or after 17th March 1998.

#### **104 Adjustments of interest and dividends for spared tax etc.**

After section 798 of the Taxes Act 1988 there shall be inserted the following section—

##### **“798A Adjustments of interest and dividends for spared tax etc.**

- (1) In a case where section 798 applies—
- (a) subsection (2) below applies if the foreign tax referred to in subsection (1)(b) of that section is or includes an amount of spared tax; and
  - (b) subsection (3) below applies if the foreign tax so referred to is or includes an amount of tax which is not spared tax.
- (2) For the purposes of income tax or corporation tax, the amount which apart from this subsection would be the amount of the foreign interest or foreign dividends shall be treated as increased by so much of the spared tax as does not exceed—
- (a) the amount of the spared tax for which, in accordance with any arrangements applicable to the case in question, credit falls to be given as mentioned in section 798(1)(b); or
  - (b) if it is less, 15 per cent. of the interest or dividends, computed without regard to any increase under this subsection.
- (3) If the amount of tax which is not spared tax exceeds—
- (a) the amount of the credit which, by virtue of this Chapter (but disregarding subsection (2) of section 798), is allowed for that tax against income tax or corporation tax; or
  - (b) if it is less in the case of tax on foreign interest, 15 per cent. of the interest, computed without regard to any increase or reduction under this section or that subsection,

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then, for the purposes of income tax or corporation tax, the amount which, apart from this subsection, would be the amount of the foreign interest or foreign dividends shall be treated as reduced by a sum equal to the excess.

- (4) Subsection (2) above has effect for the purposes of corporation tax notwithstanding anything in section 80(5) of the <sup>M39</sup>Finance Act 1996 (matters to be brought into account in the case of loan relationships only under Chapter II of Part IV of that Act).
- (5) Nothing in subsection (2) above prejudices the operation of section 795 in relation to foreign tax which is not spared tax.
- (6) In this section “spared tax” means foreign tax which although not payable falls to be taken into account for the purposes of credit by virtue of section 788(5).”

#### Marginal Citations

M39 1996 c. 8.

## 105 Meaning of “financial expenditure”.

After section 798A of the Taxes Act 1988 there shall be inserted the following section—

### “798B Meaning of “financial expenditure”.

- (1) For the purposes of section 798 “financial expenditure”, in relation to a qualifying taxpayer and any interest or dividends is, subject to the provisions of this section, the aggregate of—
  - (a) so much of the financial expenses (consisting of interest, discounts or similar sums or qualifying losses) incurred by the taxpayer or a person connected or associated with him as—
    - (i) is properly attributable to the earning of the interest or dividends; and
    - (ii) falls to be taken into account in computing the taxpayer’s or person’s liability to income tax or corporation tax; and
  - (b) so much of any other sum paid by the taxpayer or a person connected or associated with him which—
    - (i) falls to be taken into account as mentioned in paragraph (a) above; and
    - (ii) would not, apart from this paragraph, be taken into account in determining the amount of the interest or dividends,  
as it is reasonable to regard as attributable to the earning of the interest or dividends (whether or not it would fall, in accordance with normal accountancy practice, to be so treated).
- (2) There shall be deducted from the aggregate given by subsection (1) above so much of the qualifying gains and profits accruing to the qualifying taxpayer or a person connected or associated with him as—
  - (a) is properly attributable to the earning of the interest or dividends; and

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- (b) falls to be taken into account in computing the taxpayer’s or person’s liability to income tax or corporation tax.
- (3) In a case where the amount of a qualifying taxpayer’s financial expenditure in relation to the earning of the interest or dividends is not readily ascertainable—
  - (a) that amount shall be taken, subject to subsection (4) below, to be such sum as it is just and reasonable to attribute to the earning of the interest or dividends; and
  - (b) in the case of interest, regard shall be had in particular to any market rates of interest by reference to which the rate of the interest is determined.
- (4) The Board may by regulations supplement subsection (3) above—
  - (a) by specifying matters to be taken into account in determining such a just and reasonable attribution as is referred to in paragraph (a); and
  - (b) by making provision with respect to the determination of market rates of interest for the purposes of paragraph (b);
 and any such regulations may make different provision for different cases.
- (5) In this section “qualifying losses” means—
  - (a) losses falling to be brought into account for the purposes of Chapter II of Part II of the <sup>M40</sup>Finance Act 1993 (exchange gains and losses) in accordance with sections 125 to 127 of that Act; and
  - (b) losses falling to be brought into account for the purposes of Chapter II of Part IV of the <sup>M41</sup>Finance Act 1994 (interest rate and currency contracts) in accordance with sections 155 to 158 of that Act;
 and “qualifying gains” and “qualifying profits” shall be construed accordingly.”

**Marginal Citations**

**M40** 1993 c. 34.

**M41** 1994 c. 9.

**<sup>F75</sup>106 Underlying tax reflecting interest or dividends.**

.....

**Textual Amendments**

**F75** Ss. 106, 107 repealed (1.4.2010) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\)](#), s. 381(1), **Sch. 10 Pt. 1** (with [Sch. 9 paras. 1-9, 22](#))

**<sup>F75</sup>107 Notification of foreign tax adjustment.**

.....

*Status: Point in time view as at 19/07/2011.*

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### Textual Amendments

**F75** Ss. 106, 107 repealed (1.4.2010) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\)](#), s. 381(1), **Sch. 10 Pt. 1** (with [Sch. 9 paras. 1-9, 22](#))

## *Transfer pricing, FOREX and financial instruments*

### **108** New regime for transfer pricing etc.

- <sup>F76</sup>(1) .....
- <sup>F76</sup>(2) .....
- <sup>F77</sup>(3) .....
- (4) In the <sup>M42</sup>Finance Act 1996—
- <sup>F77</sup>(a) .....
- (b) in paragraph 16 of Schedule 9 (imputed interest)—
- (i) in sub-paragraph (1), for the words from “sections 770” to “that Act” there shall be substituted “ Schedule 28AA to the Taxes Act 1988 (provision not at arm’s length) ”; and
- (ii) in sub-paragraph (2), for “Those sections” there shall be substituted “ That Schedule ”.
- (5) Subject to subsection (6) below, this section and Schedule 16 to this Act have effect (in relation to provision made or imposed at any time)—
- (a) for the purposes of corporation tax, as respects accounting periods ending on or after the day appointed under section 199 of the <sup>M43</sup>Finance Act 1994 for the purposes of Chapter III of Part IV of that Act (self-assessment management provisions); and
- (b) for the purposes of income tax, as respects any year of assessment ending on or after that day.
- (6) The Schedule 28AA to the Taxes Act 1988 that is inserted by subsection (2) above shall not, in the case of any potentially advantaged person, apply as respects the consequences at any time of the difference between the actual provision and the arm’s length provision if—
- (a) that time falls before 17th March 2001;
- (b) the actual provision is a provision made or imposed by means of contractual arrangements entered into by that person before 17th March 1998;
- (c) the requirements of paragraph 1(1)(b) of Schedule 28AA to that Act (control requirements) are satisfied in the case of the actual provision and that person by reference only to paragraph 4(2)(b) of that Schedule (joint ventures etc.);
- (d) the rights and obligations of that person by virtue of the actual provision are not ones that have been varied or continued in pursuance of any transaction entered into by that person in the period between 17th March 1998 and that time; and
- (e) that person is not a party, and has not been a party, to any transaction by virtue of which he could during that period have secured the variation or termination of those rights and obligations.

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(7) Expressions used in subsection (6) above and in Schedule 28AA to the Taxes Act 1988 have the same meanings in that subsection as in that Schedule.

**Textual Amendments**

**F76** S. 108(1)(2) repealed (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\)](#), s. 381(1), **Sch. 10 Pt. 2** (with [Sch. 9 paras. 1-9, 22](#))

**F77** S. 108(3)(4)(a) repealed (24.7.2002 with effect as mentioned in Sch. 40 Pt. 3(10) Note 2 of the amending Act) by [2002 c. 23](#), s. 141, **Sch. 40 Pt. 3(10)** Note 2

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**Marginal Citations**

**M42** 1996 c. 8.

**M43** 1994 c. 9.

- 109**<sup>F78</sup>(1) .....
- <sup>F78</sup>(2) .....
- <sup>F79</sup>(3) .....
- <sup>F80</sup>(4) .....
- <sup>F80</sup>(5) .....

**Textual Amendments**

**F78** S. 109(1)(2) repealed (24.7.2002 with effect as mentioned in Sch. 40 Pt. 3(10) Note 2 of the amending Act) by [2002 c. 23](#), s. 141, **Sch. 40 Pt. 3(10)** Note 2

**F79** S. 109(3) repealed (24.7.2002 with effect as mentioned in Sch. 40 Pt. 3(13) Note 2 of the amending Act) by [2002 c. 23](#), s. 141, **Sch. 40 Pt. 3(13)** Note 2

**F80** S. 109(4)(5) repealed (24.7.2002 with effect as mentioned in Sch. 40 Pt. 3(10) Note 2, Pt. 3(13) Note 2 of the amending Act) by [2002 c. 23](#), s. 141, **Sch. 40 Pt. 3(10)** Note 2, Pt. 3(13) Note 2

**F81 110 Determinations requiring the sanction of the Board.**

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**Textual Amendments**

**F81** S. 110 repealed (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\)](#), s. 381(1), [Sch. 8 para. 113](#), **Sch. 10 Pt. 2** (with [Sch. 9 paras. 1-9, 22](#))

**F82 111 Notice to potential claimants.**

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### Textual Amendments

**F82** S. 111 repealed (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\), s. 381\(1\), Sch. 8 para. 114, Sch. 10 Pt. 2](#) (with [Sch. 9 paras. 1-9, 22](#))

## *Controlled foreign companies*

### **112 Exempt activities.**

- (1) Part II of Schedule 25 to the Taxes Act 1988 (exempt activities) shall be amended as follows.
- (2) In paragraph 9 (activities which constitute investment business) for sub-paragraph (1A) (definition of “intellectual property”) there shall be substituted—  
“(1A) In sub-paragraph (1)(a) above “intellectual property” includes (in particular)  
—
  - (a) any industrial, commercial or scientific information, knowledge or expertise;
  - (b) any patent, trade mark, registered design, copyright or design right;
  - (c) any licence or other right in respect of intellectual property;
  - (d) any rights under the law of a country outside the United Kingdom which correspond or are similar to those falling within paragraph (b) or (c) above.”
- (3) In paragraph 11(1) (activities which constitute wholesale, distributive or financial business) for paragraph (c) (banking or any similar business involving the receipt of deposits, loans or both and the making of loans or investments) there shall be substituted—  
“(c) banking, deposit-taking, money-lending or debt-factoring, or any business similar to banking, deposit-taking, money-lending or debt-factoring;”.
- (4) In consequence of subsection (3) above—
  - (a) in paragraph 9(3), for “banking or any similar business” there shall be substituted “business”;
  - (b) in paragraph 11(3), for “banking or other business” there shall be substituted “business”.
- (5) This section has effect in relation to accounting periods of a controlled foreign company, within the meaning of Chapter IV of Part XVII of the Taxes Act 1988, beginning on or after 17th March 1998.

### **113 Miscellaneous amendments.**

Schedule 17 to this Act (which makes provision in relation to controlled foreign companies) shall have effect.

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### *Changes in company ownership*

#### **F83 114 Postponed corporation tax.**

.....

##### **Textual Amendments**

**F83** Ss. 114-116 repealed (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), **Sch. 3 Pt. 1** (with [Sch. 2](#))

#### **F83 115 Information powers where ownership changes.**

.....

##### **Textual Amendments**

**F83** Ss. 114-116 repealed (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), **Sch. 3 Pt. 1** (with [Sch. 2](#))

#### **F83 116 Provisions supplemental to sections 114 and 115.**

.....

##### **Textual Amendments**

**F83** Ss. 114-116 repealed (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), **Sch. 3 Pt. 1** (with [Sch. 2](#))

### *Corporation tax self-assessment*

#### **117 Company tax returns, assessments and related matters.**

- (1) The provisions of Schedule 18 to this Act have effect in place of—
  - (a) the provisions of Parts II and IV of the <sup>M44</sup>Taxes Management Act 1970 (returns, assessment and claims), so far as they relate to corporation tax,
  - (b) certain related provisions of Part X of that Act (penalties) [<sup>F84</sup>and]
  - (c) Schedule 17A to the Taxes Act 1988 (group relief: claims),

[<sup>F85</sup> and also make provision in relation to claims for allowances under the Capital Allowances Act]
- (2) Schedule 18 to this Act, the <sup>M45</sup>Taxes Management Act 1970 and the Tax Acts shall be construed and have effect as if that Schedule were contained in that Act.
- (3) The enactments mentioned in Schedule 19 to this Act have effect with the amendments specified there, which are minor amendments and amendments consequential on Schedule 18.

*Status: Point in time view as at 19/07/2011.*

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- (4) Except as otherwise provided, the provisions of Schedules 18 and 19 to this Act have effect in relation to accounting periods ending on or after the self-assessment appointed day.
- (5) In this section “the self-assessment appointed day” means the day appointed by the Treasury under section 199 of the <sup>M46</sup>Finance Act 1994 for the purposes of Chapter III of Part IV of that Act (corporation tax self-assessment).

#### Textual Amendments

- F84** Word in s. 117(1)(b) inserted (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, ss. 578, 579, **Sch. 2 para. 100(1)**
- F85** Words in s. 11(1) and preceding “and” substituted for s. 117(1)(d) (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, **ss. 578, 579** Sch. 2 para. 100(2)

#### Marginal Citations

- M44** 1970 c. 9.
- M45** 1970 c. 9.
- M46** 1994 c. 9.

*Telephone claims etc.*

### <sup>F86</sup>**118 Claims for income tax purposes.**

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#### Textual Amendments

- F86** S. 118 repealed (with effect in accordance with s. 381(1) of the amending Act) by **Taxation (International and Other Provisions) Act 2010 (c. 8), s. 381(1), Sch. 7 para. 88**, Sch. 10 Pt. 12 (with Sch. 9 paras. 1-9, 22)

### <sup>F87</sup>**119 Evidential provisions in PAYE regulations.**

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#### Textual Amendments

- F87** S. 119 repealed (with effect in accordance with s. 381(1) of the amending Act) by **Taxation (International and Other Provisions) Act 2010 (c. 8), s. 381(1), Sch. 10 Pt. 13** (with Sch. 9 paras. 1-9, 22)

*Status: Point in time view as at 19/07/2011.*

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**CHAPTER II**

**TAXATION OF CHARGEABLE GAINS**

*Rate for trustees*

**F88 120 Rate of CGT for trustees etc.**

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<p><b>Textual Amendments</b></p> <p><b>F88</b> S. 120 omitted (with effect in accordance with Sch. 2 para. 22 to the amending Act) by virtue of Finance Act 2008 (c. 9), <b>Sch. 2 para. 21(c)(i)</b></p>
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*Taper relief and indexation allowance*

**121 Taper relief for CGT.**

<sup>F89</sup>(1) .....

<sup>F90</sup>(2) .....

(3) Schedule 21 to this Act (which makes incidental and consequential provision in connection with the introduction of taper relief) shall have effect.

(4) This section and those two Schedules have effect for the year 1998-99 and subsequent years of assessment.

<p><b>Textual Amendments</b></p> <p><b>F89</b> S. 121(1) omitted (with effect in accordance with Sch. 2 para. 56(3) to the amending Act) by virtue of Finance Act 2008 (c. 9), <b>Sch. 2 para. 55(a)(i)</b></p> <p><b>F90</b> S. 121(2) omitted (with effect in accordance with Sch. 2 para. 56(3) to the amending Act) by virtue of Finance Act 2008 (c. 9), <b>Sch. 2 para. 55(a)(i)</b></p>
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**122 Freezing of indexation allowance for CGT.**

<sup>F91</sup>(1) .....

<sup>F91</sup>(2) .....

<sup>F91</sup>(3) .....

(4) In section 13 of that Act (attribution of gains to non-resident companies), the following subsection shall be inserted after subsection (11)—

“(11A) For the purposes of this section the amount of the gain or loss accruing at any time to a company that is not resident in the United Kingdom shall be computed (where it is not the case) as if that company were within the charge to corporation tax on capital gains.”

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<sup>F92</sup>(5) .....

(6) Subject to subsection (7) below, the preceding provisions of this section have effect in relation to disposals on or after 6th April 1998.

(7) This section does not affect the computation of the amount of so much of any gain as—

(a) is treated for the purposes of the taxation of chargeable gains as having accrued on a disposal on or after 6th April 1998; but

(b) is taken for those purposes to be equal to the whole or any part of a gain that—

(i) would (but for any enactment relating to the taxation of chargeable gains) have accrued on an actual disposal made before that date, or

(ii) would have accrued on a disposal assumed under any such enactment to have been made before that date.

#### Textual Amendments

**F91** S. 122(1)-(3) omitted (with effect in accordance with Sch. 2 para. 83 to the amending Act) by virtue of Finance Act 2008 (c. 9), **Sch. 2 para. 82**

**F92** S. 122(5) omitted (with effect in accordance with Sch. 2 para. 83 to the amending Act) by virtue of Finance Act 2008 (c. 9), **Sch. 2 para. 82**

#### *Pooling and identification of shares etc.*

### 123 Abolition of pooling for CGT.

<sup>F93</sup>(1) .....

<sup>F94</sup>(2) .....

(3) In subsection (3) of that section (interpretation), for “ “a new holding” is” there shall be substituted “ “a section 104 holding” is ”.

(4) For subsection (4) of that section there shall be substituted the following subsection—

“(4) For the purposes of this Chapter securities of a company which are held—

(a) by a person who acquired them as an employee of the company or of any other person, and

(b) on terms which for the time being restrict his right to dispose of them, shall (notwithstanding that they would otherwise fall to be treated as of the same class) be treated as of a different class from any securities acquired by him otherwise than as an employee of the company or of any other person and also from any shares that are not held subject to restrictions, or the same restrictions, on disposal or in the case of which the restrictions are no longer in force.”

(5) In the following enactments for the words “new holding”, wherever they occur, there shall be substituted “ section 104 holding ”, namely—

(a) in section 440A of the Taxes Act 1988 (securities held by insurance companies); and

(b) in sections 104(6), 107 and 110 of the <sup>M47</sup>Taxation of Chargeable Gains Act 1992.

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- (6) The preceding provisions of this section have effect in relation to any disposal on or after 6th April 1998 of any securities (whenever acquired).
- (7) The powers of the Treasury to make provision by regulations under one or [<sup>F95</sup>more] of—
- (a) section 333 of the Taxes Act 1988 [<sup>F96</sup>(investment plan regulations)],
  - (a) section 151 of the <sup>M48</sup>Taxation of Chargeable Gains Act 1992 (capital gains tax and investment plans), [<sup>F97</sup>and
  - (c) Chapter 3 of Part 6 of the Income Tax (Trading and Other Income) Act 2005 (income from individual investment plans),]

shall include power to provide, to such extent as appears to them to be appropriate for purposes connected with the enactment of this section and section 124 below, for any provision contained in any such regulations to have effect retrospectively in relation to such times falling on or after 17th March 1998 as may be specified in the regulations.

#### Textual Amendments

- F93** S. 123(1) omitted (with effect in accordance with Sch. 2 para. 100 to the amending Act) by virtue of Finance Act 2008 (c. 9), **Sch. 2 para. 96(a)**
- F94** S. 123(2) omitted (with effect in accordance with Sch. 2 para. 100 to the amending Act) by virtue of Finance Act 2008 (c. 9), **Sch. 2 para. 96(a)**
- F95** Word in s. 123(7) substituted (6.4.2005) by **Income Tax (Trading and Other Income) Act 2005 (c. 5), s. 883(1), Sch. 1 para. 504(a)** (with Sch. 2)
- F96** Words in s. 123(7)(a) substituted (6.4.2005) by **Income Tax (Trading and Other Income) Act 2005 (c. 5), s. 883(1), Sch. 1 para. 504(b)** (with Sch. 2)
- F97** S. 123(7)(c) and preceding word added (6.4.2005) by **Income Tax (Trading and Other Income) Act 2005 (c. 5), s. 883(1), Sch. 1 para. 504(c)** (with Sch. 2)

#### Marginal Citations

- M47** 1992 c. 12.  
**M48** 1992 c. 12.

## 124 New identification rules for CGT.

- (1) After section 106 of the <sup>M49</sup>Taxation of Chargeable Gains Act 1992 there shall be inserted the following section—

### “106A Identification of securities: general rules for capital gains tax.

- (1) This section has effect for the purposes of capital gains tax (but not corporation tax) where any securities are disposed of by any person.
- (2) The securities disposed of shall be identified in accordance with the following provisions of this section with securities of the same class that have been acquired by the person making the disposal.
- (3) The provisions of this section have effect in the case of any disposal notwithstanding that some or all of the securities disposed of are otherwise identified—
  - (a) by the disposal, or
  - (b) by a transfer or delivery giving effect to it;

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but where a person disposes of securities in one capacity, they shall not be identified under those provisions with any securities which he holds, or can dispose of, only in some other capacity.

- (4) Securities disposed of on an earlier date shall be identified before securities disposed of on a later date; and, accordingly, securities disposed of by a later disposal shall not be identified with securities already identified as disposed of by an earlier disposal.
  - (5) Subject to subsection (4) above, if within the period of thirty days after the disposal the person making it acquires securities of the same class, the securities disposed of shall be identified—
    - (a) with securities acquired by him within that period, rather than with other securities; and
    - (b) with securities acquired at an earlier time within that period, rather than with securities acquired at a later time within that period.
  - (6) Subject to subsections (4) and (5) above, securities disposed of shall be identified with securities acquired at a later time, rather than with securities acquired at an earlier time.
  - (7) Subsection (6) above shall not require securities to be identified with particular securities comprised in a section 104 holding or a 1982 holding.
  - (8) Accordingly, that subsection shall have effect for determining whether, and to what extent, any securities should be identified with the whole or any part of a section 104 holding or a 1982 holding—
    - (a) as if the time of the acquisition of a section 104 holding were the time when it first came into being; and
    - (b) as if 31st March 1982 were the time of the acquisition of a 1982 holding.
  - (9) The identification rules set out in the preceding provisions of this section have effect subject to subsection (1) of section 105, and securities disposed of shall not be identified with securities acquired after the disposal except in accordance with that section or subsection (5) above.
  - (10) In this section—

“1982 holding” has the same meaning as in section 109;

“securities” means any securities within the meaning of section 104 or any relevant securities within the meaning of section 108.
  - (11) For the purposes of this section securities of a company shall not be treated as being of the same class unless they are so treated by the practice of a recognised stock exchange, or would be so treated if dealt with on that recognised stock exchange.”
- (2) In subsection (1) of section 105 of that Act (disposal and acquisition on the same day), for “The following provisions” there shall be substituted “ Paragraphs (a) and (b) below ”; and for subsection (2) of that section there shall be substituted the following subsection—
- “(2) Where the quantity of securities disposed of by any person exceeds the aggregate quantity of—

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- (a) the securities (if any) which are required by subsection (1) above to be identified with securities acquired on the day of the disposal,
  - (b) the securities (if any) which are required by any of the provisions of section 106 or 106A(5) to be identified with securities acquired after the day of the disposal, and
  - (c) the securities (if any) which are required by any of the provisions of sections 104, 106, 106A or 107, or of Schedule 2, to be identified with securities acquired before the day of the disposal,
- the disposal shall be treated as diminishing a quantity of securities subsequently acquired, and as so diminishing any quantity so acquired at an earlier date, rather than one so acquired at a later date.”
- (3) In section 107 of that Act (general identification rules) for subsections (1) and (2) there shall be substituted the following subsections—
- “(1) This section has effect for the purposes of corporation tax where any securities are disposed of by a company.
  - (1A) The securities disposed of shall be identified in accordance with the following provisions of this section with securities of the same class that have been acquired by the company making the disposal and could be comprised in that disposal.
  - (2) The provisions of this section have effect in the case of any disposal notwithstanding that some or all of the securities disposed of are otherwise identified—
    - (a) by the disposal, or
    - (b) by a transfer or delivery giving effect to it;
 but where a company disposes of securities in one capacity, they shall not be identified with securities which it holds, or can dispose of, only in some other capacity.”
- (4) In section 108 of that Act (relevant securities), at the beginning there shall be inserted the following subsection—
- “(A1) This section has effect for the purposes of corporation tax where any relevant securities are disposed of by a company.”
- (5) In that section—
- (a) in subsections (2) and (7), for “person”, in each place where it occurs, there shall be substituted “ company ”; and
  - (b) in subsection (2), for “him” and “he” there shall be substituted, respectively, “ the company ” and “ it ”.
- (6) In each of section 151B(1) and (7) of that Act and paragraph 4(2) of Schedule 5C to that Act (disapplication of share pooling and identification rules in relation to shares in a VCT), for “107” there shall be substituted “ 106A ”.
- (7) Subject to subsection (8) below, the preceding provisions of this section have effect in relation to any disposal on or after 6th April 1998.
- (8) For the purposes of capital gains tax for the year 1997-98 (but not for the purposes of corporation tax), the following provisions have effect in relation to any disposal of securities made on or after 17th March 1998 and before 6th April 1998, that is to say—



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- (a) the identification rule in subsection (5) of the section 106A of the <sup>M50</sup>Taxation of Chargeable Gains Act 1992 set out in subsection (1) above shall apply in accordance with subsections (3) and (4) of that section;
  - (b) that rule shall have priority over any other rule, except the one in section 105(1) of that Act; and
  - (c) section 104(1) of that Act shall not apply to any securities identified by virtue of this subsection with the securities disposed of.
- (9) In subsection (8) above “securities” means any securities within the meaning of section 104 of the <sup>M51</sup>Taxation of Chargeable Gains Act 1992 or any relevant securities within the meaning of section 108 of that Act.

#### Marginal Citations

- M49** 1992 c. 12.
- M50** 1992 c.12.
- M51** 1992 c. 12.

## 125 Indexation and share pooling etc.

- (1) In subsection (1) of section 110 of the <sup>M52</sup>Taxation of Chargeable Gains Act 1992 (indexation allowance for section 104 holdings), for “This” there shall be substituted “ For the purposes of corporation tax this ”.
- <sup>F98</sup>(2) .....
- <sup>F99</sup>(3) .....
- (4) Subject to subsection (5) below, the preceding provisions of this section have effect in relation to disposals on or after 6th April 1998.
- (5) This section does not affect the computation of the amount of so much of any gain as—
- (a) is treated for the purposes of the taxation of chargeable gains as having accrued on a disposal on or after 6th April 1998; but
  - (b) is taken for those purposes to be equal to the whole or any part of a gain that—
    - (i) would (but for any enactment relating to the taxation of chargeable gains) have accrued on an actual disposal made before that date, or
    - (ii) would have accrued on a disposal assumed under any such enactment to have been made before that date.

#### Textual Amendments

- F98** S. 125(2) omitted (with effect in accordance with Sch. 2 para. 100 to the amending Act) by virtue of Finance Act 2008 (c. 9), **Sch. 2 para. 96(b)**
- F99** S. 125(3) omitted (with effect in accordance with Sch. 2 para. 100 to the amending Act) by virtue of Finance Act 2008 (c. 9), **Sch. 2 para. 96(b)**

#### Marginal Citations

- M52** 1992 c. 12.

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### *Stock dividends*

#### **126 Capital gains on stock dividends.**

- (1) For sections 141 and 142 of the <sup>M53</sup>Taxation of Chargeable Gains Act 1992 (stock dividends) there shall be substituted the following section—

**“142 Capital gains on stock dividends.**

- (1) This section applies where any share capital to which section 249 of the Taxes Act applies is issued as mentioned in subsection (4), (5) or (6) of that section in respect of shares in the company held by any person.
- (2) The case shall not constitute a reorganisation of the company’s share capital for the purposes of sections 126 to 128.
- (3) The person who acquires the share capital by means of its issue shall (notwithstanding section 17(1)) be treated for the purposes of section 38(1) (a) as having acquired that asset for a consideration equal to the appropriate amount in cash (within the meaning of section 251(2) to (4) of the Taxes Act).”
- (2) This section applies to any share capital issued on or after 6th April 1998.

**Marginal Citations**

**M53** 1992 c. 12.

### *Non-residents etc.*

#### **127 Charge to CGT on temporary non-residents.**

- (1) After section 10 of the <sup>M54</sup>Taxation of Chargeable Gains Act 1992 there shall be inserted the following section—

**“10A Temporary non-residents.**

- (1) This section applies in the case of any individual (“the taxpayer”) if—
- (a) he satisfies the residence requirements for any year of assessment (“the year of return”);
  - (b) he did not satisfy those requirements for one or more years of assessment immediately preceding the year of return but there are years of assessment before that year for which he did satisfy those requirements;
  - (c) there are fewer than five years of assessment falling between the year of departure and the year of return; and
  - (d) four out of the seven years of assessment immediately preceding the year of departure are also years of assessment for each of which he satisfied those requirements.
- (2) Subject to the following provisions of this section and section 86A, the taxpayer shall be chargeable to capital gains tax as if—

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*Status: Point in time view as at 19/07/2011.*

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- (a) all the chargeable gains and losses which (apart from this subsection) would have accrued to him in an intervening year,
  - (b) all the chargeable gains which under section 13 or 86 would be treated as having accrued to him in an intervening year if he had been resident in the United Kingdom throughout that intervening year, and
  - (c) any losses which by virtue of section 13(8) would have been allowable in his case in any intervening year if he had been resident in the United Kingdom throughout that intervening year,
- were gains or, as the case may be, losses accruing to the taxpayer in the year of return.
- (3) Subject to subsection (4) below, the gains and losses which by virtue of subsection (2) above are to be treated as accruing to the taxpayer in the year of return shall not include any gain or loss accruing on the disposal by the taxpayer of any asset if—
- (a) that asset was acquired by the taxpayer at a time in the year of departure or any intervening year when he was neither resident nor ordinarily resident in the United Kingdom;
  - (b) that asset was so acquired otherwise than by means of a relevant disposal which by virtue of section 58, 73 or 258(4) is treated as having been a disposal on which neither a gain nor a loss accrued;
  - (c) that asset is not an interest created by or arising under a settlement; and
  - (d) the amount or value of the consideration for the acquisition of that asset by the taxpayer does not fall, by reference to any relevant disposal, to be treated as reduced under section 23(4)(b) or (5)(b), 152(1)(b), 162(3)(b) or 247(2)(b) or (3)(b).
- (4) Where—
- (a) any chargeable gain that has accrued or would have accrued on the disposal of any asset (“the first asset”) is a gain falling (apart from this section) to be treated by virtue of section 116(10) or (11), 134 or 154(2) or (4) as accruing on the disposal of the whole or any part of another asset, and
  - (b) the other asset is an asset falling within paragraphs (a) to (d) of subsection (3) above but the first asset is not,
- subsection (3) above shall not exclude that gain from the gains which by virtue of subsection (2) above are to be treated as accruing to the taxpayer in the year of return.
- (5) The gains and losses which by virtue of subsection (2) above are to be treated as accruing to the taxpayer in the year of return shall not include any chargeable gain or allowable loss accruing to the taxpayer in an intervening year which, in the taxpayer’s case, has fallen to be brought into account for that year by virtue of section 10 or 16(3).
- (6) The reference in subsection (2)(c) above to losses allowable in an individual’s case in an intervening year is a reference to only so much of the aggregate of the losses that would have been available in accordance with subsection (8) of section 13 for reducing gains accruing by virtue of that section to that individual in that year as does not exceed the amount of the gains that would

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have accrued to him in that year if it had been a year throughout which he was resident in the United Kingdom.

(7) Where this section applies in the case of any individual, nothing in any enactment imposing any limit on the time within which an assessment to capital gains tax may be made shall prevent any such assessment for the year of departure from being made in the taxpayer's case at any time before the end of two years after the 31st January next following the year of return.

(8) In this section—

“intervening year” means any year of assessment which, in a case where the conditions in paragraphs (a) to (d) of subsection (1) above are satisfied, falls between the year of departure and the year of return;

“relevant disposal”, means a disposal of an asset acquired by the person making the disposal at a time when that person was resident or ordinarily resident in the United Kingdom; and

“the year of departure” means the last year of assessment before the year of return for which the taxpayer satisfied the residence requirements.

(9) For the purposes of this section an individual satisfies the residence requirements for a year of assessment if that year of assessment is one during any part of which he is resident in the United Kingdom or during which he is ordinarily resident in the United Kingdom.

(10) This section is without prejudice to any right to claim relief in accordance with any double taxation relief arrangements.”

(2) In section 9(3) of that Act (exclusion from charge of persons temporarily resident), for “section 10(1)” there shall be substituted “sections 10(1) and 10A”.

(3) In section 96 of that Act (payments by and to companies), after subsection (9) there shall be inserted the following subsections—

“(9A) For the purposes of this section an individual shall be deemed to have been resident in the United Kingdom at any time in any year of assessment which in his case is an intervening year for the purposes of section 10A.

(9B) If—

(a) it appears after the end of any year of assessment that any individual is to be treated by virtue of subsection (9A) above as having been resident in the United Kingdom at any time in that year, and

(b) as a consequence, any adjustments fall to be made to the amounts of tax taken to have been chargeable by virtue of this section on any person,

nothing in any enactment limiting the time for the making of any claim or assessment shall prevent the making of those adjustments (whether by means of an assessment, an amendment of an assessment, a repayment of tax or otherwise).”

(4) This section has effect—

(a) in any case in which the year of departure is the year 1998-99 or a subsequent year of assessment; and

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- (b) in any case in which the year of departure is the year 1997-98 and the taxpayer was resident or ordinarily resident in the United Kingdom at a time in that year on or after 17th March 1998.

**Marginal Citations**

M54 1992 c. 12.

**128 Disposal of interests in a settlement.**

- (1) In section 76 of the <sup>M55</sup>Taxation of Chargeable Gains Act 1992 (disposal of interests in settled property)—

- (a) in subsection (1), at the beginning there shall be inserted “Subject to subsection (1A) below”;
- (b) after that subsection there shall be inserted the subsections set out in subsection (2) below; and
- (c) after subsection (2) there shall be inserted the subsection set out in subsection (3) below.

- (2) The subsections inserted after subsection (1) are as follows—

“(1A) Subject to subsection (3) below, subsection (1) above does not apply if—

- (a) the settlement falls within subsection (1B) below; or
- (b) the property comprised in the settlement is or includes property deriving directly or indirectly from a settlement falling within that subsection.

(1B) A settlement falls within this subsection if there has been a time when the trustees of that settlement—

- (a) were not resident or ordinarily resident in the United Kingdom; or
- (b) fell to be regarded for the purposes of any double taxation relief arrangements as resident in a territory outside the United Kingdom.”

- (3) The subsection inserted after subsection (2) is as follows—

“(3) Subsection (1A) above shall not prevent subsection (1) above from applying where the disposal in question is a disposal in consideration of obtaining settled property that is treated as made under subsection (2) above.”

- (4) This section has effect in relation to any disposal on or after 6th March 1998.

**Marginal Citations**

M55 1992 c. 12.

**129 Attribution of gains to settlor in section 10A cases.**

- (1) After section 86 of the <sup>M56</sup>Taxation of Chargeable Gains Act 1992 there shall be inserted the following section—

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**“86A Attribution of gains to settlor in section 10A cases.**

- (1) Subsection (2) below applies in the case of a person who is a settlor in relation to any settlement (“the relevant settlement”) where—
  - (a) by virtue of section 10A, amounts falling within section 86(1)(e) for any intervening year or years would (apart from this section) be treated as accruing to the settlor in the year of return; and
  - (b) there is an excess of the relevant chargeable amounts for the non-residence period over the amount of the section 87 pool at the end of the year of departure.
- (2) Only so much (if any) of—
  - (a) the amount falling within section 86(1)(e) for the intervening year, or
  - (b) if there is more than one intervening year, the aggregate of the amounts falling within section 86(1)(e) for those years,
 as exceeds the amount of the excess mentioned in subsection (1)(b) above shall fall in accordance with section 10A to be attributed to the settlor for the year of return.
- (3) In subsection (1) above, the reference to the relevant chargeable amounts for the non-residence period is (subject to subsection (5) below) a reference to the aggregate of the amounts on which beneficiaries of the relevant settlement are charged to tax under section 87 or 89(2) for the intervening year or years in respect of any capital payments received by them.
- (4) In subsection (1) above, the reference to the section 87 pool at the end of the year of departure is (subject to subsection (5) below) a reference to the amount (if any) which, in accordance with subsection (2) of that section, fell in relation to the relevant settlement to be carried forward from the year of departure to be included in the amount of the trust gains for the year of assessment immediately following the year of departure.
- (5) Where the property comprised in the relevant settlement has at any time included property not originating from the settlor, only so much (if any) of any capital payment or amount carried forward in accordance with section 87(2) as, on a just and reasonable apportionment, is properly referable to property originating from the settlor shall be taken into account for the purposes of subsections (3) and (4) above.
- (6) Where any reduction falls to be made by virtue of subsection (2) above in any amount to be attributed in accordance with section 10A to any settlor for any year of assessment, the reduction to be treated as made for that year in accordance with section 87(3) in the case of the settlement in question shall not be made until—
  - (a) the reduction (if any) falling to be made by virtue of that subsection has been made in the case of every settlor to whom any amount is so attributed; and
  - (b) effect has been given to any reduction required to be made under subsection (7) below.
- (7) Where in the case of any settlement there is (after the making of any reduction or reductions in accordance with subsection (2) above) any amount or amounts

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falling in accordance with section 10A to be attributed for any year of assessment to settlors of the settlement, the amount or (as the case may be) aggregate amount falling in accordance with that section to be so attributed shall be applied in reducing the amount carried forward to that year in accordance with section 87(2).

- (8) Where an amount or aggregate amount has been applied, in accordance with subsection (7) above, in reducing the amount which in the case of any settlement is carried forward to any year in accordance with section 87(2), that amount (or, as the case may be, so much of it as does not exceed the amount which it is applied in reducing) shall be deducted from the amount used for that year for making the reduction under section 87(3) in the case of that settlement.
- (9) Expressions used in this section and section 10A have the same meanings in this section as in that section; and paragraph 8 of Schedule 5 shall apply for the construction of the references in subsection (5) above to property originating from the settlor as it applies for the purposes of that Schedule.”
- (2) In section 97(1) to (5), (7) and (8) of that Act (interpretation of sections 87 to 96), for the words “sections 87”, wherever occurring, there shall be substituted “ sections 86A ”.
- (3) This section has effect where the year of departure is the year 1997-98 or any subsequent year of assessment.

#### Marginal Citations

M56 1992 c. 12.

### 130 Charge on beneficiaries of settlements with non-resident settlors.

<sup>F100</sup>(1) .....

- (2) In subsection (1) of section 88 of that Act (charge on beneficiaries of a settlement treated as resident outside the United Kingdom if the settlor is or has been domiciled and resident in the United Kingdom)—
  - (a) the word “and” shall be inserted at the end of paragraph (a); and
  - (b) paragraph (c) and the word “and” immediately preceding it shall be omitted.
- (3) Subject to subsection (4) below, the preceding provisions of this section apply for the year 1998-99 and subsequent years of assessment and shall be deemed to have applied for the year 1997-98.

<sup>F101</sup>(4) .....

#### Textual Amendments

**F100** S. 130(1) omitted (with effect in accordance with Sch. 7 para. 115 to the amending Act) by virtue of Finance Act 2008 (c. 9), **Sch. 7 para. 114(a)**

**F101** S. 130(4) omitted (with effect in accordance with Sch. 7 para. 115 to the amending Act) by virtue of Finance Act 2008 (c. 9), **Sch. 7 para. 114(a)**

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### 131 Charge on settlors of settlements for grandchildren.

- (1) In paragraph 2 of Schedule 5 to the <sup>M57</sup>Taxation of Chargeable Gains Act 1992 (test whether settlor has interest)—
- (a) after sub-paragraph (3)(d) there shall be inserted the following paragraphs—
- “(da) any grandchild of the settlor or of the settlor’s spouse;  
 (db) the spouse of any such grandchild;”
- (b) in sub-paragraph (3)(e), for “(d)” there shall be substituted “ (db) ”.
- (2) For sub-paragraph (7) of that paragraph, there shall be substituted the following sub-paragraph—
- “(7) In this paragraph—
- “child” includes a stepchild; and  
 “grandchild” means a child of a child.”
- (3) Schedule 22 to this Act (which makes transitional provision and consequential amendments in connection with the provisions of this section) shall have effect.
- (4) The preceding provisions of this section and Schedule 22 to this Act apply for the year 1998-99 and subsequent years of assessment and shall be deemed to have applied for the year 1997-98.

#### Marginal Citations

M57 1992 c. 12.

### 132 Charge on settlors of pre-19th March 1991 settlements.

- (1) In paragraph 9 of Schedule 5 to the <sup>M58</sup>Taxation of Chargeable Gains Act 1992 (which sets out when a settlement is a qualifying settlement for the purposes of the attribution of gains to the settlor), after sub-paragraph (1) there shall be inserted the following sub-paragraphs—
- “(1A) Subject to sub-paragraph (1B) below, a settlement created before 19th March 1991 is a qualifying settlement for the purposes of section 86 and this Schedule in—
- (a) the year 1999-00, and  
 (b) subsequent years of assessment.
- (1B) Where a settlement created before 19th March 1991 is a protected settlement immediately after the beginning of 6th April 1999, that settlement shall be treated as a qualifying settlement for the purposes of section 86 and this Schedule in a year of assessment mentioned in sub-paragraph (1A)(a) or (b) above only if—
- (a) any of the five conditions set out in subsections (3) to (6A) below becomes fulfilled as regards the settlement in that year; or  
 (b) any of those five conditions became so fulfilled in any previous year of assessment ending after 19th March 1991.”
- (2) Sub-paragraph (2) of that paragraph shall not have effect for the purpose of determining whether any settlement is a qualifying settlement in the year 1999-00 or any subsequent year of assessment.



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- (3) After sub-paragraph (6) of that paragraph there shall be inserted the following sub-paragraph—

“(6A) The fifth condition is that the settlement ceases to be a protected settlement at any time on or after 6th April 1999.”

- (4) After sub-paragraph (10) of that paragraph there shall be inserted the following sub-paragraphs—

“(10A) Subject to sub-paragraph (10B) below, a settlement is a protected settlement at any time in a year of assessment if at that time the beneficiaries of that settlement are confined to persons falling within some or all of the following descriptions, that is to say—

- (a) children of a settlor or of a spouse of a settlor who are under the age of eighteen at that time or who were under that age at the end of the immediately preceding year of assessment;
- (b) unborn children of a settlor, of a spouse of a settlor, or of a future spouse of a settlor;
- (c) future spouses of any children or future children of a settlor, a spouse of a settlor or any future spouse of a settlor;
- (d) a future spouse of a settlor;
- (e) persons outside the defined categories.

(10B) For the purposes of sub-paragraph (10A) above a person is outside the defined categories at any time if, and only if, there is no settlor by reference to whom he is at that time a defined person in relation to the settlement for the purposes of paragraph 2(1) above.

(10C) For the purposes of sub-paragraph (10A) above a person is a beneficiary of a settlement if—

- (a) there are any circumstances whatever in which relevant property which is or may become comprised in the settlement is or will or may become applicable for his benefit or payable to him;
- (b) there are any circumstances whatever in which relevant income which arises or may arise under the settlement is or will or may become applicable for his benefit or payable to him;
- (c) he enjoys a benefit directly or indirectly from any relevant property comprised in the settlement or any relevant income arising under the settlement.

(10D) In sub-paragraph (10C) above—

“relevant property” means property originating from a settlor; and  
“relevant income” means income originating from a settlor.”

- (5) In construing section 86(1)(e) of the <sup>M59</sup>Taxation of Chargeable Gains Act 1992 (which specifies the amount by reference to which a charge arises under that section) as regards a particular year of assessment and in relation to a settlement created before 19th March 1991 which—

- (a) is a qualifying settlement in the year 1999-00, but
- (b) was not a qualifying settlement in any earlier year of assessment,

no account shall be taken of disposals made before 6th April 1999 (whether for the purpose of arriving at gains or for the purpose of arriving at losses).

*Status: Point in time view as at 19/07/2011.*

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- (6) Schedule 23 (which makes transitional provision in connection with the coming into force of this section) shall have effect.

**Marginal Citations**

**M58** 1992 c. 12.

**M59** 1992 c. 12.

*Groups of companies etc.*

**133 Transfer within group to investment trust.**

- (1) After section 101 of the <sup>M60</sup>Taxation of Chargeable Gains Act 1992, there shall be inserted the following section—

**“101A Transfer within group to investment trust.**

- (1) This section applies where—
- (a) an asset has been disposed of to a company (the “acquiring company”) and the disposal has been treated by virtue of section 171(1) as giving rise to neither a gain nor a loss,
  - (b) at the time of the disposal the acquiring company was not an investment trust, and
  - (c) the conditions set out in subsection (2) below are satisfied by the acquiring company.
- (2) Those conditions are satisfied by the acquiring company if—
- (a) it becomes an investment trust for an accounting period beginning not more than 6 years after the time of the disposal,
  - (b) at the beginning of that accounting period, it owns, otherwise than as trading stock—
    - (i) the asset, or
    - (ii) property to which a chargeable gain has been carried forward from the asset on a replacement of business assets,
  - (c) it has not been an investment trust for any earlier accounting period beginning after the time of the disposal, and
  - (d) at the time at which it becomes an investment trust, there has not been an event by virtue of which it falls by virtue of section 179(3) or 101C(3) to be treated as having sold, and immediately reacquired, the asset at the time specified in subsection (3) below.
- (3) The acquiring company shall be treated for all the purposes of this Act as if immediately after the disposal it had sold, and immediately reacquired, the asset at its market value at that time.
- (4) Any chargeable gain or allowable loss which, apart from this subsection, would accrue to the acquiring company on the sale referred to in subsection (3) above shall be treated as accruing to it immediately before the end of the last accounting period to end before the beginning of the accounting period for which the acquiring company becomes an investment trust.

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- (5) For the purposes of this section a chargeable gain is carried forward from an asset to other property on a replacement of business assets if—
- (a) by one or more claims under sections 152 to 158, the chargeable gain accruing on a disposal of the asset is reduced, and
  - (b) as a result an amount falls to be deducted from the expenditure allowable in computing a gain accruing on the disposal of the other property.
- (6) For the purposes of this section an asset acquired by the acquiring company shall be treated as the same as an asset owned by it at a later time if the value of the second asset is derived in whole or in part from the first asset; and, in particular, assets shall be so treated where—
- (a) the second asset is a freehold and the first asset was a leasehold; and
  - (b) the lessee has acquired the reversion.
- (7) Where under this section a company is to be treated as having disposed of and reacquired an asset—
- (a) all such recomputations of liability in respect of other disposals, and
  - (b) all such adjustments of tax, whether by way of assessment or by way of discharge or repayment of tax,
- as may be required in consequence of the provisions of this section shall be carried out.
- (8) Notwithstanding any limitation on the time for making assessments, any assessment to corporation tax chargeable in consequence of this section may be made at any time within 6 years after the end of the accounting period referred to in subsection (2)(a) above.”
- (2) In section 179 of that Act (company ceasing to be a member of a group), after subsection (2B) there shall be inserted the following subsection—
- “(2C) This section shall not have effect as respects any asset if, before the time when the chargeable company ceases to be a member of the group or, as the case may be, the second group, an event has already occurred by virtue of which the company falls by virtue of section 101A(3) to be treated as having sold and immediately reacquired the asset at the time specified in subsection (3) below.”
- (3) Subsections (1) and (2) above apply to any company which becomes an investment trust for an accounting period beginning on or after 17th March 1998.

**Marginal Citations**

**M60** 1992 c. 12.

**134 Transfer of company’s assets to venture capital trust.**

- (1) In subsection (4) of section 139 of the <sup>M61</sup>Taxation of Chargeable Gains Act 1992 (reconstruction or amalgamation involving transfer of a business), after “investment trust” there shall be inserted “ or a venture capital trust. ”

*Status: Point in time view as at 19/07/2011.*

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- (2) After the section 101A of that Act inserted by section 133 above there shall be inserted the following section—

**“101B Transfer of company’s assets to venture capital trust.**

- (1) Where section 139 has applied on the transfer of a company’s business (in whole or in part) to a company which at the time of the transfer was not a venture capital trust, then if—
- (a) at any time after the transfer the company becomes a venture capital trust by virtue of an approval for the purposes of section 842AA of the Taxes Act; and
  - (b) at the time as from which the approval has effect the company still owns any of the assets of the business transferred,
- the company shall be treated for all the purposes of this Act as if immediately after the transfer it had sold, and immediately reacquired, the assets referred to in paragraph (b) above at their market value at that time.
- (2) Any chargeable gain or allowable loss which, apart from this subsection, would accrue to the company on the sale referred to in subsection (1) above shall be treated as accruing to the company immediately before the time mentioned in subsection (1)(b) above.
- (3) This section does not apply if at the time mentioned in subsection (1)(b) above there has been an event by virtue of which the company falls by virtue of section 101(1) to be treated as having sold, and immediately reacquired, the assets immediately after the transfer referred to in subsection (1) above.
- (4) Notwithstanding any limitation on the time for making assessments, any assessment to corporation tax chargeable in consequence of this section may, in a case in which the approval mentioned in subsection (1)(a) above has effect as from the beginning of an accounting period, be made at any time within 6 years after the end of that accounting period.
- (5) Where under this section a company is to be treated as having disposed of, and reacquired, an asset of a business, all such recomputations of liability in respect of other disposals and all such adjustments of tax, whether by way of assessment or by way of discharge or repayment of tax, as may be required in consequence of the provisions of this section shall be carried out.”

- (3) After subsection (1A) of section 101 of that Act there shall be inserted the following subsection—

“(1B) This section does not apply if at the time at which the company becomes an investment trust there has been an event by virtue of which it falls by virtue of section 101B(1) to be treated as having sold, and immediately reacquired, the assets immediately after the transfer referred to in subsection (1) above.”

- (4) Subsection (1) above applies to transfers made on or after 17th March 1998.
- (5) Subsections (2) and (3) above apply to a company in respect of which an approval for the purposes of [F102Part 6 of the Income Tax Act 2007] (venture capital trusts) has effect as from a time falling on or after 17th March 1998.

*Status: Point in time view as at 19/07/2011.*

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#### Textual Amendments

**F102** Words in s. 134(5) substituted (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 382](#) (with [Sch. 2](#))

#### Marginal Citations

**M61** [1992 c. 12.](#)

### 135 Transfer within group to venture capital trust.

(1) In section 171 of the <sup>M62</sup>Taxation of Chargeable Gains Act 1992 (transfers within a group), after the word “or” at the end of paragraph (c) of subsection (2) there shall be inserted the following paragraph—

“(cc) a disposal by or to a venture capital trust; or”

(2) After the section 101B of that Act inserted by section 134 above there shall be inserted the following section—

#### “101C Transfer within group to venture capital trust.

(1) This section applies where—

- (a) an asset has been disposed of to a company (the “acquiring company”) and the disposal has been treated by virtue of section 171(1) as giving rise to neither a gain nor a loss,
- (b) at the time of the disposal the acquiring company was not a venture capital trust, and
- (c) the conditions set out in subsection (2) below are satisfied by the acquiring company.

(2) Those conditions are satisfied by the acquiring company if—

- (a) it becomes a venture capital trust by virtue of an approval having effect as from a time (the “time of approval”) not more than 6 years after the time of the disposal,
- (b) at the time of approval the company owns, otherwise than as trading stock—
  - (i) the asset, or
  - (ii) property to which a chargeable gain has been carried forward from the asset on a replacement of business assets,
- (c) it has not been a venture capital trust at any earlier time since the time of the disposal, and
- (d) at the time of approval, there has not been an event by virtue of which it falls by virtue of section 179(3) or 101A(3) to be treated as having sold, and immediately reacquired, the asset at the time specified in subsection (3) below.

(3) The acquiring company shall be treated for all the purposes of this Act as if immediately after the disposal it had sold, and immediately reacquired, the asset at its market value at that time.

(4) Any chargeable gain or allowable loss which, apart from this subsection, would accrue to the acquiring company on the sale referred to in subsection (3)

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above shall be treated as accruing to it immediately before the time of approval.

- (5) Subsections (5) to (7) of section 101A apply for the purposes of this section as they apply for the purposes of that section.
  - (6) Notwithstanding any limitation on the time for making assessments, any assessment to corporation tax chargeable in consequence of this section may, in a case in which the time of approval is the time at which an accounting period of the company begins, be made at any time within 6 years after the end of that accounting period.
  - (7) Any reference in this section to an approval is a reference to an approval for the purposes of section 842AA of the Taxes Act.”
- (3) In section 179 of that Act (company ceasing to be a member of a group), after the subsection (2C) inserted by section 133 above there shall be inserted the following subsection—
- “(2D) This section shall not have effect as respects any asset if, before the time when the chargeable company ceases to be a member of the group or, as the case may be, the second group, an event has already occurred by virtue of which the company falls by virtue of section 101C(3) to be treated as having sold and immediately reacquired the asset at the time specified in subsection (3) below.”
- (4) Subsection (1) above applies to disposals made on or after 17th March 1998.
- (5) Subsections (2) and (3) above apply to a company in respect of which an approval for the purposes of [F103Part 6 of the Income Tax Act 2007] (venture capital trusts) has effect as from a time falling on or after 17th March 1998.

#### Textual Amendments

**F103** Words in s. 135(5) substituted (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 383](#) (with [Sch. 2](#))

#### Marginal Citations

**M62** [1992 c. 12](#).

### 136 Incorporated friendly societies.

- (1) In section 170(9) of the <sup>M63</sup>Taxation of Chargeable Gains Act 1992 (meaning of “company” in sections 170 to 181), after the word “and” at the end of paragraph (c) there shall be inserted the following paragraph—
  - “(cc) an incorporated friendly society within the meaning of the <sup>M64</sup>Friendly Societies Act 1992; and”.
- (2) In subsection (2) of section 171 of that Act (transfers within a group), after the word “or” at the end of the paragraph (cc) inserted by section 135 above there shall be inserted the following paragraph—
  - “(cd) a disposal by or to a qualifying friendly society; or”
- (3) After subsection (4) of that section there shall be inserted the following subsection—

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“(5) In subsection (2)(cd) above “qualifying friendly society” means a company which is a qualifying society for the purposes of section 461B of the Taxes Act (incorporated friendly societies entitled to exemption from income tax and corporation tax on certain profits).”

(4) Subsection (1) above applies for the purpose of determining, in relation to times on and after 17th March 1998, whether a friendly society is a company within the meaning of the provisions of sections 170 to 181 of the <sup>M65</sup>Taxation of Chargeable Gains Act 1992.

(5) Subsections (2) and (3) above apply in relation to disposals made on or after 17th March 1998.

#### Marginal Citations

**M63** 1992 c. 12.

**M64** 1992 c. 40.

**M65** 1992 c. 12.

### 137 Pre-entry gains.

**F104**(1) . . . . .

**F105**(2) . . . . .

(3) In subsection (3) of section 213 of that Act (carry back of losses in respect of deemed annual disposal by insurance companies)—

(a) at the beginning there shall be inserted “Subject to subsection (3A) below,”; and

(b) for the “and” at the end of paragraph (c) there shall be substituted—

“(ca) none of the intervening accounting periods is an accounting period in which the company joined a group of companies, and”.

**F106**(4) . . . . .

**F107**(5) . . . . .

(6) Subsection (3) above has effect in relation to any intervening period ending on or after 17th March 1998.

**F108**(7) . . . . .

#### Textual Amendments

**F104** S. 137(1) repealed (with effect in accordance with Sch. 26 Pt. 3(9) Note 1 of the amending Act) by [Finance Act 2006 \(c. 25\)](#), [Sch. 26 Pt. 3\(9\)](#)

**F105** S. 137(2) repealed (with effect in accordance with Sch. 26 Pt. 3(9) Note 1 of the amending Act) by [Finance Act 2006 \(c. 25\)](#), [Sch. 26 Pt. 3\(9\)](#)

**F106** S. 137(4) repealed (with effect in accordance with Sch. 43 Pt. 3(12) Note 8 of the amending Act) by [Finance Act 2003 \(c. 14\)](#), [Sch. 43 Pt. 3\(12\)](#)

**F107** S. 137(5) repealed (with effect in accordance with Sch. 26 Pt. 3(9) Note 1 of the amending Act) by [Finance Act 2006 \(c. 25\)](#), [Sch. 26 Pt. 3\(9\)](#)

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**F108** S. 137(7) repealed (with effect in accordance with Sch. 43 Pt. 3(12) Note 8 of the amending Act) by Finance Act 2003 (c. 14), **Sch. 43 Pt. 3(12)**

**F109** **138 Pre-entry losses.**

.....

**Textual Amendments**

**F109** S. 138 repealed (with effect in accordance with Sch. 11 paras. 11, 12 of the amending Act) by Finance Act 2011 (c. 11), **Sch. 11 para. 10(b)**

**139 De-grouping charges.**

- (1) In section 179(2B) of the <sup>M66</sup>Taxation of Chargeable Gains Act 1992 (cases where there is a connection between groups successively left by a company)—
- (a) in paragraph (b), for the words from “company which” to “its” there shall be substituted “ person or persons who control the company mentioned in paragraph (a) above or who have had it under their ”;
  - (b) in paragraph (c), for the words from “company which has” to “its” there shall be substituted “ person or persons who have, at any time in that period, had under their ”; and
  - (c) in that paragraph, for “fallen”, wherever it occurs, there shall be substituted “ been a person falling ”.
- (2) Subsection (1) above has effect in relation to a company in any case in which the time of the company’s ceasing to be a member of the second group is on or after 17th March 1998.

**Marginal Citations**

**M66** 1992 c. 12.

*Abolition of reliefs*

**140 Phasing out of retirement relief.**

- (1) In Schedule 6 to the <sup>M67</sup>Taxation of Chargeable Gains Act 1992 (retirement relief etc.), paragraph 13(1) (amount available for relief: basic rule) shall have effect, in relation to qualifying disposals in a year of assessment specified in the first column of the following Table, as if—
- (a) for the references to £250,000 there were substituted references to the amount specified in the second column of that Table; and
  - (b) for the reference to £1 million there were substituted a reference to the amount specified in the third column of that Table.

TABLE

<i>Year</i>	<i>£250,000</i>	<i>£1 million</i>
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*Status: Point in time view as at 19/07/2011.*

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1999-00	£200,000	£800,000
2000-01	£150,000	£600,000
2001-02	£100,000	£400,000
2002-03	£50,000	£200,000

- (2) The following provisions, namely—
- (a) section 163 of that Act (relief for disposals by individuals on retirement from family business),
  - (b) section 164 of that Act (other retirement relief), and
  - (c) Schedule 6 to that Act,

shall cease to have effect in relation to disposals in the year 2003-04 and subsequent years of assessment.

- (3) In section 157 of that Act (trade carried on by family company), for the words “within the meaning of Schedule 6” there shall be substituted the words “that is to say, a company the voting rights in which are exercisable, as to not less than 5 per cent., by him”.

- (4) In subsection (8) of section 165 of that Act (relief for gifts of business assets), for paragraph (a) there shall be substituted the following paragraphs—

- “(a) “personal company”, in relation to an individual, means a company the voting rights in which are exercisable, as to not less than 5 per cent., by that individual;
- (aa) “holding company”, “trading company” and “trading group” have the meanings given by paragraph 22 of Schedule A1; and”.

<sup>F110</sup>(5) .....

- (6) Subsections (3) to (5) above have effect in relation to the year 2003-04 and subsequent years of assessment.

#### Textual Amendments

**F110** S. 140(5) omitted (with effect in accordance with Sch. 2 para. 56(3) to the amending Act) by virtue of Finance Act 2008 (c. 9), **Sch. 2 para. 55(a)(ii)**

#### Marginal Citations

**M67** 1992 c. 12.

### 141 Abolition of certain other CGT reliefs.

- (1) The following provisions of the <sup>M68</sup>Taxation of Chargeable Gains Act 1992 shall cease to have effect, namely—

- (a) Chapter IA of Part V (roll-over relief on re-investment); and
- (b) sections 254 and 255 (relief for debts on qualifying corporate bonds).

- (2) In subsection (1) above—

- (a) paragraph (a) has effect in relation to acquisitions made on or after 6th April 1998; and

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(b) paragraph (b) has effect in relation to loans made on or after 17th March 1998.

#### **Marginal Citations**

**M68** 1992 c. 12.

## **PART IV**

### INHERITANCE TAX ETC.

#### **142 Property of historic interest etc.**

Schedule 25 to this Act (which makes provision about the designation of property of historic interest, etc. and about undertakings in relation to such property) shall have effect.

#### **143 Removal of exemption for gifts for public benefit.**

- (1) Section 26 of the <sup>M69</sup>Inheritance Tax Act 1984 (gifts for public benefit) shall not apply to any transfer of value made on or after 17th March 1998.
- (2) Accordingly, in that Act, in relation to any transfer of value made on or after 17th March 1998—
  - (a) in sections 23(5) and 29A(6) (gifts to charities and abatement of exemptions), for the words “25 or 26”, in each place where they occur, there shall be substituted “ or 25 ”; and
  - (b) in section 29(5) (exemptions in loan cases), for “to 26”, “25 or 26” and “25(2) and 26(7)” there shall be substituted, respectively, “ to 25 ”, “ or 25 ” and “ and 25(2) ”.
- (3) In relation to any property becoming the property of any person on or after 17th March 1998, in section 56(4) and (7) of that Act (exclusion of exemptions in relation to the acquisition of reversionary interests), for the words “to 26”, in each place where they occur, there shall be substituted “ to 25 ”.
- (4) In section 76 of that Act (tax not charged on property becoming property held for charitable purposes etc.)—
  - (a) paragraph (d) of subsection (1) and subsection (2) shall cease to have effect, and the word “or” shall be inserted at the end of paragraph (b) of subsection (1);
  - (b) in subsection (3), for “to (d)” there shall be substituted “ to (c) ”; and
  - (c) in subsections (6) and (8), for the words “(c) or (d)”, in each place where they occur, there shall be substituted “ or (c) ”.
- (5) Subsection (4) above has effect in relation to property which ceases to be relevant property, or to be property to which any of sections 70 to 74 of the <sup>M70</sup>Inheritance Tax Act 1984 or paragraph 8 of Schedule 4 to that Act applies, on or after 17th March 1998.
- (6) In relation to any property becoming the property of a body on a transfer of value made on or after 17th March 1998, in section 161(2)(b) of that Act (related property), for “25 or 26” there shall be substituted “ or 25 ”.

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- (7) In relation to any disposal on or after 17th March 1998, in section 258(2) of the <sup>M71</sup>Taxation of Chargeable Gains Act 1992 (gains on disposal of works of art etc.), in paragraph (a), for “1984 Act” there shall be substituted “ Inheritance Tax Act 1984 (“the 1984 Act)” ”.

**Marginal Citations**

- M69** 1984 c. 51.  
**M70** 1984 c. 51.  
**M71** 1992 c. 12.

**144 Maintenance funds for historic buildings, etc.**

- (1) In section 27 of the <sup>M72</sup>Inheritance Tax Act 1984 (exemption for transfers into maintenance funds for historic buildings etc.), at the beginning of subsection (1) there shall be inserted “ Subject to subsection (1A) below, ” and after that subsection there shall be inserted the following subsection—

“(1A) Subsection (1) above does not apply in the case of a direction given after the time of the transfer unless the claim for the direction (if it is not made before that time) is made no more than two years after the date of that transfer, or within such longer period as the Board may allow.”

- (2) This section has effect in relation to transfers of value made on or after 17th March 1998.

**Marginal Citations**

- M72** 1984 c. 51.

<sup>F111</sup>**145 Accounting for property accepted in satisfaction of tax.**

**Textual Amendments**

- F111** S. 145 repealed (18.4.2005) by Commissioners for Revenue and Customs Act 2005 (c. 11), s. 53(1), Sch. 4 para. 67, **Sch. 5**; S.I. 2005/1126, art. 2(2)(h)(i)

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## PART V

### OTHER TAXES

#### *Insurance premium tax*

#### 146 **Travel insurance: higher rate tax.**

- (1) Schedule 6A to the <sup>M73</sup>Finance Act 1994 (premiums liable to tax at the higher rate) shall be amended as follows.
- (2) For paragraph 4 (travel insurance) there shall be substituted—

“4 **Travel insurance**

- (1) A premium under a taxable insurance contract falls within this paragraph if it is in respect of the provision of cover against travel risks for a person travelling.
- (2) Where—
  - (a) a contract of insurance provides cover against both travel risks and risks other than travel risks,
  - (b) the premium attributable to the cover against travel risks does not exceed 10 per cent. of the total premium payable under the contract, and
  - (c) the contract does not provide cover for a person travelling against travel risks falling within two or more of the paragraphs of sub-paragraph (3) below,
 the premium, so far as attributable to the cover against travel risks, does not fall within this paragraph by virtue of sub-paragraph (1) above.
- (3) The travel risks mentioned in sub-paragraph (2)(c) above are—
  - (a) liability in respect of cancellation of travel or of accommodation arranged in connection with travel;
  - (b) delayed or missed departure;
  - (c) curtailment of travel or of the use of accommodation arranged in connection with travel;
  - (d) loss or delayed arrival of baggage;
  - (e) personal injury or illness or expenses of repatriation.
- (4) A premium does not fall within this paragraph by virtue of sub-paragraph (1) above if it is payable under a taxable insurance contract relating to a motor vehicle and is attributable to cover of the kind generally known as—
  - (a) fully comprehensive,
  - (b) third party, fire and theft,
  - (c) third party, or
  - (d) roadside assistance,
 or if it is payable under a taxable insurance contract relating to a caravan, boat or aircraft and is attributable to cover of a description broadly corresponding to any of those set out in paragraphs (a) to (d) above (so far as applicable)

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provided in respect of the caravan, boat or aircraft for a period of at least one month for the person travelling.

(5) In this paragraph—

“person travelling” includes a person intending to travel;

“travel risks” means risks associated with, or related to, travel or intended travel—

- (a) outside the United Kingdom,
- (b) by air within the United Kingdom,
- (c) within the United Kingdom in connection with travel falling within paragraph (a) or (b) above, or
- (d) which involves absence from home for at least one night,

or risks to which a person travelling may be exposed during, or at any place at which he may be in the course of, any such travel.”

(3) Except as provided by subsection (4) below, subsections (1) and (2) above have effect in relation to a premium which falls to be regarded for the purposes of Part III of the Finance Act 1994 as received under a taxable insurance contract by an insurer on or after 1st August 1998.

(4) Subsections (1) and (2) above do not have effect in relation to a premium if the premium—

- (a) is in respect of a contract made before 1st August 1998; and
- (b) falls, by virtue of regulations under section 68 of the <sup>M74</sup>Finance Act 1994 (special accounting scheme), to be regarded for the purposes of Part III of that Act as received under the contract by the insurer on a date before 1st February 1999.

(5) In the application of sections 67A to 67C of the <sup>M75</sup>Finance Act 1994 in relation to the increase in insurance premium tax effected by this section and the exception from that increase—

- (a) the announcement relating to that increase, as described in section 67A(1), and to that exception, as described in section 67B(1), shall be taken to have been made on 17th March 1998;
- (b) “the date of the change” is 1st August 1998; and
- (c) “the concessionary date” is 1st February 1999.

#### Marginal Citations

M73 1994 c. 9.

M74 1994 c. 9.

M75 1994 c. 9.

#### 147 Taxable intermediaries.

(1) Section 52A of the <sup>M76</sup>Finance Act 1994 (certain fees to be treated as premiums under higher rate contracts) shall be amended as follows.

(2) In subsection (5) (which defines a “taxable intermediary” as a person falling within subsection (6) of that section etc) after “subsection (6)” there shall be inserted “ or (6A) ”.

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(3) For subsections (6) and (7) there shall be substituted—

“(6) A person falls within this subsection if the higher rate contract mentioned in subsection (1) above falls within paragraph 2 or 3 of Schedule 6A to this Act (motor cars or motor cycles, or relevant goods) and the person is—

- (a) within the meaning of the paragraph in question, a supplier of motor cars or motor cycles or, as the case may be, of relevant goods; or
- (b) a person connected with a person falling within paragraph (a) above; or
- (c) a person who in the course of his business pays—
  - (i) the whole or any part of the premium received under that contract, or
  - (ii) a fee connected with the arranging of that contract,
 to a person falling within paragraph (a) or (b) above.

(6A) A person falls within this subsection if the higher rate contract mentioned in subsection (1) above falls within paragraph 4 of Schedule 6A to this Act (travel insurance) and the person is—

- (a) the insurer under that contract; or
- (b) a person through whom that contract is arranged in the course of his business; or
- (c) a person connected with the insurer under that contract; or
- (d) a person connected with a person falling within paragraph (b) above; or
- (e) a person who in the course of his business pays—
  - (i) the whole or any part of the premium received under that contract, or
  - (ii) a fee connected with the arranging of that contract,
 to a person falling within any of paragraphs (a) to (d) above.”

(4) In subsection (9) (definitions) the definition of “tour operator” and “travel agent” shall be omitted.

(5) The amendments made by this section have effect in relation to payments in respect of fees charged on or after 1st August 1998.

**Marginal Citations**

M76 1994 c. 9.

*Landfill tax*

**148 Provisional collection of landfill tax.**

(1) In section 1(1) of the <sup>M77</sup>Provisional Collection of Taxes Act 1968 (taxes in relation to which resolutions may have temporary statutory effect), after “insurance premium tax,” there shall be inserted “ landfill tax, ”.

<sup>F112</sup>(2) .....

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F112(3) .....

F112(4) .....

**Textual Amendments**

F112 S. 148(2)-(4) repealed (11.5.2001) by 2001 c. 9, s. 110, Sch. 33, Pt. 3(3)

**Marginal Citations**

M77 1968 c. 2.

*Stamp duty*

[<sup>F113</sup>149 **Stamp duty on conveyance or transfer on sale.**

- (1) Section 55 of the <sup>M78</sup>Finance Act 1963 and section 4 of the <sup>M79</sup>Finance Act Northern Ireland) 1963 (both of which provide for rates of stamp duty on conveyance or transfer on sale) shall each be amended as follows.
- (2) In subsection (1)(d) (rate of £1.50p for every £100 etc where consideration does not exceed £500,000 and the instrument is certified at that amount) for “£1.50p” there shall be substituted “ £2 ”.
- (3) In subsection (1)(e) (rate of £2 for every £100 etc) for “£2” there shall be substituted “ £3 ”.
- (4) This section shall apply to instruments executed on or after 24th March 1998, except where the instrument in question is executed in pursuance of a contract made on or before 17th March 1998.
- (5) This section shall be deemed to have come into force on 24th March 1998.]

**Textual Amendments**

F113 S. 149 repealed (27.7.1999 with effect as mentioned in Sch. 20 Pt. V(2) of the amending Act) by 1999 c. 16, s. 139, Sch. 20 Pt. V(2), Note 1, 2

**Marginal Citations**

M78 1963 c. 25.

M79 1963 c. 22 (N.I.).

**150 Relief from double stamp duties etc.**

- (1) Where an instrument which is chargeable with stamp duty in Great Britain and in Northern Ireland has been stamped in either of those parts of the United Kingdom—
  - (a) the instrument shall, to the extent of the duty it bears, be deemed to be stamped in the other part of the United Kingdom, but
  - (b) if the stamp duty chargeable on the instrument in that other part of the United Kingdom exceeds the stamp duty chargeable on the instrument in the part of the United Kingdom in which it has been stamped, the instrument shall not be deemed to have been duly stamped in that other part of the United Kingdom

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unless and until stamped in accordance with the law which has effect in that part of the United Kingdom with a stamp denoting an amount equal to the excess.

- (2) An instrument which, by virtue of paragraph (b) of subsection (1) above, is not deemed to have been duly stamped in a part of the United Kingdom unless and until stamped with a stamp denoting an amount equal to the excess mentioned in that paragraph may, notwithstanding anything in section 15 of the <sup>M80</sup>Stamp Act 1891, be stamped with such a stamp without payment of any penalty at any time within 30 days after it has first been received in that part of the United Kingdom.
- (3) In section 22 of the <sup>M81</sup>Stamp Duties Management Act 1891 (discontinuance of dies) for the words from “London” to “Gazettes” there shall be substituted “ London, Edinburgh and Belfast Gazettes ”.
- (4) Section 29 of the <sup>M82</sup>Government of Ireland Act 1920 (the provisions of which are either spent or re-enacted with modifications in subsection (1) above) shall cease to have effect.
- (5) The saving in Part I of Schedule 6 to the <sup>M83</sup>Northern Ireland Constitution Act 1973 (repeals) for orders made under section 69 of the <sup>M84</sup>Government of Ireland Act 1920 shall cease to have effect in relation to Part IV of the Government of Ireland (Adaptation of the <sup>M85</sup>Taxing Acts) Order 1922 (the provisions of which are either spent or re-enacted with modifications in subsections (2) and (3) above).

#### Marginal Citations

- M80** 1891 c. 39.  
**M81** 1891 c. 38.  
**M82** 1920 c. 67.  
**M83** 1973 c. 36.  
**M84** 1920 c. 67.  
**M85** S.R. & O. 1922/80.

### *Stamp duty reserve tax*

#### **151 Depository receipts and clearance services: exchanges of shares.**

- (1) In section 95 of the Finance Act 1986 (depository receipts; exceptions) in subsection (3) (exchanges) after paragraph (b) there shall be added— “ and the shares in company Y are held under a depository receipt scheme. ”
- (2) At the end of that section there shall be added—
  - “(5) For the purposes of subsection (3) above, the cases where shares are held under a depository receipt scheme are those cases where, in pursuance of an arrangement,—
    - (a) a depository receipt for chargeable securities has been, or is to be, issued by a person falling within section 93(2) above in respect of the shares in question or shares of the same kind and amount; and
    - (b) the shares in question are held by that person, or by a person whose business is or includes holding chargeable securities as nominee



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or agent for that person, towards the eventual satisfaction of the entitlement of the receipt's holder to receive chargeable securities.

- (6) Where an arrangement is entered into under which—
- (a) shares in a company (company X) are issued to persons in respect of their holdings of shares in another company (company Y), and
  - (b) the shares in company Y are cancelled,
- the issue shall be treated for the purposes of subsection (3) above as an issue by company X in exchange for the shares in company Y.

- (7) In this section “depository receipt for chargeable securities” has the same meaning as in section 93 above (see section 94 above).”

- (3) In section 97 of the <sup>M86</sup>Finance Act 1986 (clearance services: exceptions) in subsection (4) (exchanges) after paragraph (b) there shall be added— “ and the shares in company Y are held under a clearance services scheme. ”

- (4) At the end of that section there shall be added—

“(6) For the purposes of subsection (4) above, the cases where shares are held under a clearance services scheme are those cases where—

- (a) an arrangement falling within paragraph (a) of subsection (1) of section 96 above has been entered into; and
- (b) in pursuance of that arrangement, the shares are held by the person referred to in that paragraph as A or by a person whose business is or includes holding chargeable securities as nominee for that person.

- (7) Where an arrangement is entered into under which—

- (a) shares in a company (company X) are issued to persons in respect of their holdings of shares in another company (company Y), and
  - (b) the shares in company Y are cancelled,
- the issue shall be treated for the purposes of subsection (4) above as an issue by company X in exchange for the shares in company Y.”

- (5) In section 99(10) of the <sup>M87</sup>Finance Act 1986 (which makes provision in relation to the interpretation of “chargeable securities” in sections 93, 94, 96 and 97A)—

- (a) after “94,” there shall be inserted “ 95, ”; and
- (b) after “96” there shall be inserted “ , 97 ”.

- (6) This section applies where the issue by company X referred to in section 95(3) or (6) or 97(4) or (7) of the <sup>M88</sup>Finance Act 1986 is an issue on or after 1st May 1998.

#### Marginal Citations

**M86** 1986 c. 41.

**M87** 1986 c. 41.

**M88** 1986 c. 41.

*Status: Point in time view as at 19/07/2011.*

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*Petroleum revenue tax etc.*

**152 Gas valuation.**

- (1) Paragraph 3A of Schedule 3 to the <sup>M89</sup>Oil Taxation Act 1975 (market value of light gases) shall have effect, and be deemed always to have had effect, with the insertion of the following sub-paragraph after sub-paragraph (3)—

“(3A) The circumstances referred to in sub-paragraph (1) above include—

- (a) the timing of the making, and of any subsequent variations, of the actual contract or other arrangements under which the disposal or appropriation was made;
- (b) the terms of that contract or, as the case may be, of those arrangements, and the terms of any such variations; and
- (c) the extent to which the circumstances to which regard is to be had by virtue of paragraphs (a) and (b) above are circumstances that might reasonably have been expected to exist in the case of a contract satisfying the conditions specified in sub-paragraph (2) above.”

- (2) Paragraph 12 of Schedule 2 to the <sup>M90</sup>Oil Taxation Act 1983 (purchase of oil at place of extraction) shall have effect and, in relation to light gases disposed of or appropriated at any time on or after 3rd May 1994, be deemed to have had effect—

- (a) with the substitution, for the words “paragraphs (a) to (c)” in sub-paragraph (2), of the words “paragraphs (a) to (cb)”; and
- (b) with the substitution for the words from “2(5)(b)” to “length),” in sub-paragraph (5) of the words “2(5)(b) or (ca) of the principal Act (oil disposed of otherwise than in sales at arm’s length),”.

<sup>F114</sup>(3) . . . . .

**Textual Amendments**

**F114** S. 152(3) repealed: (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), **Sch. 3 Pt. 2** (with [Sch. 2](#)); (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\)](#), s. 381(1), **Sch. 10 Pt. 6** (with [Sch. 9 paras. 1-9, 22](#))

**Marginal Citations**

**M89** 1975 c. 22.  
**M90** 1983 c. 56.

*Gas levy*

**153 Reduction and abolition of gas levy.**

- (1) The rate of gas levy for the year 1997-98 shall be deemed to have been three pence per therm.
- (2) Gas levy shall not be payable for the year 1998-99 or any subsequent year.

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- (3) Section 3 of the <sup>M91</sup>Gas Levy Act 1981 shall be deemed never to have required any person to deliver a return for the chargeable period ending with 30th June 1998.
- (4) Any repayment of gas levy falling to be made to any person by virtue of subsection (1) above shall be made by the Secretary of State out of the Consolidated Fund and shall carry interest at the prescribed rate from the end of July 1998 until payment.
- (5) In subsection (4) above “the prescribed rate” means the rate at which repayments of gas levy for the year 1997-98 carry interest if repaid under section 3(5) of the <sup>M92</sup>Gas Levy Act 1981.

**Marginal Citations**

**M91** 1981 c. 3.

**M92** 1981 c. 3.

*Dumping duties*

**154 Repeal of Customs Duties (Dumping and Subsidies) Act 1969.**

The <sup>M93</sup>Customs Duties (Dumping and Subsidies) Act 1969 (which confers powers on the Secretary of State, exercisable in accordance with section 6(5) of the <sup>M94</sup>Finance Act 1978, to charge duties in respect of dumping and to offset subsidies) shall cease to have effect.

**Marginal Citations**

**M93** 1969 c. 16.

**M94** 1978 c. 42.

**PART VI**

MISCELLANEOUS AND SUPPLEMENTAL

*Fiscal stability*

<sup>F115</sup>**155 Code for fiscal stability.**

.....

**Textual Amendments**

**F115** Ss. 155-157 repealed (23.3.2011) by [Budget Responsibility and National Audit Act 2011 \(c. 4\), ss. 10\(b\), 29; S.I. 2011/892, art. 2, Sch. 1](#)

<sup>F115</sup>**156 Annual Budget documents.**

.....

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**Textual Amendments**

**F115** Ss. 155-157 repealed (23.3.2011) by [Budget Responsibility and National Audit Act 2011 \(c. 4\)](#), **ss. 10(b)**, 29; S.I. 2011/892, art. 2, Sch. 1

**F115 157 Supplementary powers of the Comptroller and Auditor General.**

.....

**Textual Amendments**

**F115** Ss. 155-157 repealed (23.3.2011) by [Budget Responsibility and National Audit Act 2011 \(c. 4\)](#), **ss. 10(b)**, 29; S.I. 2011/892, art. 2, Sch. 1

*Government borrowing*

**158 Treasury’s position regarding their own securities.**

- (1) This section applies to securities issued by or on behalf of the Treasury, here referred to as Treasury securities.
- (2) Any powers which relate to Treasury securities and which are conferred on the Treasury in a capacity other than issuer may be exercised by them, and no rule of law preventing a person contracting with himself shall prevent them exercising the powers.
- (3) The powers referred to in subsection (2) above include powers to acquire, hold and transfer securities and to make agreements with regard to them.
- (4) If Treasury securities are acquired under powers conferred on the Treasury, until they are transferred or redeemed they shall be treated as held by the persons for the time being constituting the Treasury.

**159 Treasury bills.**

- (1) In section 8 of the <sup>M95</sup>Treasury Bills Act 1877 (mode of issue of Treasury bills) the following shall be substituted for paragraph (1)—
  - “(1) Treasury bills shall be issued by the Treasury (either directly or through such agent as the Treasury think fit).”
- (2) This section shall apply in relation to issues made on or after such day as the Treasury may appoint by order made by statutory instrument.

**Subordinate Legislation Made**

**P2** [S. 159\(2\)](#) power fully exercised (25.10.1999): 15.11.1999 appointed by [S.I. 1999/2908](#), **arts. 1(2)**, 2(1)

**Marginal Citations**

**M95** [1877 c. 2](#).

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## 160 National loans.

Schedule 26 to this Act (national loans) shall have effect.

## 161 Non-FOTRA securities.

- (1) Subject to the following provisions of this section, any gilt-edged security issued before 6th April 1998 without FOTRA conditions shall be treated in relation to times on or after that date as if—
  - (a) it were a security issued with the post-1996 Act conditions; and
  - (b) those conditions had been authorised in relation to the issue of that security by virtue of section 22 of the <sup>M96</sup>Finance (No. 2) Act 1931.
- (2) Where a gilt-edged security falls to be treated as mentioned in subsection (1) above that treatment shall have effect—
  - (a) for the purposes of [<sup>F116</sup>Chapter 2 of Part 12 of the Income Tax Act 2007 (accrued income profits) in relation only to accrued income profits which a person is treated as making under section 628(5) or 630(2) of that Act] on or after 6th April 1998;
  - (b) for the other purposes of the Tax Acts, in relation only to payments of interest falling due on or after that date; and
  - (c) for the purposes of the <sup>M97</sup>Inheritance Tax Act 1984, in relation only to a determination of whether property is excluded property at a time falling on or after that date.
- (3) No charge to tax shall be treated as arising under section 65 of the <sup>M98</sup>Inheritance Tax Act 1984 (property becoming excluded property) by reason only of the coming into force of this section.
- (4) In this section “FOTRA conditions” means any such conditions about exemption from taxation as are authorised in relation to the issue of a gilt-edged security by virtue of section 22 of the <sup>M99</sup>Finance (No. 2) Act 1931.
- (5) In this section “the post-1996 Act conditions” means the FOTRA conditions with which 7.25% Treasury Stock 2007 was first issued by virtue of section 22 of the <sup>M100</sup>Finance (No. 2) Act 1931.
- (6) In this section “gilt-edged securities” means any securities which are gilt-edged securities for the purposes of the <sup>M101</sup>Taxation of Chargeable Gains Act 1992.
- (7) This section does not apply to any 3½% War Loan 1952 Or After which was issued with a condition authorised by virtue of section 47 of the <sup>M102</sup>Finance (No. 2) Act 1915.

### Textual Amendments

**F116** Words in s. 161(2)(a) substituted (6.4.2007) by [Income Tax Act 2007 \(c. 3\), s. 1034\(1\), Sch. 1 para. 384](#) (with [Sch. 2](#))

### Marginal Citations

**M96** 1931 c. 49.  
**M97** 1984 c. 51.  
**M98** 1984 c. 51.  
**M99** 1931 c. 49.  
**M100** 1931 c. 49.

*Status: Point in time view as at 19/07/2011.*

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**M101** 1992 c. 12.

**M102** 1915 c. 89.

## 162 Accounting statements relating to National Savings.

- (1) Subject to subsection (2) below, in each of the following provisions (which provide for annual statements of account as respects years ending with 31st December to be prepared in relation to deposits with the National Savings Bank), that is to say—
- <sup>F117</sup>(a) . . . . .
- (b) section 120(4) of the <sup>M103</sup>Finance Act 1980 (investment deposits), for “31st December” there shall be substituted “ 31st March ”.
- <sup>F118</sup>(2) . . . . .
- (3) In section 19(2) of the <sup>M104</sup>National Savings Bank Act 1971 (delivery of statement under section 19(1) to the Comptroller and Auditor General), for the words from “before the end of May” to “that year” there shall be substituted “ before the end of August next following the end of any period for which a statement falls to be prepared under subsection (1) above, transmit the statement for that period ”.
- (4) In section 20 of that Act (adjustment of balances)—
- (a) for “year ending with 31st December” there shall be substituted “ period as respects which a statement falls to be prepared under section 19(1) of this Act ”;
- (b) for the words “the year”, in each place where they occur, there shall be substituted “ that period ”; and
- (c) for “any such year” there shall be substituted “ any such period ”.
- <sup>F119</sup>(5) . . . . .

### Textual Amendments

**F117** S. 162(1)(a) repealed (10.7.2003) by [Finance Act 2003 \(c. 14\)](#), [Sch. 43 Pt. 5\(4\)](#)

**F118** S. 162(2) repealed (10.7.2003) by [Finance Act 2003 \(c. 14\)](#), [Sch. 43 Pt. 5\(4\)](#)

**F119** S. 162(5) repealed (10.7.2003) by [Finance Act 2003 \(c. 14\)](#), [Sch. 43 Pt. 5\(4\)](#)

### Marginal Citations

**M103** 1980 c. 48.

**M104** 1971 c. 29.

## *The European single currency*

## 163 Adoption of single currency by other member States.

- (1) The Treasury may, to such extent as appears to them appropriate in connection with any of the matters falling within subsection (2) below, by regulations modify the application and effect as respects—
- (a) transactions in a currency other than sterling,
- (b) instruments denominated in such a currency, and

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- (c) the bringing into account of amounts expressed in, or by reference to, such a currency,  
of any enactment or subordinate legislation relating to [<sup>F120</sup>any matter for which the Commissioners for Her Majesty’s Revenue and Customs are responsible and to which section 7 of the Commissioners for Revenue and Customs Act 2005 (former Inland Revenue matters) applies.]
- (2) The matters falling within this subsection are—
- (a) the adoption or proposed adoption by other member States of the single currency; and
- (b) any transitional measures or other arrangements applying or likely to apply in relation to the adoption of the single currency by other member States.
- (3) Without prejudice to the generality of subsection (1) above, the power conferred by that subsection includes power by regulations to provide—
- (a) for liabilities to pay amounts to the Commissioners of Inland Revenue under any enactment or subordinate legislation relating to taxation to be capable of being discharged, in accordance with the regulations, by payments in the single currency;
- <sup>F121</sup>(b) .....
- <sup>F121</sup>(c) .....
- (4) The power to make regulations under this section includes—
- (a) power to impose charges to taxation;
- (b) power to amend or repeal any enactment; and
- (c) power to make such incidental, supplemental, consequential and transitional provision as appears to the Treasury to be appropriate.
- (5) The power to make regulations under this section shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of the House of Commons.
- (6) In this section—
- “enactment” includes any enactment contained in this Act (other than this section) and any enactment passed after this Act;
- “other member State” means a member State other than the United Kingdom;
- “subordinate legislation” has the same meaning as in the <sup>M105</sup>Interpretation Act 1978.
- (7) References in this section to the adoption of the single currency are references to the adoption of the single currency in accordance with the Treaty establishing the European Community, and the reference in subsection (3)(a) above to that currency shall be construed accordingly.

#### Textual Amendments

**F120** Words in s. 163(1) substituted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005](#) (c. 11), s. 53(1), [Sch. 2 para. 10](#); S.I. 2005/1126, art. 2(2)(d)

**F121** S. 163(3)(b)(c) repealed (24.7.2002 with effect as mentioned in Sch. 40 Pt. 3(11) Note of the amending Act) by [2002 c. 23, s. 141, Sch. 40 Pt. 3\(11\)](#) Note

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**Marginal Citations**

M105 1978 c. 30.

*Supplemental*

**164 Interpretation.**

In this Act “the Taxes Act 1988” means the <sup>M106</sup>Income and Corporation Taxes Act 1988.

**Marginal Citations**

M106 1988 c. 1.

**165 Repeals.**

- (1) The enactments mentioned in Schedule 27 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.

**166 Short title.**

This Act may be cited as the Finance Act 1998.



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## SCHEDULES

### SCHEDULE 1

Section 16.

#### RATES OF DUTY WHERE POLLUTION REDUCED

##### *Meaning of “the 1994 Act”*

- 1 In this Schedule “the 1994 Act” means the <sup>M107</sup>Vehicle Excise and Registration Act 1994.

##### **Marginal Citations**

M107 1994 c. 22.

##### *Certificates as to reduced pollution*

- 2 The following section shall be inserted after section 61A of the 1994 Act—

##### **“61B Certificates as to reduced pollution.**

- (1) The Secretary of State may by regulations make provision—
- (a) for the making of an application to the Secretary of State for the issue in respect of an eligible vehicle of a reduced pollution certificate;
  - (b) for the manner in which any determination of whether to issue such a certificate on such an application is to be made;
  - (c) for the examination of an eligible vehicle, for the purposes of the determination mentioned in paragraph (b), by such persons, and in such manner, as may be prescribed;
  - (d) for a fee to be paid for such an examination;
  - (e) for a reduced pollution certificate to be issued in respect of an eligible vehicle if, and only if, it is found, on a prescribed examination, that the reduced pollution requirements are satisfied with respect to it;
  - (f) for the form and content of such a certificate;
  - (g) for such a certificate to be valid for such period as the Secretary of State may determine;
  - (h) for the revocation, cancellation or surrender of such a certificate before the end of any such period;
  - (i) for the Secretary of State to be entitled to require the return to him of such a certificate that has been revoked;
  - (j) for the fact that such a certificate is, or is not, in force in respect of a vehicle to be treated as having conclusive effect for the purposes of this Act as to such matters as may be prescribed;

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- (k) for the Secretary of State to be entitled, in prescribed cases, to require the production of such a certificate before making a determination for the purposes of section 7(5); and
  - (l) for appeals against any determination not to issue such a certificate.
- (2) For the purposes of this Act, the reduced pollution requirements are satisfied with respect to a vehicle at any time if, as a result of adaptations of the prescribed description having been made to the vehicle after the prescribed date, the prescribed requirements are satisfied at that time with respect to the rate and content of the vehicle's emissions.
- (3) Without prejudice to the generality of subsection (1), for the purpose of enabling the Secretary of State to determine whether the reduced pollution requirements are satisfied at any time with respect to a vehicle in respect of which a reduced pollution certificate is in force, regulations under this section—
- (a) may authorise such person as may be prescribed to require the vehicle to be re-examined in accordance with the regulations;
  - (b) may provide for a fee to be paid for such a re-examination;
  - (c) may provide for the refund of such a fee if it is found, on the prescribed re-examination, that the reduced pollution requirements are satisfied with respect to the vehicle.
- (4) In this section “eligible vehicle” means—
- (a) a bus, as defined in paragraph 3(2) of Schedule 1;
  - (b) a vehicle to which paragraph 6 of Schedule 1 applies;
  - (c) a haulage vehicle, as defined in paragraph 7(2) of Schedule 1, other than a showman's vehicle; or
  - (d) a goods vehicle, other than one falling within paragraph 9(2) or 11(2) of Schedule 1.
- (5) In this section “prescribed” means prescribed by regulations made by the Secretary of State.”

#### *Buses*

- 3 (1) In sub-paragraph (1) of paragraph 3 of Schedule 1 to the 1994 Act (annual rates of vehicle excise duty for buses), after “bus” there shall be inserted “ with respect to which the reduced pollution requirements are not satisfied ”.
- (2) After that sub-paragraph there shall be inserted the following sub-paragraph—
- “(1A) The annual rate of vehicle excise duty applicable to a bus with respect to which the reduced pollution requirements are satisfied is the general rate specified in paragraph 1(2).”
- (3) In sub-paragraph (6) of that paragraph, for “which falls” there shall be substituted “which—
- (a) is not a vehicle with respect to which the reduced pollution requirements are satisfied; and
  - (b) falls”.

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#### Commencement Information

- I2** Sch. 1 partly in force; Sch. 1 paras. 1, 2, 15-17 in force at Royal Assent see Sch. 1 para. 17(2); Sch. 1 paras. 3-14 in force for specified purposes at 1.1.1999 by S.I. 1998/3092, art. 2

#### *Special vehicles*

- 4 In paragraph 4(7) of that Schedule (annual rates of vehicle excise duty for special vehicles), for “which falls” there shall be substituted “which—
- (a) is not a vehicle with respect to which the reduced pollution requirements are satisfied; and
  - (b) falls”.

#### Commencement Information

- I3** Sch. 1 partly in force; Sch. 1 paras. 1, 2, 15-17 in force at Royal Assent see Sch. 1 para. 17(2); Sch. 1 paras. 3-14 in force for specified purposes at 1.1.1999 by S.I. 1998/3092, art. 2

#### *Recovery vehicles*

- 5 In paragraph 5(6) of that Schedule (annual rates of vehicle excise duty for recovery vehicles), for “which falls” there shall be substituted “which—
- (a) is not a vehicle with respect to which the reduced pollution requirements are satisfied; and
  - (b) falls”.

#### Commencement Information

- I4** Sch. 1 partly in force; Sch. 1 paras. 1, 2, 15-17 in force at Royal Assent see Sch. 1 para. 17(2); Sch. 1 paras. 3-14 in force for specified purposes at 1.1.1999 by S.I. 1998/3092, art. 2

#### *Vehicles used for exceptional loads*

- 6 (1) In paragraph 6 of that Schedule (annual rates of vehicle excise duty for vehicles used for exceptional loads), in sub-paragraph (2), for “the heavy tractive unit rate” there shall be substituted “the rate specified in sub-paragraph (2A).”
- (2) After that sub-paragraph there shall be inserted the following sub-paragraph—
- “(2A) The rate referred to in sub-paragraph (2) is—
- (a) in the case of a vehicle with respect to which the reduced pollution requirements are not satisfied, £5,170; and
  - (b) in the case of a vehicle with respect to which those requirements are satisfied, £4,670.”
- (3) Sub-paragraph (3A) of that paragraph shall cease to have effect.

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#### Commencement Information

- I5** Sch. 1 partly in force; Sch. 1 paras. 1, 2, 15-17 in force at Royal Assent see Sch. 1 para. 17(2); Sch. 1 paras. 3-14 in force for specified purposes at 1.1.1999 by S.I. 1998/3092, art. 2

#### *Haulage vehicles*

- 7 (1) In paragraph 7 of that Schedule (annual rates of vehicle excise duty for haulage vehicles), in sub-paragraph (1)(b), for “the general haulage vehicle rate” there shall be substituted “ the rate specified in sub-paragraph (3A) ”.
- (2) In sub-paragraph (3) of that paragraph, for “which falls” there shall be substituted “which—
- (a) is not a vehicle with respect to which the reduced pollution requirements are satisfied; and
  - (b) falls”.
- (3) After that sub-paragraph there shall be inserted the following sub-paragraph—
- “(3A) The rate referred to in sub-paragraph (1)(b) is—
- (a) in the case of a vehicle with respect to which the reduced pollution requirements are not satisfied, £350; and
  - (b) in the case of a vehicle with respect to which those requirements are satisfied, the general rate specified in paragraph 1(2).”
- (4) Sub-paragraphs (4), (5) and (6) of that paragraph shall cease to have effect.

#### Commencement Information

- I6** Sch. 1 partly in force; Sch. 1 paras. 1, 2, 15-17 in force at Royal Assent see Sch. 1 para. 17(2); Sch. 1 paras. 3-14 in force for specified purposes at 1.1.1999 by S.I. 1998/3092, art. 2

#### *Rigid goods vehicles*

- 8 (1) In sub-paragraph (1) of paragraph 9 of that Schedule (annual rates of vehicle excise duty for rigid goods vehicles), after “which” there shall be inserted “ is not a vehicle with respect to which the reduced pollution requirements are satisfied and which ”.
- (2) In sub-paragraph (3) of that paragraph, for the words from “which has” to the end of the sub-paragraph there shall be substituted “which—
- (a) is not a vehicle with respect to which the reduced pollution requirements are satisfied,
  - (b) has a revenue weight exceeding 44,000 kilograms, and
  - (c) is not an island goods vehicle,
- shall be £5,170. ”
- (3) In sub-paragraph (4) of that paragraph, for “which falls” there shall be substituted “which—
- (a) is not a vehicle with respect to which the reduced pollution requirements are satisfied; and

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(b) falls”.

(4) Sub-paragraph (5) of that paragraph shall cease to have effect.

**Commencement Information**

**I7** Sch. 1 partly in force; Sch. 1 paras. 1, 2, 15-17 in force at Royal Assent see Sch. 1 para. 17(2); Sch. 1 paras. 3-14 in force for specified purposes at 1.1.1999 by S.I. 1998/3092, art. 2

9 After that paragraph there shall be inserted the following paragraphs—

“9A (1) This paragraph applies to a rigid goods vehicle which—

- (a) is a vehicle with respect to which the reduced pollution requirements are satisfied;
- (b) is not a vehicle for which the annual rate of vehicle excise duty is determined under paragraph 9(2); and
- (c) has a revenue weight exceeding 3,500 kilograms.

(2) Subject to sub-paragraph (3), the annual rate of vehicle excise duty applicable to a rigid goods vehicle to which this paragraph applies shall be determined in accordance with the table set out in paragraph 9B by reference to—

- (a) the revenue weight of the vehicle, and
- (b) the number of axles on the vehicle.

(3) The annual rate of vehicle excise duty applicable to a rigid goods vehicle to which this paragraph applies which has a revenue weight exceeding 44,000 kilograms shall be £4,670.

9B That table is as follows—

**Commencement Information**

**I8** Sch. 1 partly in force; Sch. 1 paras. 1, 2, 15-17 in force at Royal Assent see Sch. 1 para. 17(2); Sch. 1 paras. 3-14 in force for specified purposes at 1.1.1999 by S.I. 1998/3092, art. 2

10 In paragraph 10 of that Schedule (the trailer supplement), in sub-paragraph (1), for “paragraph 9” there shall be substituted “ paragraphs 9 and 9A ”.

**Commencement Information**

**I9** Sch. 1 partly in force; Sch. 1 paras. 1, 2, 15-17 in force at Royal Assent see Sch. 1 para. 17(2); Sch. 1 paras. 3-14 in force for specified purposes at 1.1.1999 by S.I. 1998/3092, art. 2

*Tractive units*

11 (1) In sub-paragraph (1) of paragraph 11 of that Schedule (annual rates of vehicle excise duty for tractive units), after “which” there shall be inserted “ is not a vehicle with respect to which the reduced pollution requirements are satisfied and which ”.

(2) In sub-paragraph (3) of that paragraph, for the words from “which has” to the end of the sub-paragraph there shall be substituted “which—

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- (a) is not a vehicle with respect to which the reduced pollution requirements are satisfied,
- (b) has a revenue weight exceeding 44,000 kilograms, and
- (c) is not an island goods vehicle,

shall be £5,170.”

(3) In sub-paragraph (4) of that paragraph, for “which falls” there shall be substituted “which—

- (a) is not a vehicle with respect to which the reduced pollution requirements are satisfied; and
- (b) falls”.

(4) Sub-paragraph (5) of that paragraph shall cease to have effect.

#### Commencement Information

**I10** Sch. 1 partly in force; Sch. 1 paras. 1, 2, 15-17 in force at Royal Assent see Sch. 1 para. 17(2); Sch. 1 paras. 3-14 in force for specified purposes at 1.1.1999 by S.I. 1998/3092, art. 2

12 After that paragraph there shall be inserted the following paragraphs—

“11A(1) This paragraph applies to a tractive unit which—

- (a) is a vehicle with respect to which the reduced pollution requirements are satisfied;
- (b) is not a vehicle for which the annual rate of vehicle excise duty is determined under paragraph 11(2); and
- (c) has a revenue weight exceeding 3,500 kilograms.

(2) Subject to sub-paragraph (3), the annual rate of vehicle excise duty applicable to a tractive unit to which this paragraph applies shall be determined, in accordance with the table set out in paragraph 11B, by reference to—

- (a) the revenue weight of the tractive unit,
- (b) the number of axles on the tractive unit, and
- (c) the types of semi-trailers, distinguished according to the number of their axles, which are to be drawn by it.

(3) The annual rate of vehicle excise duty applicable to a tractive unit to which this paragraph applies which has a revenue weight exceeding 44,000 kilograms shall be £4,670.”

“11B That table is as follows—

#### Commencement Information

**I11** Sch. 1 partly in force; Sch. 1 paras. 1, 2, 15-17 in force at Royal Assent see Sch. 1 para. 17(2); Sch. 1 paras. 3-14 in force for specified purposes at 1.1.1999 by S.I. 1998/3092, art. 2

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### Other amendments

- 13 In section 15 of the 1994 Act (vehicles becoming chargeable to duty at higher rate), after subsection (2) there shall be inserted the following subsection—

“(2A) For the purposes of subsection (1) a vehicle is also used so as to subject it to a higher rate if—

- (a) the rate of vehicle excise duty paid on a vehicle licence taken out for the vehicle was the rate applicable to a vehicle of the same description with respect to which the reduced pollution requirements are satisfied, and
- (b) while the licence is in force, the vehicle is used at a time when those requirements are not satisfied with respect to it.”

#### Commencement Information

**I12** Sch. 1 partly in force; Sch. 1 paras. 1, 2, 15-17 in force at Royal Assent see Sch. 1 para. 17(2); Sch. 1 paras. 3-14 in force for specified purposes at 1.1.1999 by S.I. 1998/3092, art. 2

- 14 In section 16 of the 1994 Act (exceptions from charge at higher rate in case of tractive units), at the beginning of subsection (1) there shall be inserted “Subject to subsection (9)” and after subsection (7) there shall be inserted the following subsections—

“(8) This subsection applies to a tractive unit (“the relevant tractive unit”) in relation to which subsection (2), (4) or (6) applies if—

- (a) the rate of duty paid on taking out the licence for the relevant tractive unit is the rate applicable to a tractive unit of the appropriate description with respect to which the reduced pollution requirements are satisfied; and
- (b) while the licence is in force, the relevant tractive unit is used at a time when the reduced pollution requirements are not satisfied with respect to it.

(9) Where subsection (8) applies, subsection (1) does not prevent duty becoming payable under section 15 at the rate applicable to a tractive unit of the appropriate description with respect to which the reduced pollution requirements are not satisfied.

(10) In this section “the appropriate description” means the description mentioned in paragraph (b) of whichever of subsections (2), (4) and (6) applies in relation to the relevant tractive unit.”

#### Commencement Information

**I13** Sch. 1 partly in force; Sch. 1 paras. 1, 2, 15-17 in force at Royal Assent see Sch. 1 para. 17(2); Sch. 1 paras. 3-14 in force for specified purposes at 1.1.1999 by S.I. 1998/3092, art. 2

- 15 In section 45 of the 1994 Act (offences relating to false or misleading declarations and information), in subsections (3A) and (3B), after “section 61A” there shall be inserted “ or 61B ”.

- 16 (1) Paragraph 22 of Schedule 2 to that Act (exemption in relation to vehicle testing) shall be amended as follows.

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- (2) In sub-paragraph (1)—
- (a) in paragraph (a), for “or a vehicle weight test” there shall be substituted “, a vehicle weight test or a reduced pollution test”; and
  - (b) in paragraph (b), for “a compulsory test or a vehicle weight test” there shall be substituted “ any such test ”.
- (3) In sub-paragraph (2), after “vehicle weight test” there shall be inserted “, a reduced pollution test ”.
- (4) In sub-paragraph (2A), after “compulsory test”, in each place it occurs, there shall be inserted “ or a reduced pollution test ”.
- (5) In sub-paragraph (3), after “compulsory test” there shall be inserted “, or a reduced pollution test, ”.
- (6) After sub-paragraph (6A) there shall be inserted the following sub-paragraph—
- “(6AA) In this paragraph “a reduced pollution test” means any examination of a vehicle for which provision is made by regulations under section 61B of this Act.”
- (7) In sub-paragraph (6B), for “or vehicle weight test” there shall be substituted “, a vehicle weight test or a reduced pollution test ”.
- (8) In sub-paragraphs (8) and (9), the word “or” shall be inserted at the end of paragraphs (a) and (c) and after paragraph (c) there shall be inserted the following paragraph—
- “(d) a certificate issued by virtue of section 61B of this Act.”

#### *Commencement*

- 17 (1) Subject to sub-paragraph (2) below, the preceding provisions of this Schedule shall come into force in relation to licences issued on or after such day as the Secretary of State may by order made by statutory instrument appoint; and different days may be appointed under this sub-paragraph for different purposes.
- (2) Paragraphs 1, 2, 15 and 16 above come into force with the passing of this Act.

#### **Subordinate Legislation Made**

**P3** [Sch. 1 para. 17\(1\)](#) power partly exercised (9.12.1998): 1.1.1999 appointed for specified purposes by [S.I. 1998/3092](#), [art. 2](#)

## SCHEDULE 2

Section 20.

### ASSESSMENTS FOR EXCISE DUTY PURPOSES

#### *Alcoholic Liquor Duties Act 1979 (c.4)*

- 1 In section 8 of the Alcoholic Liquor Duties Act 1979 (remission of duty in respect of spirits used for medical or scientific purposes) the following subsections shall be inserted after subsection (2)—



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- “(3) Subsection (4) below applies if—
- (a) spirits are received and delivered in accordance with subsection (1) above,
  - (b) they are not used as proposed, and
  - (c) it is not shown to the satisfaction of the Commissioners that they can be accounted for by natural waste or other legitimate cause.
- (4) In such a case the Commissioners—
- (a) may assess as being excise duty due from the person concerned an amount equal to the duty that would have been chargeable on the spirits if, at the time of delivery from warehouse, they had been delivered for home use and otherwise than in accordance with subsection (1) above, and
  - (b) may notify him or his representative accordingly.”
- 2 In section 10 of the Alcoholic Liquor Duties Act 1979 (remission of duty on spirits for use in art or manufacture) the following subsections shall be inserted after subsection (2)—
- “(3) Subsection (4) below applies if—
- (a) spirits are received and delivered in accordance with subsection (1) above,
  - (b) they are not used as proposed, and
  - (c) it is not shown to the satisfaction of the Commissioners that they can be accounted for by natural waste or other legitimate cause.
- (4) In such a case the Commissioners—
- (a) may assess as being excise duty due from the person concerned an amount equal to the duty that would have been chargeable on the spirits if, at the time of delivery from warehouse, they had been delivered for home use and otherwise than in accordance with subsection (1) above, and
  - (b) may notify him or his representative accordingly.”
- 3 (1) Section 11 of the Alcoholic Liquor Duties Act 1979 (relief from duty on imported goods not for human consumption containing spirits) shall be amended as follows.
- (2) At the beginning there shall be inserted “ (1) ”.
- (3) At the end there shall be inserted—
- “(2) Subsection (3) below applies if—
- (a) the Commissioners make a direction under subsection (1) above, but
  - (b) it turns out that the goods were for human consumption.
- (3) In such a case the Commissioners—
- (a) may assess as being excise duty due from the relevant person an amount equal to the duty that would have been chargeable on the goods if the direction had not been made, and
  - (b) may notify him or his representative accordingly.
- (4) The reference in subsection (3) above to the relevant person is to the importer or (if different) the person who sought the direction.”

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*Hydrocarbon Oil Duties Act 1979 (c.5)*

- 4 (1) Section 13AB of the Hydrocarbon Oil Duties Act 1979 (misuse of kerosene) shall be amended as follows.
- (2) For subsection (1)(a) there shall be substituted—
- “(a) in respect of the quantity of kerosene used the Commissioners may assess as being excise duty due from him an amount equal to duty on the same quantity of gas oil at the rate for rebated gas oil which is in force at the time of the contravention, and they may notify him or his representative accordingly;”.
- (3) For subsection (2)(a) there shall be substituted—
- “(a) in respect of the quantity of kerosene taken into the fuel supply the Commissioners may assess as being excise duty due from him an amount equal to duty on the same quantity of gas oil at the rate for rebated gas oil which is in force at the time of the contravention, and they may notify him or his representative accordingly;”.

*Tobacco Products Duty Act 1979 (c.7)*

- 5 In section 8 of the Tobacco Products Duty Act 1979 (charge in cases of default) in subsection (2)—
- (a) for “require him to pay duty” there shall be substituted “ assess an amount as duty due from him ”;
- (b) at the end there shall be inserted , and they may notify him or his representative accordingly.

*Finance (No. 2) Act 1992 (c.48)*

- 6 (1) Section 2 of the Finance (No. 2) Act 1992 (power to provide for drawback of excise duty) shall be amended as follows.
- (2) In subsection (3) (cancellation of drawback) paragraph (b) and the word “and” immediately preceding it shall be omitted.
- (3) After subsection (3) there shall be inserted—
- “(3A) If entitlement to drawback is cancelled under any provision contained in regulations by virtue of subsection (3) above the Commissioners—
- (a) may assess as being excise duty due from the prescribed person an amount equal to sums paid or credited to any person in respect of the drawback, and
- (b) may notify the prescribed person or his representative accordingly.
- (3B) The reference in subsection (3A) above to the prescribed person is to such person as may be prescribed for the purposes of the subsection by regulations under this section.”

**Commencement Information**

**I14** Sch. 2 para. 6 in force at 1.9.2008 for specified purposes by [S.I. 2008/2302](#), [arts. 2, 3](#)

**I15** Sch. 2 para. 6 in force at 1.6.2009 for specified purposes by [S.I. 2009/1022](#), [arts. 2, 3](#)

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*Finance Act 1994 (c.9)*

- 7 In section 12 of the Finance Act 1994 (assessment to excise duty) after subsection (1) there shall be inserted—
- “(1A) Subject to subsection (4) below, where it appears to the Commissioners—
- (a) that any person is a person from whom any amount has become due in respect of any duty of excise; and
  - (b) that the amount due can be ascertained by the Commissioners, the Commissioners may assess the amount of duty due from that person and notify that amount to that person or his representative.”
- 8 (1) In section 12A of the Finance Act 1994 (other assessments relating to excise duty matters) subsection (3) (amount assessed deemed to be duty due) shall be amended as follows.
- (2) At the end of paragraph (b) the word “or” shall be omitted and after that paragraph there shall be inserted—
- “(bb) section 8, 10 or 11 of the Alcoholic Liquor Duties Act 1979.”.
- (3) In paragraph (c) after “13,” there shall be inserted “ 13AB, ” and after that paragraph there shall be inserted—
- “(d) section 8 of the Tobacco Products Duty Act 1979, or
  - (e) section 2 of the Finance (No. 2) Act 1992.”.

**Commencement Information**

- I16** Sch. 2 para. 8(1)(2) in force and Sch. 2 para. 8(3) in force for specified purposes at 1.10.1998 by [S.I. 1998/2243](#), [art. 2\(2\)\(b\)](#)
- I17** Sch. 2 para. 8(3) in force at 1.9.2008 for specified purposes by [S.I. 2008/2302](#), [arts. 2, 3](#)
- I18** Sch. 2 para. 8(3) in force at 1.6.2009 for specified purposes by [S.I. 2009/1022](#), [arts. 2, 3](#)

- 9 (1) In section 12B of the Finance Act 1994, subsection (2) (meaning of relevant time) shall be amended as follows.
- (2) After paragraph (e) there shall be inserted—
- “(ea) in the case of an assessment under section 8 or 10 of the Alcoholic Liquor Duties Act 1979, the time of delivery from warehouse;
  - (eb) in the case of an assessment under section 11 of that Act, the time when the direction was made;”.
- (3) In paragraph (f) after “13,” there shall be inserted “ 13AB, ”.
- (4) After paragraph (g) there shall be inserted—
- “(ga) in the case of an assessment under section 8 of the Tobacco Products Duty Act 1979, the time when the Commissioners are satisfied of a failure to prove as mentioned in subsection (2)(a) or (b) of that section;
  - (gb) in the case of an assessment under section 2 of the Finance (No. 2) Act 1992, the time when the sums were paid or credited in respect of the drawback;”.

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#### Commencement Information

- I19** Sch. 2 para. 9(1)-(3) in force and Sch. 2 para. 9(4) in force for specified purposes at 1.10.1998 by [S.I. 1998/2243](#), [art. 2\(2\)\(b\)](#)
- I20** Sch. 2 para. 9(4) in force at 1.9.2008 for specified purposes by [S.I. 2008/2302](#), [arts. 2, 3](#)
- I21** Sch. 2 para. 9(4) in force at 1.6.2009 for specified purposes by [S.I. 2009/1022](#), [arts. 2, 3](#)

- 10 In section 14 of the Finance Act 1994 (requirement for review of a decision) in subsection (1)(ba)—
- (a) for “or” (occurring after “Management Act”) there shall be substituted “, section 8, 10 or 11 of the Alcoholic Liquor Duties Act 1979, ”;
  - (b) after “13,” there shall be inserted “ 13AB, ”;
  - (c) after “Hydrocarbon Oil Duties Act 1979,” there shall be inserted “ section 8 of the Tobacco Products Duty Act 1979, section 2 of the Finance (No. 2) Act 1992, ”.

#### Commencement Information

- I22** Sch. 2 para. 10(a)(b) in force and Sch. 2 para. 10(c) in force for specified purposes at 1.10.1998 by [S.I. 1998/2243](#), [art. 2\(2\)\(b\)](#)
- I23** Sch. 2 para. 10(c) in force at 1.9.2008 for specified purposes by [S.I. 2008/2302](#), [arts. 2, 3](#)
- I24** Sch. 2 para. 10(c) in force at 1.6.2009 for specified purposes by [S.I. 2009/1022](#), [arts. 2, 3](#)

- 11 In section 16 of the Finance Act 1994 (appeals to a tribunal) there shall be inserted after subsection (3)—
- “(3A) Subsection (3) above shall not apply if the appeal arises out of an assessment under section 8, 10 or 11 of the Alcoholic Liquor Duties Act 1979.”

#### Commencement

- 12 This Schedule shall come into force on such day as the Commissioners of Customs and Excise may by order made by statutory instrument appoint; and different days may be appointed under this paragraph for different purposes.

#### Subordinate Legislation Made

- P4** Sch. 2 para. 12 power exercised (14.9.1998): 1.10.1998 appointed for specified provisions by [The Finance Act 1998, Schedule 2, \(Appointed Day\) Order 1998 \(S.I. 1998/2243\)](#)
- P5** Sch. 2 para. 12 power exercised: [The Finance Act 1998, Schedule 2 \(Assessments in Respect of Drawback\) \(Appointed Day\) Order 2008 \(S.I. 2008/2302\)](#)
- P6** Sch. 2 para. 12 power exercised: [The Finance Act 1998, Schedule 2 \(Assessments in Respect of Drawback\) \(Appointed Day\) Order 2009 \(S.I. 2009/1022\)](#)

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## SCHEDULE 3

Section 31.

### ADVANCE CORPORATION TAX

#### *Section 1 of the Provisional Collection of Taxes Act 1968*

- 1 (1) Section 1 of the <sup>M108</sup>Provisional Collection of Taxes Act 1968 (temporary statutory effect of House of Commons resolutions) shall be amended as follows.
- (2) In subsection (1) the words “(including advance corporation tax)” shall cease to have effect.
- (3) This paragraph has effect in relation to distributions made on or after 6th April 1999.

#### **Marginal Citations**

**M108** 1968 c. 2.

#### *Section 10 of the Taxes Management Act 1970*

- 2 (1) Section 10 of the <sup>M109</sup>Taxes Management Act 1970 (notice of liability to corporation tax) shall be amended as follows.
- (2) Subsection (4) (which makes provision in relation to surplus ACT) shall cease to have effect.
- (3) This paragraph has effect in relation to accounting periods beginning on or after 6th April 1999.

#### **Marginal Citations**

**M109** 1970 c. 9.

#### *Section 87 of the Taxes Management Act 1970*

- 3 (1) Section 87 of the <sup>M110</sup>Taxes Management Act 1970 (interest on overdue ACT and income tax on company payments) shall be amended as follows.
- (2) In subsection (1) (which contains a reference to Schedule 13) the words “13 or” shall cease to have effect.
- (3) In subsection (2), paragraph (a) (which concerns ACT) shall cease to have effect.
- (4) In subsection (6) (which contains a reference to Schedule 13) the words “13 or” shall cease to have effect.
- (5) In subsection (7)—
- (a) the words “advance corporation tax and” shall cease to have effect; and
- (b) for “either of those Schedules” there shall be substituted “ the said Schedule 16 ”.
- (6) This paragraph has effect in relation to accounting periods beginning on or after 6th April 1999.

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**Marginal Citations**

M110 1970 c. 9.

*Section 87A of the Taxes Management Act 1970*

- 4 (1) Section 87A of the <sup>M110</sup>Taxes Management Act 1970 (interest on overdue corporation tax etc) shall be amended as follows.
- (2) Subsection (4) (which makes provision in relation to surplus ACT) shall cease to have effect.
- (3) Subsections (4B) and (7) (which make further provision in relation to surplus ACT) shall cease to have effect.
- (4) Sub-paragraph (2) above has effect where the later period mentioned in subsection (4) of section 87A begins on or after 6th April 1999.
- (5) Sub-paragraph (3) above has effect where the earlier period mentioned in subsections (4B) and (7) of section 87A begins on or after 6th April 1999.

**Marginal Citations**

M111 1970 c. 9.

*Section 94 of the Taxes Management Act 1970*

F1225 .....

**Textual Amendments**

F122 Sch. 3 para. 5 repealed (with effect as mentioned in s. 117, Sch. 27 Pt. III(28), Note) by 1998 c. 36, s. 165, Sch. 27 Pt. III(28)

*Section 109 of the Taxes Management Act 1970*

- 6 (1) Section 109 of the <sup>M112</sup>Taxes Management Act 1970 (corporation tax on close company in connection with loans to participators etc) shall be amended as follows.
- (2) In subsection (3A) (interest under section 87A on so much of tax under section 419 of Taxes Act 1988 as is referable to amount of loan or advance repaid shall not be payable in respect of any period after repayment made)—
  - (a) after “If” there shall be inserted “ (a) ”;
  - (b) after “principal Act,” there shall be inserted “or
    - (b) there is such a release or writing off of the whole or any part of the debt in respect of a loan or advance as is referred to in that subsection,”;
  - (c) after “amount repaid” there shall be inserted “ , released or written off”; and
  - (d) after “the repayment was made” there shall be inserted “ or the release or writing off occurred ”.

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- (3) 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.

**Marginal Citations**

M112 1970 c. 9.

*Section 13 of the Taxes Act 1988*

F1237 .....

**Textual Amendments**

**F123** Sch. 3 para. 7 repealed (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), Sch. 3 Pt. 1 (with Sch. 2)

*Section 14 of the Taxes Act 1988*

- 8 (1) Section 14 of the Taxes Act 1988 (ACT and qualifying distributions) shall be amended as follows.
- (2) Subsections (1) and (3) to (5) (which make provision for and in connection with the imposition of ACT) shall cease to have effect.
- (3) This paragraph has effect in relation to distributions made on or after 6th April 1999.

*Section 75 of the Taxes Act 1988*

F1249 .....

**Textual Amendments**

**F124** Sch. 3 para. 9 repealed (with effect in accordance with s. 42 of the amending Act) by Finance Act 2004 (c. 12), Sch. 42 Pt. 2(3)

*Section 116 of the Taxes Act 1988*

F12510 .....

**Textual Amendments**

**F125** Sch. 3 para. 10 repealed (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), Sch. 3 Pt. 1 (with Sch. 2)

*Section 238 of the Taxes Act 1988*

- 11 (1) Section 238 of the Taxes Act 1988 (interpretation of terms and collection of ACT) shall cease to have effect.

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- (2) This paragraph has effect in relation to accounting periods beginning on or after 6th April 1999.

*Section 239 of the Taxes Act 1988*

- 12 (1) Section 239 of the Taxes Act 1988 (set-off of ACT against liability to corporation tax) shall cease to have effect.
- (2) Sub-paragraph (1) above has effect in relation to accounting periods beginning on or after 6th April 1999.
- (3) No advance corporation tax shall, by virtue of section 239(4) of the Taxes Act 1988, be treated as if it were paid in respect of distributions made in accounting periods beginning on or after 6th April 1999.
- (4) The limit under section 239(2) of the Taxes Act 1988 on the set-off of advance corporation tax for an accounting period of a company beginning before, and ending on or after, 6th April 1999 (a “straddling period”) shall be determined as if—
- (a) the straddling period were an accounting period beginning at the beginning of the straddling period and ending on 5th April 1999 (“the notional period”); and
  - (b) there were apportioned to the notional period a proportionate amount of the profits of the company which, apart from this sub-paragraph, would be taken into account in determining the limit under section 239(2) of that Act.
- (5) The references in sub-paragraphs (2) and (3) above to accounting periods beginning on or after 6th April 1999 include a reference to a separate accounting period mentioned in section 245(2) of the Taxes Act 1988 which begins on 6th April 1999.
- (6) The reference in sub-paragraph (4) above to an accounting period beginning before, and ending on or after, 6th April 1999 includes a reference to a separate accounting period mentioned in section 245(2) of the Taxes Act 1988 which begins before, and ends on or after, that date.

*Section 240 of the Taxes Act 1988*

- 13 (1) Section 240 of the Taxes Act 1988 (set-off of company’s surplus ACT against subsidiary’s liability to corporation tax) shall cease to have effect.
- (2) This paragraph has effect in relation to accounting periods of the surrendering company (as defined in section 240(1) of the Taxes Act 1988) beginning on or after 6th April 1999.

*Section 241 of the Taxes Act 1988*

- 14 (1) Section 241 of the Taxes Act 1988 (calculation of ACT where company receives franked investment income) shall cease to have effect.
- (2) This paragraph has effect in relation to accounting periods beginning on or after 6th April 1999.



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*Section 245 of the Taxes Act 1988*

- 15 (1) Section 245 of the Taxes Act 1988 (calculation etc of ACT on change of ownership of company) shall cease to have effect.
- (2) This paragraph has effect in relation to changes in ownership (within the meaning of section 245 of that Act) occurring on or after 6th April 1999.

*Section 245A of the Taxes Act 1988*

- 16 (1) Section 245A of the Taxes Act 1988 (restriction on application of section 240 in certain circumstances) shall cease to have effect.
- (2) This paragraph has effect in relation to changes in ownership (within the meaning of section 245A of that Act) occurring on or after 6th April 1999.

*Section 245B of the Taxes Act 1988*

- 17 (1) Section 245B of the Taxes Act 1988 (restriction on set-off where asset transferred after change in ownership of company) shall cease to have effect.
- (2) Sub-paragraph (1) above has effect in relation to disposals on or after 6th April 1999.
- (3) In relation to an accounting period beginning before, and ending on or after, 6th April 1999, the reference in section 245B(4)(a) of the Taxes Act 1988 to the end of the relevant period shall be taken to be a reference to the end of a period which ends on 5th April 1999.

*Section 246 of the Taxes Act 1988*

- 18 (1) Section 246 of the Taxes Act 1988 (charge of ACT at previous rate until new rate fixed, and changes of rate) shall cease to have effect.
- (2) This paragraph has effect in relation to distributions made on or after 6th April 1999.

*Section 247 of the Taxes Act 1988*

- 19 (1) Section 247 of the Taxes Act 1988 (dividends etc paid by one member of a group to another) shall be amended as follows.
- (2) Subsections (1), (2) and (3) (which enable dividends paid by one member of a group to another to be excluded from sections 14(1) and 231 of the Taxes Act 1988 etc) shall cease to have effect.

<sup>F126</sup>(3) .....

(4) In subsection (5)—

<sup>F126</sup>(a) .....

(b) the words “and shall not apply to a dividend” onwards shall cease to have effect.

(5) In subsection (6)—

(a) paragraph (a),

(b) the words “advance corporation tax ought to have been paid or”,

(c) the words “as the case may be”,

*Status: Point in time view as at 19/07/2011.*

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- (d) the words “paying or”,
  - (e) the words “receiving or”, and
  - (f) the words “the advance corporation tax had been duly paid or”,
- shall cease to have effect.
- (6) In subsection (7) the words “paying or” and “receiving or” shall cease to have effect.
- (7) In subsection (10)—
- (a) the words “dividends or”, and
  - (b) the words “and references to “group income” shall be construed accordingly”,
- shall cease to have effect.
- (8) This paragraph has effect in relation to distributions made on or after 6th April 1999.

#### Textual Amendments

**F126** Sch. 3 para. 19(3)(4)(a) repealed (11.5.2001 with effect as mentioned in Sch. Pt. 2(10) Note of the amending Act) by 2001 c. 9, s.110, Sch. 33 Pt. 2(10)

#### *Section 248 of the Taxes Act 1988*

- 20 (1) Section 248 of the Taxes Act 1988 (provisions supplemental to section 247) shall be amended as follows.
- (2) In subsections (2) and (3) the words “dividends or other” shall cease to have effect.
- (3) This paragraph has effect in relation to distributions made on or after 6th April 1999.

#### *Section 252 of the Taxes Act 1988*

- 21 (1) Section 252 of the Taxes Act 1988 (rectification of excessive set-off of ACT or tax credit) shall be amended as follows.
- (2) In subsection (1), paragraph (a) (which concerns the set-off of ACT) shall cease to have effect.
- (3) This paragraph has effect in relation to accounting periods beginning on or after 6th April 1999.

#### *Section 253 of the Taxes Act 1988*

- 22 (1) Section 253 of the Taxes Act 1988 (power to modify or replace section 234(5) to (9) and Schedule 13) shall be amended as follows.
- (2) In subsection (1)—
- (a) paragraph (b), and
  - (b) the words “and to Schedule 13”,
- shall cease to have effect.
- (3) Subsection (2) (which concerns ACT) shall cease to have effect.

*Status: Point in time view as at 19/07/2011.*

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- (4) In subsection (3)(a) (which contains a reference to ACT) the words “advance corporation tax or” shall cease to have effect.
- (5) This paragraph has effect in relation to accounting periods beginning on or after 6th April 1999.

*Section 255 of the Taxes Act 1988*

- 23 (1) Section 255 of the Taxes Act 1988 (“gross rate” and “gross amount” of distributions to include ACT) shall cease to have effect.
- (2) This paragraph has effect in relation to distributions made on or after 6th April 1999.

*Section 419 of the Taxes Act 1988*

F12724 .....

**Textual Amendments**

**F127** Sch. 3 para. 24 repealed (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), [Sch. 3 Pt. 1](#) (with [Sch. 2](#))

*Section 434 of the Taxes Act 1988*

- 25 (1) Section 434 of the Taxes Act 1988 (franked investment income etc) shall be amended as follows.
- (2) Subsection (3) (certain franked investment income not to be used to frank distributions) shall cease to have effect.
- (3) Subsection (6) (which makes provision in relation to section 239) shall cease to have effect.
- (4) Subsection (8) (which applies where subsection (3) or (6) of section 434 applies) shall cease to have effect.
- (5) Sub-paragraph (2) above has effect in relation to franked investment income which is attributable to distributions made on or after 6th April 1999.
- (6) Sub-paragraphs (3) and (4) above have effect in relation to accounting periods beginning on or after 6th April 1999.

*Section 434C of the Taxes Act 1988*

- 26 (1) Section 434C of the Taxes Act 1988 (interest on repayment of ACT) shall cease to have effect.
- (2) This paragraph has effect in relation to distributions made on or after 6th April 1999.

*Section 468Q of the Taxes Act 1988*

- 27 (1) Section 468Q of the Taxes Act 1988 (dividend distribution to corporate unit holder) shall be amended as follows.

*Status: Point in time view as at 19/07/2011.*

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- (2) In subsection (3) (as amended by paragraph 8(6)(b) of Schedule 6 to the <sup>M113</sup>Finance (No. 2) Act 1997)—
- (a) for the definition of “C” there shall be substituted—
- “C = such amount of the gross income as does not derive from franked investment income, as reduced by an amount equal to the trustees’ net liability to corporation tax in respect of the gross income;” and
- (b) for the definition of “D” there shall be substituted—
- “D = the amount of the gross income, as reduced by an amount equal to the trustees’ net liability to corporation tax in respect of the gross income;”.
- (3) After that subsection there shall be inserted—
- “(3A) Any reference in this section to the trustees’ net liability to corporation tax in respect of the gross income is a reference to the amount of the liability of the trustees of the authorised unit trust to corporation tax in respect of that gross income less the amount (if any) of any reduction of that liability which is given or falls to be given in accordance with any arrangements having effect by virtue of section 788 or by way of a credit under section 790(1).”
- (4) After subsection (5) there shall be inserted—
- “(5A) Where, in relation to a dividend distribution, any tax is deemed to have been deducted by virtue of the application of subsection (2)(b) above, the amount to which the unit holder is entitled by way of repayment of that tax shall not exceed the amount of the unit holder’s portion of the trustees’ net liability to corporation tax in respect of the gross income.
- (5B) For the purposes of subsection (5A) above the unit holder’s portion shall be determined by reference to the proportions in which unit holders have rights in the authorised unit trust in the distribution period in question.
- (5C) The trustees of the authorised unit trust shall in the appropriate statement sent to the unit holder under section 234A include a statement showing their net liability to corporation tax in respect of the gross income.”
- (5) This paragraph has effect in relation to distribution periods beginning on or after 6th April 1999.

**Marginal Citations**

M113 1997 c. 58.

*Section 490 of the Taxes Act 1988*

- 28 (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) the words “(including group income)” shall cease to have effect.
- (3) This paragraph has effect in relation to distributions made on or after 6th April 1999.

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*Section 497 of the Taxes Act 1988*

- 29 (1) Section 497 of the Taxes Act 1988 (restriction on setting ACT against income from oil extraction activities etc) shall cease to have effect.
- (2) This paragraph has effect in relation to accounting periods beginning on or after 6th April 1999.

*Section 498 of the Taxes Act 1988*

- 30 (1) Section 498 of the Taxes Act 1988 (limited right to carry back surrendered ACT) shall cease to have effect.
- (2) Sub-paragraph (1) above has effect in relation to accounting periods of the surrendering company (as defined in section 240(1) of the Taxes Act 1988) beginning on or after 6th April 1999.
- (3) The limit under section 498(5) of the Taxes Act 1988 for an accounting period of the surrendering company (as defined in section 240(1) of that Act) beginning before, and ending on or after, 6th April 1999 (a “straddling period”) shall be determined as if—
- (a) the straddling period were an accounting period beginning at the beginning of the straddling period and ending on 5th April 1999 (“the notional period”); and
  - (b) there were apportioned to the notional period a proportionate amount of the limit which, apart from this sub-paragraph, would apply for the purposes of section 498(5) of the Taxes Act 1988.

*Section 499 of the Taxes Act 1988*

- 31 (1) Section 499 of the Taxes Act 1988 (surrender of ACT where oil extraction company etc owned by a consortium) shall cease to have effect.
- (2) This paragraph has effect in relation to distributions made on or after 6th April 1999.

*Section 703 of the Taxes Act 1988*

- 32 (1) Section 703 of the Taxes Act 1988 (cancellation of tax advantage) shall be amended as follows.
- <sup>F128</sup>(2) .....
- (3) Subsections (4) to (6) (which make provision in relation to treating of amounts of ACT as paid) shall cease to have effect.
- <sup>F129</sup>(4) .....
- (5) Sub-paragraph (3) above has effect for the year 1999-00 and subsequent years of assessment.

**Textual Amendments**

**F128** Sch. 3 para. 32(2) repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 3 Pt. 1](#) (with [Sch. 2](#))

*Status: Point in time view as at 19/07/2011.*

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**F129** Sch. 3 para. 32(4) repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 3 Pt. 1](#) (with [Sch. 2](#))

*Section 704 of the Taxes Act 1988*

- 33 (1) Section 704 of the Taxes Act 1988 (the prescribed circumstances) shall be amended as follows.
- (2) In paragraph A, sub-paragraph (d) (which relates to ACT) shall cease to have effect.
- (3) This paragraph has effect in relation to distributions made on or after 6th April 1999.

*Section 705 of the Taxes Act 1988*

- 34 (1) Section 705 of the Taxes Act 1988 (appeals against Board's notices under section 703) shall be amended as follows.
- (2) Subsections (6) to (8) (which make provision supplemental to section 703(5) and (6)) shall cease to have effect.
- (3) This paragraph has effect for the year 1999-00 and subsequent years of assessment.

*Section 797 of the Taxes Act 1988*

- 35 (1) Section 797 of the Taxes Act 1988 (limits on credit: corporation tax) shall be amended as follows.
- (2) Sub-paragraphs (4) and (5) (which make provision in relation to section 239) shall cease to have effect.
- (3) This paragraph has effect in relation to accounting periods beginning on or after 6th April 1999.

*Section 802 of the Taxes Act 1988*

- 36 (1) Section 802 of the Taxes Act 1988 (UK insurance companies trading overseas) shall be amended as follows.
- (2) In subsection (2)(a) the words "and group income" shall cease to have effect.
- (3) This paragraph has effect in relation to distributions made on or after 6th April 1999.

*Section 813 of the Taxes Act 1988*

- 37 (1) Section 813 of the Taxes Act 1988 (recovery of tax credits incorrectly paid) shall be amended as follows.
- (2) In subsection (6), paragraph (b) (which makes provision in relation to ACT) shall cease to have effect.
- (3) This paragraph has effect in relation to accounting periods beginning on or after 6th April 1999.

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*Section 826 of the Taxes Act 1988*

- 38 (1) Section 826 of the Taxes Act 1988 (interest on tax overpaid) shall be amended as follows.
- (2) Subsection (2A) (material date for ACT) shall cease to have effect.
  - (3) Subsection (7) (which makes provision in relation to surplus ACT) shall cease to have effect.
  - (4) Subsections (7AA) and (7CA) (which make further provision in relation to surplus ACT) shall cease to have effect.
  - (5) Sub-paragraph (2) above has effect in relation to accounting periods beginning on or after 6th April 1999.
  - (6) Sub-paragraph (3) above has effect where the later period mentioned in subsection (7) of section 826 begins on or after 6th April 1999.
  - (7) Sub-paragraph (4) above has effect where the earlier period mentioned in subsections (7AA) and (7CA) of section 826 begins on or after 6th April 1999.

*Section 832 of the Taxes Act 1988*

- 39 (1) Section 832 of the Taxes Act 1988 (interpretation of the Tax Acts) shall be amended as follows.
- <sup>F130</sup>(2) .....
- (3) In subsection (1) the definition of “franked payment” shall cease to have effect.
  - (4) In subsection (1) the definition of “group income” shall cease to have effect.
  - (5) In subsection (1) the definition of “the rate of advance corporation tax” shall cease to have effect.
  - (6) In subsection (1) the definition of “surplus of franked investment income” shall cease to have effect.
- <sup>F131</sup>(7) .....
- (8) Sub-paragraphs (2), (3), (6) and (7) above have effect in relation to accounting periods beginning on or after 6th April 1999.
  - (9) Sub-paragraphs (4) and (5) above have effect in relation to distributions made on or after 6th April 1999.

**Textual Amendments**

- F130** Sch. 3 para. 39(2) repealed (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), **Sch. 3 Pt. 1** (with Sch. 2)
- F131** Sch. 3 para. 39(7) repealed (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), **Sch. 3 Pt. 1** (with Sch. 2)

*Section 835 of the Taxes Act 1988*

- <sup>F132</sup>40 .....

*Status: Point in time view as at 19/07/2011.*

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### Textual Amendments

**F132** Sch. 3 para. 40 repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 3 Pt. 1](#) (with [Sch. 2](#))

#### *Schedule 13 to the Taxes Act 1988*

- 41 (1) Schedule 13 to the Taxes Act 1988 (collection of ACT) shall cease to have effect.
- (2) This paragraph has effect—
- (a) in relation to return periods beginning on or after 6th April 1999; and
  - (b) in relation to accounting periods beginning on or after that date.

#### *Schedule 13A to the Taxes Act 1988*

- 42 (1) Schedule 13A to the Taxes Act 1988 (surrenders of ACT) shall cease to have effect.
- (2) This paragraph has effect in relation to accounting periods of the surrendering company (as defined in section 240(1) of the Taxes Act 1988) beginning on or after 6th April 1999.

#### *Schedule 24 to the Taxes Act 1988*

- 43 (1) Schedule 24 to the Taxes Act 1988 (assumptions in relation to controlled foreign companies etc) shall be amended as follows.
- (2) In paragraph 6—
- (a) in sub-paragraph (1), paragraph (a) (which makes provision in relation to section 247(1)) shall cease to have effect; and
  - (b) in sub-paragraph (2), the words “dividends or” shall cease to have effect.
- (3) Paragraph 7 (which makes provision in relation to section 240) shall cease to have effect.
- (4) This paragraph has effect in relation to accounting periods of companies resident outside the United Kingdom which begin on or after 6th April 1999.

#### *Schedule 26 to the Taxes Act 1988*

- 44 (1) Schedule 26 to the Taxes Act 1988 (controlled foreign companies: relief against liability for tax in respect of chargeable profits) shall be amended as follows.
- (2) Paragraph 2 (which makes provision in relation to ACT) shall cease to have effect.
- (3) Sub-paragraphs (1) and (2) above have effect in relation to accounting periods beginning on or after 6th April 1999.
- (4) The relevant maximum (as defined in paragraph 2(3) of Schedule 26 to the Taxes Act 1988) for an accounting period beginning before, and ending on or after, 6th April 1999 (a “straddling period”) shall be determined as if—
- (a) the straddling period were an accounting period beginning at the beginning of the straddling period and ending on 5th April 1999 (“the notional period”); and



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- (b) there were apportioned to the notional period a proportionate amount of the amounts mentioned in paragraph 2(3)(a) and (b) of Schedule 26 to the Taxes Act 1988.

*Paragraph 8 of Schedule 4 to the Finance (No. 2) Act 1997*

- 45 Paragraph 8 of Schedule 4 to the <sup>M114</sup>Finance (No. 2) Act 1997 (which prospectively amends section 238(1) of the Taxes Act 1988) shall not have effect.

**Marginal Citations**

[M114 1997 c. 58.](#)

*Paragraph 9 of Schedule 4 to the Finance (No. 2) Act 1997*

- 46 Paragraph 9 of Schedule 4 to the <sup>M115</sup>Finance (No. 2) Act 1997 (which prospectively amends section 241 of the Taxes Act 1988) shall not have effect.

**Marginal Citations**

[M115 1997 c. 58.](#)

*Paragraph 18 of Schedule 4 to the Finance (No. 2) Act 1997*

- 47 Paragraph 18 of Schedule 4 to the <sup>M116</sup>Finance (No. 2) Act 1997 (which prospectively amends section 703 of the Taxes Act 1988) shall not have effect.

**Marginal Citations**

[M116 1997 c. 58.](#)

*Paragraph 23 of Schedule 4 to the Finance (No. 2) Act 1997*

- 48 Paragraph 23 of Schedule 4 to the <sup>M117</sup>Finance (No. 2) Act 1997 (which prospectively amends Schedule 13 to the Taxes Act 1988) shall not have effect.

**Marginal Citations**

[M117 1997 c. 58.](#)

*Status: Point in time view as at 19/07/2011.*

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## SCHEDULE 4

Section 35.

### INTEREST PAYABLE UNDER THE TAX ACTS BY OR TO COMPANIES

#### *Interest on overpaid or early paid corporation tax*

- 1 (1) In section 826(2) of the Taxes Act 1988 (which defines “the material date” for the purposes of interest on overpaid corporation tax) at the beginning there shall be inserted “ Subject to section 826A(2), ”.
- (2) After section 826 of the Taxes Act 1988 there shall be inserted—

#### **“826A Interest on payments in respect of corporation tax and meaning of “the material date”.**

- (1) The Treasury may by regulations make provision applying section 826, with such modifications as may be prescribed, for the purpose of conferring on companies of such descriptions as may be prescribed a right to interest—
- (a) on such payments made by them in respect of corporation tax as may be prescribed,
  - (b) at the rate applicable under section 178 of the <sup>M118</sup>Finance Act 1989, and
  - (c) for such period as may be prescribed,
- and for treating any such interest for the purposes, or prescribed purposes, of the Tax Acts as interest under section 826(1)(a) on a repayment of corporation tax.
- (2) The Treasury may by regulations make provision modifying section 826(2) in relation to companies of such description as may be prescribed.
- (3) Subsections (1) and (2) above do not apply in relation to companies in relation to which section 826(2) is modified or otherwise affected by regulations under section 59E of the Management Act (alteration of date on which corporation tax becomes due and payable) in relation to the accounting period to which the corporation tax in question relates.
- (4) Where the Treasury make regulations under subsection (2) above in relation to companies of any description, they may also make regulations modifying section 59DA(2) of the Management Act in relation to those companies, or any description of such companies, by varying the date before which the claim there mentioned may not be made.
- (5) Regulations under this section—
- (a) may make different provision in relation to different cases or circumstances or in relation to companies or accounting periods of different descriptions;
  - (b) may make such supplementary, incidental, consequential or transitional provision as appears to the Treasury to be necessary or expedient.
- (6) Regulations under this section may not make provision in relation to accounting periods ending before the day appointed under section 199 of the

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<sup>M119</sup>Finance Act 1994 for the purposes of Chapter III of Part IV of that Act (corporation tax self-assessment).

(7) In this section “prescribed” means prescribed by regulations made under this section.”

(3) In section 178 of the <sup>M120</sup>Finance Act 1989 (setting of rates of interest) in subsection (2)(m) (which lists the provisions of the Taxes Act 1988 to which the section applies) for “and 826” there shall be substituted “ 826 and 826A(1)(b) ”.

**Marginal Citations**

**M118** 1989 c. 26.

**M119** 1994 c. 9.

**M120** 1989 c. 26.

*The “material date” for interest on a repayment of income tax*

2 (1) In section 826 of the Taxes Act 1988 (interest on tax overpaid) in subsection (3) (date from which interest runs on a repayment of income tax, or a payment of tax credit, to a company) for the words from “the material date is” to “for the accounting period” there shall be substituted “ the material date is the day after the end of the accounting period ”.

(2) This paragraph has effect in relation to accounting periods ending on or after the day appointed under section 199 of the <sup>M121</sup>Finance Act 1994 for the purposes of Chapter III of Part IV of that Act (corporation tax self-assessment).

**Marginal Citations**

**M121** 1994 c. 9.

*Recovery of interest overpaid under section 826(1)(a)*

3 (1) In section 826 of the Taxes Act 1988 (interest on tax overpaid) after subsection (8) there shall be inserted—

“(8A) Where—

- (a) interest has been paid to a company under subsection (1)(a) above,
- (b) there is a change in the company’s assessed liability to corporation tax, other than a change which in whole or in part corrects an error made by the Board or an officer of the Board, and
- (c) as a result only of that change (and, in particular, not as a result of any error in the calculation of the interest), it appears to an officer of the Board that the interest ought not to have been paid, either at all or to any extent,

the interest that ought not to have been paid may be recovered from the company as if it were interest charged under Part IX of the Management Act (interest on overdue tax).

(8B) For the purposes of subsection (8A) above, the cases where there is a change in a company’s assessed liability to corporation tax are those cases where—

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- (a) an assessment, or an amendment of an assessment, of the amount of corporation tax payable by the company for the accounting period in question is made, or
  - (b) a determination of that amount is made under paragraph 36 or 37 of Schedule 18 to the Finance Act 1998 (which until superseded by a self-assessment under that Schedule has effect as if it were one),
- whether or not any previous assessment or determination has been made.

(8C) In subsection (8A)(b) above “error” includes—

- (a) any computational error; and
- (b) the allowance of a claim or election which ought not to have been allowed.”

<sup>F133</sup>(2) .....

- (3) The amendments made by this paragraph have effect in relation to interest on repayments of corporation tax paid for accounting periods ending on or after the day appointed under section 199 of the <sup>M122</sup>Finance Act 1994 for the purposes of Chapter III of Part IV of that Act (corporation tax self-assessment).

#### Textual Amendments

**F133** Sch. 4 para. 3(2) repealed (11.5.2001 with effect as mentioned in Sch. 33 Pt. 2 (14)(2) Note 2 of the amending act) by 2001 c. 9, s. 110, Sch. 33 Pt. 2(14)

#### Marginal Citations

**M122** 1994 c. 9.

#### *Interest on underpaid tax where reliefs are carried back*

- 4 (1) Section 87A of the <sup>M123</sup>Taxes Management Act 1970 (interest on overdue corporation tax etc) shall be amended as follows.
- (2) In each of subsections (4), (4A) and (6) (which refer to corporation tax becoming due and payable as mentioned in subsection (1) of that section) for the words “as mentioned in subsection (1) above” there shall be substituted “ as mentioned in subsection (8) below ”.
- (3) After subsection (7) there shall be inserted—
- “(8) In subsections (4), (4A) and (6) above, any reference to the date on which corporation tax for an accounting period became, or would have become, due and payable shall be construed on the basis that corporation tax for an accounting period becomes due and payable on the day following the expiry of nine months from the end of the accounting period.”
- (4) After subsection (8) there shall be inserted—
- “(9) The power conferred by section 59E of this Act (alteration of date on which corporation tax becomes due and payable) does not include power to make provision in relation to subsection (4), (4A), (6) or (8) above the effect of which would be to change the meaning of references in subsection (4), (4A) or (6) above to the date on which corporation tax for an accounting

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period became, or would have become, due and payable (as mentioned in subsection (8) above).”

- (5) The amendments made by this paragraph have effect where the accounting period whose due and payable date falls to be determined is an accounting period ending on or after the day appointed under section 199 of the <sup>M124</sup>Finance Act 1994 for the purposes of Chapter III of Part IV of that Act (corporation tax self-assessment).
- (6) In sub-paragraph (5) above “due and payable date”, in relation to an accounting period, means the date on which corporation tax for that period becomes, or (as the case may be) would become, due and payable.

#### Marginal Citations

M123 1970 c. 9.

M124 1994 c. 9.

#### *Interest on overpaid tax where reliefs are carried back*

- 5 (1) Section 826 of the Taxes Act 1988 (interest on tax overpaid) shall be amended as follows.
  - (2) In each of subsections (7), (7A), (7B) and (7C) (which refer to corporation tax becoming due and payable as mentioned in subsection (2) of that section) for the words “as mentioned in subsection (2) above” there shall be substituted “as mentioned in subsection (7D) below”.
  - (3) After subsection (7CA) there shall be inserted—

“(7D) In subsections (7), (7A), (7B) and (7C) above, any reference to the date on which corporation tax for an accounting period became, or would have become, due and payable shall be construed on the basis that corporation tax for an accounting period becomes due and payable on the day following the expiry of nine months from the end of the accounting period.”
  - (4) After subsection (7D) there shall be inserted—

“(7E) The power conferred by section 59E of the Management Act (alteration of date on which corporation tax becomes due and payable) does not include power to make provision in relation to subsection (7), (7A), (7B), (7C) or (7D) above the effect of which would be to change the meaning of references in subsection (7), (7A), (7B) or (7C) above to the date on which corporation tax for an accounting period became, or would have become, due and payable (as mentioned in subsection (7D) above).”
  - (5) The amendments made by this paragraph have effect where the accounting period whose due and payable date falls to be determined is an accounting period ending on or after the day appointed under section 199 of the <sup>M125</sup>Finance Act 1994 for the purposes of Chapter III of Part IV of that Act (corporation tax self-assessment).
  - (6) In sub-paragraph (5) above “due and payable date”, in relation to an accounting period, means the date on which corporation tax for that period becomes, or (as the case may be) would become, due and payable.

*Status: Point in time view as at 19/07/2011.*

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#### Marginal Citations

M125 1994 c. 9.

### *Company liquidations*

F134<sup>6</sup> .....

#### Textual Amendments

F134 Sch. 4 para. 6 repealed (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), Sch. 3 Pt. 1 (with Sch. 2)

### *Loan relationships*

F135<sup>7</sup> .....

#### Textual Amendments

F135 Sch. 4 para. 7 repealed (24.7.2002 with effect as mentioned in Sch. 40 Pt. 3(10) Note 2 of the amending Act) by 2002 c. 23, s. 141, Sch. 40 Pt. 3(10) Note 2

## SCHEDULE 5

Section 38(1).

### RENT AND OTHER RECEIPTS FROM LAND

#### PART I

#### MAIN CHARGING PROVISIONS

#### Commencement Information

I25 Sch. 5 Pts. I-III in force and has effect as mentioned in s. 38.

1 In section 15(1) of the Taxes Act 1988 (the Schedule A charge), for Schedule A substitute—

#### “SCHEDULE A

- 1 (1) Tax is charged under this Schedule on the annual profits arising from a business carried on for the exploitation, as a source of rents or other receipts, of any estate, interest or rights in or over land in the United Kingdom.
- (2) To the extent that any transaction is entered into for the exploitation, as a source of rents or other receipts, of any estate, interest or rights in or over land in the United Kingdom, it is taken to be entered into in the course of such a business.

*Status: Point in time view as at 19/07/2011.*

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- (3) All businesses and transactions carried on or entered into by a particular person or partnership, so far as they are businesses or transactions the profits of which are chargeable to tax under this Schedule, are treated for the purposes of this Schedule as, or as entered into in the course of carrying on, a single business.

There are qualifications to this rule in the case of—

- (a) companies not resident in the United Kingdom (see subsection (1A) below); and
  - (b) insurance companies (see sections 432AA and 441B(2A)).
- (4) The receipts referred to in the expression “as a source of rents or other receipts” include—
- (a) payments in respect of a licence to occupy or otherwise to use land or the exercise of any other right over land, and
  - (b) rentcharges, ground annuals and feu duties and other annual payments reserved in respect of, or charged on or issuing out of, the land.
- 2 (1) This Schedule does not apply to profits arising from the occupation of land.
- (2) This Schedule does not apply to—
- (a) profits charged to tax under Case I of Schedule D under—  
section 53(1) (farming and market gardening), or  
section 55 (mines, quarries and other concerns);
  - (b) receipts or expenses taken into account as trading receipts or expenses under section 98 (tied premises);
  - (c) rent charged to tax under Schedule D under—  
section 119 (rent, etc. payable in connection with mines, quarries and other concerns), or  
section 120(1) (certain rent, etc. payable in respect of electric line wayleaves).
- (3) The profits of a Schedule A business carried on by a company shall be computed without regard to items giving rise to—
- credits or debits within Chapter II of Part IV of the <sup>M126</sup>Finance Act 1996 (loan relationships), or
  - exchange gains or losses within Chapter II of Part II of the <sup>M127</sup>Finance Act 1993 (foreign exchange gains and losses), or
  - qualifying payments within Chapter II of Part IV of the <sup>M128</sup>Finance Act 1994 (interest rate and currency contracts).

This Schedule does not affect the operation of those provisions.

- 3 (1) For the purposes of this Schedule a right to use a caravan or houseboat, where the use to which the caravan or houseboat may be put in pursuance of the right is confined to use at a single location in the United Kingdom, is treated as a right deriving from an estate or interest in land in the United Kingdom.
- (2) In sub-paragraph (1)—
- “caravan” has the meaning given by section 29(1) of the <sup>M129</sup>Caravan Sites and Control of Development Act 1960; and

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

- 4 (1) In the case of a furnished letting, any sum payable for the use of furniture shall be taken into account in computing the profits chargeable to tax under this Schedule in the same way as rent.

Expenses in connection with the provision of furniture shall similarly be taken into account in the same way as expenses in connection with the premises.

- (2) A furnished letting means where—
- (a) a sum is payable in respect of the use of premises, and
  - (b) the tenant or other person entitled to the use of the premises is also entitled, in connection with that use, to the use of furniture.
- (3) This paragraph does not apply if the receipts and expenses are taken into account in computing the profits of a trade consisting in, or involving, making furniture available for use in premises.
- (4) In this paragraph—
- (a) any reference to a sum includes the value of consideration other than money, and references to a sum being payable shall be construed accordingly; and
  - (b) “premises” includes a caravan or houseboat within the meaning of paragraph 3.”.

#### Marginal Citations

M126 1996 c.8.  
M127 1993 c.34.  
M128 1994 c.9.  
M129 1960 c.62.

- 2 In section 15 of the Taxes Act 1988 (the Schedule A charge), after subsection (1) insert—

“(1A) In the case of a company which is not resident in the United Kingdom—

- (a) businesses carried on and transactions entered into by it the profits of which are within the charge to corporation tax under Schedule A, and
- (b) businesses carried on and transactions entered into by it the profits of which are within the charge to income tax under Schedule A,

are treated as separate Schedule A businesses.”.

- 3 For the heading to Part II of the Taxes Act 1988 substitute “ PROVISIONS RELATING TO THE SCHEDULE A CHARGE ”.

- 4 For section 21 of the Taxes Act 1988 (persons chargeable and computation of amounts chargeable) substitute—



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## **“21 Persons chargeable and basis of assessment.**

- (1) Income tax under Schedule A shall be charged on and paid by the persons receiving or entitled to the income in respect of which the tax is directed by the Income Tax Acts to be charged.
- (2) Income tax under Schedule A is charged on the full amount of the profits arising in the year of assessment.
- (3) This section does not apply for the purposes of corporation tax.

### **21A Computation of amount chargeable.**

- (1) Except as otherwise expressly provided, the profits of a Schedule A business are computed in the same way as the profits of a trade are computed for the purposes of Case I of Schedule D.
- (2) The following provisions apply in accordance with subsection (1)—
  - section 72 (apportionment);
  - the provisions of Chapter V of Part IV (computational provisions relating to the Schedule D charge), except as mentioned in subsection (4) below;
  - section 577 (business entertainment expenses);
  - section 577A (expenditure involving crime);
  - sections 579 and 580 (redundancy payments);
  - sections 588 and 589 (training courses for employees);
  - sections 589A and 589B (counselling services for employees);
  - section 73(2) of the <sup>M130</sup>Finance Act 1988 (consideration for restrictive undertakings);
  - section 43 of the <sup>M131</sup>Finance Act 1989 (deductions in respect of certain emoluments);
  - section 76 of that Act (expenses in connection with non-approved retirement benefit schemes);
  - sections 112 and 113 of that Act (expenditure in connection with provision of security asset or service);
  - sections 42 and 46(1) and (2) of the Finance Act 1998 (provisions as to computation of profits and losses).
- (3) Section 74(1)(d) of this Act (disallowance of provisions for future repairs) applies in relation to a Schedule A business as if the reference to premises occupied for the purposes of the trade were to premises held for the purposes of the Schedule A business.
- (4) The following provisions in Chapter V of Part IV of this Act do not apply, or are excepted from applying, in accordance with subsection (1)—
  - section 82 (interest paid to non-residents),
  - section 87 (treatment of premiums taxed as rent),
  - section 96 (farming and market gardening: relief for fluctuating profits), and
  - section 98 (tied premises: receipts and expenses treated as those of trade).

*Status: Point in time view as at 19/07/2011.*

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## **21B Application of other rules applicable to Case I of Schedule D.**

The following provisions apply for the purposes of Schedule A in relation to a Schedule A business as they apply for the purposes of Case I of Schedule D in relation to a trade—

sections 103 to 106, 108, 109A and 110 (post-cessation receipts and expenses, etc.);

section 113 (effect for income tax purposes of change in the persons engaged in carrying on trade);

section 337(1) (effect of company beginning or ceasing to carry on trade);

section 401(1) (pre-trading expenditure);

section 44 of and Schedule 6 to the Finance Act 1998 (change of accounting basis).”.

### **Marginal Citations**

**M130** 1988 c. 39.

**M131** 1989 c. 26.

5 After section 21B of the Taxes Act 1988 (inserted by paragraph 4 above) insert—

### **“21C The Schedule A charge and mutual business.**

- (1) The following provisions have effect for the purpose of applying the charge to tax under Schedule A in relation to mutual business.
- (2) The transactions or relationships involved in mutual business are treated as if they were transactions or relationships between persons between whom no relationship of mutuality existed.
- (3) Any surplus arising from the business is regarded as a profit (and any deficit as a loss) if it would be so regarded if the business were not mutual.
- (4) The person—
  - (a) to whom the profit arises for corporation tax purposes, or
  - (b) who is regarded as receiving or entitled to the profit for income tax purposes,
 is the person who would satisfy that description if the business were not mutual business.
- (5) Nothing in this section affects the operation of section 488 (co-operative housing associations).”.

F136<sub>6</sub> .....

### **Textual Amendments**

**F136** Sch. 5 para. 6 repealed (31.7.1998 with effect as mentioned in s. 39, Sch. 27 Pt. III(5)) by 1998 c. 36, s. 165, Sch. 27 Pt. III(5)

*Status: Point in time view as at 19/07/2011.*

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F1377 .....

**Textual Amendments**

**F137** Sch. 5 para. 7 repealed (31.7.1998 with effect as mentioned in s. 39, Sch. 27 Pt. III(5), Note) by 1998 c. 36, s. 165, **Sch. 27 Pt. III(5)**

8 In section 27 of the Taxes Act 1988 (maintenance funds for historic buildings), for subsection (3) substitute—

“(3) Where by virtue of this section an election has effect in relation to an estate part of which is comprised in a settlement—

(a) there may be treated as deductible from the receipts arising from that part—

(i) any disbursements or expenses of the trustees of the settlement which relate to the other part of the estate and which would be so deductible if that part were also comprised in the settlement, and

(ii) any disbursements or expenses of the owner of the other part of the estate to the extent to which they cannot be deducted by him in the chargeable period in which they are incurred because of an insufficiency of any receipts for that period from which they are deductible apart from this subparagraph;

(b) any relief available to the trustees by virtue of section 379A(2)(b) shall instead be available to the owner of the other part of the estate.

This subsection has effect subject to subsection (2A) of section 26.”

9 Section 28 of the Taxes Act 1988 (deductions from receipts other than rent) shall cease to have effect.

10 Section 29 of the Taxes Act 1988 (sporting rights) shall cease to have effect.

11 In section 30(1) of the Taxes Act 1988 (expenditure on sea walls)—

(a) for “for the purposes of sections 25, 28 and 31” substitute “ for the purpose of computing the profits of any Schedule A business carried on in relation to those premises ”; and

(b) for “in respect of dilapidation attributable to the year” substitute “ as an expense of the business for that year ”.

12 Section 31 of the Taxes Act 1988 (provisions supplementary to sections 25 to 30) shall cease to have effect.

13 Section 33 of the Taxes Act 1988 (agricultural land: allowance for excess expenditure on management) shall cease to have effect.

14 Sections 33A and 33B of the Taxes Act 1988 (connected persons) shall cease to have effect.

F13815 .....

Status: Point in time view as at 19/07/2011.

Changes to legislation: Finance Act 1998 is up to date with all changes known to be in force on or before 18 October 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

**Textual Amendments**

**F138** Sch. 5 paras. 15-18 repealed (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

F138<sup>16</sup> .....

**Textual Amendments**

**F138** Sch. 5 paras. 15-18 repealed (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

F138<sup>17</sup> .....

**Textual Amendments**

**F138** Sch. 5 paras. 15-18 repealed (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

F138<sup>18</sup> .....

**Textual Amendments**

**F138** Sch. 5 paras. 15-18 repealed (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

19 For the heading before section 40 of the Taxes Act 1988 substitute “ *Supplementary provisions* ”.

20 (1) Section 40 of the Taxes Act 1988 (tax treatment of receipts and outgoings on sale of land) is amended as follows.

(2) In subsection (1) for “become receivable or payable on his behalf” substitute “ been received or paid by him ”.

(3) In subsection (3)(b), for the words from “had become receivable” to the end substitute “ had been received or paid directly by him immediately before the time to which the apportionment is made ”.

(4) After subsection (4) insert—  
“(4A) An amount deemed under this section to have been received or paid shall be taken into account in computing the profits of the Schedule A business in question for the period in which it is treated as received or paid.”.

(5) Omit subsection (5).

21 Section 41 of the Taxes Act 1988 (relief for rent not paid, etc.) shall cease to have effect.

22 In section 42A of the Taxes Act 1988 (non-residents and their representatives), omit subsection (8).

F139<sup>23</sup> .....

*Status: Point in time view as at 19/07/2011.*

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**Textual Amendments**

**F139** Sch. 5 para. 23 repealed (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), s. 883\(1\), Sch. 3](#) (with [Sch. 2](#))

<sup>F140</sup>24 .....

**Textual Amendments**

**F140** Sch. 5 para. 24 repealed (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), s. 883\(1\), Sch. 3](#) (with [Sch. 2](#))

25 After section 70 of the Taxes Act 1988 (corporation tax: basis of assessment, etc.) insert—

**“70A Case V income from land outside UK: corporation tax.**

- (1) This section applies where a company is chargeable to corporation tax under Case V of Schedule D in respect of income which—
  - (a) arises from a business carried on for the exploitation, as a source of rents or other receipts, of any estate, interest or rights in or over land outside the United Kingdom, and
  - (b) is not income to which section 70(2) applies (income from a trade or vocation).
- (2) The provisions of Schedule A apply to determine whether income falls within subsection (1)(a) above as they would apply to determine whether the income fell within paragraph 1(1) of that Schedule if—
  - (a) the land in question were in the United Kingdom, or
  - (b) a caravan or houseboat which is to be used at a location outside the United Kingdom were to be used at a location in the United Kingdom.
- (3) Any provision of the Taxes Acts which deems there to be a Schedule A business in the case of land in the United Kingdom applies where the corresponding circumstances arise with respect to land outside the United Kingdom so as to deem there to be a business within subsection (1)(a) above.
- (4) All businesses and transactions carried on or entered into by a particular company or partnership, so far as they are businesses or transactions the income from which is chargeable to tax under Case V of Schedule D in accordance with this section, are treated for the purposes of the charge to tax under Case V as, or as entered into in the course of carrying on, a single business (an “overseas property business”).
- (5) The income from an overseas property business shall be computed for the purposes of Case V of Schedule D in accordance with the rules applicable to the computation of the profits of a Schedule A business.

Those rules apply separately in relation to—

  - (a) an overseas property business, and
  - (b) any actual Schedule A business of the company chargeable,

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as if each were the only Schedule A business carried on by that company.

- (6) Sections 503 and 504 of this Act and section 29 of the 1990 Act (provisions relating to furnished holiday accommodation) do not apply to the profits or losses of an overseas property business.
- (7) Where under this section rules expressed by reference to domestic concepts of law apply in relation to land outside the United Kingdom, they shall be interpreted so as to produce the result that most closely corresponds with the result produced for Schedule A purposes in relation to land in the United Kingdom.”.

## PART II

### TREATMENT OF LOSSES

F141<sup>26</sup> .....

**Textual Amendments**  
**F141** Sch. 5 para. 26 repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), **Sch. 3 Pt. 1** (with [Sch. 2](#))

F142<sup>27</sup> .....

**Textual Amendments**  
**F142** Sch. 5 para. 27 repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), **Sch. 3 Pt. 1** (with [Sch. 2](#))

F143<sup>28</sup> .....

**Textual Amendments**  
**F143** [Sch. 5 paras. 28-32](#) repealed (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), **Sch. 3 Pt. 1** (with [Sch. 2](#))

F143<sup>29</sup> .....

**Textual Amendments**  
**F143** [Sch. 5 paras. 28-32](#) repealed (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), **Sch. 3 Pt. 1** (with [Sch. 2](#))

F143<sup>30</sup> .....

**Textual Amendments**  
**F143** [Sch. 5 paras. 28-32](#) repealed (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), **Sch. 3 Pt. 1** (with [Sch. 2](#))

F143<sup>31</sup> .....

*Status: Point in time view as at 19/07/2011.*

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**Textual Amendments**

**F143** Sch. 5 paras. 28-32 repealed (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), **Sch. 3 Pt. 1** (with Sch. 2)

**F143**<sup>32</sup> .....

**Textual Amendments**

**F143** Sch. 5 paras. 28-32 repealed (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), **Sch. 3 Pt. 1** (with Sch. 2)

**PART III**

MINOR AND CONSEQUENTIAL AMENDMENTS

**Commencement Information**

**I26** Sch. 5 Pts. I-III in force and has effect as mentioned in s. 38.

*Taxes Management Act 1970 (c. 9)*

**F144**<sup>33</sup> .....

**Textual Amendments**

**F144** Sch. 5 para. 33 repealed (31.7.1998 with effect as mentioned in s. 117, Sch. 27 Pt. III(28), Note) by 1998 c. 36, s. 165, **Sch. 27 Pt. III(28)**

*Income and Corporation Taxes Act 1988 (c.1)*

**F145**<sup>34</sup> .....

**Textual Amendments**

**F145** Sch. 5 para. 34 repealed (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

**F146**<sup>35</sup> .....

**Textual Amendments**

**F146** Sch. 5 paras. 35-38 repealed (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), **Sch. 3 Pt. 1** (with Sch. 2)

**F146**<sup>36</sup> .....

*Status: Point in time view as at 19/07/2011.*

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**Textual Amendments**  
**F146** Sch. 5 paras. 35-38 repealed (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), **Sch. 3 Pt. 1** (with Sch. 2)

**F146**<sup>37</sup> .....

**Textual Amendments**  
**F146** Sch. 5 paras. 35-38 repealed (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), **Sch. 3 Pt. 1** (with Sch. 2)

**F146**<sup>38</sup> .....

**Textual Amendments**  
**F146** Sch. 5 paras. 35-38 repealed (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), **Sch. 3 Pt. 1** (with Sch. 2)

39 In Chapter I of Part XII of the Taxes Act 1988 (insurance companies), after section 432A insert—

**“432AA Schedule A business or overseas property business.**

- (1) An insurance company is treated as carrying on separate Schedule A businesses, or overseas property businesses, in accordance with the following rules.
- (2) The exploitation of land held as an asset of the company’s long term business fund is treated as a separate business from the exploitation of land not so held.
- (3) The exploitation of land held as an asset of the company’s overseas life assurance fund is treated as a separate business from the exploitation of other land held as an asset of its long term business fund.
- (4) The exploitation of land held as an asset linked to any of the following categories of business is regarded as a separate business—
  - (a) pension business;
  - (b) life reinsurance business;
  - (c) basic life assurance and general annuity business;
  - (d) long term business other than life assurance business.
- (5) Accordingly, the exploitation of land held as an asset of the company’s long term business fund otherwise than as mentioned in subsection (3) or (4) is treated as a separate business from any other.
- (6) In this section “land” means any estate, interest or rights in or over land.



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### **432AB Losses from Schedule A business or overseas property business.**

- (1) This section applies to any loss arising in a Schedule A business or overseas property business.
- (2) A loss arising from any category of business mentioned in section 432A(2) shall be apportioned under that section in the same way as income.
- (3) So far as a loss is referable to basic life assurance and general annuity business, it shall be treated as if it were an amount of expenses of management under section 76 disbursed for the accounting period in which the loss arose.
- (4) Where a company is treated under section 432AA as carrying on—
  - (a) more than one Schedule A business, or
  - (b) more than one overseas property business,then, in relation to either kind of business, the reference in subsection (3) above to a loss referable to basic life assurance and general annuity business shall be construed as a reference to any aggregate net loss after setting the losses from those businesses which are so referable against any profits from those businesses that are so referable.
- (5) The provisions of section 392A or 392B (loss relief) do not apply to a loss referable to life assurance business or any category of life assurance business.
- (6) Where a company is treated under section 432AA as carrying on—
  - (a) more than one Schedule A business, or
  - (b) more than one overseas property business,and, in relation to either kind of business, there are losses and profits referable to business which is not life assurance business, those losses shall be set against those profits before being used under section 392A or 392B.”.

F147<sup>40</sup> .....

#### **Textual Amendments**

**F147** Sch. 5 para. 40 repealed (22.3.2001 with effect as mentioned in s. 579 of the amending Act) by 2001 c. 2, ss. 579, 580, **Sch. 4**

F148<sup>41</sup> .....

#### **Textual Amendments**

**F148** Sch. 5 para. 41 repealed (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Insurance Companies \(Overseas Life Assurance Business\) \(Excluded Business\) \(Amendment\) Regulations 2007 \(S.I. 2007/2086\)](#), regs. 1(1), **6(2)(c)**

F149<sup>42</sup> .....

*Status: Point in time view as at 19/07/2011.*

*Changes to legislation: Finance Act 1998 is up to date with all changes known to be in force on or before 18 October 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

**Textual Amendments**

**F149** Sch. 5 para. 42 repealed (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), **Sch. 3 Pt. 1** (with Sch. 2)

<sup>F150</sup>43 .....

**Textual Amendments**

**F150** Sch. 5 para. 43 repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

44 In section 787(3) of the Taxes Act 1988 (restriction of relief for payments of interest) for “section 403(7)” substitute “ section 83(2)(b) of the Finance Act 1996 (claim to treat non-trading deficit as eligible for group relief) ”.

<sup>F151</sup>45 .....

**Textual Amendments**

**F151** Sch. 5 para. 45 repealed (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), s. 883(1), **Sch. 3** (with Sch. 2)

<sup>F152</sup>46 .....

**Textual Amendments**

**F152** Sch. 5 para. 46 repealed (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), **Sch. 3 Pt. 1** (with Sch. 2)

*Capital Allowances Act 1990 (c.1)*

<sup>F153</sup>47 .....

**Textual Amendments**

**F153** Sch. 5 para. 47 repealed (22.3.2001 with effect as mentioned in s. 579 of the amending Act) by [2001 c. 2](#), ss. 579, 580, **Sch. 4**

<sup>F154</sup>48 .....

**Textual Amendments**

**F154** Sch. 5 para. 48 repealed (22.3.2001 with effect as mentioned in s. 579 of the amending Act) by [2001 c. 2](#), ss. 579, 580, **Sch. 4**

<sup>F155</sup>49 .....

*Status: Point in time view as at 19/07/2011.*

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**Textual Amendments**

**F155** Sch. 5 para. 49 repealed (22.3.2001 with effect as mentioned in s. 579 of the amending Act) by 2001 c. 2, ss. 579, 580, **Sch. 4**

**F156**50 .....

**Textual Amendments**

**F156** Sch. 5 para. 50 repealed (22.3.2001 with effect as mentioned in s. 579 of the amending Act) by 2001 c. 2, ss. 579, 580, **Sch. 4**

**F157**51 .....

**Textual Amendments**

**F157** Sch. 5 para. 51 repealed (22.3.2001 with effect as mentioned in s. 579 of the amending Act) by 2001 c. 2, ss. 579, 580, **Sch. 4**

**F158**52 .....

**Textual Amendments**

**F158** Sch. 5 para. 52 repealed (22.3.2001 with effect as mentioned in s. 579 of the amending Act) by 2001 c. 2, ss. 579, 580, **Sch. 4**

**F159**53 .....

**Textual Amendments**

**F159** Sch. 5 para. 53 repealed (22.3.2001 with effect as mentioned in s. 579 of the amending Act) by 2001 c. 2, ss. 579, 580, **Sch. 4**

**F160**54 .....

**Textual Amendments**

**F160** Sch. 5 para. 54 repealed (22. 3. 2001 with effect as mentioned in s. 579 of the amending Act) by 2001 c. 2, ss. 579, 580, **Sch. 4**

**F161**55 .....

**Textual Amendments**

**F161** Sch. 5 para. 55 repealed (22.3.2001 with effect as mentioned in s. 579 of the amending Act) by 2001 c. 2, ss. 579, 580, **Sch. 4**

**F162**56 .....

*Status: Point in time view as at 19/07/2011.*

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**Textual Amendments**

**F162** Sch. 5 para. 56 repealed (22.3.2001 with effect as mentioned in s. 579 or the amending Act) by 2001 c. 2, ss. 579, 580, **Sch. 4**

**F163** 57 .....

**Textual Amendments**

**F163** Sch. 5 para. 57 repealed (22.3.2001 with effect as mentioned in s. 579 of the amending Act) by 2001 c. 2, ss. 579, 580, **Sch. 4**

**F164** 58 .....

**Textual Amendments**

**F164** Sch. 5 para. 58 repealed (22.3.2001 with effect as mentioned in s. 579 of the amending Act) by 2001 c. 2, ss. 579, 580, **Sch. 4**

**F165** 59 .....

**Textual Amendments**

**F165** Sch. 5 para. 59 repealed (22.3.2001 with effect as mentioned in s. 579 of the amending Act) by 2001 c. 2, ss. 579, 580, **Sch. 4**

**F166** 60 .....

**Textual Amendments**

**F166** Sch. 5 para. 60 repealed (22.3.2001 with effect as mentioned in s. 579 of the amending Act) by 2001 c. 2, ss. 579, 580, **Sch. 4**

**F167** 61 .....

**Textual Amendments**

**F167** Sch. 5 para. 61 repealed (22.3.2001 with effect as mentioned in s. 579 of the amending Act) by 2001 c. 2, ss. 579, 580, **Sch. 4**

*Taxation of Chargeable Gains Act 1992 (c.12)*

62 In section 241(3) of the Taxation of Chargeable Gains Act 1992 (commercial letting of furnished holiday accommodation to be treated as trade for certain purposes), for paragraph (a) substitute—

“(a) any Schedule A business (within the meaning of the Taxes Act) which consists in the commercial letting of furnished holiday accommodation in the United Kingdom shall be treated as a trade, and”.

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- 63 (1) Schedule 8 to the Taxation of Chargeable Gains Act 1992 (leases) is amended as follows.
- (2) In paragraph 5 (exclusion of premiums taxed under Schedule A, etc.)—
- (a) in sub-paragraphs (1) and (2), for “income tax has become chargeable under section 34 of the Taxes Act on any amount” substitute “ any amount is brought into account by virtue of section 34 of the Taxes Act as a receipt of a Schedule A business (within the meaning of that Act) ”; and
- (b) in sub-paragraph (3), for “income tax has become chargeable under section 36 of the Taxes Act (sale of land with right of re-conveyance) on any amount” substitute “ any amount is brought into account by virtue of section 36 of the Taxes Act (sale of land with right of re-conveyance) as a receipt of a Schedule A business (within the meaning of that Act) ”.
- (3) In paragraph 6(2), for the words from “on which tax is paid” onwards substitute “ brought into account by virtue of section 35 of the Taxes Act (charge on assignment of a lease granted at an undervalue) as a receipt of a Schedule A business (within the meaning of that Act) ”.
- <sup>F168</sup>(4) .....
- (5) For paragraph 7A substitute—
- “7A References in paragraphs 5 to 7 above to an amount brought into account as a receipt of a Schedule A business include references to an amount brought into account as a receipt of an overseas property business.”.

**Textual Amendments**

**F168** Sch. 5 para. 63(4) repealed (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), s. 883(1), [Sch. 3](#) (with [Sch. 2](#))

*Finance Act 1996 (c. 8)*

<sup>F169</sup>64 .....

**Textual Amendments**

**F169** Sch. 5 para. 64 repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), [Sch. 3 Pt. 1](#) (with [Sch. 2 Pts. 1, 2](#))

**PART IV**

TRANSITIONAL PROVISIONS FOR CORPORATION TAX

*Introduction*

- 65 (1) This Part of this Schedule makes provision with respect to the application of the provisions of Parts I to III of this Schedule for corporation tax purposes.
- (2) In this Part of this Schedule—

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“before commencement” and “after commencement” mean, respectively, before 1st April 1998 and on or after that date; and

“the new rules” means the provisions of the Tax Acts relating to Schedule A taxation or, as the case may be, to the taxation under Case V of Schedule D of income from land outside the United Kingdom, as they have effect after commencement.

*Receipts and expenses not to be counted twice*

- 66 (1) To the extent that receipts or expenses have been taken into account before commencement, they shall not be taken into account again under the new rules after commencement.
- (2) Nothing in section 43 of the <sup>M132</sup>Finance Act 1989 (computation of profits: effect of delayed payment of emoluments) shall be construed as affecting the rule in subparagraph (1) above.

**Marginal Citations**

M132 1989 c. 26.

*Receipts and expenses not to be left out of account*

- 67 To the extent that receipts or expenses would under the new rules have been brought into account before commencement, and were not so brought into account, they shall be brought into account immediately after commencement.

*Expenses not to be carried back to before commencement*

- 68 Expenses which were incurred before commencement but were not taken into account before commencement shall not, by virtue of section 25(3) or 31(3) of the Taxes Act 1988, be carried back and taken into account before commencement.

*Effect of transfer of underlying rights*

- 69 If any estate, interest or rights in or over land is or are transferred from one person to another, the references in paragraphs 66 to 68 to receipts or expenses being taken into account shall be construed as references to their being taken into account in relation to either of those persons.

*Bad debt relief*

- 70 (1) Where relief under section 41 of the Taxes Act 1988 (relief for rent, etc. not paid) has been given in respect of an amount before commencement, any receipt after commencement shall be taken into account under the new rules.
- (2) Any writing off of an amount after commencement shall be taken into account under the new rules, even where it relates to a receipt brought into account before commencement.

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*Meaning of “taken into account”*

- 71 For the purposes of paragraphs 66 to 70 an amount is “taken into account” if—
- (a) it is brought into account for tax purposes, or
  - (b) it would have been so brought into account if the person concerned were chargeable to tax.

*Unrelieved Case VI losses*

- 72 (1) A loss to which this paragraph applies which a company would, apart from this Schedule, have been entitled to carry forward under section 396 of the Taxes Act 1988 (Case VI losses) shall be treated after commencement as a loss of an earlier period within section 392A or 392B of that Act and accordingly available to be set off under those provisions.
- (2) This paragraph applies to a loss sustained in a business or transaction of a kind that after commencement would be treated as carried on or entered into in the course of a Schedule A business or overseas property business carried on by the company.

*Source ceasing in transitional accounting period*

- 73 (1) The provisions of Parts I to III of this Schedule do not apply in relation to a source which ceases in the course of a company’s transitional accounting period to be a source within the charge to tax under Schedule A or Case V or VI of Schedule D in relation to that company and any other person.
- (2) This paragraph does not apply if the company acquired the source in that accounting period or in the preceding twelve months.

*Superseded provisions relating to finance leasing*

- 74 (1) In Schedule 12 to the <sup>M133</sup>Finance Act 1997 (leasing arrangements: finance leases and loans), the following provisions (which apply concepts from Case I of Schedule D in relation to rent taxed under Schedule A) shall cease to have effect in accordance with this paragraph.
- (2) Paragraphs 3(6), 6(9)(b), 8(1) to (7) and 20(b) do not apply in relation to periods of account beginning on or after 1st April 1998.
- A “period of account” means a period for which accounts are made up.
- (3) Paragraph 8(8) does not apply if the time mentioned in that provision is on or after 1st April 1998.
- (4) Paragraph 8(9) does not apply if the time mentioned in paragraph (a) of that provision is on or after 1st April 1998.

**Marginal Citations**

M133 1997 c. 16.

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*Computation of amounts available for surrender as group relief*

- 75 In computing under section 403 of the Taxes Act 1988 the amounts available for surrender as group relief in a company's transitional accounting period, the amounts referable to the period before commencement shall be computed separately from the amounts referable to the period after commencement.

*Meaning of "transitional accounting period"*

- 76 For the purposes of paragraphs 73 and 75 a "transitional accounting period" means an accounting period beginning before, and ending on or after, 1st April 1998.

F170 SCHEDULE 6

Section 44.

**Textual Amendments**

**F170** Sch. 6 repealed (24.7.2002 with effect as mentioned in Sch. 40 Pt. 3(8) Note 2 of the amending Act) by 2002 c. 23, s. 141, **Sch. 40 Pt. 3(8)** Note 2

**Modifications etc. (not altering text)**

**C3** Sch. 6 excluded (24.7.2002) by 2002 c. 23, s. 64(6)

SCHEDULE 7

Section 46(3).

REMOVAL OF UNNECESSARY REFERENCES TO GAINS

The following are the provisions of the Taxes Acts in which the amendments specified in section 46(3) are to be made.

- 1 In the Taxes Act 1988: sections F172 F173 F172 F173 F172 F173 F172 F174 F172  
F175 F172 F173 F172 F173 F176 F172 F173 F176 F177 F176 F178 F176 F173  
...  
375A(1)(b), F179 F177 F172 F176 F180 F173 F181 ... 568(1), 570(1), F172 F173  
770(2)(a)(iii) and (b)(iii), F177 F182 F176 F172 ... Schedule 21, paragraph 6(1)(b)  
and (3) (twice).

**Textual Amendments**

**F172** Words in Sch. 7 para. 1 repealed (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

**F173** Words in Sch. 7 para. 1 repealed (6.4.2005) by Income Tax (Trading and Other Income) Act 2005 (c. 5), s. 883(1), **Sch. 3** (with Sch. 2)

**F174** Word in Sch. 7 para. 1 repealed (with effect in accordance with s. 381(1) of the amending Act) by Taxation (International and Other Provisions) Act 2010 (c. 8), s. 381(1), **Sch. 10 Pt. 12** (with Sch. 9 paras. 1-9, 22)

**F175** Words in Sch. 7 para. 1 repealed (with effect in accordance with s. 42 of the amending Act) by Finance Act 2004 (c. 12), **Sch. 42 Pt. 2(3)**



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- F176** Words in Sch. 7 para. 1 repealed (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\), s. 381\(1\)](#), **Sch. 10 Pt. 13** (with Sch. 9 paras. 1-9, 22)
- F177** Words in Sch. 7 para. 1 repealed (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\), s. 1184\(1\)](#), **Sch. 3 Pt. 1** (with Sch. 2)
- F178** Words in Sch. 7 para. 1 repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\), s. 1034](#), **Sch. 3 Pt. 2** (with Sch. 2)
- F179** Words in Sch. 7 para. 1 repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\), s. 1034\(1\)](#), **Sch. 3 Pt. 1** (with Sch. 2)
- F180** Words in Sch. 7 para. 1 repealed (22.3.2001 with effect as mentioned in s. 579 of the amending Act) by [2001 c. 2, ss. 579, 580](#), **Sch. 4**
- F181** Words in Sch. 7 para. 1 repealed (24.7.2002 with effect as mentioned in Sch. 40 Pt. 3(1) Note of the amending Act) by [2002 c. 23, s. 141](#), **Sch. 40 Pt. 3(1)** Note
- F182** Words in Sch. 7 para. 1 repealed: (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\), s. 1184\(1\)](#), **Sch. 3 Pt. 2** (with Sch. 2); (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\), s. 381\(1\)](#), **Sch. 10 Pt. 9** (with Sch. 9 paras. 1-9, 22)

2 In the <sup>M134</sup>Finance Act 1988: <sup>F183</sup> ..., Schedule 12, paragraph 2(2).

**Textual Amendments**

- F183** Words in Sch. 7 para. 2 repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\), s. 1329\(1\)](#), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

**Marginal Citations**

[M134 1988 c.39.](#)

3 In the <sup>M135</sup>Finance Act 1989: sections 67(2)(a), 76(1) and (4)(a) <sup>F184</sup> ... .

**Textual Amendments**

- F184** Words in [Sch. 7 para. 3](#) repealed (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\), s. 381\(1\)](#), **Sch. 10 Pt. 13** (with Sch. 9 paras. 1-9, 22)

**Marginal Citations**

[M135 1989 c.26.](#)

<sup>F185</sup><sub>4</sub> .....

**Textual Amendments**

- F185** [Sch. 5 para. 4](#) repealed (22.3.2001 with effect as mentioned in s. 579 of the amending Act) by [2001 c. 2, ss. 579, 580](#), **Sch. 4**

<sup>F186</sup><sub>5</sub> .....

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**Textual Amendments**

**F186** Sch. 7 para. 5 repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

**F187**<sup>6</sup> .....

**Textual Amendments**

**F187** Sch. 7 para. 6 repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

7 In the <sup>M136</sup>Taxation of Chargeable Gains Act 1992: sections 39(1) (in the first place) and (2) (in both places), 41(4) and (5) and 164L(8) (twice).

**Marginal Citations**

**M136** 1992 c.12.

8 In the <sup>M137</sup>Finance (No. 2) Act 1992: section 42(8) <sup>F188</sup>...

**Textual Amendments**

**F188** Words in Sch. 7 para. 8 repealed: (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), **Sch. 3 Pt. 2** (with Sch. 2); (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\)](#), s. 381(1), **Sch. 10 Pt. 12** (with Sch. 9 paras. 1-9, 22)

**Marginal Citations**

**M137** 1992 c.48.

9 In the <sup>M138</sup>Finance Act 1994: Schedule 24, paragraph 12(2).

**Marginal Citations**

**M138** 1994 c.9.

**F189**<sup>10</sup> .....

**Textual Amendments**

**F189** Sch. 7 para. 10 repealed (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\)](#), s. 381(1), **Sch. 10 Pt. 11** (with Sch. 9 paras. 1-9, 22)

**F190**<sup>11</sup> .....

*Status: Point in time view as at 19/07/2011.*

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**Textual Amendments**

**F190** Sch. 7 para. 11 repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

**F191** 12 .....

**Textual Amendments**

**F191** Sch. 7 para. 12 repealed: (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), **Sch. 3 Pt. 2** (with Sch. 2); (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\)](#), s. 381(1), **Sch. 10 Pt. 8** (with Sch. 9 paras. 1-9, 22)

**F192** SCHEDULE 8

Section 57.

**Textual Amendments**

**F192** Sch. 8 repealed (with effect in accordance with s. 77 of the amending Act) by [Finance Act 2004 \(c. 12\)](#), **Sch. 42 Pt. 2(7)**

**F193** SCHEDULE 9

Section 58(2).

**Textual Amendments**

**F193** Sch. 9 repealed (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\)](#), s. 723, **Sch. 8 Pt. 1** (with Sch. 7)

**F194** SCHEDULE 10

Section 61(2).

**Textual Amendments**

**F194** Sch. 10 repealed (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\)](#), s. 723, **Sch. 8 Pt. 1** (with Sch. 7)

*Status: Point in time view as at 19/07/2011.*

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## SCHEDULE 11

Section 62.

## TRANSITIONAL PROVISIONS FOR PROFIT-RELATED PAY

*Application of Schedule*

- 1 —(1) This Schedule applies for the purposes of Chapter III of Part V of the Taxes Act 1988 (profit-related pay) where—
- (a) profit-related pay is or has been paid to an employee by reference to any period (“the relevant period”) and in accordance with a registered scheme (“the affected scheme”), and
  - (b) sub-paragraph (2) or (3) below applies in the employee’s case to the relevant period.
- (2) This sub-paragraph applies in the employee’s case to the relevant period if—
- (a) that period is a period beginning for the employee at a time on or after 17th March 1998 and ending before 31st December 2000;
  - (b) the employee has been eligible in accordance with a related scheme to receive profit-related pay by reference to the whole or a part of any profit period for the related scheme (“the earlier period”);
  - (c) the earlier period is (or, by virtue of sub-paragraph (4) below, is treated as being) a period beginning before the first day of the relevant period; and
  - (d) the relevant anniversary is (or, by virtue of that sub-paragraph, is treated as being) in a later calendar year than the first day of the relevant period.
- (3) This sub-paragraph applies in the employee’s case to the relevant period if—
- (a) that period is a period beginning for the employee at a time on or after 17th March 1998 and ending before 31st December 2000;
  - (b) the employee has been eligible in accordance with either the affected scheme or a related scheme to receive profit-related pay by reference to the whole or any part of a profit period (“the earlier period”);
  - (c) the earlier period is a period beginning twelve months or less before the first day of the relevant period;
  - (d) the section 171(4) limit for the earlier period is a limit computed in accordance with this Schedule; and
  - (e) the relevant anniversary is in a later calendar year than the first day of the relevant period.
- (4) Where—
- (a) the conditions in paragraphs (a) and (b) of sub-paragraph (2) above are satisfied in relation to the relevant period in the case of any employee, and
  - (b) the person who is the scheme employer in relation to the affected scheme, by notice to the employee, elects that this sub-paragraph shall apply in relation to the related scheme,
- the earlier period referred to in that sub-paragraph shall be assumed for the purposes of this Schedule to be a period beginning with the 1st January next before the first day of the relevant period.

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*Rule for determining section 171(4) limit*

- 2 (1) The section 171(4) limit applicable to any profit-related pay paid to the employee in accordance with the affected scheme and by reference to the relevant period shall be—
- (a) if the relevant period does not begin for the employee before the apportionment date, the limit for the part of the profit period falling on or after that date; and
  - (b) in any other case the sum of—
    - (i) the limit for the part of the relevant period falling on or after the apportionment date; and
    - (ii) the limit for the part of the relevant period falling before that date.
- (2) For the purposes of sub-paragraph (1) above the limit for a part of the relevant period shall be computed by—
- (a) taking the amount given by virtue of section 61 of the <sup>M139</sup>Finance Act 1997 (phasing out of relief for profit-related pay) as the section 171(4) limit for a profit period beginning with the first day of that part of that period and ending with the last day of that part of that period;
  - (b) making a proportionate reduction for so much of that part of that period (if any) as is not included in any period by reference to which the employee is eligible for profit-related pay in accordance with the affected scheme; and
  - (c) using—
    - (i) the amount produced by the reduction, or
    - (ii) (if no reduction has been made) the amount taken in accordance with paragraph (a) above,as the limit for that part of the relevant period.
- (3) Subject to sub-paragraph (4) below, the apportionment date in the case of any employee is for the purposes of this paragraph—
- (a) except where the person who is the scheme employer for the affected scheme otherwise elects by notice to that employee, the 1st January that falls next after the first day of the relevant period; and
  - (b) where that person does so elect, the date which is the relevant anniversary for the purposes of whichever of sub-paragraphs (2) and (3) of paragraph 1 above applies to the relevant period in the employee's case.
- (4) Where—
- (a) both sub-paragraphs (2) and (3) of paragraph 1 above apply to the relevant period in the employee's case, or
  - (b) there is, for any other reason, more than one date which (but for this sub-paragraph) would be taken in accordance with sub-paragraph (3)(b) above to be the apportionment date,
- the apportionment date shall be the earliest of those dates to fall in the calendar year immediately following that in which the first day of the relevant period falls.

*Status: Point in time view as at 19/07/2011.*

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### *Meaning of related scheme*

- 3 (1) In the case of any employee a scheme is, in relation to the affected scheme, a related scheme for the purposes of this Schedule if—
- (a) it was a registered scheme at any relevant time and the conditions set out in sub-paragraph (2) below are satisfied with respect to it; or
  - (b) notice that for the purposes of this Schedule it is to be treated as a related scheme in relation to the affected scheme is given to the employee by the scheme employer for the affected scheme.
- (2) Those conditions are satisfied with respect to a scheme (“the relevant scheme”) if a person who is the scheme employer for the affected scheme was, at a relevant time—
- (a) the scheme employer for the relevant scheme; or
  - (b) connected with a person who was, at that or another relevant time, the scheme employer for the relevant scheme.
- (3) In this paragraph “relevant time” means any time on the day of the beginning for the employee of the relevant period or in the period of twelve months preceding that day.
- (4) Section 839 of the Taxes Act 1988 (connected persons) applies for the purposes of this paragraph.
- (5) Without prejudice to sub-paragraph (4) above, for the purposes of this paragraph—
- (a) each of the members of a partnership shall be regarded as connected with the partnership and with any person (including another partnership) with whom the partnership is connected; and
  - (b) a partnership shall be regarded as connected with each of its members and with any person (including another partnership) with whom any of its members is connected.

### *Meaning of “relevant anniversary”y*

- 4 For the purposes of this Schedule the relevant anniversary is—
- (a) for the purposes of paragraph 1(2) above, the first anniversary of the first day of the earlier period; and
  - (b) for the purposes of paragraph 1(3) above, the first anniversary of the date that is taken to be the relevant anniversary for the purpose of computing the section 171(4) limit for the earlier period in accordance with this Schedule.

### *General interpretation*

- 5 (1) Expressions used in this Schedule and in Chapter III of Part V of the Taxes Act 1988 have the same meanings in this Schedule as in that Chapter.
- (2) References in this Schedule to the section 171(4) limit are references to the second of the limits mentioned in section 171(2) of the Taxes Act 1988; and this Schedule shall have effect on the basis that that limit is nil for any period (or part of a period) beginning on or after 1st January 2000.
- (3) References in this Schedule to the beginning for the employee of any profit period by reference to which he is eligible to receive profit-related pay are references—
- (a) where sub-paragraph (4) below applies, to the earliest time in that period which is included in a part of that period by reference to which he is so eligible; and

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- (b) in any other case, to the beginning of the first day of the period in question.
- (4) This sub-paragraph applies where—
- (a) the employee is eligible to receive profit-related pay by reference to only a part of the relevant period; and
  - (b) that part of that period begins after the beginning of that period.

## SCHEDULE 12

Section 70.

### EIS AND VCTs: MEANING OF QUALIFYING TRADE

#### *New exclusions for the enterprise investment scheme*

F195<sub>1</sub> .....

#### **Textual Amendments**

**F195** Sch. 12 para. 1 repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), **Sch. 3 Pt. 2** (with Sch. 2)

#### *Definition of excluded activities for the enterprise investment scheme*

F196<sub>2</sub> .....

#### **Textual Amendments**

**F196** Sch. 12 para. 2 repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), **Sch. 3 Pt. 2** (with Sch. 2)

#### *New exclusions for VCTs*

F197<sub>3</sub> .....

#### **Textual Amendments**

**F197** Sch. 12 para. 3 repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), **Sch. 3 Pt. 1** (with Sch. 2)

#### *Definition of excluded activities for VCTs*

F198<sub>4</sub> .....

#### **Textual Amendments**

**F198** Sch. 12 para. 4 repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), **Sch. 3 Pt. 1** (with Sch. 2)

#### *Commencement*

5 F199(1) .....

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F200(2) .....

F200(3) .....

**Textual Amendments**

**F199** Sch. 12 para. 5(1) repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), **Sch. 3 Pt. 2** (with [Sch. 2](#))

**F200** Sch. 12 para. 5(2)(3) repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), **Sch. 3 Pt. 1** (with [Sch. 2](#))

SCHEDULE 13

Section 74(1).

CHANGES TO EIS ETC

<sup>F201</sup>**PART I**

EIS INCOME TAX RELIEF

**Textual Amendments**

**F201** Sch. 13 Pt. I repealed (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), **Sch. 3 Pt. 2** (with [Sch. 2](#))

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23

## PART II

### EIS RELIEF AGAINST CHARGEABLE GAINS

- 24 (1) In subsections (1) and (2) of section 150A of the <sup>M140</sup>Taxation of Chargeable Gains Act 1992 (enterprise investment schemes), the word “eligible” shall cease to have effect.
- (2) In subsection (4)(a) of that section, for the words “issued to a person at different times a disposal relates” there shall be substituted the words “acquired by an individual at different times a disposal relates to”.
- (3) In subsection (5) of that section, for the words “Sections 104, 105 and 107” there shall be substituted the words “Sections 104, 105 and 106A”.
- (4) For subsection (6) of that section there shall be substituted the following subsections—
- “ (6) Where an individual holds shares which form part of the ordinary share capital of a company and include shares of more than one of the following kinds, namely—
- (a) shares to which relief is attributable and to which subsection (6A) below applies,
  - (b) shares to which relief is attributable and to which that subsection does not apply, and
  - (c) shares to which relief is not attributable,
- then, if there is within the meaning of section 126 a reorganisation affecting those shares, section 127 shall apply (subject to the following provisions of this section) separately to shares falling within paragraph (a), (b) or (c) above (so that shares of each kind are treated as a separate holding of original shares and identified with a separate new holding).
- (6A) This subsection applies to any shares if—
- (a) expenditure on the shares has been set under Schedule 5B to this Act against the whole or part of any gain; and
  - (b) in relation to the shares there has been no chargeable event for the purposes of that Schedule.”

(5) In subsection (8A)(a) of that section, the word “preferential”, in the second place where it occurs, shall cease to have effect.

(6) After subsection (8C) of that section there shall be inserted the following subsection—

“(8D) Where shares to which relief is attributable are exchanged for other shares in circumstances such that section 304A of the Taxes Act (acquisition of share capital by new company) applies—

    - (a) subsection (8) above shall not have effect to disapply section 135; and

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- (b) subsections (2)(b), (3) and (4) of section 304A of the Taxes Act, and subsection (5) of that section so far as relating to section 306(2) of that Act, shall apply for the purposes of this section as they apply for the purposes of Chapter III of Part VII of that Act.”
- (7) After subsection (10) of that section there shall be inserted the following subsection—
- “(10A) In this section—
- “ordinary share capital” has the same meaning as in the Taxes Act;
- “ordinary shares”, in relation to a company, means shares forming part of its ordinary share capital.”
- (8) In this paragraph—
- (a) sub-paragraphs (1) to (3) have effect in relation to disposals made on or after 6th April 1998;
- (b) sub-paragraph (4) has effect in relation to reorganisations taking effect on or after that date;
- (c) sub-paragraph (5) has effect in relation to new shares (within the meaning of section 150A(8A) of the <sup>M141</sup>Taxation of Chargeable Gains Act 1992) issued on or after that date;
- (d) sub-paragraph (6) has effect in relation to new shares (within the meaning of section 304A of the Taxes Act 1988) issued on or after that date; and
- (e) sub-paragraph (7) has effect in relation to events occurring on or after that date.

**Marginal Citations**

[M140 1992 c. 12.](#)

[M141 1992 c. 12.](#)

25 (1) In subsection (1) of section 150B of that Act (enterprise investment scheme: reduction of relief), the word “eligible” shall cease to have effect.

(2) This paragraph has effect in relation to disposals made on or after 6th April 1998.

**PART III**

**EIS DEFERRAL OF CHARGEABLE GAINS**

*Preliminary*

26 Schedule 5B to the <sup>M142</sup>Taxation of Chargeable Gains Act 1992 (enterprise investment scheme: re-investment) shall be amended in accordance with the following provisions of this Part.

**Marginal Citations**

[M142 1992 c. 12.](#)

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### *Application of Schedule*

- 27 (1) In sub-paragraph (1)(b) of paragraph 1, after the words “in accordance with” there shall be inserted the words “ section 164F or 164FA, ”.
- (2) For sub-paragraphs (2) and (3) of that paragraph there shall be substituted the following sub-paragraphs—

“(2) The investor makes a qualifying investment for the purposes of this Schedule if—

- (a) eligible shares in a company for which he has subscribed wholly in cash are issued to him at a qualifying time and, where that time is before the accrual time, the shares are still held by the investor at the accrual time,
- (b) the company is a qualifying company in relation to the shares,
- (c) at the time when they are issued the shares are fully paid up (disregarding for this purpose any undertaking to pay cash to the company at a future date),
- (d) the shares are subscribed for, and issued, for bona fide commercial purposes and not as part of arrangements the main purpose or one of the main purposes of which is the avoidance of tax,
- (e) the requirements of section 289(1A) of the Taxes Act are satisfied in relation to the company,
- (f) all the shares comprised in the issue are issued in order to raise money for the purpose of a qualifying business activity, and
- (g) the money raised by the issue is employed not later than the time mentioned in section 289(3) of the Taxes Act wholly for the purpose of that activity,

and for the purposes of this Schedule, the condition in paragraph (g) above does not fail to be satisfied by reason only of the fact that an amount of money which is not significant is employed for another purpose.

- (3) In sub-paragraph (2) above “a qualifying time”, in relation to any shares subscribed for by the investor, means—
- (a) any time in the period beginning one year before and ending three years after the accrual time, or
  - (b) any such time before the beginning of that period or after it ends as the Board may by notice allow.”

### *Failure of conditions of application*

- 28 After that paragraph there shall be inserted the following paragraph—

#### *“ Failure of conditions of application*

- 1A (1) If the condition in sub-paragraph (2)(b) of paragraph 1 above is not satisfied in consequence of an event occurring after the issue of eligible shares, the shares shall be treated for the purposes of this Schedule as ceasing to be eligible shares on the date of the event.
- (2) If the condition in sub-paragraph (2)(e) of that paragraph is not satisfied in consequence of an event occurring after the issue of eligible shares, the

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shares shall be treated for the purposes of this Schedule as ceasing to be eligible shares on the date of the event.

- (3) If the condition in sub-paragraph (2)(f) of that paragraph is not satisfied in relation to an issue of eligible shares, the shares shall be treated for the purposes of this Schedule as never having been eligible shares.
- (4) If the condition in sub-paragraph (2)(g) of that paragraph is not satisfied in relation to an issue of eligible shares, the shares shall be treated for the purposes of this Schedule—
  - (a) if the claim under this Schedule is made after the time mentioned in section 289(3) of the Taxes Act, as never having been eligible shares; and
  - (b) if that claim is made before that time, as ceasing to be eligible shares at that time.
- (5) None of the preceding sub-paragraphs applies unless—
  - (a) the company has given notice under paragraph 16(2) or (4) below or section 310(2) of the Taxes Act; or
  - (b) an inspector has given notice to the company stating that, by reason of the matter mentioned in that sub-paragraph, the shares should, in his opinion, be treated for the purposes of this Schedule as never having been or, as the case may be, as ceasing to be eligible shares.
- (6) The giving of notice by an inspector under sub-paragraph (5) above shall be taken, for the purposes of the provisions of the Management Act relating to appeals against decisions on claims, to be a decision refusing a claim made by the company.
- (7) Where any issue has been determined on an appeal brought by virtue of section 307(1B) of the Taxes Act (appeal against notice that relief was not due), the determination shall be conclusive for the purposes of any appeal brought by virtue of sub-paragraph (6) above on which that issue arises.”

#### *Postponement of original gain*

- 29 In sub-paragraph (3) of paragraph 2, for paragraph (a) there shall be substituted the following paragraph—
- “(a) the investor’s qualifying expenditure on any relevant shares is the amount subscribed by him for the shares; and”.

#### *Chargeable events*

- 30 (1) In sub-paragraph (1) of paragraph 3—
- <sup>F202</sup>(a) .....
- (b) for paragraphs (e) and (f) there shall be substituted the words “or
- (e) those shares cease (or are treated for the purposes of this Schedule as ceasing) to be eligible shares.”
- (2) Sub-paragraph (2) of that paragraph shall cease to have effect.
- (3) After sub-paragraph (5) of that paragraph there shall be inserted the following sub-paragraph—

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“(6) Any reference in the following provisions of this Schedule to a chargeable event falling within a particular paragraph of sub-paragraph (1) above is a reference to a chargeable event arising for the purposes of this Schedule by virtue of that paragraph.”

#### Textual Amendments

**F202** Sch. 13 para. 20(1)(a) repealed (11.5.2001 with effect as mentioned in Sch. 15 para. 40(2) of the amending act) by 2001 c. 9, ss. 63, 110, Sch. 33 Pt. 2(3) Note 6

#### *Gains accruing on chargeable event*

31 (1) For sub-paragraphs (2) to (4) of paragraph 4 there shall be substituted the following sub-paragraphs—

“(2) Any question for the purposes of capital gains tax as to whether any shares to which a disposal (including a disposal within marriage) relates are shares to which deferral relief is attributable shall be determined in accordance with sub-paragraphs (3) and (4) below.

(3) Where shares of any class in a company have been acquired by an individual on different days, any disposal by him of shares of that class shall be treated as relating to those acquired on an earlier day rather than to those acquired on a later day.

(4) Where shares of any class in a company have been acquired by an individual on the same day, any of those shares disposed of by him shall be treated as disposed of in the following order, namely—

- (a) first any to which neither deferral relief nor relief under Chapter III of Part VII of the Taxes Act is attributable;
- (b) next any to which deferral relief, but not relief under that Chapter, is attributable;
- (c) next any to which relief under that Chapter, but not deferral relief, is attributable; and
- (d) finally any to which both deferral relief and relief under that Chapter are attributable.

(4A) The following, namely—

- (a) any shares to which deferral relief, but not relief under Chapter III of Part VII of the Taxes Act, is attributable and which were disposed of to an individual by a disposal within marriage, and
- (b) any shares to which relief under that Chapter is attributable and which were transferred to an individual as mentioned in section 304 of that Act,

shall be treated for the purposes of sub-paragraphs (3) and (4) above as acquired by him on the day on which they were issued.

(4B) Chapter I of Part IV of this Act has effect subject to sub-paragraphs (2) to (4A) above.

(4C) Sections 104, 105 and 106A shall not apply to shares to which deferral relief, but not relief under Chapter III of Part VII of the Taxes Act, is attributable.”

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- (2) In sub-paragraph (5)(b) of that paragraph, for the words “the assumptions for which sub-paragraph (3) above provides” there shall be substituted the words “ sub-paragraphs (3) to (4A) above ”.
- (3) This paragraph has effect in relation to disposals made on or after 6th April 1998.

*Persons to whom gain accrues*

- 32 In sub-paragraph (1) of paragraph 5, for paragraphs (c) and (d) there shall be substituted the words “or
- (c) to the person who holds the shares in question when they cease (or are treated for the purposes of this Schedule as ceasing) to be eligible shares.”

*Claims*

- 33 For paragraph 6 there shall be substituted the following paragraph—

*“ Claims*

- 6 (1) Subject to sub-paragraph (2) below, section 306 of the Taxes Act shall apply in relation to a claim under this Schedule in respect of relevant shares as it applies in relation to a claim for relief under Chapter III of Part VII of that Act in respect of eligible shares.
- (2) That section, as it so applies, shall have effect as if—
- (a) any reference to the conditions for the relief were a reference to the conditions for the application of this Schedule;
- (b) in subsection (1), the words “(or treated by section 289B(5) as so issued)” were omitted; and
- (c) subsections (7) to (9) were omitted.”

*Reorganisations and reconstructions*

- 34 After paragraph 6 there shall be inserted the following paragraphs—

*“ Reorganisations*

- 7 (1) Where an individual holds shares which form part of the ordinary share capital of a company and include shares of more than one of the following kinds, namely—
- (a) shares to which deferral relief and relief under Chapter III of Part VII of the Taxes Act are attributable,
- (b) shares to which deferral relief but not relief under that Chapter is attributable, and
- (c) shares to which deferral relief is not attributable,
- then, if there is within the meaning of section 126 a reorganisation affecting those shares, section 127 shall apply (subject to the following provisions of this paragraph) separately to shares falling within paragraph (a), (b) or (c) above (so that shares of each kind are treated as a separate holding of original shares and identified with a separate new holding).

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(2) Where—

- (a) an individual holds shares (“the existing holding”) which form part of the ordinary share capital of a company,
  - (b) there is, by virtue of any such allotment for payment as is mentioned in section 126(2)(a), a reorganisation affecting the existing holding, and
  - (c) immediately following the reorganisation, the existing holding or the allotted shares are shares to which deferral relief is attributable,
- sections 127 to 130 shall not apply in relation to the existing holding.

*Acquisition of share capital by new company*

8 (1) This paragraph applies where—

- (a) a company (“the new company”) in which the only issued shares are subscriber shares acquires all the shares (“old shares”) in another company (“the old company”);
  - (b) the consideration for the old shares consists wholly of the issue of shares (“new shares”) in the new company;
  - (c) the consideration for new shares of each description consists wholly of old shares of the corresponding description;
  - (d) new shares of each description are issued to the holders of old shares of the corresponding description in respect of and in proportion to their holdings;
  - (e) at some time before the issue of the new shares—
    - (i) the old company issued eligible shares; and
    - (ii) a certificate in relation to those eligible shares was issued by that company for the purposes of subsection (2) of section 306 of the Taxes Act (as applied by paragraph 6 above) and in accordance with that section (as so applied); and
  - (f) by virtue of section 127 as applied by section 135(3), the exchange of shares is not treated as involving a disposal of the old shares or an acquisition of the new shares.
- (2) For the purposes of this Schedule, deferral relief attributable to any old shares shall be attributable instead to the new shares for which they are exchanged.
- (3) Where, in the case of any new shares held by an individual to which deferral relief becomes so attributable, the old shares for which they are exchanged were subscribed for by and issued to the individual, this Schedule shall have effect as if—
- (a) the new shares had been subscribed for by him at the time when, and for the amount for which, the old shares were subscribed for by him;
  - (b) the new shares had been issued to him by the new company at the time when the old shares were issued to him by the old company; and
  - (c) the claim under this Schedule made in respect of the old shares had been made in respect of the new shares.
- (4) Where, in the case of any new shares held by an individual to which deferral relief becomes so attributable, the old shares for which they are exchanged



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were acquired by the individual on a disposal within marriage, this Schedule shall have effect as if—

- (a) the new shares had been subscribed for at the time when, and for the amount for which, the old shares were subscribed for;
  - (b) the new shares had been issued by the new company at the time when the old shares were issued by the old company; and
  - (c) the claim under this Schedule made in respect of the old shares had been made in respect of the new shares.
- (5) Where deferral relief becomes so attributable to any new shares—
- (a) this Schedule shall have effect as if anything which, under paragraph 1A(5) above, paragraph 16 below or section 306(2) of the Taxes Act as applied by paragraph 6 above has been done, or is required to be done, by or in relation to the old company had been done, or were required to be done, by or in relation to the new company; and
  - (b) any appeal brought by the old company against a notice under paragraph 1A(5)(b) may be prosecuted by the new company as if it had been brought by that company.
- (6) For the purposes of this paragraph old shares and new shares are of a corresponding description if, on the assumption that they were shares in the same company, they would be of the same class and carry the same rights; and in sub-paragraph (1) above references to shares, except in the expressions “eligible shares” and “subscriber shares”, include references to securities.
- (7) Nothing in section 293(8) of the Taxes Act, as applied by the definition of “qualifying company” in paragraph 19(1) below, shall apply in relation to such an exchange of shares, or shares and securities, as is mentioned in sub-paragraph (1) above or arrangements with a view to such an exchange.

#### *Other reconstructions and amalgamations*

- 9 (1) Subject to sub-paragraphs (2) and (3) below, sections 135 and 136 shall not apply in respect of shares to which deferral relief, but not relief under Chapter III of Part VII of the Taxes Act, is attributable.
- (2) Sub-paragraph (1) above shall not have effect to disapply section 135 or 136 where—
- (a) the new holding consists of new ordinary shares (“the new shares”) carrying no present or future preferential right to dividends or to a company’s assets on its winding up and no present or future right to be redeemed,
  - (b) the new shares are issued after the end of the relevant period, and
  - (c) the condition in sub-paragraph (4) below is satisfied.
- (3) Sub-paragraph (1) above shall not have effect to disapply section 135 where shares to which deferral relief, but not relief under Chapter III of Part VII of the Taxes Act, is attributable are exchanged for other shares in such circumstances as are mentioned in paragraph 8(1) above.
- (4) The condition is that at some time before the issue of the new shares—
- (a) the company issuing them issued eligible shares, and

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- (b) a certificate in relation to those eligible shares was issued by the company for the purposes of subsection (2) of section 306 of the Taxes Act (as applied by paragraph 6 above) and in accordance with that section (as so applied).

- (5) In sub-paragraph (2) above “new holding” shall be construed in accordance with sections 126, 127, 135 and 136.”

*Anti-avoidance provisions*

35 After paragraph 9 there shall be inserted the following paragraphs—

*“ Re-investment in same company etc.*

- 10 (1) An individual to whom any eligible shares in a qualifying company are issued shall not be regarded for the purposes of this Schedule as making a qualifying investment if, where the asset disposed of consisted of shares in or other securities of any company (“the initial holding”), the qualifying company—

- (a) is the company in which the initial holding subsisted; or
- (b) is a company that was, at the time of the disposal of the initial holding, or is, at the time of the issue of the eligible shares, a member of the same group of companies as the company in which the initial holding subsisted.

- (2) Where—

- (a) any eligible shares in a qualifying company (“the acquired holding”) are issued to an individual,
- (b) an amount of qualifying expenditure on those shares has been set under this Schedule against the whole or part of any chargeable gain (the “postponed gain”), and
- (c) after the issue of those shares, eligible shares in a relevant company are issued to him,

he shall not be regarded in relation to the issue to him of the shares in the relevant company as making a qualifying investment for the purposes of this Schedule.

- (3) For the purposes of sub-paragraph (2) above a company is a relevant company if—

- (a) where that individual has disposed of any of the acquired holding, it is the company in which the acquired holding has subsisted or a company which was a member of the same group of companies as that company at any time since the acquisition of the acquired holding;
- (b) it is a company in relation to the disposal of any shares in which there has been a claim under this Schedule such that, without that claim, there would have been no postponed gain in relation to the acquired holding; or
- (c) it is a company which, at the time of the disposal or acquisition to which the claim relates, was a member of the same group of companies as a company falling within paragraph (b) above.

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### *Pre-arranged exits*

- 11 (1) Where an individual subscribes for eligible shares (“the shares”) in a company, the shares shall be treated as not being eligible shares for the purposes of this Schedule if the relevant arrangements include—
- (a) arrangements with a view to the subsequent repurchase, exchange or other disposal of the shares or of other shares in or securities of the same company;
  - (b) arrangements for or with a view to the cessation of any trade which is being or is to be or may be carried on by the company or a person connected with the company;
  - (c) arrangements for the disposal of, or of a substantial amount of, the assets of the company or of a person connected with the company;
  - (d) arrangements the main purpose of which, or one of the main purposes of which, is (by means of any insurance, indemnity or guarantee or otherwise) to provide partial or complete protection for persons investing in shares in that company against what would otherwise be the risks attached to making the investment.
- (2) The arrangements referred to in sub-paragraph (1)(a) above do not include any arrangements with a view to such an exchange of shares, or shares and securities, as is mentioned in paragraph 8(1) above.
- (3) The arrangements referred to in sub-paragraph (1)(b) and (c) above do not include any arrangements applicable only on the winding up of a company except in a case where—
- (a) the relevant arrangements include arrangements for the company to be wound up; or
  - (b) the company is wound up otherwise than for bona fide commercial reasons.
- (4) The arrangements referred to in sub-paragraph (1)(d) above do not include any arrangements which are confined to the provision—
- (a) for the company itself, or
  - (b) in the case of a company which is a parent company of a trading group, for the company itself, for the company itself and one or more of its subsidiaries or for one or more of its subsidiaries,
- of any such protection against the risks arising in the course of carrying on its business as it might reasonably be expected so to provide in normal commercial circumstances.
- (5) The reference in sub-paragraph (4) above to the parent company of a trading group shall be construed in accordance with the provision contained for the purposes of section 293 of the Taxes Act in that section.
- (6) In this paragraph “the relevant arrangements” means—
- (a) the arrangements under which the shares are issued to the individual; and
  - (b) any arrangements made before the issue of the shares to him in relation to or in connection with that issue.

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*Put options and call options*

- 12 (1) Sub-paragraph (2) below applies where an individual subscribes for eligible shares (“the shares”) in a company and—
- (a) an option, the exercise of which would bind the grantor to purchase such shares, is granted to the individual during the relevant period; or
  - (b) an option, the exercise of which would bind the individual to sell such shares, is granted by the individual during the relevant period.
- (2) The shares to which the option relates shall be treated for the purposes of this Schedule—
- (a) if the option is granted on or before the date of the issue of the shares, as never having been eligible shares; and
  - (b) if the option is granted after that date, as ceasing to be eligible shares on the date when the option is granted.
- (3) The shares to which the option relates shall be taken to be those which, if—
- (a) the option were exercised immediately after the grant, and
  - (b) any shares in the company acquired by the individual after the grant were disposed of immediately after being acquired,
- would be treated for the purposes of this Schedule as disposed of in pursuance of the option.
- (4) Nothing in this paragraph shall prejudice the operation of paragraph 11 above.
- (5) An individual who acquires any eligible shares on a disposal within marriage shall be treated for the purposes of this paragraph and paragraphs 13 to 15 below as if he subscribed for those shares.

*Value received by investor*

- 13 (1) Where an individual who subscribes for eligible shares (“the shares”) in a company receives any value from the company at any time in the seven year period, the shares shall be treated as follows for the purposes of this Schedule—
- (a) if the individual receives the value on or before the date of the issue of the shares, as never having been eligible shares; and
  - (b) if the individual receives the value after that date, as ceasing to be eligible shares on the date when the value is received.
- (2) For the purposes of this paragraph an individual receives value from the company if the company—
- (a) repays, redeems or repurchases any of its share capital or securities which belong to the individual or makes any payment to him for giving up his right to any of the company’s share capital or any security on its cancellation or extinguishment;
  - (b) repays, in pursuance of any arrangements for or in connection with the acquisition of the shares, any debt owed to the individual other than a debt which was incurred by the company—

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- (i) on or after the date on which he subscribed for the shares;  
and
    - (ii) otherwise than in consideration of the extinguishment of a debt incurred before that date;
  - (c) makes to the individual any payment for giving up his right to any debt on its extinguishment;
  - (d) releases or waives any liability of the individual to the company or discharges, or undertakes to discharge, any liability of his to a third person;
  - (e) makes a loan or advance to the individual which has not been repaid in full before the issue of the shares;
  - (f) provides a benefit or facility for the individual;
  - (g) disposes of an asset to the individual for no consideration or for a consideration which is or the value of which is less than the market value of the asset;
  - (h) acquires an asset from the individual for a consideration which is or the value of which is more than the market value of the asset; or
  - (i) makes any payment to the individual other than a qualifying payment.
- (3) For the purposes of sub-paragraph (2)(e) above there shall be treated as if it were a loan made by the company to the individual—
- (a) the amount of any debt (other than an ordinary trade debt) incurred by the individual to the company; and
  - (b) the amount of any debt due from the individual to a third person which has been assigned to the company.
- (4) For the purposes of this paragraph an individual also receives value from the company if he receives in respect of ordinary shares held by him any payment or asset in a winding up or in connection with a dissolution of the company, being a winding up or dissolution falling within section 293(6) of the Taxes Act.
- (5) For the purposes of this paragraph an individual also receives value from the company if any person who would, for the purposes of section 291 of the Taxes Act, be treated as connected with the company—
- (a) purchases any of its share capital or securities which belong to the individual; or
  - (b) makes any payment to him for giving up any right in relation to any of the company's share capital or securities.
- (6) Where an individual's disposal of shares in a company gives rise to a chargeable event falling within paragraph 3(1)(a) or (b) above, the individual shall not be treated for the purposes of this paragraph as receiving value from the company in respect of the disposal.
- (7) In this paragraph "qualifying payment" means—
- (a) the payment by any company of such remuneration for service as an officer or employee of that company as may be reasonable in relation to the duties of that office or employment;
  - (b) any payment or reimbursement by any company of travelling or other expenses wholly, exclusively and necessarily incurred by the

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- individual to whom the payment is made in the performance of duties as an officer or employee of that company;
- (c) the payment by any company of any interest which represents no more than a reasonable commercial return on money lent to that company;
  - (d) the payment by any company of any dividend or other distribution which does not exceed a normal return on any investment in shares in or other securities of that company;
  - (e) any payment for the supply of goods which does not exceed their market value;
  - (f) any payment for the acquisition of an asset which does not exceed its market value;
  - (g) the payment by any company, as rent for any property occupied by the company, of an amount not exceeding a reasonable and commercial rent for the property;
  - (h) any reasonable and necessary remuneration which—
    - (i) is paid by any company for services rendered to that company in the course of a trade or profession; and
    - (ii) is taken into account in computing the profits of the trade or profession under Case I or II of Schedule D or would be so taken into account if it fell in a period on the basis of which those profits are assessed under that Schedule;
  - (i) a payment in discharge of an ordinary trade debt.
- (8) For the purposes of this paragraph a company shall be treated as having released or waived a liability if the liability is not discharged within 12 months of the time when it ought to have been discharged.
- (9) In this paragraph—
- (a) references to a debt or liability do not, in relation to a company, include references to any debt or liability which would be discharged by the making by that company of a qualifying payment; and
  - (b) references to a benefit or facility do not include references to any benefit or facility provided in circumstances such that, if a payment had been made of an amount equal to its value, that payment would be a qualifying payment.
- (10) In this paragraph—
- (a) any reference to a payment or disposal to an individual includes a reference to a payment or disposal made to him indirectly or to his order or for his benefit;
  - (b) any reference to an individual includes a reference to an associate of his; and
  - (c) any reference to a company includes a reference to a person who at any time in the relevant period is connected with the company, whether or not he is so connected at the material time.
- (11) In this paragraph “ordinary trade debt” means any debt for goods or services supplied in the ordinary course of a trade or business where any credit given—
- (a) does not exceed six months; and

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- (b) is not longer than that normally given to customers of the person carrying on the trade or business.

*Value received by other persons*

- 14 (1) Sub-paragraph (2) below applies where an individual subscribes for eligible shares (“the shares”) in a company and at any time in the seven year period the company or any subsidiary—
- (a) repays, redeems or repurchases any of its share capital which belongs to any member other than the individual or an individual falling within sub-paragraph (3) below, or
  - (b) makes any payment (directly or indirectly) to any such member, or to his order or for his benefit, for the giving up of his right to any of the share capital of the company or subsidiary on its cancellation or extinguishment.
- (2) The shares shall be treated for the purposes of this Schedule—
- (a) if the repayment, redemption, repurchase or payment in question is made or effected on or before the date of the issue of the shares, as never having been eligible shares; and
  - (b) if it is made or effected after that date, as ceasing to be eligible shares on the date when it is made or effected.
- (3) An individual falls within this sub-paragraph if the repayment, redemption, repurchase or payment in question—
- (a) gives rise to a qualifying chargeable event in respect of him, or
  - (b) causes any relief under Chapter III of Part VII of the Taxes Act attributable to his shares in the company to be withdrawn or reduced by virtue of section 299 or 300(2)(a) of that Act.
- (4) In sub-paragraph (3) above “qualifying chargeable event” means—
- (a) a chargeable event falling within paragraph 3(1)(a) or (b) above; or
  - (b) a chargeable event falling within paragraph 3(1)(e) above by virtue of sub-paragraph (1)(b) of paragraph 13 above (as it applies by virtue of sub-paragraph (2)(a) of that paragraph).
- (5) Where—
- (a) a company issues share capital (“the original shares”) of nominal value equal to the authorised minimum (within the meaning of the <sup>M143</sup>Companies Act 1985) for the purposes of complying with the requirements of section 117 of that Act (public company not to do business unless requirements as to share capital complied with), and
  - (b) after the registrar of companies has issued the company with a certificate under section 117, it issues eligible shares,
- the preceding provisions of this paragraph shall not apply in relation to any redemption of any of the original shares within 12 months of the date on which those shares were issued.
- (6) In relation to companies incorporated under the law of Northern Ireland references in sub-paragraph (5) above to the <sup>M144</sup>Companies Act 1985 and to section 117 of that Act shall have effect as references to the <sup>M145</sup>Companies (Northern Ireland) Order 1986 and to Article 127 of that Order.

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- (7) References in this paragraph to a subsidiary of a company are references to a company which at any time in the relevant period is a 51 per cent. subsidiary of the first mentioned company, whether or not it is such a subsidiary at the time of the repayment, redemption, repurchase or payment in question.

*Investment-linked loans*

- 15 (1) Where at any time in the relevant period an investment-linked loan is made by any person to an individual who subscribes for eligible shares (“the shares”) in a company, the shares shall be treated for the purposes of this Schedule—
- (a) if the loan is made on or before the date of the issue of the shares, as never having been eligible shares; and
  - (b) if the loan is made after that date, as ceasing to be eligible shares on the date when the loan is made.
- (2) A loan made by any person to an individual is an investment-linked loan for the purposes of this paragraph if the loan is one which would not have been made, or would not have been made on the same terms, if the individual had not subscribed for the shares or had not been proposing to do so.
- (3) References in this paragraph to the making by any person of a loan to an individual include references—
- (a) to the giving by that person of any credit to that individual; and
  - (b) to the assignment or assignation to that person of any debt due from that individual.
- (4) In this paragraph any reference to an individual includes a reference to an associate of his.”

**Marginal Citations**

**M143** 1985 c. 6.

**M144** 1985 c. 6.

**M145** S.I. 1986/1032 (N.I.6).

*Supplementary provisions*

- 36 After paragraph 15 there shall be inserted the following paragraphs—

*“ Information*

- 16 (1) Where, in relation to any relevant shares held by an individual—
- (a) a chargeable event falling within paragraph 3(1)(a) or (b) above occurs at any time in the five year period,
  - (b) a chargeable event falling within paragraph 3(1)(c) or (d) above occurs, or
  - (c) a chargeable event falling within paragraph 3(1)(e) above occurs by virtue of paragraph 12(2)(b), 13(1)(b) or 15(1)(b) above,



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the individual shall within 60 days of his coming to know of the event give a notice to the inspector containing particulars of the circumstances giving rise to the event.

- (2) Where, in relation to any relevant shares in a company, a chargeable event falling within paragraph 3(1)(e) above occurs by virtue of paragraph 1A(1) or (2), 13(1)(b) or 14(2)(b) above—

- (a) the company, and
- (b) any person connected with the company who has knowledge of that matter,

shall within 60 days of the event or, in the case of a person within paragraph (b) above, of his coming to know of it, give a notice to the inspector containing particulars of the circumstances giving rise to the event.

- (3) A chargeable event falling within paragraph 3(1)(e) above which, but for paragraph 1A(5) above, would occur at any time by virtue of paragraph 1A(1) or (2) above shall be treated for the purposes of sub-paragraph (2) above as occurring at that time.

- (4) Where a company has issued a certificate under section 306(2) of the Taxes Act (as applied by paragraph 6 above) in respect of any eligible shares in the company, and the condition in paragraph 1(2)(g) above is not satisfied in relation to the shares—

- (a) the company, and
- (b) any person connected with the company who has knowledge of that matter,

shall within 60 days of the time mentioned in section 289(3) of the Taxes Act or, in the case of a person within paragraph (b) above, of his coming to know that the condition is not satisfied, give notice to the inspector setting out the particulars of the case.

- (5) If the inspector has reason to believe that a person has not given a notice which he is required to give—

- (a) under sub-paragraph (1) or (2) above in respect of any chargeable event, or
- (b) under sub-paragraph (4) above in respect of any particular case,

the inspector may by notice require that person to furnish him within such time (not being less than 60 days) as may be specified in the notice with such information relating to the event or case as the inspector may reasonably require for the purposes of this Schedule.

- (6) Where a claim is made under this Schedule in respect of shares in a company and the inspector has reason to believe that it may not be well founded by reason of any such arrangements as are mentioned in paragraphs 1(2)(d) or 11(1) above, or section 293(8) or 308(2)(e) of the Taxes Act, he may by notice require any person concerned to furnish him within such time (not being less than 60 days) as may be specified in the notice with—

- (a) a declaration in writing stating whether or not, according to the information which that person has or can reasonably obtain, any such arrangements exist or have existed;

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- (b) such other information as the inspector may reasonably require for the purposes of the provision in question and as that person has or can reasonably obtain.
- (7) For the purposes of sub-paragraph (6) above, the persons who are persons concerned are—
- (a) in relation to paragraph 1(2)(d) above, the claimant, the company and any person controlling the company;
  - (b) in relation to paragraph 11(1) above, the claimant, the company and any person connected with the company; and
  - (c) in relation to section 293(8) or 308(2)(e) of the Taxes Act, the company and any person controlling the company;
- and for those purposes the references in paragraphs (a) and (b) above to the claimant include references to any person to whom the claimant appears to have made a disposal within marriage of any of the shares in question.
- (8) Where deferral relief is attributable to shares in a company—
- (a) any person who receives from the company any payment or asset which may constitute value received (by him or another) for the purposes of paragraph 13 above, and
  - (b) any person on whose behalf such a payment or asset is received, shall, if so required by the inspector, state whether the payment or asset received by him or on his behalf is received on behalf of any person other than himself and, if so, the name and address of that person.
- (9) Where a claim has been made under this Schedule in relation to shares in a company, any person who holds or has held shares in the company and any person on whose behalf any such shares are or were held shall, if so required by the inspector, state—
- (a) whether the shares which are or were held by him or on his behalf are or were held on behalf of any person other than himself; and
  - (b) if so, the name and address of that person.
- (10) No obligation as to secrecy imposed by statute or otherwise shall preclude the inspector from disclosing to a company that relief has been given or claimed in respect of a particular number or proportion of its shares.

*Trustees: general*

- 17 (1) Subject to the following provisions of this paragraph, this Schedule shall apply as if—
- (a) any reference to an individual included a reference to the trustees of a settlement, and
  - (b) in relation to any such trustees, the reference in paragraph 1(1) above to any asset were a reference to any asset comprised in any settled property to which this paragraph applies (a “trust asset”).
- (2) This paragraph applies—
- (a) to any settled property in which the interests of the beneficiaries are not interests in possession, if all the beneficiaries are individuals, and

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- (b) to any settled property in which the interests of the beneficiaries are interests in possession, if any of the beneficiaries are individuals.
- (3) If, at the time of the disposal of the trust asset in a case where this Schedule applies by virtue of this paragraph—
  - (a) the settled property comprising that asset is property to which this paragraph applies by virtue of sub-paragraph (2)(b) above, but
  - (b) not all the beneficiaries are individuals,  
only the relevant proportion of the gain which would accrue to the trustees on the disposal shall be taken into account for the purposes of this Schedule as it so applies.
- (4) This Schedule shall not apply by virtue of this paragraph in a case where, at the time of the disposal of the trust asset, the settled property which comprises that asset is property to which this paragraph applies by virtue of sub-paragraph (2)(a) above unless, immediately after the acquisition of the relevant shares, the settled property comprising the shares is also property to which this paragraph applies by virtue of sub-paragraph (2)(a) above.
- (5) This Schedule shall not apply by virtue of this paragraph in a case where, at the time of the disposal of the trust asset, the settled property which comprises that asset is property to which this paragraph applies by virtue of sub-paragraph (2)(b) above unless, immediately after the acquisition of the relevant shares—
  - (a) the settled property comprising the shares is also property to which this paragraph applies by virtue of sub-paragraph (2)(b) above, and
  - (b) if not all the beneficiaries are individuals, the relevant proportion is not less than the proportion which was the relevant proportion at the time of the disposal of the trust asset.
- (6) If, at any time, in the case of settled property to which this paragraph applies by virtue of sub-paragraph (2)(b) above, both individuals and others have interests in possession, “the relevant proportion” at that time is the proportion which the amount specified in paragraph (a) below bears to the amount specified in paragraph (b) below, that is—
  - (a) the total amount of the income of the settled property, being income the interests in which are held by beneficiaries who are individuals, and
  - (b) the total amount of all the income of the settled property.
- (7) Where, in the case of any settled property in which any beneficiary holds an interest in possession, one or more beneficiaries (“the relevant beneficiaries”) hold interests not in possession, this paragraph shall apply as if—
  - (a) the interests of the relevant beneficiaries were a single interest in possession, and
  - (b) that interest were held, where all the relevant beneficiaries are individuals, by an individual and, in any other case, by a person who is not an individual.
- (8) In this paragraph references to interests in possession do not include interests for a fixed term and, except in sub-paragraph (1), references to individuals include any charity.

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*Trustees: anti-avoidance*

- 18 (1) Paragraphs 13 and 15 above shall have effect in relation to the subscription for shares by the trustees of a settlement as if references to the individual subscribing for the shares were references to—
- (a) those trustees;
  - (b) any individual or charity by virtue of whose interest, at a relevant time, paragraph 17 above applies to the settled property; or
  - (c) any associate of such an individual, or any person connected with such a charity.
- (2) The relevant times for the purposes of sub-paragraph (1)(b) above are the time when the shares are issued and—
- (a) in a case where paragraph 13 above applies, the time when the value is received;
  - (b) in a case where paragraph 15 above applies, the time when the loan is made.

*Interpretation*

- 19 (1) For the purposes of this Schedule—
- “arrangements” includes any scheme, agreement or understanding, whether or not legally enforceable;
- “associate” has the meaning that would be given by subsections (3) and (4) of section 417 of the Taxes Act if in those subsections “relative” did not include a brother or sister;
- “eligible shares” has the meaning given by section 289(7) of that Act;
- “the five year period”, in the case of any relevant shares, means the period of five years beginning with the issue of the shares;
- “non-resident” means a person who is neither resident nor ordinarily resident in the United Kingdom;
- “ordinary share capital” has the same meaning as in the Taxes Act;
- “ordinary shares”, in relation to a company, means shares forming part of its ordinary share capital;
- “qualifying business activity” has the meaning given by section 289(2) of the Taxes Act;
- “qualifying company”, in relation to any eligible shares, means a company which, in relation to those shares, is a qualifying company for the purposes of Chapter III of Part VII of that Act;
- “the relevant period”, in the case of any shares, means the period found by applying section 312(1A)(a) of that Act by reference to the company that issued the shares and by reference to the shares;
- “relevant shares”, in relation to a case to which this Schedule applies, means any of the shares which are acquired by the investor in making the qualifying investment;
- “the seven year period” has the meaning given by section 291(6) of the Taxes Act.

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- (2) For the purposes of this Schedule, “deferral relief” is attributable to any shares if—
- (a) expenditure on the shares has been set under this Schedule against the whole or part of any gain; and
  - (b) in relation to the shares there has been no chargeable event for the purposes of this Schedule.
- (3) In this Schedule—
- (a) references (however expressed) to an issue of eligible shares in any company are to any eligible shares in the company that are of the same class and are issued on the same day;
  - (b) references to a disposal within marriage are references to any disposal to which section 58 applies; and
  - (c) references to Chapter III of Part VII of the Taxes Act or any provision of that Chapter are to that Chapter or provision as it applies in relation to shares issued on or after 1st January 1994.
- (4) For the purposes of this Schedule shares in a company shall not be treated as being of the same class unless they would be so treated if dealt with on the Stock Exchange.
- (5) Notwithstanding anything in section 288(5), shares shall not for the purposes of this Schedule be treated as issued by reason only of being comprised in a letter of allotment or similar instrument.”

#### PART IV

##### BES INCOME TAX RELIEF AND RELIEF AGAINST CHARGEABLE GAINS

- 37 Any reference in this Part to a provision of Chapter III of Part VII of the Taxes Act 1988 is a reference to that provision as it has effect in relation to shares issued before 1st January 1994.
- 38 (1) In subsection (8) of section 293 of the Taxes Act 1988 (qualifying companies), for the words “Subject to sections 308 and 309” there shall be substituted the words “Subject to sections 304A, 308 and 309”.
- (2) This paragraph has effect in relation to new shares (within the meaning of section 304A of the Taxes Act 1988) issued on or after 6th April 1998.
- 39 (1) At the beginning of subsection (1) of section 299 of the Taxes Act 1988 (disposals of shares) there shall be inserted the words “Subject to section 304(5),”.
- (2) For subsection (4) of that section there shall be substituted the following subsections—
- “(4) Where shares of any class in a company have been acquired by an individual on different days, any disposal by him of shares of that class shall, subject to subsection (3) above, be treated for the purposes of this section as relating to those acquired on an earlier day rather than to those acquired on a later day.
  - (4A) Where shares of any class in a company have been acquired by an individual on the same day, any disposal by him of shares of that class shall, subject to subsection (3) above, be treated for the purposes of this section as relating to

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those in respect of which relief has not been given, or has been withdrawn, rather than to those in respect of which relief has been given and has not been withdrawn.

(4B) Any shares in respect of which relief has been given and has not been withdrawn and which were transferred to an individual as mentioned in section 304 shall be treated for the purposes of subsections (4) and (4A) above as acquired by him on the day on which they were issued.

(4C) In a case to which section 127 of the 1992 Act applies (whether or not by virtue of section 135(3) of that Act), shares comprised in the new holding shall be treated for the purposes of subsections (4) and (4A) above as acquired when the original shares were acquired.

In this subsection “new holding” and “original shares” shall be construed in accordance with sections 126, 127, 135 and 136 of the 1992 Act.”

(3) This paragraph has effect in relation to disposals made on or after 6th April 1998.

40 (1) After subsection (6) of section 304 of the Taxes Act 1988 (husband and wife) there shall be inserted the following subsection—

“(7) Subsections (3) to (4C) of section 299 shall apply for the purposes of this section as they apply for the purposes of that section.”

(2) This paragraph has effect in relation to disposals made on or after 6th April 1998.

41 (1) After that section there shall be inserted the following section—

**“304A Acquisition of share capital by new company.**

(1) This section applies where—

- (a) a company (“the new company”) in which the only issued shares are subscriber shares acquires all the shares (“old shares”) in another company (“the old company”);
- (b) the consideration for the old shares consists wholly of the issue of shares (“new shares”) in the new company;
- (c) the consideration for new shares of each description consists wholly of old shares of the corresponding description;
- (d) new shares of each description are issued to the holders of old shares of the corresponding description in respect of and in proportion to their holdings;
- (e) at some time before the issue of the new shares—
  - (i) the old company issued eligible shares; and
  - (ii) a certificate in relation to those eligible shares was issued by that company for the purposes of subsection (2) of section 306 and in accordance with that section; and
- (f) before the issue of the new shares, the Board have, on the application of the new company or the old company, notified that company that the Board are satisfied that the exchange of shares—
  - (i) will be effected for bona fide commercial reasons; and
  - (ii) will not form part of any such scheme or arrangements as are mentioned in section 137(1) of the 1992 Act.

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- (2) For the purposes of this Chapter—
- (a) the exchange of shares shall not be regarded as involving any disposal of the old shares or any acquisition of the new shares; and
  - (b) any relief which has been given (and not withdrawn) in respect of any old shares shall be treated as given (and not withdrawn) in respect of the new shares for which they are exchanged.
- (3) Where, in the case of any new shares held by an individual in respect of which relief is treated as so given (and not withdrawn), the old shares for which they are exchanged were subscribed for by and issued to the individual, this Chapter shall have effect as if—
- (a) the new shares had been subscribed for by him at the time when, and for the amount for which, the old shares were subscribed for by him;
  - (b) the new shares had been issued to him by the new company at the time when the old shares were issued to him by the old company;
  - (c) the claim for relief made in respect of the old shares had been made in respect of the new shares;
  - (d) relief had been given to him in respect of the new shares for the same year of assessment as that for which relief was given to him in respect of the old shares; and
  - (e) any reduction made, or falling to be made, in the amount of relief given to him in respect of the old shares had been made, or fell to be made, in the amount of relief given to him in respect of the new shares.
- (4) Where, in the case of any new shares held by an individual in respect of which relief is treated as so given (and not withdrawn), the old shares for which they are exchanged were transferred to the individual as mentioned in section 304, this Chapter shall have effect in relation to any subsequent disposal or other event as if—
- (a) the new shares had been subscribed for by him at the time when, and for the amount for which, the old shares were subscribed for;
  - (b) the new shares had been issued by the new company at the time when the old shares were issued by the old company;
  - (c) the claim for relief made in respect of the old shares had been made in respect of the new shares;
  - (d) relief had been given to him in respect of the new shares for the same year of assessment as that for which relief was given in respect of the old shares; and
  - (e) any reduction made, or falling to be made, in the amount of relief given in respect of the old shares had been made, or fell to be made, in the amount of relief given to him in respect of the new shares.
- (5) Where relief is treated as so given (and not withdrawn) in respect of any new shares, this Chapter shall have effect as if anything which, under section 306(2) or 310, has been done, or is required to be done, by or in relation to the old company had been done, or were required to be done, by or in relation to the new company.
- (6) For the purposes of this section old shares and new shares are of a corresponding description if, on the assumption that they were shares in the

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same company, they would be of the same class and carry the same rights; and in subsection (1) above references to shares, except in the expressions “eligible shares” and “subscriber shares”, include references to securities.

(7) Nothing in section 293(8) shall apply in relation to such an exchange of shares, or shares and securities, as is mentioned in subsection (1) above or arrangements with a view to such an exchange.

(8) Subsection (2) of section 138 of the 1992 Act shall apply for the purposes of subsection (1)(f) above as it applies for the purposes of subsection (1) of that section.”

- (2) This paragraph has effect in relation to new shares (within the meaning of section 304A of the Taxes Act 1988) issued on or after 6th April 1998.
- 42 (1) In subsection (4)(a) of section 150 of the <sup>M146</sup>Taxation of Chargeable Gains Act 1992 (business expansion schemes)—
- (a) for the words “issued to a person” there shall be substituted the words “acquired by an individual”; and
  - (b) after the word “relates” there shall be inserted the word “to”.
- (2) In subsection (5) of that section, for the words “Notwithstanding anything in section 107(1) and (2), section 107 does not apply” there shall be substituted the words “Sections 104, 105 and 106A do not apply”.
- (3) In subsection (7) of that section, for the words “eligible shares” there shall be substituted the words “shares in respect of which relief has been given and not withdrawn”.
- (4) In subsection (8) of that section, the word “eligible” shall cease to have effect.
- (5) In subsection (8A)(a) of that section, the word “preferential”, in the second place where it occurs, shall cease to have effect.
- (6) After subsection (8C) of that section there shall be inserted the following subsection—
- “(8D) Where shares in respect of which relief has been given and not withdrawn are exchanged for other shares in circumstances such that section 304A of the Taxes Act (acquisition of share capital by new company) applies—
- (a) subsection (8) above shall not have effect to disapply section 135; and
  - (b) subsections (2)(b), (3) and (4) of section 304A of the Taxes Act, and subsection (5) of that section so far as relating to section 306(2) of that Act, shall apply for the purposes of this section as they apply for the purposes of Chapter III of Part VII of that Act.”
- (7) After subsection (11) of that section there shall be inserted the following subsection—
- “(12) In this section—
- “ordinary share capital” has the same meaning as in the Taxes Act;
  - “ordinary shares”, in relation to a company, means shares forming part of its ordinary share capital.”



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(8) In this paragraph—

- (a) sub-paragraphs (1) and (2) have effect in relation to disposals made on or after 6th April 1998;
- (b) sub-paragraph (3) has effect in relation to subsequent disposals made on or after that date;
- (c) sub-paragraph (4) has effect in relation to events occurring on or after that date;
- (d) sub-paragraph (5) has effect in relation to new shares (within the meaning of section 150(8A) of the <sup>M147</sup>Taxation of Chargeable Gains Act 1992) issued on or after that date;
- (e) sub-paragraph (6) has effect in relation to new shares (within the meaning of section 304A of the Taxes Act 1988) issued on or after that date; and
- (f) sub-paragraph (7) has effect in relation to events occurring on or after that date.

**Marginal Citations**

M146 1992 c. 12.

M147 1992 c. 12.

SCHEDULE 14

Section 86.

LIFE POLICIES, LIFE ANNUITIES AND CAPITAL REDEMPTION POLICIES

*Section 547*

F203<sub>1</sub> .....

**Textual Amendments**

F203 Sch. 14 paras. 1-4 omitted (with effect in accordance with Sch. 14 para. 18 to the amending Act) by virtue of Finance Act 2008 (c. 9), Sch. 14 para. 17(g)

*Multiple interests*

F203<sub>2</sub> .....

**Textual Amendments**

F203 Sch. 14 paras. 1-4 omitted (with effect in accordance with Sch. 14 para. 18 to the amending Act) by virtue of Finance Act 2008 (c. 9), Sch. 14 para. 17(g)

*Right of company to recover tax from trustees*

F203<sub>3</sub> .....

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**Textual Amendments**

**F203** Sch. 14 paras. 1-4 omitted (with effect in accordance with Sch. 14 para. 18 to the amending Act) by virtue of Finance Act 2008 (c. 9), Sch. 14 para. 17(g)

*Foreign institution policies: no reduction under section 553*

F203<sup>4</sup> .....

**Textual Amendments**

**F203** Sch. 14 paras. 1-4 omitted (with effect in accordance with Sch. 14 para. 18 to the amending Act) by virtue of Finance Act 2008 (c. 9), Sch. 14 para. 17(g)

*Consequential amendments*

- 5 In section 7(9) of the <sup>M148</sup>Taxes Management Act 1970 (meaning of “relevant trustees” for the purposes of that Act)—
- (a) in paragraph (a), after “in relation to income” there shall be inserted “ (other than gains treated as arising under Chapter II of Part XIII of the principal Act) ”; and
  - (b) after paragraph (a) there shall be inserted—
    - “(aa) in relation to gains treated as arising under Chapter II of Part XIII of the principal Act, the persons who are trustees in the year of assessment in which the gains arise and any persons who subsequently become trustees; and”.

**Marginal Citations**

**M148** 1970 c. 9.

F204<sup>6</sup> .....

**Textual Amendments**

**F204** Sch. 14 para. 6 repealed (with effect in accordance with s. 381(1) of the amending Act) by Taxation (International and Other Provisions) Act 2010 (c. 8), s. 381(1), Sch. 10 Pt. 12 (with Sch. 9 paras. 1-9, 22)

*Commencement*

- 7 F205(1) .....
- F205(2) .....
- F206(3) .....
- F207(4) .....

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(5) <sup>F208</sup> ... This Schedule has effect in relation to chargeable events happening on or after 6th April 1998.

**Textual Amendments**

- F205** Sch. 14 para. 7(1)(2) repealed (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), s. 883\(1\), Sch. 3](#) (with Sch. 2)
- F206** Sch. 14 para. 7(3) repealed (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\), s. 381\(1\), Sch. 10 Pt. 12](#) (with Sch. 9 paras. 1-9, 22)
- F207** Sch. 14 para. 7(4) repealed (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), s. 883\(1\), Sch. 3](#) (with Sch. 2)
- F208** Words in Sch. 14 para. 7(5) repealed (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\), s. 381\(1\), Sch. 10 Pt. 12](#) (with Sch. 9 paras. 1-9, 22)

**Modifications etc. (not altering text)**

- C4** Sch. 14 para. 7(1) extended (retrospective to 9.4.2003) by [Finance Act 2003 \(c. 14\), s. 171\(3\), Sch. 34 para. 12\(1\)](#)

<sup>F209</sup>SCHEDULE 15

Section 92.

**Textual Amendments**

- F209** Sch. 15 repealed (6.4.2006) by [Finance Act 2004 \(c. 12\), Sch. 42 Pt. 3](#) (with Sch. 36)

<sup>F210</sup>SCHEDULE 16

Section 108.

TRANSFER PRICING ETC: NEW REGIME

**Textual Amendments**

- F210** Sch. 16 repealed (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\), s. 381\(1\), Sch. 10 Pt. 2](#) (with Sch. 9 paras. 1-9, 22)

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## SCHEDULE 17

Section 113.

## CONTROLLED FOREIGN COMPANIES

*Section 747*

- 1 (1) Section 747 of the Taxes Act 1988 (imputation of chargeable profits and creditable tax of controlled foreign companies) shall be amended as follows.
- (2) In subsection (1) (which provides that the provisions of the Chapter shall apply in relation to an accounting period of a company if the Board have reason to believe certain things and so direct)—
- (a) the words “the Board have reason to believe that”, and
  - (b) the words “and the Board so direct”,
- shall cease to have effect.
- (3) In subsection (3) (apportionment of controlled foreign company’s chargeable profits and creditable tax among the persons with an interest in the company) for “Where, by virtue of a direction under subsection (1) above,” there shall be substituted “ Subject to section 748, where ”.
- (4) In subsection (4)—
- (a) in paragraph (a) (which provides for a sum to be assessed on and recovered from a company resident in the United Kingdom as if it were corporation tax) for “assessed on and recoverable from” there shall be substituted “ chargeable on ”;
  - (b) in the words following paragraph (b), for “to which the direction under subsection (1) above relates” there shall be substituted “ which is mentioned in subsection (1) above ”.
- (5) In subsection (5) (tax not to be assessed and recoverable from the resident company unless, among other things, at least 10 per cent. of the controlled foreign company’s chargeable profits are apportioned to the resident company or persons connected or associated with it)—
- (a) for “assessed and recoverable from” there shall be substituted “ chargeable on ”; and
  - (b) for “10 per cent.” there shall be substituted “ 25 per cent. ”

*Section 747A*F211<sub>2</sub>

.....

**Textual Amendments**F211 Sch. 17 para. 2 repealed (7.4.2005) by [Finance Act 2005 \(c. 7\)](#), [Sch. 11 Pt. 2\(6\)](#)*Section 748*

- 3 (1) Section 748 of the Taxes Act 1988 (limitations on direction-making power) shall be amended as follows.

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(2) In subsection (1) (no direction to be given if the conditions specified in any of the paragraphs of the subsection are satisfied) for the words preceding paragraph (a) there shall be substituted—

“(1) No apportionment under section 747(3) falls to be made as regards an accounting period of a controlled foreign company if—”.

(3) In paragraph (d) of that subsection (cases where chargeable profits do not exceed £20,000 etc) for “£20,000” there shall be substituted “ £50,000 ”.

(4) After that paragraph there shall be inserted “or

(e) as respects the accounting period, the company is, within the meaning of regulations made by the Board for the purposes of this paragraph, resident in a territory specified in the regulations and satisfies—

(i) such conditions with respect to its income or gains as may be so specified; and

(ii) such other conditions (if any) as may be so specified.”

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

“(1A) Regulations under paragraph (e) of subsection (1) above may—

(a) make different provision for different cases or with respect to different territories;

(b) make provision having effect in relation to accounting periods of controlled foreign companies ending not more than one year before the date on which the regulations are made; and

(c) contain such supplementary, incidental, consequential and transitional provision as the Board may think fit.”

(6) Subsection (2) (which relates to directions under section 747) shall cease to have effect.

<sup>F212</sup>(7) .....

(8) Also in subsection (3), for “no direction may be given under section 747(1) with respect to that accounting period if it appears to the Board that” there shall be substituted “ no apportionment under section 747(3) falls to be made as regards that accounting period if it is the case that ”.

(9) For the side-note to the section, there shall be substituted “ Cases where section 747(3) does not apply. ”

#### Textual Amendments

**F212** Sch. 17 para. 3(7) omitted (with effect in accordance with Sch. 12 para. 14(2) to the amending Act) by virtue of Finance Act 2011 (c. 11), Sch. 12 para. 13(a)

#### Section 749

4 For section 749 of the Taxes Act 1988 (residence and interest) there shall be substituted—

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**“749 Residence.**

- (1) Subject to subsections (2) to (4) and (6) below, in any accounting period in which a company is resident outside the United Kingdom, it shall be regarded for the purposes of this Chapter as resident in that territory in which, throughout that period, it is liable to tax by reason of domicile, residence or place of management.
- (2) If, in the case of any company,—
- (a) there are in any accounting period two or more territories falling within subsection (1) above, and
  - (b) no election or designation made under paragraph (d) or (e) of subsection (3) below in relation to an earlier accounting period of the company has effect by virtue of section 749A(1) in relation to that accounting period,
- subsection (3) below shall apply with respect to that company and that accounting period.
- (3) Where this subsection applies, the company shall in that accounting period be regarded for the purposes of this Chapter as resident in only one of those territories, namely—
- (a) if, throughout the accounting period, the company’s place of effective management is situated in one of those territories only, in that territory;
  - (b) if, throughout the accounting period, the company’s place of effective management is situated in two or more of those territories, in that one of them in which, at the end of the accounting period, the greater amount of the company’s assets is situated;
  - (c) if neither paragraph (a) nor paragraph (b) above applies, in that one of the territories falling within subsection (1) above in which, at the end of the accounting period, the greater amount of the company’s assets is situated;
  - (d) if—
    - (i) paragraph (a) above does not apply, and
    - (ii) neither paragraph (b) nor paragraph (c) above produces one, and only one, of those territories,
 in that one of them (if any) which is specified in an election made in relation to that accounting period by any one or more persons who together have a majority assessable interest in the company in that accounting period; and
  - (e) if, in a case falling within paragraph (d) above, the time by which any election under that paragraph in relation to that accounting period must be made in accordance with section 749A(3)(b) expires without such an election having been made, in that one of those territories which the Board justly and reasonably designates in relation to that accounting period.
- (4) If, in the case of any company,—
- (a) there are in any accounting period two or more territories falling within subsection (1) above, and

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- (b) an election or designation made under paragraph (d) or (e) of subsection (3) above in relation to an earlier accounting period of the company has effect by virtue of section 749A(1) in relation to the accounting period mentioned in paragraph (a) above,  
the company shall in that accounting period be regarded for the purposes of this Chapter as resident in that one of those territories which is the subject of the election or designation.
- (5) If, in the case of any company, there is in any accounting period no territory falling within subsection (1) above, then, for the purposes of this Chapter, it shall be conclusively presumed that the company is in that accounting period resident in a territory in which it is subject to a lower level of taxation.
- (6) In any case where it becomes necessary for the purposes of subsection (3) above to determine in which of two or more territories the greater amount of a company's assets is situated at the end of an accounting period—
  - (a) account shall be taken only of those assets which, immediately before the end of that period, are situated in those territories; and
  - (b) the amount of them shall be determined by reference to their market value at that time.
- (7) This section is without prejudice to the provision that may be made in regulations under section 748(1)(e).
- (8) For the purposes of this section, one or more persons together have a "majority assessable interest" in a controlled foreign company in an accounting period of the company if—
  - (a) each of them has an assessable interest in the company in that accounting period; and
  - (b) it is likely that, were an apportionment of the chargeable profits of the company for that accounting period made under section 747(3), the aggregate of the amounts which would be apportioned to them is greater than 50 per cent. of the aggregate of the amounts which would be apportioned to all the persons who have an assessable interest in the company in that accounting period.
- (9) For the purposes of subsection (8) above, a person has an "assessable interest" in a controlled foreign company in an accounting period of the company if he is one of the persons who it is likely would be chargeable to tax under section 747(4)(a) on an apportionment of the chargeable profits and creditable tax (if any) of the company for that accounting period under section 747(3).

**749A Elections and designations under section 749: supplementary provisions.**

- (1) An election under paragraph (d) or a designation under paragraph (e) of section 749(3) shall have effect in relation to—
  - (a) the accounting period in relation to which it is made ("the original accounting period"), and
  - (b) each successive accounting period of the controlled foreign company in question which precedes the next one in which the eligible territories are different,

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and shall so have effect notwithstanding any change in the persons who have interests in the company or any change in the interests which those persons have in the company.

- (2) For the purposes of subsection (1)(b) above, an accounting period of the controlled foreign company is one in which the eligible territories are different if in the case of that accounting period—
- (a) at least one of the two or more territories which fell within subsection (1) of section 749 in the original accounting period does not fall within that subsection; or
  - (b) some other territory also falls within that subsection.
- (3) Any election under section 749(3)(d)—
- (a) must be made by notice given to an officer of the Board;
  - (b) must be made no later than twelve months after the end of the controlled foreign company's accounting period in relation to which it is made;
  - (c) must state, as respects each of the persons making it, the percentage of the chargeable profits and creditable tax (if any) of the controlled foreign company for that accounting period which it is likely would be apportioned to him on an apportionment under section 747(3) if one were made;
  - (d) must be signed by the persons making it; and
  - (e) is irrevocable.
- (4) Nothing in—
- (a) paragraph 10 of Schedule 18 to the Finance Act 1998 (claims or elections in company tax returns), or
  - (b) Schedule 1A to the Management Act (claims or elections not included in returns),
- shall apply, whether by virtue of section 754 or otherwise, to an election under section 749(3)(d).
- (5) A designation under section 749(3)(e) is irrevocable.
- (6) Where the Board make a designation under section 749(3)(e), notice of the making of the designation shall be given to every company resident in the United Kingdom which appears to the Board to have had an assessable interest in the controlled foreign company at any time during the accounting period of the controlled foreign company in relation to which the designation is made.
- (7) A notice under subsection (6) above shall specify—
- (a) the date on which the designation was made;
  - (b) the controlled foreign company to which the designation relates;
  - (c) the accounting period of the controlled foreign company in relation to which the designation is made; and
  - (d) the territory designated.
- (8) Subsection (9) of section 749 has effect for the purposes of subsection (6) above as it has effect for the purposes of subsection (8) of that section.



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### **749B Interests in companies.**

- (1) For the purposes of this Chapter, the following persons have an interest in a company—
  - (a) any person who possesses, or is entitled to acquire, share capital or voting rights in the company;
  - (b) any person who possesses, or is entitled to acquire, a right to receive or participate in distributions of the company;
  - (c) any person who is entitled to secure that income or assets (whether present or future) of the company will be applied directly or indirectly for his benefit; and
  - (d) any other person who, either alone or together with other persons, has control of the company.
- (2) Rights which a person has as a loan creditor of a company do not constitute an interest in the company for the purposes of this Chapter.
- (3) For the purposes of subsection (1)(b) above, the definition of “distribution” in Part VI shall be construed without any limitation to companies resident in the United Kingdom.
- (4) References in subsection (1) above to being entitled to do anything apply where a person—
  - (a) is presently entitled to do it at a future date, or
  - (b) will at a future date be entitled to do it;but a person whose entitlement to secure that any income or assets of the company will be applied as mentioned in paragraph (c) of that subsection is contingent upon a default of the company or any other person under any agreement shall not be treated as falling within that paragraph unless the default has occurred.
- (5) Where a company has an interest in another company and a third person has, or two or more persons together have, an interest in the first company (as in a case where one company has a shareholding in a controlled foreign company and the first company is controlled by a third company or by two or more persons together) subsections (6) and (7) below apply.
- (6) Where this subsection applies, the person who has, or each of the persons who together have, the interest in the first company shall be regarded for the purposes of this Chapter as thereby having an interest in the second company.
- (7) In any case where this subsection applies, in construing references in this Chapter to one person having the same interest as another, the person or, as the case may be, each of the persons who together have, the interest in the first company shall be treated as having, to the extent of that person’s interest in that company, the same interest as the first company has in the second company.
- (8) Where two or more persons jointly have an interest in a company otherwise than in a fiduciary or representative capacity, they shall be treated for the purposes of this Chapter as having the interest in equal shares.”

*Status: Point in time view as at 19/07/2011.*

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### Section 750

- 5 (1) Section 750 of the Taxes Act 1988 (territories with a lower level of taxation) shall be amended as follows.
- (2) In subsection (1) (which refers to certain provisions of section 749)—
- (a) for “subsection (3)” there shall be substituted “ subsection (5) ”; and
  - (b) for “subsection (1) or subsection (2)” there shall be substituted “ any of subsections (1) to (4) ”.
- (3) In subsection (3), for paragraph (a) (which refers to a direction under section 747(1) and a declaration under paragraph 11(3) of Schedule 24) there shall be substituted—
- “(a) it shall be assumed for the purposes of Schedule 24 that an apportionment under section 747(3) falls to be made as regards that period; and”.

### Section 751

- 6 (1) Section 751 of the Taxes Act 1988 (accounting periods and creditable tax) shall be amended as follows.
- (2) In subsection (1) (occasions on which an accounting period begins) in paragraph (b) (company commencing to carry on business)—
- (a) the words “not being the subject of an earlier direction under section 747(1)” shall cease to have effect; and
  - (b) after “commences to carry on business” there shall be inserted “ unless an accounting period of the company has previously begun as respects which an apportionment under section 747(3) falls or has fallen to be made ”.
- (3) In subsection (5) (direction may specify accounting period where beginning or end appears uncertain)—
- (a) for “a direction under section 747(1) may” there shall be substituted “ the Board may by notice ”; and
  - (b) for “the direction” there shall be substituted “ the notice ”.
- (4) In subsection (5) (power to amend so as to specify true accounting period where further facts come to the knowledge of the Board after making a direction)—
- (a) for “making of a direction (including facts emerging on an appeal against notice of the making of the direction)” there shall be substituted “ giving of a notice under subsection (4) above ”; and
  - (b) for “direction”, in the third and fourth places where it occurs, there shall be substituted “ notice ”.
- (5) After subsection (5) there shall be inserted—
- “(5A) Any notice under subsection (4) above, and notice of any amendment of such a notice under subsection (5) above, shall be given to every person who has an assessable interest (as defined in section 749(9)) in the company in the accounting period in question.”
- (6) In subsection (6) (meaning of “creditable tax”) for “in respect of which a direction is given under section 747(1)” there shall be substituted “ as regards which an apportionment under section 747(3) falls to be made ”.

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### Section 752

- 7 For section 752 of the Taxes Act 1988 (apportionment of chargeable profits and creditable tax) there shall be substituted—

#### **“752 Apportionment of chargeable profits and creditable tax.**

- (1) This section applies in any case where an apportionment under section 747(3) falls to be made as regards an accounting period of a controlled foreign company.
- (2) Where—
  - (a) the persons who have relevant interests in the controlled foreign company at any time in the relevant accounting period have those interests by virtue only of directly or indirectly holding ordinary shares of the company,
  - (b) each of those persons satisfies the condition that he is either—
    - (i) resident in the United Kingdom throughout that accounting period, or
    - (ii) resident in the United Kingdom at no time in that accounting period, and
  - (c) no company which has an intermediate interest in the controlled foreign company at any time in the relevant accounting period has that interest otherwise than by virtue of directly or indirectly holding ordinary shares of the controlled foreign company,subsection (3) below shall apply.
- (3) Where this subsection applies, the apportionment of the controlled foreign company’s chargeable profits and creditable tax (if any) for the relevant accounting period shall be made among the persons who have relevant interests in the company at any time in that period in direct proportion to the percentage of the issued ordinary shares of the controlled foreign company which, in accordance with section 752B, each of those relevant interests represents.
- (4) Where subsection (3) above does not apply, the apportionment of the controlled foreign company’s chargeable profits and creditable tax (if any) for the relevant accounting period shall be made on a just and reasonable basis among the persons who have relevant interests in the company at any time in that period.

#### **752A Relevant interests.**

- (1) This section has effect for the purpose of determining for the purposes of this Chapter who has a relevant interest in a controlled foreign company at any time; and references in this Chapter to relevant interests shall be construed accordingly.
- (2) A UK resident company which has a direct or indirect interest in a controlled foreign company has a relevant interest in the company by virtue of that interest unless subsection (3) below otherwise provides.
- (3) A UK resident company which has an indirect interest in a controlled foreign company does not have a relevant interest in the company by virtue of that

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interest if it has the interest by virtue of having a direct or indirect interest in another UK resident company.

- (4) A related person who has a direct or indirect interest in a controlled foreign company has a relevant interest in the company by virtue of that interest unless subsection (5) or (6) below otherwise provides.
- (5) A related person who has an indirect interest in a controlled foreign company does not have a relevant interest in the company by virtue of that interest if he has the interest by virtue of having a direct or indirect interest in—
- (a) a UK resident company; or
  - (b) another related person.
- (6) A related person who has a direct or indirect interest in a controlled foreign company does not have a relevant interest in the company by virtue of that interest to the extent that a UK resident company—
- (a) has the whole or any part of the same interest indirectly, by virtue of having a direct or indirect interest in the related person, and
  - (b) by virtue of that indirect interest in the controlled foreign company, has a relevant interest in the company by virtue of subsection (2) above.
- (7) A person who—
- (a) has a direct interest in a controlled foreign company, but
  - (b) does not by virtue of subsections (2) to (6) above have a relevant interest in the company by virtue of that interest,
- has a relevant interest in the company by virtue of that interest unless subsection (8) below otherwise provides.
- (8) A person does not by virtue of subsection (7) above have a relevant interest in a controlled foreign company by virtue of having a direct interest in the company to the extent that another person—
- (a) has the whole or any part of the same interest indirectly, and
  - (b) by virtue of that indirect interest, has a relevant interest in the company by virtue of subsections (2) to (6) above.
- (9) No person has a relevant interest in a controlled foreign company otherwise than as provided by subsections (2) to (8) above.
- (10) In this section—
- “related person” means a person who—
- (a) is not a UK resident company, but
  - (b) is connected or associated with a UK resident company which has by virtue of subsection (2) above a relevant interest in the controlled foreign company in question;
- “UK resident company” means a company resident in the United Kingdom.

**752B Section 752(3): the percentage of shares which a relevant interest represents.**

- (1) For the purposes of section 752(3) above, where a person has a relevant interest in a controlled foreign company by virtue of indirectly holding

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issued ordinary shares of the company, the percentage of the issued ordinary shares of the company which the relevant interest represents is equal to—

$$P \times S$$

where—

P is the product of the appropriate fractions of that person and each of the share-linked companies through which he indirectly holds the shares in question, other than the lowest share-linked company; and  
S is the percentage of issued ordinary shares of the controlled foreign company which is held directly by the lowest share-linked company.

(2) In subsection (1) above and this subsection—

“the appropriate fraction”, in the case of a person who directly holds ordinary shares of a share-linked company, means that fraction of the issued ordinary shares of that company which his holding represents;

“the lowest share-linked company”, in relation to a person who indirectly holds ordinary shares of a controlled foreign company, means the share-linked company which directly holds the shares in question;

“share-linked company” means a company which is share-linked to the controlled foreign company in question.

(3) Where a person has different indirect holdings of shares of the controlled foreign company (as in a case where different shares are held through different companies which are share-linked to the controlled foreign company)—

(a) subsection (1) above shall apply separately in relation to the different holdings with any necessary modifications; and

(b) for the purposes of section 752(3) above the percentage of the issued ordinary shares of the company which the relevant interest represents is the aggregate of the percentages resulting from those separate applications.

(4) Where, for the purposes of subsection (3) of section 752, the percentage of the issued ordinary shares of the controlled foreign company which a person directly or indirectly holds varies during the relevant accounting period, he shall be treated for the purposes of that subsection as holding throughout that period that percentage of the issued ordinary shares of the company which is equal to the sum of the relevant percentages for each holding period in the relevant accounting period.

(5) For the purposes of subsection (4) above—

“holding period”, in the case of any person, means a part of the relevant accounting period during which the percentage of the issued ordinary shares of the controlled foreign company which the person holds (whether directly or indirectly) remains the same;

“the relevant percentage”, in the case of a holding period, means the percentage equal to—

$$\frac{P \times H}{A}$$

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where—

P is the percentage of the issued ordinary shares of the controlled foreign company which the person in question directly or indirectly holds in the holding period, as calculated in accordance with subsections (1) to (3) above so far as applicable;  
H is the number of days in the holding period; and  
A is the number of days in the relevant accounting period.

### **752C Interpretation of apportionment provisions.**

- (1) In this section “the relevant provisions” means sections 752 to 752B and this section.
- (2) For the purposes of the relevant provisions—
  - (a) a person has a direct interest in a company if (and only if) he has an interest in the company otherwise than by virtue of having an interest in another company;
  - (b) a person has an indirect interest in a company if (and only if) he has an interest in the company by virtue of having an interest in another company;
  - (c) a person indirectly holds shares of a controlled foreign company if (and only if) he directly holds ordinary shares of a company which is share-linked to the controlled foreign company.
- (3) For the purposes of the relevant provisions, a company is “share-linked” to a controlled foreign company if it has an interest in the controlled foreign company only by virtue of directly holding ordinary shares—
  - (a) of the controlled foreign company, or
  - (b) of the controlled foreign company or of one or more companies which are share-linked to the controlled foreign company by virtue of paragraph (a) above, or
  - (c) of the controlled foreign company or of one or more companies which are share-linked to the controlled foreign company by virtue of paragraph (a) or (b) above,
 and so on.
- (4) For the purposes of the relevant provisions, a company (“company A”) has an intermediate interest in a controlled foreign company if (and only if)—
  - (a) it has a direct or indirect interest in the controlled foreign company; and
  - (b) one or more other persons have relevant interests in the controlled foreign company by virtue of having a direct or indirect interest in company A.
- (5) Any interest or shares held by a nominee or bare trustee shall be treated for the purposes of the relevant provisions as held by the person or persons for whom the nominee or bare trustee holds the interest or shares.
- (6) Where—
  - (a) an interest in a controlled foreign company is held in a fiduciary or representative capacity, and

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- (b) subsection (5) above does not apply, but
- (c) there are one or more identifiable beneficiaries,

the interest shall be treated for the purposes of the relevant provisions as held by that beneficiary or, as the case may be, as apportioned on a just and reasonable basis among those beneficiaries.

(7) In the relevant provisions—

“bare trustee” means a person acting as trustee—

- (a) for a person absolutely entitled as against the trustee; or
- (b) for any person who would be so entitled but for being a minor or otherwise under a disability; or
- (c) for two or more persons who are or would, but for all or any of them being a minor or otherwise under a disability, be jointly so entitled;

“ordinary shares”, in the case of any company, means shares of a single class, however described, which is the only class of shares issued by the company;

“the relevant accounting period” means the accounting period mentioned in section 752(1);

“share” includes a reference to a fraction of a share.”

#### *Section 753*

8 Section 753 of the Taxes Act 1988 (notices and appeals) shall cease to have effect.

#### *Section 754*

9 (1) Section 754 of the Taxes Act 1988 (assessment, recovery and postponement of tax) shall be amended as follows.

(2) In subsection (1) (provisions of section 747(4)(a) relating to assessment and recovery of a sum as if it were an amount of corporation tax to be taken as applying all enactments applying generally to corporation tax, including certain described enactments)—

- (a) for “assessment and recovery” there shall be substituted “the charging”; and
- (b) after “including” there shall be inserted “ those relating to company tax returns, ”.

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

“(1A) Accordingly (but without prejudice to subsection (1) above) the Management Act shall have effect as if—

- (a) any reference to corporation tax included a reference to a sum chargeable under section 747(4)(a) as if it were an amount of corporation tax; and
- (b) any reference to profits of a company included a reference to an amount of chargeable profits of a controlled foreign company which falls to be apportioned to a company under section 747(3).”

(4) For subsection (2) (which provides for any sum assessable and recoverable under section 747(4)(a) to be regarded as corporation tax which falls to be assessed for the accounting period in which ends the accounting period of the controlled foreign

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company and which makes provision as to the contents of a notice of assessment) there shall be substituted—

“(2) For the purposes of the Taxes Acts, any sum chargeable on a company under section 747(4)(a) is chargeable for the accounting period of the company in which ends that one of the controlled foreign company’s accounting periods the chargeable profits of which give rise to that sum.”

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

“(2A) Where—

- (a) an apportionment under section 747(3) falls to be made as regards an accounting period of a controlled foreign company, and
- (b) the apportionment falls to be made in accordance with section 752(4) on a just and reasonable basis, and
- (c) a company tax return is made or amended using for the apportionment a particular basis adopted by the company making the return,

the Board may determine that another basis is to be used for the apportionment.

(2B) For the purposes of subsection (2A) above, the Board may by notice require the company making the return—

- (a) to produce to them such documents in the company’s power or possession, and
- (b) to provide them with such information, in such form,

as they may reasonably require for the purpose of determining the basis which is to be used for making the apportionment.

(2C) The provisions of paragraphs 27 to 29 of Schedule 18 to the Finance Act 1998 (notice to produce documents etc for the purposes of enquiry: supplementary provisions and penalty) shall apply in relation to a notice under subsection (2B) above.

(2D) Once the Board have determined under subsection (2A) above the basis to be used for the apportionment, matters shall proceed as if that were the only basis allowed by the Tax Acts.

(2E) A determination under subsection (2A) above may be questioned on an appeal against an amendment, made under paragraph 30 or 34(2) of Schedule 18 to the Finance Act 1998, of the company’s company tax return, but only on the ground that the basis of apportionment determined by the Board is not just and reasonable.”

(6) For subsection (3) (appeals) there shall be substituted the following subsections—

“(3) Where any appeal—

- (a) under paragraph 34(3) of Schedule 18 to the Finance Act 1998 against an amendment of a company tax return, or
- (b) under paragraph 48 of that Schedule against a discovery assessment or discovery determination under paragraph 41 of that Schedule (including an assessment by virtue of paragraph 52 of that Schedule),



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involves any question concerning the application of this Chapter in relation to any particular person, that appeal shall be to the Special Commissioners.

(3A) Where—

- (a) any such question as is mentioned in subsection (3) above falls to be determined by the Special Commissioners for the purposes of any proceedings before them, and
- (b) the question is one whose resolution is likely to affect the liability of more than one person under this Chapter in respect of the controlled foreign company concerned,

subsection (3B) below shall apply.

(3B) Where this subsection applies—

- (a) each of the persons whose liability under this Chapter in respect of the controlled foreign company concerned is likely to be affected by the resolution of the question shall be entitled to appear and be heard by the Special Commissioners, or to make representations to them in writing;
- (b) the Special Commissioners shall determine that question separately from any other questions in those proceedings; and
- (c) their determination on that question shall have effect as if made in an appeal to which each of those persons was a party.”

(7) Subsection (4) shall cease to have effect.

(8) In subsection (6) (power of Board to serve notice of liability to tax on another company with the same interest where tax assessed by virtue of section 752(6) remains unpaid by the assessable company)—

- (a) for “assessed” and “assessable”, wherever occurring, there shall be substituted “chargeable”;
- (b) in paragraph (a), for “752(6)” there shall be substituted “747(4)(a)”;
- (c) in paragraph (b), before “the same interest” there shall be inserted “the whole or any part of”; and
- (d) at the beginning of the words following paragraph (b) there shall be inserted “the whole or, as the case may be, the corresponding part of”.

(9) In subsection (7) (liability for interest where notice of liability to tax is served)—

- (a) at the beginning of paragraph (a) there shall be inserted “the whole, or (as the case may be) the corresponding part, of”;
- (b) in paragraph (a), for “assessed” and “assessable” there shall be substituted “chargeable”; and
- (c) at the end of paragraph (b), there shall be added “(so far as referable to tax payable by the responsible company by virtue of the notice)”.

(10) In subsection (8) (recovery of tax and interest from the assessable company where the responsible company fails to pay within the time allowed) for “assessable” there shall be substituted “chargeable”.

*Returns where it is not established whether acceptable distribution policy applies*

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### Textual Amendments

**F213** Sch. 17 para. 10 omitted (with effect in accordance with Sch. 16 para. 6 of the amending Act) by virtue of Finance Act 2009 (c. 10), **Sch. 16 para. 5(d)** (with Sch. 16 paras. 7, 8)

### *Determinations requiring the sanction of the Board*

11 After section 754A of the Taxes Act 1988 there shall be inserted—

#### **“754B Determinations requiring the sanction of the Board.**

- (1) This section has effect where a determination requiring the Board’s sanction is made for any of the following purposes, that is to say—
  - (a) the giving of a closure notice; or
  - (b) the making of a discovery assessment.
- (2) If the closure notice or, as the case may be, notice of the discovery assessment is given to any person without—
  - (a) the determination, so far as it is taken into account in the closure notice or the discovery assessment, having been approved by the Board, or
  - (b) notification of the Board’s approval having been served on that person at or before the time of the giving of the notice,

the closure notice or, as the case may be, the discovery assessment shall be deemed to have been given or made (and in the case of an assessment notified) in the terms (if any) in which it would have been given or made had that determination not been taken into account.
- (3) A notification under subsection (2)(b) above—
  - (a) must be in writing;
  - (b) must state that the Board have given their approval on the basis that—
    - (i) an amount of chargeable profits, and
    - (ii) an amount of creditable tax (which may be nil),

for the accounting period of the controlled foreign company in question fall to be apportioned under section 747(3) to the person in question;
  - (c) must state the amounts mentioned in sub-paragraphs (i) and (ii) of paragraph (b) above; and
  - (d) subject to paragraphs (a) to (c) above, may be in such form as the Board may determine.
- (4) For the purposes of this section, the Board’s approval of a determination requiring their sanction—
  - (a) must be given specifically in relation to the case in question and must apply to the amount determined; but
  - (b) subject to that, may be given by the Board (either before or after the making of the determination) in any such form or manner as they may determine.

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- (5) In this section references to a determination requiring the Board's sanction are references (subject to subsection (6) below) to any determination of the amount of chargeable profits or creditable tax for an accounting period of a controlled foreign company which falls to be apportioned to a particular person under section 747(3).
- (6) For the purposes of this section, a determination shall be taken, in relation to a closure notice or a discovery assessment, not to be a determination requiring the Board's sanction if—
- (a) an agreement about the relevant amounts has been made between an officer of the Board and the person in whose case it is made;
  - (b) that agreement is in force at the time of the giving of the closure notice or, as the case may be, notice of the assessment; and
  - (c) the matters to which the agreement relates include the amount determined.
- (7) In paragraph (a) of subsection (6) above, "the relevant amounts" means—
- (a) the amount of chargeable profits, and
  - (b) the amount of creditable tax (which may be nil),
- for the accounting period of the controlled foreign company in question which fall to be apportioned under section 747(3) to the person mentioned in that paragraph.
- (8) For the purposes of subsection (6) above an agreement made between an officer of the Board and any person ("the taxpayer") in relation to any matter shall be taken to be in force at any time if, and only if—
- (a) the agreement is one which has been made or confirmed in writing;
  - (b) that time is after the end of the period of thirty days beginning—
    - (i) in the case of an agreement made in writing, with the day of the making of the agreement, and
    - (ii) in any other case, with the day of the agreement's confirmation in writing; and
  - (c) the taxpayer has not, before the end of that period of thirty days, served a notice on an officer of the Board stating that he is repudiating or resiling from the agreement.
- (9) The references in subsection (8) above to the confirmation in writing of an agreement are references to the service on the taxpayer by an officer of the Board of a notice—
- (a) stating that the agreement has been made; and
  - (b) setting out the terms of the agreement.
- (10) The matters that may be questioned on so much of any appeal by virtue of any provision of the Management Act or Schedule 18 to the Finance Act 1998 (company tax returns, assessments and related matters) as relates to a determination the making of which has been approved by the Board for the purposes of this section shall not include the Board's approval, except to the extent that the grounds for questioning the approval are the same as the grounds for questioning the determination itself.
- (11) In this section—

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“closure notice” means a notice under paragraph 32 of Schedule 18 to the Finance Act 1998 (completion of enquiry and statement of conclusions);

“discovery assessment” means a discovery assessment or discovery determination under paragraph 41 of that Schedule (including an assessment by virtue of paragraph 52 of that Schedule).”

#### *Section 755*

- 12 Section 755 of the Taxes Act 1988 (information relating to controlled foreign companies) shall cease to have effect.

#### *Treatment of chargeable profits and creditable tax apportioned to company carrying on life assurance business*

- 13 After section 755 of the Taxes Act 1988 there shall be inserted—

#### **“755A Treatment of chargeable profits and creditable tax apportioned to company carrying on life assurance business.**

- (1) This section applies in any case where—
- (a) an amount (“the apportioned profit”) of a controlled foreign company’s chargeable profits for an accounting period falls to be apportioned under section 747(3) to a company resident in the United Kingdom (“the UK company”);
  - (b) the UK company carries on life assurance business in that one of its accounting periods (“the relevant accounting period”) in which ends the accounting period of the controlled foreign company; and
  - (c) the property or rights which represent the UK company’s relevant interest in the controlled foreign company constitute to any extent assets of the UK company’s long term business fund.
- (2) Subsections (3) and (4) below apply if, in the case of the relevant accounting period, the UK company is not charged to tax under Case I of Schedule D in respect of its profits from life assurance business.
- (3) Where this subsection applies, the “appropriate rate” for the purposes of section 747(4)(a) and paragraph 1 of Schedule 26 in relation to the policy holders’ part of any BLAGAB apportioned profit shall be—
- (a) if a single rate of tax under section 88A(1) of the <sup>M149</sup>Finance Act 1989 (lower corporation tax rate on certain insurance company profits) is applicable in relation to the relevant accounting period, that rate; or
  - (b) if more than one such rate of tax is applicable in relation to the relevant accounting period, the average of those rates over the whole of that period.
- (4) Where this subsection applies, the “appropriate rate” for the purposes of section 747(4)(a) and paragraph 1 of Schedule 26 shall be nil in relation to so much of the apportioned profit as is referable to—
- (a) pension business,

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- (b) life reinsurance business, or
  - (c) overseas life assurance business,carried on by the UK company.
- (5) If, in the case of the relevant accounting period, the UK company is charged to tax under Case I of Schedule D in respect of its profits from life assurance business, the “appropriate rate” for the purposes of—
  - (a) section 747(4)(a), and
  - (b) paragraph 1 of Schedule 26,shall be nil in relation to so much of the apportioned profit as is referable to the UK company’s relevant interest so far as represented by assets of its long term business fund.
- (6) If, in the case of the relevant accounting period,—
  - (a) the UK company is not charged to tax under Case I of Schedule D in respect of its profits from life assurance business,
  - (b) any creditable tax of the controlled foreign company falls to be apportioned to the UK company, and
  - (c) the apportioned profit is to any extent referable to a category of business specified in paragraphs (a) to (c) of subsection (4) above,so much of the creditable tax so apportioned as is attributable to the apportioned profit so far as so referable shall be left out of account for the purposes of this Chapter, other than section 747(3) and this section, and shall be treated as extinguished.
- (7) If, in the case of the relevant accounting period,—
  - (a) the UK company is charged to tax under Case I of Schedule D in respect of its profits from life assurance business, and
  - (b) any creditable tax of the controlled foreign company falls to be apportioned to the UK company,so much of the creditable tax so apportioned as is attributable to so much of the apportioned profit as is referable to the UK company’s relevant interest so far as represented by assets of the UK company’s long term business fund shall be left out of account for the purposes of this Chapter, other than section 747(3) and this section, and shall be treated as extinguished.
- (8) Any set off under paragraph 1 or 2 of Schedule 26 against the UK company’s liability to tax under section 747(4)(a) in respect of the apportioned profit shall be made against only so much of that liability as is attributable to the eligible part of the apportioned profit.
- (9) Accordingly, in the application of paragraph 2 of Schedule 26 in relation to the apportioned profit, in the definition of “the relevant maximum” in sub-paragraph (3)—
  - (a) the reference to the liability to tax referred to in sub-paragraph (1) of that paragraph shall be taken as a reference to only so much of that liability as is attributable to the eligible part of the apportioned profit; and
  - (b) in paragraph (a), for the amount there described there shall be substituted a reference to the eligible part of the apportioned profit.

*Status: Point in time view as at 19/07/2011.*

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- (10) For the purposes of this section, the “eligible part” of the apportioned profit is any BLAGAB apportioned profit, other than the policy holders’ part.
- (11) For the purposes of this section, the “policy holders’ part” of any BLAGAB apportioned profit is—
- (a) in a case where subsection (4) of section 88A of the <sup>M150</sup>Finance Act 1989 applies, the whole; and
  - (b) in any other case, the fraction described in subsection (5)(b) of that section.
- (12) In this section—
- “BLAGAB apportioned profit” means so much of the apportioned profit as is referable to basic life assurance and general annuity business carried on by the UK company;
- “long term business fund” has the meaning given by section 431(2).
- (13) For the purposes of this section, the part of the apportioned profit which is referable to—
- (a) pension business,
  - (b) life reinsurance business,
  - (c) overseas life assurance business, or
  - (d) basic life assurance and general annuity business,
- carried on by the UK company is the part which would have been so referable under section 432A had the apportioned profit been a dividend paid to the UK company at the end of the accounting period mentioned in subsection (1)(a) above in respect of the property or rights which represent the UK company’s relevant interest in the controlled foreign company.
- (14) For the purposes of this section, any attribution of creditable tax to a particular part of the apportioned profit shall be made in the proportion which that part of the apportioned profit bears to the whole of the apportioned profit.”

#### Marginal Citations

M149 1989 c. 26.

M150 1989 c. 26.

#### *Amendment of return where general insurance business of foreign company accounted for on non-annual basis*

14 After section 755A of the Taxes Act 1988 there shall be inserted—

#### **“755B Amendment of return where general insurance business of foreign company accounted for on non-annual basis.**

- (1) This section applies where—
- (a) a controlled foreign company carries on general insurance business in an accounting period;

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- (b) an amount of the company's chargeable profits, and an amount of its creditable tax (if any), for that accounting period falls to be apportioned under section 747(3) to a company resident in the United Kingdom ("the UK company");
  - (c) the UK company delivers a company tax return for that one of its accounting periods in which the controlled foreign company's accounting period ends; and
  - (d) in making or amending the return, the UK company has regard to accounts of the controlled foreign company drawn up using a method falling within subsection (2) below.
- (2) The methods which fall within this subsection are—
- (a) the method described in paragraph 52 of Schedule 9A to the <sup>M151</sup>Companies Act 1985 (which provides for a technical provision to be made in the accounts which is later replaced by a provision for estimated claims outstanding); and
  - (b) any method which would have fallen within paragraph (a) above, had final replacement of the technical provision, as described in sub-paragraph (4) of paragraph 52 of that Schedule, taken place, and been required to take place, no later than the end of the year referred to in that sub-paragraph as the third year following the underwriting year.
- (3) Where this section applies—
- (a) the UK company may make any amendments of its company tax return arising from the replacement of the technical provision in the controlled foreign company's accounts at any time within twelve months from the date on which the provision was replaced; and
  - (b) notice of intention to enquire into the return under paragraph 24 of Schedule 18 to the Finance Act 1998 may be given at any time up to two years from that date (or at any later time in accordance with the general rule in sub-paragraph (3) of that paragraph).
- (4) If, in a case where this section applies, the accounts of the controlled foreign company are drawn up using a method falling within paragraph (b) of subsection (2) above—
- (a) the controlled foreign company, and
  - (b) any person with an interest in the controlled foreign company,
- shall be treated for the purposes of this section as if final replacement of the technical provision, as described in sub-paragraph (4) of paragraph 52 of Schedule 9A to the <sup>M152</sup>Companies Act 1985, had taken place at, and been required to take place no later than, the end of the year referred to in that sub-paragraph as the third year following the underwriting year.
- (5) Regulations under section 755C may make provision with respect to the determination of the amount of the provision by which the technical provision is to be treated as replaced in cases falling within subsection (4) above.
- (6) In this section "general insurance business" means insurance business which is general business, as defined in section 1 of the <sup>M153</sup>Insurance Companies Act 1982."

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#### Marginal Citations

M151 1985 c. 6.

M152 1985 c. 6.

M153 1982 c. 50.

#### *Application of Chapter where general insurance business of foreign company accounted for on non-annual basis.*

15 After section 755B of the Taxes Act 1988 there shall be inserted—

#### **“755C Application of Chapter where general insurance business of foreign company accounted for on non-annual basis.**

(1) The Treasury may by regulations provide for the provisions of this Chapter to have effect with prescribed modifications in any case where a non-resident company—

- (a) carries on general insurance business; and
- (b) draws up accounts relating to that business using a method falling within subsection (2) of section 755B.

(2) Regulations under subsection (1) above may—

- (a) make different provision for different cases;
- (b) make provision having effect in relation to accounting periods of non-resident companies ending not more than one year before the date on which the regulations are made; and
- (c) contain such supplementary, incidental, consequential and transitional provision as the Treasury may think fit.

(3) In this section—

“general insurance business” has the same meaning as in section 755B;

“non-resident company” means a company resident outside the United Kingdom;

“prescribed” means prescribed in regulations under this section.”

#### *Section 756*

16 (1) Section 756 of the Taxes Act 1988 (interpretation and construction of Chapter IV) shall be amended as follows.

(2) In subsection (1), after “In this Chapter” there shall be inserted the following definition—

““company tax return” means a return required to be made under Schedule 18 to the Finance Act 1998;”.

#### *Paragraph 1 of Schedule 24*

17 (1) In Schedule 24 to the Taxes Act 1988 (assumptions for calculating chargeable profits, creditable tax and corresponding United Kingdom tax of foreign companies) paragraph 1 shall be amended as follows.



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F214(2) .....

F214(3) .....

F214(4) .....

F214(5) .....

(6) Sub-paragraph (4) (assumption for applying provisions of Schedule 24 which refer to the first accounting period for which a direction is given in cases where, as respects the accounting period in question and any earlier ones, no direction has been given) shall be amended in accordance with sub-paragraphs (7) to (9) below.

(7) In paragraph (a) (necessity to determine chargeable profits) after “to determine” there shall be inserted “ in the case of any person ”.

(8) For paragraph (b) (no direction given) there shall be substituted—

“(b) at that time it has not been established in the case of that person that that or any earlier accounting period of the company is an accounting period in respect of which an apportionment under section 747(3) falls to be made,”.

(9) For the words following paragraph (b) (assumption for the purpose of the provisions in question that the accounting period is the first for which a direction is given) there shall be substituted—

“in determining the chargeable profits of the company for the accounting period mentioned in paragraph (a) above, it shall be assumed, for the purposes of those provisions of paragraph 9 below which refer to the first accounting period in respect of which an apportionment under section 747(3) falls to be made, that such an apportionment falls to be made in respect of that period (but not in respect of any earlier period).”

#### Textual Amendments

**F214** Sch. 17 para. 17(2)-(5) omitted (with effect in accordance with Sch. 16 para. 6 of the amending Act) by virtue of [Finance Act 2009 \(c. 10\)](#), [Sch. 16 para. 5\(d\)](#) (with [Sch. 16 paras. 7, 8](#))

#### Paragraph 2 of Schedule 24

18 In paragraph 2(1) of Schedule 24 to the Taxes Act 1988 (foreign company assumed to become resident in UK at beginning of first accounting period in respect of which a direction is given or which is an ADP exempt period)—

(a) in paragraph (a), for “a direction is given under section 747(1)” there shall be substituted “ an apportionment under section 747(3) falls to be made ”; and

(b) in the words following paragraph (b), for “a direction is given” there shall be substituted “ an apportionment falls to be made ”.

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*Paragraph 4 of Schedule 24*

- 19 (1) Paragraph 4 of Schedule 24 to the Taxes Act 1988 (assumption that claims or elections giving maximum relief have been made, subject to notice to the contrary) shall be amended as follows.
- (2) In sub-paragraph (1A)(a) (sub-paragraph (2) to apply to accounting period of foreign company in respect of which a direction is given) for “a direction is given under section 747(1)” there shall be substituted “an apportionment under section 747(3) falls to be made”.
- (3) In sub-paragraph (2) (notice to be given to the Board at any time not later than the expiry of the appropriate period etc)—
- (a) for “given to the Board” there shall be substituted “given to an officer of the Board”; and
- (b) for “the appropriate period” there shall be substituted “the period of twenty months following the end of the accounting period”.
- (4) In consequence of sub-paragraph (3)(b) above, sub-paragraph (2A) shall cease to have effect.
- (5) In sub-paragraph (3) (majority interest in foreign company) in paragraph (b) for “an assessment” there shall be substituted “any liability”.
- (6) In sub-paragraph (3A) (application of sub-paragraph (3) to ADP exempt periods)—
- (a) in paragraph (a), for “a direction had been duly given under section 747(1)” there shall be substituted “an apportionment under section 747(3) had fallen to be made”;
- (b) for paragraph (b) there shall be substituted—
- “(b) such apportionments as are mentioned in sub-paragraph (3) above had been made and such liabilities as are mentioned in that sub-paragraph had arisen.”

*Paragraph 9 of Schedule 24*

- 20 (1) Paragraph 9 of Schedule 24 to the Taxes Act 1988 (losses in pre-direction accounting periods) shall be amended as follows.
- (2) For “pre-direction”, wherever occurring, there shall be substituted “pre-apportionment”.
- (3) In sub-paragraph (1) (which provides that, subject to sub-paragraph (2), the paragraph applies where the foreign company incurs a loss in an accounting period preceding the first in respect of which a direction is given etc)—
- (a) the words “Subject to sub-paragraph (2) below,” shall cease to have effect; and
- (b) in paragraph (a), for “a direction is given under section 747(1)” there shall be substituted “an apportionment under section 747(3) falls to be made”.
- (4) Sub-paragraph (2) (which provides that the paragraph does not apply where a declaration is made under paragraph 11(3)) shall cease to have effect.
- (5) In sub-paragraph (3) (assumption that pre-direction period was first accounting period in respect of which a direction was given) for “a direction was given under

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section 747(1)" there shall be substituted “ an apportionment under section 747(3) fell to be made ”.

- (6) For sub-paragraph (4) (claim to be made by notice given to Board within 60 days of notice under section 753(1) or (3) relating to starting period etc) there shall be substituted—

“(4) A claim under sub-paragraph (3) above shall be made by notice given to an officer of the Board within the period of twenty months following the end of the starting period or within such longer period as the Board may in any particular case allow.”

- (7) Sub-paragraph (5) (which provides for an assumption that Chapter IV was in force before the beginning of the first of the pre-direction periods, and which is of no further practical utility) shall cease to have effect.

- (8) Sub-paragraph (6) (no account to be taken of declaration under paragraph 11(3)) shall cease to have effect.

- (9) At the end of the paragraph there shall be added—

“(7) Nothing in—

- (a) paragraph 10 of Schedule 18 to the Finance Act 1998 (claims or elections in company tax returns), or
- (b) Schedule 1A to the Management Act (claims or elections not included in returns),

shall apply, whether by virtue of section 754 or otherwise, to a claim under sub-paragraph (3) above.”

#### *Paragraph 10 of Schedule 24*

- 21 In paragraph 10 of Schedule 24 to the Taxes Act 1988 (capital allowances) in sub-paragraph (1) (which, subject to paragraphs 11 and 12, provides an assumption where capital expenditure is incurred in an accounting period falling before the first accounting period in respect of which a direction is given or which is an ADP exempt period)—

- (a) for “Subject to paragraphs 11 and 12 below,” there shall be substituted “ Subject to paragraph 12 below, ”; and
- (b) in paragraph (a), for “a direction is given under section 747(1)” there shall be substituted “ an apportionment under section 747(3) falls to be made ”.

#### *Paragraph 11 of Schedule 24*

- 22 Paragraph 11 of Schedule 24 to the Taxes Act 1988 (power of Board by notice to declare that a specified accounting period is to be treated as the first direction period where it appears that no direction was given as respects that period as a result of capital allowances being claimed) shall cease to have effect.

#### *Paragraph 11A of Schedule 24*

- 23 In paragraph 11A of Schedule 24 to the Taxes Act 1988 (capital allowances) sub-paragraphs (3) and (6) (which relate to the application of paragraph 11(1)(c)) shall cease to have effect.

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### *Transfer pricing*

F215<sup>24</sup> .....

#### **Textual Amendments**

**F215** Sch. 17 para. 24 repealed (with effect in accordance with s. 37 of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [Sch. 42 Pt. 2\(1\)](#)

### *Schedule 25*

25 For the heading to Schedule 25 to the Taxes Act 1988 (cases excluded from direction-making powers) there shall be substituted—

*“ Cases where section 747(3) does not apply”.*

#### *Paragraph 1 of Schedule 25*

F216<sup>26</sup> .....

#### **Textual Amendments**

**F216** Sch. 17 paras. 26-28 omitted (with effect in accordance with Sch. 16 para. 6 of the amending Act) by virtue of [Finance Act 2009 \(c. 10\)](#), [Sch. 16 para. 5\(d\)](#) (with [Sch. 16 paras. 7, 8](#))

#### *Paragraph 2A of Schedule 25*

F216<sup>27</sup> .....

#### **Textual Amendments**

**F216** Sch. 17 paras. 26-28 omitted (with effect in accordance with Sch. 16 para. 6 of the amending Act) by virtue of [Finance Act 2009 \(c. 10\)](#), [Sch. 16 para. 5\(d\)](#) (with [Sch. 16 paras. 7, 8](#))

#### *Paragraph 3 of Schedule 25*

F216<sup>28</sup> .....

#### **Textual Amendments**

**F216** Sch. 17 paras. 26-28 omitted (with effect in accordance with Sch. 16 para. 6 of the amending Act) by virtue of [Finance Act 2009 \(c. 10\)](#), [Sch. 16 para. 5\(d\)](#) (with [Sch. 16 paras. 7, 8](#))

#### *Paragraph 5 of Schedule 25*

29 In paragraph 5(2)(a) of Schedule 25 to the Taxes Act 1988, for “749(3)” there shall be substituted “ 749(5) ”.

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*Paragraph 6 of Schedule 25*

- 30 (1) Paragraph 6 of Schedule 25 to the Taxes Act 1988 (exemption for controlled foreign companies engaged in exempt activities) shall be amended as follows.
- (2) In sub-paragraph (1)(c) (which provides that for a company to be engaged in exempt activities, any of sub-paragraphs (2) to (4) must apply) for “(4)” there shall be substituted “(4A)”.
- (3) In sub-paragraph (2)(b) (which in certain cases requires less than 50 per cent. of gross trading receipts to be derived from connected or associated persons or persons who have an interest in the company at any time during the accounting period) for “an interest in the company at any time during” there shall be substituted “a 25 per cent. assessable interest in the company in the case of”.
- (4) In sub-paragraph (3) (local holding companies) in paragraph (b) (controlled companies which are not themselves holding companies but which are otherwise engaged in exempt activities)—
- <sup>F217</sup>(a) .....
- (b) after “exempt activities” there shall be inserted “or are, in terms of sub-paragraph (5A) below, exempt trading companies”.
- <sup>F218</sup>(5) .....
- <sup>F219</sup>(6) .....
- (7) After sub-paragraph (4B) there shall be inserted—
- “<sup>(4C)</sup> For the purposes of sub-paragraph (2)(b) above, a person has a 25 per cent. assessable interest in a controlled foreign company in the case of an accounting period of the company if, on an apportionment of the chargeable profits and creditable tax (if any) of the company for that accounting period under section 747(3), at least 25 per cent. of the controlled foreign company’s chargeable profits for the accounting period would be apportioned to that person.”
- <sup>F220</sup>(8) .....
- (9) After sub-paragraph (5) there shall be inserted—
- “<sup>(5A)</sup> For the purposes of sub-paragraphs (3) to (4B) above, a company is an exempt trading company throughout any period if—
- (a) it is a trading company throughout each of its accounting periods which falls wholly or partly within that period; and
- (b) each of those accounting periods is one as regards which—
- (i) the condition in section 747(1)(c) is not satisfied; or
- (ii) the conditions in section 748(1)(e) are satisfied; or
- (iii) the conditions in section 748(3)(a) and (b) are satisfied.”

**Textual Amendments**

**F217** Sch. 17 para. 30(4)(a) omitted (with effect in accordance with Sch. 16 para. 12 of the amending Act) by virtue of [Finance Act 2009 \(c. 10\)](#), [Sch. 16 para. 11\(a\)](#) (with [Sch. 16 paras. 13-20](#))

**F218** Sch. 17 para. 30(5) omitted (with effect in accordance with Sch. 16 para. 12 of the amending Act) by virtue of [Finance Act 2009 \(c. 10\)](#), [Sch. 16 para. 11\(a\)](#) (with [Sch. 16 paras. 13-20](#))

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**F219** Sch. 17 para. 30(6) omitted (with effect in accordance with Sch. 16 para. 12 of the amending Act) by virtue of [Finance Act 2009 \(c. 10\)](#), [Sch. 16 para. 11\(a\)](#) (with [Sch. 16 paras. 13-20](#))

**F220** Sch. 17 para. 30(8) omitted (with effect in accordance with Sch. 16 para. 12 of the amending Act) by virtue of [Finance Act 2009 \(c. 10\)](#), [Sch. 16 para. 11\(a\)](#) (with [Sch. 16 paras. 13-20](#))

### *Paragraph 8 of Schedule 25*

**F221**<sup>31</sup> .....

#### **Textual Amendments**

**F221** Sch. 17 para. 31 omitted (with effect in accordance with Sch. 16 para. 12 of the amending Act) by virtue of [Finance Act 2009 \(c. 10\)](#), [Sch. 16 para. 11\(a\)](#) (with [Sch. 16 paras. 13-20](#))

### *Paragraph 12 of Schedule 25*

32 (1) Paragraph 12 of Schedule 25 to the Taxes Act 1988 (meaning of “holding company” in paragraphs 6 and 8(3)) shall be amended as follows.

**F222**(2) .....

(3) In sub-paragraph (5) (exclusion of income derived from certain sources) in paragraph (a)—

**F223**(a) .....

(b) after “engaged in exempt activities” there shall be inserted “ or, in terms of sub-paragraph (5A) of that paragraph, is an exempt trading company ”.

#### **Textual Amendments**

**F222** Sch. 17 para. 32(2) omitted (with effect in accordance with Sch. 16 para. 12 of the amending Act) by virtue of [Finance Act 2009 \(c. 10\)](#), [Sch. 16 para. 11\(a\)](#) (with [Sch. 16 paras. 13-20](#))

**F223** Sch. 17 para. 32(3)(a) omitted (with effect in accordance with Sch. 16 para. 12 of the amending Act) by virtue of [Finance Act 2009 \(c. 10\)](#), [Sch. 16 para. 11\(a\)](#) (with [Sch. 16 paras. 13-20](#))

### *Superior holding companies: supplementary provisions*

**F224**<sup>33</sup> .....

#### **Textual Amendments**

**F224** Sch. 17 para. 33 omitted (with effect in accordance with Sch. 16 para. 12 of the amending Act) by virtue of [Finance Act 2009 \(c. 10\)](#), [Sch. 16 para. 11\(a\)](#) (with [Sch. 16 paras. 13-20](#))

### *Paragraph 1 of Schedule 26*

34 (1) In Schedule 26 to the Taxes Act 1988 (reliefs against liability for tax in respect of chargeable profits apportioned to UK resident company) paragraph 1 (trading losses and group relief etc) shall be amended as follows.

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- (2) In sub-paragraph (1) (set-off against liability to tax under section 747(4)(a) where UK resident company entitled to deduction in respect of relevant allowance) the following provisions shall cease to have effect—
  - (a) paragraph (c) (set-off only available if company has no profits or relevant allowance exceeds profits) and the word “and” immediately preceding that paragraph; and
  - (b) in the words following paragraph (c), the words “or, as the case may be, of the excess of it referred to in paragraph (c) above”.
- (3) In sub-paragraph (2)(a) (which defines the appropriate accounting period as that for which by virtue of section 754(2) the company is regarded as assessed to corporation tax in respect of the chargeable profits concerned) for “regarded as assessed to corporation tax” there shall be substituted “chargeable to tax by virtue of this Chapter”.
- (4) Sub-paragraph (4) (time limit for making claims for group relief) shall cease to have effect.
- (5) Sub-paragraph (6) (which modifies section 43 of the <sup>M154</sup>Taxes Management Act 1970 in its application for the purposes of the paragraph) shall cease to have effect.

#### Marginal Citations

M154 1970 c. 9.

#### Paragraph 3 of Schedule 26

- 35 (1) Paragraph 3 of Schedule 26 to the Taxes Act 1988 (gains on disposal of shares in controlled foreign companies) shall be amended as follows.
- (2) In sub-paragraph (1), for paragraph (a) (which refers to a direction having been given in respect of an accounting period of a controlled foreign company) there shall be substituted—
    - “(a) an accounting period of a controlled foreign company (“the apportionment period”) is one in respect of which an apportionment under section 747(3) falls to be made; and”.
  - (3) Accordingly, in paragraphs (b) and (c) of sub-paragraph (1), for the words “the direction period”, in each place where they occur, there shall be substituted “the apportionment period”.
  - (4) In paragraph (d) of sub-paragraph (1) (which refers to a sum being, under section 747(1)(a), assessed and recoverable from a company) for “assessed on and recoverable from” there shall be substituted “chargeable on”.
  - (5) In sub-paragraph (3), for “the direction period” there shall be substituted “the apportionment period”.
  - (6) In sub-paragraph (4), in the words following paragraph (c), for “assessed and recoverable” there shall be substituted “chargeable under section 747(4)(a)”.
  - (7) After subsection (6) there shall be inserted—
    - “(6A) Nothing in—

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- (a) paragraph 10 of Schedule 18 to the Finance Act 1998 (claims or elections in company tax returns), or
- (b) Schedule 1A to the Management Act (claims or elections not included in returns),

shall apply, whether by virtue of section 754 or otherwise, to a claim under sub-paragraph (6) above.”

*Paragraph 4 of Schedule 26*

- 36 (1) Paragraph 4 of Schedule 26 to the Taxes Act 1988 (dividends from the controlled foreign company) shall be amended as follows.
- (2) In sub-paragraph (1), for paragraph (a) (which refers to a direction having been given in respect of an accounting period of a controlled foreign company) there shall be substituted—
- “ (a) an accounting period of a controlled foreign company is one in respect of which an apportionment under subsection (3) of section 747 falls to be made; and”.
- (3) Accordingly, in paragraph (b) of that sub-paragraph for “subsection (3) of that section” there shall be substituted “ that subsection ”.
- (4) In sub-paragraph (2) (which refers to sums assessed on and recoverable from companies in accordance with s.747(4)(a)) for “assessed on and recoverable from” there shall be substituted “ chargeable on ”.
- (5) In sub-paragraph (5)(a) (which refers to the amount of tax assessed on and recoverable from the company in accordance with s.747(4)(a)) for “assessed on and recoverable from” there shall be substituted “ chargeable on ”.

*Commencement and transitional provision*

- 37 (1) The preceding provisions of this Schedule have effect as respects accounting periods of companies resident in the United Kingdom which end on or after the corporation tax self-assessment appointed day.
- (2) Where by virtue of sub-paragraph (1) above any question as to liability (if any) to tax by virtue of Chapter IV of Part XVII of the Taxes Act 1988 as respects any particular accounting period of a non-resident company which ends before the corporation tax self-assessment appointed day falls to be determined—
- (a) in the case of at least one company resident in the United Kingdom, for an accounting period of its which ends on or after that day, and
  - (b) in the case of at least one other such company, for an accounting period of its which ends before that day,
- such separate determinations and computations shall be made as are necessary for determining the liability of the companies which fall within paragraph (a) above and the liability of the companies which fall within paragraph (b) above.
- (3) For the purposes of sub-paragraph (2) above—
- (a) any question as to the liability (if any) of a company falling within paragraph (a) shall be determined as if, in the case of every company resident in the United Kingdom, the accounting period of the non-resident



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company ended in an accounting period of the company ending on or after the corporation tax self-assessment appointed day; and

- (b) any question as to the liability (if any) of a company falling within paragraph (b) shall be determined as if, in the case of every company resident in the United Kingdom, the accounting period of the non-resident company ended in an accounting period of the company ending before the corporation tax self-assessment appointed day.

(4) In this paragraph—

“accounting period”, in relation to a non-resident company, has the same meaning as it has in Chapter IV of Part XVII of the Taxes Act 1988;

“the corporation tax self-assessment appointed day” means the day which is the appointed day for the purposes of section 199 of the <sup>M155</sup>Finance Act 1994 (corporation tax self-assessment);

“non-resident company” means a company resident outside the United Kingdom.

#### Marginal Citations

M155 1994 c. 9.

## SCHEDULE 18

Section 117(1).

### COMPANY TAX RETURNS, ASSESSMENTS AND RELATED MATTERS

#### Modifications etc. (not altering text)

- C5** Sch. 18 restricted (31.7.1998) by 1988 c. 1, s. 754B(10) (as inserted (31.7.1998 with effect as mentioned in Sch. 17 para. 37 of 1998 c. 36) by 1998 c. 36, s. 113, **Sch. 17 para. 11**)
- C6** Sch. 18 modified (18.4.2005) by Commissioners for Revenue and Customs Act 2005 (c. 11), s. 53(1), **Sch. 4 para. 68(c)**; S.I. 2005/1126, art. 2(2)(h)
- C7** Sch. 18 applied (20.7.2005) by Finance (No. 2) Act 2005 (c. 22), s. 61
- C8** Sch. 18 applied (with modifications) (6.4.2006) by The Registered Pension Schemes (Accounting and Assessment) Regulations 2005 (S.I. 2005/3454), regs. 1, 13

## PART I

### INTRODUCTION

#### *Meaning of “tax”*

- 1 In this Schedule “tax” means corporation tax including, except as otherwise indicated, any amount assessable or chargeable as if it was corporation tax.

Amounts are assessable or chargeable as if they were corporation tax under—

[<sup>F225</sup>section 455 of the Corporation Tax Act 2010] (tax on loan or advance made by close company to a participator),

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[<sup>F226</sup>[<sup>F227</sup>section 330(1)] of that Act (supplementary charge in respect of ring fence trades), and]  
 section 747(4)(a) [<sup>F228</sup>of the Taxes Act 1988] (tax on profits of controlled foreign company)[<sup>F229</sup>, and  
 paragraphs 50 and 51 of Schedule 19 to the Finance Act 2011 (the bank levy)].

#### Textual Amendments

- F225** Words in Sch. 18 para. 1 substituted (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), **Sch. 1 para. 297(2)(a)** (with Sch. 2)
- F226** Words in Sch. 18 para. 1 substituted (24.7.2002) by 2002 c. 23, s. **92(3)**
- F227** Words in Sch. 18 para. 1 substituted (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), **Sch. 1 para. 297(2)(b)** (with Sch. 2)
- F228** Words in Sch. 18 para. 1 substituted (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), **Sch. 1 para. 297(2)(c)** (with Sch. 2)
- F229** Words in Sch. 18 para. 1 inserted (19.7.2011) by Finance Act 2011 (c. 11), **Sch. 19 para. 61**

#### *Duty to give notice of chargeability*

- 2 (1) A company which—
- (a) is chargeable to tax for an accounting period, and
  - (b) has not received a notice requiring a company tax return,
- must give notice to [<sup>F230</sup>an officer of Revenue and Customs] that it is so chargeable.
- (2) The notice must be given within twelve months from the end of the accounting period.
- <sup>F231</sup>(3) .....
- <sup>F232</sup>(4) .....

#### Textual Amendments

- F230** Words in Sch. 18 substituted (18.4.2005) by Commissioners for Revenue and Customs Act 2005 (c. 11), s. 53(1), **Sch. 4 para. 68(a)**; S.I. 2005/1126, art. 2(2)(h)
- F231** Sch. 18 para. 2(3) omitted (with effect in accordance with art. 3 of the commencing S.I.) by virtue of Finance Act 2008 (c. 9), s. 123(2), **Sch. 41 para. 25(j)**; S.I. 2009/511, art. 2 (with art. 4)
- F232** Sch. 18 para. 2(4) omitted (with effect in accordance with art. 3 of the commencing S.I.) by virtue of Finance Act 2008 (c. 9), s. 123(2), **Sch. 41 para. 25(j)**; S.I. 2009/511, art. 2 (with art. 4)

## PART II

### COMPANY TAX RETURN

#### *Company tax return*

- 3 (1) [<sup>F230</sup>An officer of Revenue and Customs] may by notice require a company to deliver a return (a “company tax return”) of such information, accounts, statements and reports—

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- (a) relevant to the tax liability of the company, or
  - (b) otherwise relevant to the application of the Corporation Tax Acts to the company,
- as may reasonably be required by the notice.
- (2) Different information, accounts, statements and reports may be required from different descriptions of company.
  - (3) A company tax return must include a declaration by the person making the return that the return is to the best of his knowledge correct and complete.
  - (4) The return must be delivered to the officer of the Board by whom the notice was issued not later than the filing date.
- [<sup>F233</sup>(5) Sub-paragraph (1)(b) has effect as if the reference to the Corporation Tax Acts included a reference to sections 911, 912, 914 and 915 of the Income Tax Act 2007.]

#### Textual Amendments

**F230** Words in Sch. 18 substituted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), s. 53(1), [Sch. 4 para. 68\(a\)](#); S.I. 2005/1126, art. 2(2)(h)

**F233** Sch. 18 para. 3(5) inserted (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 385\(2\)](#) (with [Sch. 2](#))

#### Modifications etc. (not altering text)

**C9** Sch. 18 para. 3 extended (31.7.1998) by [1988 c. 1, s. 488\(12\)\(a\)](#) (as inserted (31.7.1998) by [1998 c. 36](#), s. 117, [Sch. 19 para. 48\(3\)](#))

**C10** Sch. 18 para. 3(1) modified (with effect in accordance with s. 97(5)(6) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), s. 101(6) (with s. 106)

- [<sup>F234</sup>3A(1) Her Majesty's Revenue and Customs may from time to time publish requirements as to the information, accounts, statements and reports which a company must deliver as part of its company tax return where the company has a tax liability by virtue of paragraph 50 or 51 of Schedule 19 to the Finance Act 2011 (the bank levy); and such information, accounts, statements and reports must be delivered as if the notice to the company under paragraph 3(1) had required them to be delivered (and paragraph 4 is to be read accordingly).
- (2) The publication of any requirements under sub-paragraph (1) does not stop a notice under paragraph 3(1) requiring the delivery of any additional information, accounts, statements and reports as part of a company tax return.]

#### Textual Amendments

**F234** Sch. 18 para. 3A inserted (19.7.2011) by [Finance Act 2011 \(c. 11\)](#), [Sch. 19 para. 62](#)

#### *Meaning of delivery of return*

- 4 References in this Schedule to the delivery of a company tax return are to the delivery of all the information, accounts, statements and reports required to comply with the notice requiring the return.

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*Period for which return required*

- 5 (1) A notice requiring a company tax return must specify the period to which the notice relates.
- (2) If an accounting period of the company ended during (or at the end of) the specified period, a return is required for that accounting period.
- If there is more than one, a separate company tax return is required for each of them.
- (3) If sub-paragraph (2) does not apply but an accounting period of the company began during the specified period, a company tax return is required for the part of the specified period before the accounting period began.
- (4) If the company was outside the charge to corporation tax for the whole of the specified period, a company tax return is required for the whole of the specified period.
- (5) If none of the above provisions applies, no company tax return is required in response to the notice.

*Notice relating to period beginning before appointed day*

- 6 (1) A notice requiring a company tax return may be given on or after the self-assessment appointed day in relation to a period beginning before that day.
- (2) Where the effect of such a notice is to require a return for an accounting period ending before that day, the provisions of the Tax Acts apply as if it were a notice under section 11 of the <sup>M156</sup>Taxes Management Act 1970.
- (3) The provisions of this Act relating to company tax returns, or amending other provisions of the Tax Acts so as to refer to such returns, do not affect the operation of those Acts in relation to such a notice.

**Marginal Citations**  
 M156 1970 c. 9.

*Return to include self-assessment*

- 7 (1) Every company tax return for an accounting period must include an assessment (a "self-assessment") of the amount of tax which is payable by the company for that period—
- (a) on the basis of the information contained in the return, and
- (b) taking into account any relief or allowance for which a claim is included in the return or which is required to be given in relation to that accounting period.
- (2) For this purpose a company tax return is regarded as a return for an accounting period if the period is treated in the return as an accounting period and is not longer than twelve months, even though it is not, or may not be, an accounting period.

*Calculation of tax payable*

- 8 (1) The amount of tax payable for an accounting period is calculated as follows.

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### *First step*

Calculate the corporation tax chargeable on the company's profits:

- 1 Take the amount of the company's profits for that period on which corporation tax is chargeable [<sup>F235</sup>(see section 4(1) and (2) of the Corporation Tax Act 2010)].
- 2 Apply the rate or rates of corporation tax applicable to the company.

### *Second step*

Then give effect to any reliefs or set-offs available against corporation tax chargeable on profits:

- 1 Any reduction under [<sup>F236</sup>section 19, 20 or 21 of the Corporation Tax Act 2010 (marginal relief for companies with small profits)].
- 1A [<sup>F237</sup>Any relief under Part V of Schedule 15 to the Finance Act 2000 (corporate venturing scheme: investment relief).]
- 1B [<sup>F238</sup>Any relief under [<sup>F239</sup>Part 7 of the Corporation Tax Act 2010] (community investment tax relief).]
- 2 Any double taxation relief under [<sup>F240</sup>under sections 2 and 6 of TIOPA 2010 or under section 18(1)(b) and (2) of that Act].
- 3 Any set off for advance corporation tax under section 239 of [<sup>F241</sup>the Taxes Act 1988] or under regulations made under section 32 of this Act.

### *Third step*

Then add any amounts assessable or chargeable as if they were corporation tax (reduced by any reliefs specific to those amounts):

- 1 Any amount due under [<sup>F242</sup>section 455 of the Corporation Tax Act 2010] (tax on a loan or advance made by close company to a participator).
- 1A [<sup>F243</sup>Any sum chargeable under [<sup>F244</sup>section 330(1)] of that Act (supplementary charge in respect of ring fence trades).]
- 2 Any sum chargeable under section 747(4)(a) of [<sup>F245</sup>the Taxes Act 1988] (tax on profits of a controlled foreign company).
- 3 [<sup>F246</sup>Any amount of the bank levy chargeable by virtue of paragraph 50 or 51 of Schedule 19 to the Finance Act 2011 (the bank levy).]

### *Fourth step*

Then deduct any amounts to be set off against the company's overall tax liability for that period:

- 1 Any amount to be set off under [<sup>F247</sup>section 967 or 968 of the Corporation Tax Act 2010] (income tax borne by deduction).
- 2 Any amount to be set off under section 246N or 246Q of [<sup>F248</sup>the Taxes Act 1988] (advance corporation tax paid in respect of foreign income dividend).

[<sup>F249</sup>(1A) Sub-paragraph (1B) applies if an amount of the bank levy chargeable by virtue of paragraph 50 or 51 of Schedule 19 to the Finance Act 2011 (the bank levy) is added at the third step.

(1B) Any deductions made at the fourth step are to be treated as made from all other amounts before being made from the amount of the bank levy.]

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- (2) Except as otherwise provided, references in this Schedule to the amount of tax payable by a company for an accounting period are to the amount shown in the company's self-assessment as the amount payable.

#### Textual Amendments

- F235** Words in Sch. 18 para. 8(1) inserted (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), **Sch. 1 para. 297(4)(a)** (with Sch. 2)
- F236** Words in Sch. 18 para. 8(1) substituted (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), **Sch. 1 para. 297(4)(b)** (with Sch. 2)
- F237** Words in Sch. 18 para. 8(1) inserted (28.7.2000 with application as mentioned in s. 63(4) of the amending Act) by [2000 c. 17](#), s. 63(2), **Sch. 16 para. 5(2)**
- F238** Words in Sch. 18 para. 8(1) inserted (24.7.2002 with effect as mentioned in s. 57(4)(c) of the amending Act) by [2002 c. 23](#), s. 57, **Sch. 17 para. 5**
- F239** Words in Sch. 18 para. 8(1) substituted (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), **Sch. 1 para. 297(4)(c)** (with Sch. 2)
- F240** Words in Sch. 18 para. 8(1) substituted (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\)](#), s. 381(1), **Sch. 8 para. 54(2)(a)** (with Sch. 9 paras. 1-9, 22)
- F241** Words in Sch. 18 para. 8(1) substituted (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\)](#), s. 381(1), **Sch. 8 para. 54(2)(b)** (with Sch. 9 paras. 1-9, 22)
- F242** Words in Sch. 18 para. 8(1) substituted (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), **Sch. 1 para. 297(4)(d)** (with Sch. 2)
- F243** Words in Sch. 18 para. 8(1) inserted (24.7.2002) by [2002 c. 23](#), s. 92(4)
- F244** Words in Sch. 18 para. 8(1) substituted (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), **Sch. 1 para. 297(4)(e)** (with Sch. 2)
- F245** Words in Sch. 18 para. 8(1) substituted (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), **Sch. 1 para. 297(4)(f)** (with Sch. 2)
- F246** Words in Sch. 18 para. 8(1) inserted (19.7.2011) by [Finance Act 2011 \(c. 11\)](#), **Sch. 19 para. 63(2)**
- F247** Words in Sch. 18 para. 8(1) substituted (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), **Sch. 1 para. 297(4)(g)** (with Sch. 2)
- F248** Words in Sch. 18 para. 8(1) substituted (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), **Sch. 1 para. 297(4)(h)** (with Sch. 2)
- F249** Sch. 18 para. 8(1A)(1B) inserted (19.7.2011) by [Finance Act 2011 \(c. 11\)](#), **Sch. 19 para. 63(3)**

#### *Claims that cannot be made without a return*

- 9 (1) No claim to which this paragraph applies may be made by a company before it delivers a company tax return for the period to which the claim relates.
- (2) This paragraph applies to a claim by a company for any repayment of income tax called for by virtue of—
- <sup>F250</sup> [section 3 of the Corporation Tax Act 2009] (exclusion of income tax charge in case of UK resident company or income within chargeable profits for corporation tax), or
  - exemptions from income tax conferred by the Corporation Tax Acts.

<sup>F251</sup>(2A) But this paragraph does not apply to a claim by a company for an amount to be exempt from tax by virtue of—

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- (a) section 472 of CTA 2010 (gifts qualifying for gift aid relief: charitable companies), or
  - (b) section 475 of that Act (gifts qualifying for gift aid relief: eligible bodies).]
- (3) This paragraph applies to a claim by a company for payment of a tax credit, unless—
- (a) the company is wholly exempt from corporation tax or is only not so exempt in respect of trading income, and
  - (b) the tax credit is not one in respect of which a payment on account may be claimed by the company under Schedule 19AB to the Taxes Act 1988 (pension business).
- [<sup>F252</sup>(4) This paragraph applies to a claim by a company for relief under Part V of Schedule 15 to the Finance Act 2000 (corporate venturing scheme: investment relief).]

#### Textual Amendments

- F250** Words in Sch. 18 para. 9(2) substituted (with effect in accordance with s. 1329(1) of the amending Act) by *Corporation Tax Act 2009 (c. 4)*, s. 1329(1), **Sch. 1 para. 454(2)** (with *Sch. 2 Pts. 1, 2*)
- F251** Sch. 18 para. 9(2A) inserted (with effect in accordance with *Sch. 8 para. 8(6)* of the amending Act) by *Finance Act 2010 (c. 13)*, **Sch. 8 para. 6(2)**
- F252** Sch. 18 para. 9(4) inserted (28.7.2000 with application as mentioned in s. 63(4) of the amending Act) by *2000 c. 17*, s. 63(2), **Sch. 16 para. 5(3)**

#### *Other claims and elections to be included in return*

- 10 (1) In Part VII of this Schedule (general provisions as to claims and elections) paragraphs 57 to 59 contain provisions as to the circumstances in which a claim or election may or must be made, or is to be treated as having been made, in a company tax return.
- [<sup>F253</sup>(2) A claim to which Part VIII, IX or IXA of this Schedule applies (claims for group relief, capital allowances[<sup>F254</sup>, first-year tax credits] or [<sup>F255</sup>R&D tax relief]) can only be made by being included in a company tax return (see paragraphs 67, 79[<sup>F256</sup>, 83ZA] and 83B).]
- [<sup>F257</sup>(2A) A claim to which Part 9B of this Schedule applies (claims for land remediation tax credit and life assurance company tax credit) can only be made by being included in a company tax return (see paragraph 83H).]
- <sup>F258</sup>(2B) .....
- <sup>F259</sup>(3) .....
- [<sup>F260</sup>(4) A claim to which Part 9D of this Schedule applies (claims for film tax relief) can only be made by being included in a company tax return (see paragraph 83T).]
- [<sup>F261</sup>(5) An election under [<sup>F262</sup>section 1182(7) of the Corporation Tax Act 2009] (election not to be a film production company) can only be made by being included in a company tax return (see [<sup>F263</sup>section 1182(8)(a)] of that Act).]

#### Textual Amendments

- F253** Sch. 18 para. 10(2) substituted (28.7.2000 with effect as mentioned in s. 69(1) of the amending Act) by *2000 c. 17*, s. 69(2), **Sch. 21 para. 2**



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- F254** Words in Sch. 18 para. 10(2) inserted (with effect in accordance with Sch. 25 para. 9 of the amending Act) by [Finance Act 2008 \(c. 9\)](#), [Sch. 25 para. 8\(2\)\(a\)](#)
- F255** Words in Sch. 18 para. 10(2) substituted (with effect in accordance with Sch. 3 para. 10 of the amending Act) by [Finance Act 2006 \(c. 25\)](#), [Sch. 3 para. 2\(2\)](#)
- F256** Word in Sch. 18 para. 10(2) inserted (with effect in accordance with Sch. 25 para. 9 of the amending Act) by [Finance Act 2008 \(c. 9\)](#), [Sch. 25 para. 8\(2\)\(b\)](#)
- F257** Sch. 18 para. 10(2A) inserted (11.5.2001 with effect as mentioned in s. 70 of the amending Act) by [2001 c. 9, s.70](#), [Sch. 23 para. 4](#)
- F258** Sch. 18 para. 10(2B) repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), [Sch. 1 para. 454\(3\)\(a\)](#), [Sch. 3 Pt. 1](#) (with [Sch. 2 Pts. 1, 2](#))
- F259** Sch. 18 para. 10(3) repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), [Sch. 1 para. 454\(3\)\(a\)](#), [Sch. 3 Pt. 1](#) (with [Sch. 2 Pts. 1, 2](#))
- F260** Sch. 18 para. 10(4) inserted (1.1.2007) by [Finance Act 2006 \(c. 25\)](#), s. 53(1), [Sch. 5 para. 27](#); [S.I. 2006/3399](#), art. 2
- F261** Sch. 18 para. 10(5) inserted (19.7.2007) by [Finance Act 2007 \(c. 11\)](#), s. 58(2)
- F262** Words in Sch. 18 para. 10(5) substituted (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), [Sch. 1 para. 454\(3\)\(b\)\(i\)](#) (with [Sch. 2 Pts. 1, 2](#))
- F263** Words in Sch. 18 para. 10(5) substituted (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), [Sch. 1 para. 454\(3\)\(b\)\(ii\)](#) (with [Sch. 2 Pts. 1, 2](#))

#### Modifications etc. (not altering text)

- C11** Sch. 18 para. 10 excluded (31.7.1998) by [1988 c. 1, s. 754\(5\)](#), [Sch. 26 para. 3\(6A\)\(a\)](#) (as inserted (31.7.1998) by [1998 c. 36, s. 113](#), [Sch. 17 paras. 35\(7\), 37](#))  
Sch. 18 para. 10 excluded (31.7.1998) by [1988 c. 1, s. 749A\(4\)\(a\)](#) (as substituted (31.7.1998) by [1998 c. 36, s. 113](#), [Sch. 17 paras. 4, 37](#))  
Sch. 18 para. 10 excluded (31.7.1998) by [1988 c. 1, s. 747\(6\)](#), [Sch. 24 para. 9\(7\)](#) (as added (31.7.1998) by [1998 c. 36, s. 113](#), [Sch. 17 paras. 20\(9\), 37](#))

#### <sup>F264</sup> *Accounts required in case of Companies Act company*

#### Textual Amendments

- F264** Sch. 18 para. 11 and cross-heading substituted (6.4.2008) by [The Companies Act 2006 \(Consequential Amendments\) \(Taxes and National Insurance\) Order 2008 \(S.I. 2008/954\)](#), arts. 1(1), [25\(2\)](#) (with art. 4)

11<sup>F265</sup>(1) In the case of a company which—

- (a) is required to deliver a company tax return for a period,
- (b) is resident in the United Kingdom throughout that period, and
- (c) is required under the Companies Act 2006 to prepare accounts for a period consisting of or including the whole of that period,

the power to require the delivery of accounts as part of the return is limited to such accounts, containing such information and having annexed to them such documents, as are required to be prepared under that Act.

11<sup>F266</sup>(2) Sub-paragraph (1) does not affect—

- (a) the power to require the delivery of accounts, information or documents in relation to a company's tax liability by virtue of paragraph 50 or 51 of Schedule 19 to the Finance Act 2011 (the bank levy), or
- (b) the requirements which may be imposed under paragraph 3A.]]



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**Textual Amendments**

- F265** Sch. 18 para. 11 renumbered (19.7.2011) as Sch. 18 para. 11(1) by [Finance Act 2011 \(c. 11\)](#), **Sch. 19 para. 64(2)**
- F266** Sch. 18 para. 11(2) inserted (19.7.2011) by [Finance Act 2011 \(c. 11\)](#), **Sch. 19 para. 64(3)**

*Information about business carried on in partnership*

- 12 (1) A company tax return of a company which carries on a trade, profession or business in partnership must include any amount which in a relevant partnership statement is stated to be its share of any income, loss, consideration, tax, credit or charge.
- (2) A “relevant partnership statement” means a statement under section 12AB of the <sup>M157</sup>Taxes Management Act 1970 for the period for which the return is made or a period which includes that period or any part of it.

**Marginal Citations**

**M157** 1970 c. 9.

*Information about chargeable gains*

**F267** 13 .....

**Textual Amendments**

- F267** Sch. 18 para. 13 omitted (13.8.2009) by virtue of [The Finance Act 2009, Schedule 47 \(Consequential Amendments\) Order 2009 \(S.I. 2009/2035\)](#), art. 1, **Sch. para. 37**

*Filing date*

- 14 (1) The filing date for a company tax return is the last day of whichever of the following periods is the last to end—
- (a) twelve months from the end of the period for which the return is made;
  - (b) if the company’s relevant period of account is not longer than 18 months, twelve months from the end of that period;
  - (c) if the company’s relevant period of account is longer than 18 months, 30 months from the beginning of that period;
  - (d) three months from the date on which the notice requiring the return was served.
- (2) In sub-paragraph (1) “relevant period of account” means, in relation to a return for an accounting period, the period of account of the company in which the last day of that accounting period falls.

**F268** ...

*Status: Point in time view as at 19/07/2011.*

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### Textual Amendments

**F268** Words in Sch. 18 Pt. II para. 14(2) repealed (24.7.2002) by 2002 c. 23, s. 141, Sch. 40 Pt. 3(16)

### *Amendment of return by company*

- 15 (1) A company may amend its company tax return by notice to [<sup>F230</sup>an officer of Revenue and Customs].
- (2) The notice must be in such form as [<sup>F230</sup>an officer of Revenue and Customs] may require.
- (3) The notice must contain such information and be accompanied by such statements as [<sup>F230</sup>an officer of Revenue and Customs] may reasonably require.
- (4) Except as otherwise provided, an amendment may not be made more than twelve months after—
- (a) the filing date, or
  - (b) in the case of a return for the wrong period, what would be the filing date if the period for which the return was made were an accounting period.

### Textual Amendments

**F230** Words in Sch. 18 substituted (18.4.2005) by Commissioners for Revenue and Customs Act 2005 (c. 11), s. 53(1), Sch. 4 para. 68(a); S.I. 2005/1126, art. 2(2)(h)

### Modifications etc. (not altering text)

**C12** Sch. 18 para. 15 applied (with modifications) (with effect in accordance with reg. 1(2) of the amending S.I.) by The Lloyds Underwriters (Tax) Regulations 2005 (S.I. 2005/3338), regs. 1(1), 5

### *Correction of return by Revenue*

- 16 (1) [<sup>F230</sup>An officer of Revenue and Customs] may amend a company tax return so as to correct [<sup>F269</sup>—
- (a)] obvious errors or omissions in the return (whether errors of principle, arithmetical mistakes or otherwise) [<sup>F270</sup>, and
  - (b) anything else in the return that the officer has reason to believe is incorrect in the light of information available to the officer].
- (2) A correction under this paragraph is made by notice to the company concerned.
- (3) No such correction may be made more than nine months after—
- (a) the day on which the return was delivered, or
  - (b) if the correction is required in consequence of an amendment by the company under paragraph 15, the day on which that amendment was made.
- (4) A correction under this paragraph is of no effect if the company—
- (a) amends its return so as to reject the correction, or

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- (b) after the end of the period within which it may amend its return, but within three months from the date of issue of the notice of correction, gives notice rejecting the correction.
- (5) Notice under sub-paragraph (4)(b) must be given—
- (a) in writing,
  - (b) to the officer of the Board by whom notice of the correction was given.

#### Textual Amendments

- F230** Words in Sch. 18 substituted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\), s. 53\(1\), Sch. 4 para. 68\(a\)](#); S.I. 2005/1126, art. 2(2)(h)
- F269** Word in Sch. 18 para. 16(1) inserted (1.4.2010) by [Finance Act 2008 \(c. 9\), s. 119\(4\)\(a\)\(13\)](#); S.I. 2009/405, art. 2
- F270** Words in Sch. 18 para. 16(1) inserted (1.4.2010) by [Finance Act 2008 \(c. 9\), s. 119\(4\)\(b\)\(13\)](#); S.I. 2009/405, art. 2

#### Modifications etc. (not altering text)

- C13** Sch. 18 para. 16 applied (with modifications) (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Lloyds Underwriters \(Tax\) Regulations 2005 \(S.I. 2005/3338\), regs. 1\(1\), 5](#)

#### *Failure to deliver return: flat-rate penalty*

- 17 (1) A company which is required to deliver a company tax return and fails to do so by the filing date is liable to a flat-rate penalty under this paragraph.
- It may also be liable to a tax-related penalty under paragraph 18.
- (2) The penalty is—
- (a) £100, if the return is delivered within three months after the filing date, and
  - (b) £200, in any other case.
- (3) The amounts are increased to £500 and £1000 for a third successive failure, that is, where—
- (a) the company is within the charge to corporation tax for three consecutive accounting periods (and at no time between the beginning of the first of those periods and the end of the last is it outside the charge to corporation tax),
  - (b) a company tax return is required for each of those accounting periods,
  - (c) the company was liable to a penalty under this paragraph in respect of each of the first two of those periods, and
  - (d) the company is again liable to a penalty under this paragraph in respect of the third period.
- (4) The first or second period mentioned in sub-paragraph (3) may be a period ending before the self-assessment appointed day, in relation to which—
- (a) the reference in paragraph (b) to a company tax return shall be construed as a reference to a return under section 11 of the <sup>M158</sup>Taxes Management Act 1970, and
  - (b) the references in paragraphs (c) and (d) to a penalty under this paragraph shall be construed as a reference to a penalty under section 94 of that Act.

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#### Marginal Citations

M158 1970 c. 9.

#### *Failure to deliver return: tax-related penalty*

- 18 (1) A company which is required to deliver a company tax return for an accounting period and fails to do so—
- (a) within 18 months after the end of that period, or
  - (b) if the filing date is later than that, by the filing date,
- is liable to a tax-related penalty under this paragraph.
- This is in addition to any flat-rate penalty under paragraph 17.
- (2) The penalty is—
- (a) 10 per cent. of the unpaid tax, if the return is delivered within two years after the end of the period for which the return is required, and
  - (b) 20 per cent. of the unpaid tax, in any other case.
- (3) The “unpaid tax” means the amount of tax payable by the company for the accounting period for which the return was required which remains unpaid on the date when the liability to the penalty arises under sub-paragraph (1).
- (4) In determining that amount no account shall be taken of any relief under [F271section 458 of the Corporation Tax Act 2010] (relief in respect of repayment, etc. of loan) which is deferred under [F272subsection (5)] of that section.

#### Textual Amendments

- F271** Words in Sch. 18 para. 18(4) substituted (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), **Sch. 1 para. 297(5)(a)** (with [Sch. 2](#))
- F272** Words in Sch. 18 para. 18(4) substituted (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), **Sch. 1 para. 297(5)(b)** (with [Sch. 2](#))

#### *[F273Excuse for late delivery of return*

#### Textual Amendments

- F273** Sch. 18 para. 19 and cross-heading substituted (6.4.2008) by [The Companies Act 2006 \(Consequential Amendments\) \(Taxes and National Insurance\) Order 2008 \(S.I. 2008/954\)](#), arts. 1(1), **25(3)** (with [art. 4](#))

- 19 A company is not liable to a penalty under paragraph 17 (flat rate penalty) if—
- (a) the period for which the return is required is one for which the company is required to deliver accounts under the Companies Act 2006, and
  - (b) the return is delivered no later than the last day for the delivery of those accounts to the registrar of companies.]

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### *Penalty for incorrect or uncorrected return*

F274<sup>20</sup> .....

#### **Textual Amendments**

**F274** Sch. 18 para. 20 repealed (1.4.2008 for specified purposes, 1.7.2008 for specified purposes, 1.1.2009 for specified purposes, 1.4.2009 in so far as not already in force) by [Finance Act 2007 \(c. 11\)](#), s. 97(2), Sch. 24 para. 29(c), [Sch. 27 Pt. 5\(5\)](#); S.I. 2008/568, art. 2(a)(b)(c)(d)(e)(f) (with art. 3)

### *f<sup>F275</sup> Voluntary returns*

#### **Textual Amendments**

**F275** Sch. 18 para. 20A and cross-heading inserted (retrospectively) by [Finance Act 2019 \(c. 1\)](#), s. 87(2)(3) (with s. 87(4))

- 20A (1) This paragraph applies where—
- (a) a company delivers a purported return (“the relevant return”) for a period (“the relevant period”),
  - (b) no notice under paragraph 3 has been given to the company in respect of the relevant period, and
  - (c) Her Majesty’s Revenue and Customs treats the relevant return as a return made and delivered in pursuance of such a notice.
- (2) For the purposes of the Taxes Acts—
- (a) treat a relevant notice as having been given to the company on the day the relevant return was delivered, and
  - (b) treat the relevant return as having been made and delivered in pursuance of that notice (and, accordingly, treat it as if it were a company tax return under paragraph 3).
- (3) “Relevant notice” means a notice under paragraph 3 requiring the company to deliver a return for the relevant period.
- (4) In sub-paragraph (1)(a) “purported return” means anything that—
- (a) is in a form, and is delivered in a way, that a corresponding return could have been made and delivered had a relevant notice been given, and
  - (b) purports to be a company tax return.
- (5) Nothing in this paragraph affects paragraph 46 or any other provisions of the Taxes Acts specifying a time limit for the making of an assessment.]

## **PART III**

### **DUTY TO KEEP AND PRESERVE RECORDS**

#### *Duty to keep and preserve records*

- 21 (1) A company which may be required to deliver a company tax return for any period must—

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- (a) keep such records as may be needed to enable it to deliver a correct and complete return for the period, and
  - (b) preserve those records in accordance with this paragraph.
- (2) The records must be preserved [<sup>F276</sup>until the end of the relevant day.]
- [<sup>F277</sup>(2A) In this paragraph “relevant day” means—
- (a) the sixth anniversary of the end of the period for which the company may be required to deliver a company tax return, or
  - (b) such earlier day as may be specified in writing by the Commissioners for Her Majesty's Revenue and Customs (and different days may be specified for different cases).]

(3) If the company is required to deliver a company tax return by notice given before the end of [<sup>F278</sup>the relevant day], the records must be preserved until any later date on which—

    - (a) any enquiry into the return is completed, or
    - (b) if there is no enquiry, [<sup>F230</sup>an officer of Revenue and Customs] no longer [<sup>F279</sup>has] power to enquire into the return.

(4) If the company is required to deliver a company tax return by notice given after the end of [<sup>F280</sup>the relevant day] and has in its possession at that time any records that may be needed to enable it to deliver a correct and complete return, it is under a duty to preserve those records until the date on which—

    - (a) any enquiry into the return is completed, or
    - (b) if there is no enquiry, [<sup>F230</sup>an officer of Revenue and Customs] no longer [<sup>F279</sup>has] power to enquire into the return.

(5) The records required to be kept and preserved under this paragraph include records of—

    - (a) all receipts and expenses in the course of the company's activities, and the matters in respect of which the receipts and expenses arise, and
    - (b) in the case of a trade involving dealing in goods, all sales and purchases made in the course of the trade.

[<sup>F281</sup>(5A) The Commissioners for Her Majesty's Revenue and Customs may by regulations—

    - (a) provide that the records required to be kept and preserved under this paragraph include, or do not include, records specified in the regulations, and
    - (b) provide that those records include supporting documents so specified.

(5B) Regulations under this paragraph may—

    - (a) make different provision for different cases, and
    - (b) make provision by reference to things specified in a notice published by the Commissioners for Her Majesty's Revenue and Customs in accordance with the regulations (and not withdrawn by a subsequent notice).]

(6) <sup>F282</sup> ...

“Supporting documents” includes accounts, books, deeds, contracts, vouchers and receipts.

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### Textual Amendments

- F230** Words in Sch. 18 substituted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), s. 53(1), [Sch. 4 para. 68\(a\)](#); [S.I. 2005/1126](#), art. 2(2)(h)
- F276** Words in Sch. 18 para. 21(2) substituted (1.4.2009) by [Finance Act 2008 \(c. 9\)](#), s. 115(2), [Sch. 37 para. 8\(2\)](#); [S.I. 2009/402](#), art. 2
- F277** Sch. 18 para. 21(2A) inserted (1.4.2009) by [Finance Act 2008 \(c. 9\)](#), s. 115(2), [Sch. 37 para. 8\(3\)](#); [S.I. 2009/402](#), art. 2
- F278** Words in Sch. 18 para. 21(3) substituted (1.4.2009) by [Finance Act 2008 \(c. 9\)](#), s. 115(2), [Sch. 37 para. 8\(4\)](#); [S.I. 2009/402](#), art. 2
- F279** Words in Sch. 18 substituted (18.4.2005) by virtue of [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), s. 53(1), [Sch. 4 para. 68\(c\)](#); [S.I. 2005/1126](#), art. 2(2)(h)
- F280** Words in Sch. 18 para. 21(4) substituted (1.4.2009) by [Finance Act 2008 \(c. 9\)](#), s. 115(2), [Sch. 37 para. 8\(5\)](#); [S.I. 2009/402](#), art. 2
- F281** Sch. 18 para. 21(5A)(5B) inserted (1.4.2009) by [Finance Act 2008 \(c. 9\)](#), s. 115(2), [Sch. 37 para. 8\(6\)](#); [S.I. 2009/402](#), art. 2
- F282** Words in Sch. 18 para. 21(6) omitted (1.4.2009) by virtue of [Finance Act 2008 \(c. 9\)](#), s. 115(2), [Sch. 37 para. 8\(7\)](#); [S.I. 2009/402](#), art. 2

### *Preservation of information [F283 etc]*

### Textual Amendments

- F283** Word in Sch. 18 para. 22 cross-heading substituted (1.4.2009) by [Finance Act 2008 \(c. 9\)](#), s. 115(2), [Sch. 37 para. 9\(5\)](#); [S.I. 2009/402](#), art. 2

22[F284](1) The duty under paragraph 21 to preserve records may be discharged—

- (a) by preserving them in any form and by any means, or
- (b) by preserving the information contained in them in any form and by any means,

subject to sub-paragraph (3) and any conditions or exceptions specified in writing by the Commissioners for Her Majesty's Revenue and Customs.]

F285(2) . . . . .

- (3) [F286]Sub-paragraph (1)(b) does not apply in the case of the following kinds of records]—
- (a) any statement in writing such as is mentioned in—
    - (i) [F287]section 1100(1) of the Corporation Tax Act 2010] (amount of qualifying distribution and tax credit), or
    - [F288](ii) section 495(1) or 975(2) or (4) of the Income Tax Act 2007 (statements about deduction of income tax),]provided by the company or person there mentioned whether after the making of a request or otherwise;
  - [F289](b) any record (however described) which is required by regulations under section 70(1)(c) of the Finance Act 2004 to be given to a sub-contractor (within the meaning of section 58 of that Act) on the making of a payment to which section 61 of that Act (deductions on account of tax) applies;]
  - (c) any record relating to an amount of tax—



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- (i) paid under the law of a territory outside the United Kingdom, or  
 [F290(ii) which would have been payable under the law of a territory outside the United Kingdom (“territory F”) but for a development relief.]

[F291(4) In sub-paragraph (3)(c) “development relief” means a relief—

- (a) given under the law of territory F with a view to promoting industrial, commercial, scientific, educational or other development in a territory outside the United Kingdom, and
- (b) about which provision is made in arrangements which have effect under section 2(1) of TIOPA 2010 (double taxation relief by agreement with territories outside the United Kingdom).]

#### Textual Amendments

- F284** Sch. 18 para. 22(1) substituted (1.4.2009) by [Finance Act 2008 \(c. 9\), s. 115\(2\), Sch. 37 para. 9\(2\)](#); S.I. 2009/402, art. 2
- F285** Sch. 18 para. 22(2) omitted (1.4.2009) by virtue of [Finance Act 2008 \(c. 9\), s. 115\(2\), Sch. 37 para. 9\(3\)](#); S.I. 2009/402, art. 2
- F286** Words in Sch. 18 para. 22(3) substituted (1.4.2009) by [Finance Act 2008 \(c. 9\), s. 115\(2\), Sch. 37 para. 9\(4\)](#); S.I. 2009/402, art. 2
- F287** Words in Sch. 18 para. 22(3)(a)(i) substituted (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\), s. 1184\(1\), Sch. 1 para. 297\(6\)](#) (with Sch. 2)
- F288** Sch. 18 para. 22(3)(a)(ii) substituted (6.4.2007) by [Income Tax Act 2007 \(c. 3\), s. 1034\(1\), Sch. 1 para. 385\(4\)](#) (with Sch. 2)
- F289** Sch. 18 para. 22(3)(b) substituted (with effect in accordance with s. 77 of the amending Act) by [Finance Act 2004 \(c. 12\), Sch. 12 para. 16\(2\)](#)
- F290** Sch. 18 para. 22(3)(c)(ii) substituted (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\), s. 381\(1\), Sch. 8 para. 54\(3\)](#) (with Sch. 9 paras. 1-9, 22)
- F291** Sch. 18 para. 22(4) inserted (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\), s. 381\(1\), Sch. 8 para. 54\(4\)](#) (with Sch. 9 paras. 1-9, 22)

#### *Penalty for failure to keep and preserve records*

- 23 (1) A company which fails to comply with paragraph 21 in relation to an accounting period is liable to a penalty not exceeding £3,000, subject to the following exceptions.
- (2) No penalty is incurred if the records which the company fails to keep or preserve are records which might have been needed only for the purposes of claims, elections or notices not included in the return.
- (3) No penalty is incurred if—
- (a) the records which the company fails to keep or preserve are statements in writing such as are mentioned in—
- (i) [F292section 1100(1) of the Corporation Tax Act 2010] (amount of qualifying distribution and tax credit), or
- [F293(ii) section 495(1) or 975(2) or (4) of the Income Tax Act 2007 (statements about deduction of income tax),]
- provided by the company or person there mentioned whether after the making of a request or otherwise, and



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- (b) [<sup>F230</sup>an officer of Revenue and Customs][<sup>F279</sup>is] satisfied that any facts which [<sup>F279</sup>he] reasonably [<sup>F279</sup>requires] to be proved, and which would have been proved by the records, are proved by other documentary evidence furnished to [<sup>F279</sup>him].

#### Textual Amendments

- F230** Words in Sch. 18 substituted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), s. 53(1), [Sch. 4 para. 68\(a\)](#); S.I. 2005/1126, art. 2(2)(h)
- F279** Words in Sch. 18 substituted (18.4.2005) by virtue of [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), s. 53(1), [Sch. 4 para. 68\(c\)](#); S.I. 2005/1126, art. 2(2)(h)
- F292** Words in Sch. 18 para. 23(3)(a)(i) substituted (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), [Sch. 1 para. 297\(7\)](#) (with Sch. 2)
- F293** Sch. 18 para. 23(3)(a)(ii) substituted (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 385\(4\)](#) (with Sch. 2)

#### Modifications etc. (not altering text)

- C14** Sch. 18 para. 23 excluded (with effect in accordance with s. 33(1) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), s. 33(3)(b)

## PART IV

### ENQUIRY INTO COMPANY TAX RETURN

#### *Notice of enquiry*

- 24 (1) [<sup>F230</sup>An officer of Revenue and Customs] may enquire into a company tax return if [<sup>F279</sup>he gives] notice to the company of [<sup>F279</sup>his] intention to do so (“notice of enquiry”) within the time allowed.
- (2) If the return was delivered on or before the filing date, notice of enquiry may be given at any time up to twelve months [<sup>F294</sup>from the day on which the return was delivered (subject to sub-paragraph (6)).]
- (3) If the return was delivered after the filing date, notice of enquiry may be given at any time up to and including the 31st January, 30th April, 31st July or 31st October next following the first anniversary of the day on which the return was delivered.
- (4) If the company amends its return, notice of enquiry may be given at any time up to and including the 31st January, 30th April, 31st July or 31st October next following the first anniversary of the day on which the amendment was made.
- (5) A return which has been the subject of one notice of enquiry may not be the subject of another, except one given in consequence of an amendment (or another amendment) by the company of its return.
- [<sup>F295</sup>(6) In the case of a company which is a member of a group other than a small group, the 12-month period in sub-paragraph (2) shall start not from the day on which the return was delivered but from the filing date.]
- [<sup>F296</sup>(7) In sub-paragraph (6) “group” and “small group” have the same meaning as in sections 474(1) and 383 of the Companies Act 2006.]

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### Textual Amendments

- F230** Words in Sch. 18 substituted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\), s. 53\(1\), Sch. 4 para. 68\(a\)](#); S.I. 2005/1126, art. 2(2)(h)
- F279** Words in Sch. 18 substituted (18.4.2005) by virtue of [Commissioners for Revenue and Customs Act 2005 \(c. 11\), s. 53\(1\), Sch. 4 para. 68\(c\)](#); S.I. 2005/1126, art. 2(2)(h)
- F294** Words in Sch. 18 para. 24(2) substituted (19.7.2007) by [Finance Act 2007 \(c. 11\), s. 96\(3\)](#) (with s. 96(6))
- F295** Sch. 18 para. 24(6)(7) inserted (19.7.2007) by [Finance Act 2007 \(c. 11\), s. 96\(4\)](#) (with s. 96(6))
- F296** Sch. 18 para. 24(7) substituted (6.4.2008) by [The Companies Act 2006 \(Consequential Amendments\) \(Taxes and National Insurance\) Order 2008 \(S.I. 2008/954\), arts. 1\(1\), 25\(4\)](#) (with art. 4)

### Modifications etc. (not altering text)

- C15** Sch. 18 para. 24 applied (with modifications) (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Lloyds Underwriters \(Tax\) Regulations 2005 \(S.I. 2005/3338\), regs. 1\(1\), 5](#)
- C16** Sch. 18 para. 24(4)-(5) applied (8.4.2010) by [Finance Act 2010 \(c. 13\), Sch. 1 para. 23\(5\)\(a\)](#)

### *Scope of enquiry*

- 25 (1) An enquiry into a company tax return extends to anything contained in the return, or required to be contained in the return, including—
- (a) any claim or election included in the return,
  - (b) any amount that affects or may affect—
    - (i) the tax payable by that company for another accounting period, or
    - (ii) the tax liability of another company for any accounting period,
- [<sup>F297</sup>and also extends to consideration of whether to give the company [<sup>F298</sup>a notice within sub-paragraph (3)]. But this is subject to the following limitation.]
- (2) If the notice of enquiry is given—
- (a) as a result of an amendment by the company of its return, and
  - (b) at a time when it is no longer possible to give notice of enquiry under paragraph 24(2) or (3),
- the enquiry into the return is limited to matters to which the amendment relates or which are affected by the amendment.
- [<sup>F299</sup>(3) A notice is within this sub-paragraph if it is—
- (a) a notice under section 184G or 184H of the Taxation of Chargeable Gains Act 1992 (avoidance involving capital losses),
  - (b) a notice under section 81(2) of TIOPA 2010 (schemes and arrangements designed to increase relief),
  - (c) a transfer pricing notice under section 168(1) of TIOPA 2010 (provision not at arm's length: medium-sized enterprise), or
  - (d) a notice under section 232 or 249 of TIOPA 2010 (avoidance involving tax arbitrage).]

### Textual Amendments

- F297** Words in Sch. 18 para. 25(1) substituted (with effect in accordance with s. 37 of the amending Act) by [Finance Act 2004 \(c. 12\), Sch. 5 para. 10](#)

*Status: Point in time view as at 19/07/2011.*

*Changes to legislation: Finance Act 1998 is up to date with all changes known to be in force on or before 18 October 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

**F298** Words in Sch. 18 para. 25(1) substituted (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\), s. 381\(1\), Sch. 8 para. 321\(2\)](#) (with Sch. 9 paras. 1-9, 22)

**F299** Sch. 18 para. 25(3) inserted (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\), s. 381\(1\), Sch. 8 para. 321\(3\)](#) (with Sch. 9 paras. 1-9, 22)

**Modifications etc. (not altering text)**

**C17** Sch. 18 para. 25 applied (with modifications) (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Lloyds Underwriters \(Tax\) Regulations 2005 \(S.I. 2005/3338\), regs. 1\(1\), 5](#)

**C18** Sch. 18 para. 25(2) applied (8.4.2010) by [Finance Act 2010 \(c. 13\), Sch. 1 para. 23\(5\)\(b\)](#)

*Enquiry into return for wrong period*

- 26 (1) In the case of a company tax return which it appears to [<sup>F230</sup>an officer of Revenue and Customs] —
- (a) is or may be a return for the wrong period, or
  - (b) has become a return for the wrong period as a result of a direction under [<sup>F300</sup>section 11(3) of the Corporation Tax Act 2009 (power of officer of Revenue and Customs)] to direct which accounting date to be used where company carries on several trades),
- the power to enquire into the return includes power to enquire into the period for which the return ought to have been made.
- (2) A return is a “return for the wrong period” in the following cases.
- (3) The first case is where the return is made for a period which is treated in the return as an accounting period, but which is not an accounting period of the company.
- (4) The second case is where the return is made on the basis that there is no accounting period ending in or at the end of the specified period, but there is such an accounting period.
- (5) In relation to a return for the wrong period the references to the filing date in paragraph 24(2) and (3) (period within which notice of enquiry may be given) are to the date that would be the filing date if the period for which the return was made were a period of the kind it is treated as in the return.
- (6) In this paragraph “the specified period” means the period specified in the notice requiring a company tax return.

**Textual Amendments**

**F230** Words in Sch. 18 substituted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\), s. 53\(1\), Sch. 4 para. 68\(a\)](#); S.I. 2005/1126, art. 2(2)(h)

**F300** Words in Sch. 18 para. 26(1)(b) substituted (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\), s. 1329\(1\), Sch. 1 para. 454\(5\)](#) (with Sch. 2 Pts. 1, 2)

*Notice to produce documents, etc. for purposes of enquiry*

<sup>F301</sup>27 .....

*Status: Point in time view as at 19/07/2011.*

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**Textual Amendments**

**F301** Sch. 18 para. 27 omitted (1.4.2009) by virtue of [Finance Act 2008 \(c. 9\)](#), s. 113(2), [Sch. 36 para. 88](#) (with [Sch. 36 para. 38](#)); [S.I. 2009/404](#), art. 2 (with arts. 7, 8)

*Appeal against notice to produce documents, etc*

**F302**28 .....

**Textual Amendments**

**F302** Sch. 18 para. 28 omitted (1.4.2009) by virtue of [Finance Act 2008 \(c. 9\)](#), s. 113(2), [Sch. 36 para. 88](#) (with [Sch. 36 para. 38](#)); [S.I. 2009/404](#), art. 2 (with arts. 7, 8)

*Penalty for failure to produce documents, etc*

**F303**29 .....

**Textual Amendments**

**F303** Sch. 18 para. 29 omitted (1.4.2009) by virtue of [Finance Act 2008 \(c. 9\)](#), s. 113(2), [Sch. 36 para. 88](#) (with [Sch. 36 para. 38](#)); [S.I. 2009/404](#), art. 2 (with arts. 7, 8)

*Amendment of self-assessment during enquiry to prevent loss of tax*

- 30 (1) If after notice of enquiry has been given and before the enquiry is completed [<sup>F230</sup>an officer of Revenue and Customs][<sup>F279</sup>forms] the opinion—
- (a) that the amount stated in the company's self-assessment as the amount of tax payable is insufficient, and
  - (b) that unless the assessment is immediately amended there is likely to be a loss of tax to the Crown,
- [<sup>F279</sup>he] may by notice to the company amend its self-assessment to make good the deficiency.
- (2) In the case of an enquiry which under paragraph 25(2) is limited to matters arising from an amendment of the return, sub-paragraph (1) above only applies so far as the deficiency is attributable to the amendment.
- (3) An appeal may be brought against an amendment of a company's self-assessment by [<sup>F230</sup>an officer of Revenue and Customs] under this paragraph.
- (4) Notice of appeal must be given—
- (a) in writing,
  - (b) within 30 days after the amendment was notified to the company,
  - (c) to the officer of the Board by whom the notice of amendment was given.
- [<sup>F304</sup>(5) None of the steps mentioned in section 49A(2)(a) to (c) of the Taxes Management Act 1970 may be taken in relation to the appeal before the completion of the enquiry.]

*Status: Point in time view as at 19/07/2011.*

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#### Textual Amendments

- F230** Words in Sch. 18 substituted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\), s. 53\(1\), Sch. 4 para. 68\(a\)](#); S.I. 2005/1126, art. 2(2)(h)
- F279** Words in Sch. 18 substituted (18.4.2005) by virtue of [Commissioners for Revenue and Customs Act 2005 \(c. 11\), s. 53\(1\), Sch. 4 para. 68\(c\)](#); S.I. 2005/1126, art. 2(2)(h)
- F304** Sch. 18 para. 30(5) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\), art. 1\(2\), Sch. 1 para. 257](#)

#### *Amendment of return by company during enquiry*

- 31 (1) This paragraph applies if a company amends its company tax return at a time when an enquiry is in progress into the return.
- (2) The amendment does not restrict the scope of the enquiry but may be taken into account (together with any matters arising) in the enquiry.
- (3) So far as the amendment affects—
- (a) the amount stated in the company's self-assessment as the amount of tax payable, or
  - (b) any amount that affects or may affect—
    - (i) the tax payable by the company for another accounting period, or
    - (ii) the tax liability of another company for any accounting period,it does not take effect until after the enquiry is completed.
- This does not affect any claim by the company under section 59DA of the <sup>M159</sup>Taxes Management Act 1970 (claim for repayment in advance of liability being established).
- (4) An amendment whose effect is deferred under sub-paragraph (3) takes effect as follows—
- (a) if the conclusions in the closure notice state either—
    - (i) that the amendment was not taken into account in the enquiry, or
    - (ii) that no amendment of the return is required arising from the enquiry,the amendment takes effect on the completion of the enquiry;
  - <sup>F305</sup>(b) in any other case, the amendment takes effect as part of the amendments made by the closure notice.]
- (5) For the purposes of this paragraph the period during which an enquiry is in progress is the whole of the period—
- (a) beginning with the day on which <sup>F230</sup>an officer of Revenue and Customs]<sup>F279</sup> gives] notice of enquiry into the return, and
  - (b) ending with the day on which the enquiry is completed.

#### Textual Amendments

- F230** Words in Sch. 18 substituted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\), s. 53\(1\), Sch. 4 para. 68\(a\)](#); S.I. 2005/1126, art. 2(2)(h)
- F279** Words in Sch. 18 substituted (18.4.2005) by virtue of [Commissioners for Revenue and Customs Act 2005 \(c. 11\), s. 53\(1\), Sch. 4 para. 68\(c\)](#); S.I. 2005/1126, art. 2(2)(h)

*Status: Point in time view as at 19/07/2011.*

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**F305** Sch. 18 para. 31(4)(b) substituted (1.4.2010) by [Finance Act 2008 \(c. 9\), s. 119\(5\)\(13\)](#); S.I. 2009/405, art. 2

#### Modifications etc. (not altering text)

**C19** Sch. 18 paras. 31-34 applied (with modifications) (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Lloyds Underwriters \(Tax\) Regulations 2005 \(S.I. 2005/3338\)](#), regs. 1(1), 5

**C20** Sch. 18 para. 31 applied (8.4.2010) by [Finance Act 2010 \(c. 13\)](#), [Sch. 1 para. 23\(5\)\(c\)](#)

#### Marginal Citations

**M159** 1970 c. 9.

*[<sup>F306</sup>Referral of questions to [<sup>F307</sup>the tribunal] during enquiry*

#### Textual Amendments

**F306** Sch. 18 Pt. IV para. 31A-31D inserted (11.5.2001 with application as mentioned in [Sch. 29 para. 7\(2\)](#) of the amending Act) by [2001 c. 9, s. 88](#), [Sch. 29 para. 7](#)

**F307** Words in Sch. 18 para. 31A cross-heading substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), [Sch. 1 para. 258\(2\)](#)

31A (1) At any time when an enquiry is in progress into a company's tax return any question arising in connection with the subject-matter of the enquiry may be referred to the [<sup>F308</sup>tribunal] for <sup>F309</sup>... determination.

(2) Notice of referral must be given—

(a) jointly by the company and [<sup>F230</sup>an officer of Revenue and Customs],

<sup>F310</sup>(b) .....

(c) to the [<sup>F311</sup>tribunal].

<sup>F312</sup>(3) .....

(4) More than one notice of referral may be given under this paragraph in relation to an enquiry.

(5) For the purposes of this paragraph the period during which an enquiry is in progress is the whole of the period—

(a) beginning with the day on which [<sup>F230</sup>an officer of Revenue and Customs][<sup>F279</sup>gives] notice of enquiry into the return, and

(b) ending with the day on which the enquiry is completed.

#### Textual Amendments

**F230** Words in Sch. 18 substituted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), s. 53(1), [Sch. 4 para. 68\(a\)](#); S.I. 2005/1126, art. 2(2)(h)

**F279** Words in Sch. 18 substituted (18.4.2005) by virtue of [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), s. 53(1), [Sch. 4 para. 68\(c\)](#); S.I. 2005/1126, art. 2(2)(h)

**F308** Word in Sch. 18 para. 31A(1) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), [Sch. 1 para. 258\(3\)](#)

**F309** Word in Sch. 18 para. 31A(1) omitted (1.4.2009) by virtue of [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), [Sch. 1 para. 258\(3\)](#)



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**F310** Sch. 18 para. 31A(2)(b) omitted (1.4.2009) by virtue of [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 258(4)(a)**

**F311** Word in Sch. 18 para. 31A(2)(c) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 258(4)(b)**

**F312** Sch. 18 para. 31A(3) omitted (1.4.2009) by virtue of [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 258(5)**

**Modifications etc. (not altering text)**

**C19** Sch. 18 paras. 31-34 applied (with modifications) (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Lloyds Underwriters \(Tax\) Regulations 2005 \(S.I. 2005/3338\)](#), regs. 1(1), 5

**C21** Sch. 18 paras. 31A-31D applied (8.4.2010) by [Finance Act 2010 \(c. 13\)](#), **Sch. 1 para. 23(5)(d)**

*Withdrawal of notice of referral*

31B (1) [<sup>F230</sup>An officer of Revenue and Customs] or the company may withdraw a notice of referral under paragraph 31A <sup>F313</sup> ...

<sup>F314</sup>(2) .....

**Textual Amendments**

**F230** Words in Sch. 18 substituted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), s. 53(1), **Sch. 4 para. 68(a)**; S.I. 2005/1126, art. 2(2)(h)

**F313** Words in Sch. 18 para. 31B(1) omitted (1.4.2009) by virtue of [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 259(2)**

**F314** Sch. 18 para. 31B(2) omitted (1.4.2009) by virtue of [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 259(3)**

**Modifications etc. (not altering text)**

**C19** Sch. 18 paras. 31-34 applied (with modifications) (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Lloyds Underwriters \(Tax\) Regulations 2005 \(S.I. 2005/3338\)](#), regs. 1(1), 5

**C21** Sch. 18 paras. 31A-31D applied (8.4.2010) by [Finance Act 2010 \(c. 13\)](#), **Sch. 1 para. 23(5)(d)**

*Effect of referral on enquiry*

31C (1) While proceedings on a referral under paragraph 31A are in progress in relation to an enquiry—

- (a) no closure notice shall be given in relation to the enquiry, and
- (b) no application may be made for a direction to give such a notice.

(2) For the purposes of this paragraph proceedings on a referral are in progress where—

- (a) notice of referral has been given,
- (b) the notice has not been withdrawn, and
- (c) the questions referred have not been finally determined.

(3) For the purposes of sub-paragraph (2)(c) a question referred is finally determined when—

- (a) it has been determined by the [<sup>F315</sup>tribunal], and
- (b) there is no further possibility of that determination being varied or set aside (disregarding any power to grant permission to appeal out of time).

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#### Textual Amendments

**F315** Word in Sch. 18 para. 31C(3)(a) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 260**

#### Modifications etc. (not altering text)

**C19** Sch. 18 paras. 31-34 applied (with modifications) (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Lloyds Underwriters \(Tax\) Regulations 2005 \(S.I. 2005/3338\)](#), regs. 1(1), 5

**C21** Sch. 18 paras. 31A-31D applied (8.4.2010) by [Finance Act 2010 \(c. 13\)](#), **Sch. 1 para. 23(5)(d)**

#### *Effect of determination*

- 31D (1) The determination of a question referred to the [<sup>F316</sup>tribunal] under paragraph 31A is binding on the parties to the referral in the same way, and to the same extent, as a decision on a preliminary issue in an appeal.
- (2) The determination shall be taken into account by [<sup>F230</sup>an officer of Revenue and Customs] in reaching [<sup>F279</sup>his] conclusions on the enquiry.
- (3) Any right of appeal under paragraph 30 or 34(3) may not be exercised so as to reopen the question determined except to the extent (if any) that it could be reopened if it had been determined as a preliminary issue in that appeal.]

#### Textual Amendments

**F230** Words in Sch. 18 substituted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), s. 53(1), **Sch. 4 para. 68(a)**; S.I. 2005/1126, art. 2(2)(h)

**F279** Words in Sch. 18 substituted (18.4.2005) by virtue of [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), s. 53(1), **Sch. 4 para. 68(c)**; S.I. 2005/1126, art. 2(2)(h)

**F316** Word in Sch. 18 para. 31D(1) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 261**

#### Modifications etc. (not altering text)

**C19** Sch. 18 paras. 31-34 applied (with modifications) (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Lloyds Underwriters \(Tax\) Regulations 2005 \(S.I. 2005/3338\)](#), regs. 1(1), 5

**C21** Sch. 18 paras. 31A-31D applied (8.4.2010) by [Finance Act 2010 \(c. 13\)](#), **Sch. 1 para. 23(5)(d)**

#### *Completion of enquiry*

- 32 (1) An enquiry is completed when [<sup>F230</sup>an officer of Revenue and Customs] by notice (a “closure notice”) [<sup>F279</sup>informs] the company [<sup>F279</sup>he has] completed [<sup>F279</sup>his] enquiry and [<sup>F279</sup>states his] conclusions.

The notice takes effect when it is issued.

- (2) If [<sup>F230</sup>an officer of Revenue and Customs][<sup>F279</sup>concludes] that the return was a return for the wrong period, the closure notice must designate the accounting period for which a return should have been made (specifying the dates on which the period begins and ends).



*Status: Point in time view as at 19/07/2011.*

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- (3) If there is more than one accounting period ending in or at the end of the period specified in the notice requiring a return, the closure notice shall only designate the first of those accounting periods for which no return has been delivered.

Paragraph 35 provides for a return to be delivered for any other outstanding accounting period.

#### Textual Amendments

**F230** Words in Sch. 18 substituted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), s. 53(1), [Sch. 4 para. 68\(a\)](#); S.I. 2005/1126, art. 2(2)(h)

**F279** Words in Sch. 18 substituted (18.4.2005) by virtue of [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), s. 53(1), [Sch. 4 para. 68\(c\)](#); S.I. 2005/1126, art. 2(2)(h)

#### Modifications etc. (not altering text)

**C19** Sch. 18 paras. 31-34 applied (with modifications) (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Lloyds Underwriters \(Tax\) Regulations 2005 \(S.I. 2005/3338\)](#), regs. 1(1), [5](#)

**C22** Sch. 18 para. 32(1) applied (8.4.2010) by [Finance Act 2010 \(c. 13\)](#), [Sch. 1 para. 23\(5\)\(e\)](#)

#### *Direction to complete enquiry*

- 33 (1) The company may apply to the [<sup>F317</sup>tribunal] for a direction that [<sup>F230</sup>an officer of Revenue and Customs] give a closure notice within a specified period.
- [<sup>F318</sup>(2) Any such application is to be subject to the relevant provisions of Part 5 of the Taxes Management Act 1970 (see, in particular, section 48(2)(b) of that Act).]
- (3) The [<sup>F319</sup>tribunal] shall give a direction unless <sup>F320</sup>... satisfied that [<sup>F230</sup>an officer of Revenue and Customs][<sup>F279</sup>has] reasonable grounds for not giving a closure notice within a specified period.

#### Textual Amendments

**F230** Words in Sch. 18 substituted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), s. 53(1), [Sch. 4 para. 68\(a\)](#); S.I. 2005/1126, art. 2(2)(h)

**F279** Words in Sch. 18 substituted (18.4.2005) by virtue of [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), s. 53(1), [Sch. 4 para. 68\(c\)](#); S.I. 2005/1126, art. 2(2)(h)

**F317** Word in Sch. 18 para. 33(1) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), [Sch. 1 para. 262\(2\)](#)

**F318** Sch. 18 para. 33(2) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), [Sch. 1 para. 262\(3\)](#)

**F319** Word in Sch. 18 para. 33(3) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), [Sch. 1 para. 262\(4\)\(a\)](#)

**F320** Words in Sch. 18 para. 33(3) omitted (1.4.2009) by virtue of [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), [Sch. 1 para. 262\(4\)\(b\)](#)

#### Modifications etc. (not altering text)

**C19** Sch. 18 paras. 31-34 applied (with modifications) (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Lloyds Underwriters \(Tax\) Regulations 2005 \(S.I. 2005/3338\)](#), regs. 1(1), [5](#)

**C23** Sch. 18 para. 33 applied (8.4.2010) by [Finance Act 2010 \(c. 13\)](#), [Sch. 1 para. 23\(5\)\(f\)](#)

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*Amendment of return after enquiry*

- 34<sup>F321</sup>(1) This paragraph applies where a closure notice is given to a company by an officer.
- (2) The closure notice must—
- (a) state that, in the officer's opinion, no amendment is required of the return that was the subject of the enquiry, or
  - (b) make the amendments of that return that are required—
    - (i) to give effect to the conclusions stated in the notice, and
    - (ii) in the case of a return for the wrong period, to make it a return appropriate to the designated period.
- (2A) The officer may by further notice to the company make any amendments of other company tax returns delivered by the company that are required to give effect to the conclusions stated in the closure notice.]
- (3) An appeal may be brought against <sup>F322</sup>an amendment of a company's return under sub-paragraph (2) or (2A)].
- (4) Notice of appeal must be given—
- (a) in writing,
  - (b) within 30 days after the amendment was notified to the company,
  - (c) to the officer of the Board by whom the <sup>F323</sup>closure notice] was given.
- (5) In this paragraph “the designated period” means the period designated in the closure notice.

**Textual Amendments**

**F321** Sch. 18 para. 34(1)-(2A) substituted for Sch. 18 para. 34(1)(2) (1.4.2010) by [Finance Act 2008 \(c. 9\)](#), [s. 119\(6\)\(13\)](#); [S.I. 2009/405](#), [art. 2](#)

**F322** Words in Sch. 18 para. 34(3) substituted (1.4.2010) by [Finance Act 2008 \(c. 9\)](#), [s. 119\(7\)\(13\)](#); [S.I. 2009/405](#), [art. 2](#)

**F323** Words in Sch. 18 para. 34(4)(c) substituted (1.4.2010) by [Finance Act 2008 \(c. 9\)](#), [s. 119\(8\)\(13\)](#); [S.I. 2009/405](#), [art. 2](#)

**Modifications etc. (not altering text)**

**C19** Sch. 18 paras. 31-34 applied (with modifications) (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Lloyds Underwriters \(Tax\) Regulations 2005 \(S.I. 2005/3338\)](#), [regs. 1\(1\)](#), [5](#)

**C24** Sch. 18 para. 34 applied (8.4.2010) by [Finance Act 2010 \(c. 13\)](#), [Sch. 1 para. 23\(5\)\(g\)](#)

*Further return for outstanding period*

- 35 (1) Where, following an enquiry into a company tax return—
- (a) it is finally determined—
    - (i) that the return is a return for the wrong period, and
    - (ii) what the period is for which the return should have been made, and
  - (b) the effect of the determination is that there is a further period (“the outstanding period”) for which a company tax return should have been made under the original notice requiring a return,

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then, if there is no such return delivered by the company which can be amended so as to become a return for the outstanding period, the original notice shall be taken to require the company to deliver a return in respect of that period.

- (2) The filing date for such a return for an outstanding period is whichever is the later of—
- (a) the original filing date, and
  - (b) the last day of the period of 30 days beginning with the day on which the matters mentioned in sub-paragraph (1)(a) are finally determined.

## PART V

### REVENUE DETERMINATIONS AND ASSESSMENTS

#### *Determination of tax payable if no return delivered in response to notice*

- 36 (1) If no return is delivered in response to a notice requiring a company tax return, [<sup>F230</sup>an officer of Revenue and Customs] may determine to the best of [<sup>F279</sup>his] information and belief the amount of tax payable by the company.
- (2) The power to make a determination under this paragraph becomes exercisable if no return is delivered on or before the following date—
- (a) if the filing date for any return required by the notice can be ascertained, that date;
  - (b) if no such date can be ascertained, the later of—
    - (i) 18 months from the end of the period specified in the notice, or
    - (ii) three months from the day on which the notice was served.
- (3) The accounting period or periods for which a determination may be made are—
- (a) if there is only one accounting period ending in or at the end of the period specified in the notice, that period;
  - (b) if there is more than one accounting period ending in or at the end of the period specified in the notice, each of those periods;
  - (c) if [<sup>F230</sup>an officer of Revenue and Customs][<sup>F279</sup>has] insufficient information to identify the accounting periods of the company, such period or periods ending in or at the end of the period specified in the notice as [<sup>F279</sup>he] may determine.
- (4) Notice of a determination under this paragraph must be served on the company, stating the date on which the determination is issued.
- (5) No determination under this paragraph may be made more than [<sup>F324</sup>3 years] after the day on which the power becomes exercisable.
- (6) If the company shows—
- (a) that there is no accounting period of the company ending in or at the end of the period specified in the notice, or
  - (b) that it has delivered a return for the accounting period, or each accounting period, ending in or at the end of the period specified in the notice, or
  - (c) that no return is yet due for any such period,
- any determination under this paragraph is of no effect.

*Status: Point in time view as at 19/07/2011.*

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#### Textual Amendments

- F230** Words in Sch. 18 substituted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), s. 53(1), [Sch. 4 para. 68\(a\)](#); S.I. 2005/1126, art. 2(2)(h)
- F279** Words in Sch. 18 substituted (18.4.2005) by virtue of [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), s. 53(1), [Sch. 4 para. 68\(c\)](#); S.I. 2005/1126, art. 2(2)(h)
- F324** Words in Sch. 18 para. 36(5) substituted (1.4.2010) by [Finance Act 2008 \(c. 9\)](#), s. 118(2), [Sch. 39 para. 38](#); S.I. 2009/403, art. 2(2) (with art. 10)

#### Modifications etc. (not altering text)

- C25** Sch. 18 para. 36 applied (with modifications) (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Lloyds Underwriters \(Tax\) Regulations 2005 \(S.I. 2005/3338\)](#), regs. 1(1), 6

#### *Determination of tax payable if notice complied with in part*

- 37 (1) If a notice requiring a company tax return is served on a company and—
- (a) a return is delivered for an accounting period ending in or at the end of the period specified in the notice, but
  - (b) there is another period so ending (the “outstanding period”) which appears to <sup>[F230]</sup>an officer of Revenue and Customs] is or may be an accounting period, <sup>[F230]</sup>an officer of Revenue and Customs] may determine to the best of <sup>[F279]</sup>his] information and belief the amount of corporation tax payable by the company for the outstanding period.
- (2) The power to make a determination under this paragraph becomes exercisable—
- (a) if the filing date for the outstanding period can be ascertained and no return is delivered on or before that date;
  - (b) if no such date can be ascertained and no return for that period is delivered by the later of—
    - (i) 30 months from the end of the period specified in the notice, or
    - (ii) three months from the day on which the notice was served.
- (3) Notice of a determination under this paragraph must be served on the company, stating the date on which the determination is issued.
- (4) No determination under this paragraph may be made more than <sup>[F325]</sup>3 years] after the day on which the power first became exercisable.
- (5) If the company shows—
- (a) that the outstanding period is not an accounting period, or
  - (b) that it has delivered a return for that period,
- any determination under this paragraph is of no effect.

#### Textual Amendments

- F230** Words in Sch. 18 substituted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), s. 53(1), [Sch. 4 para. 68\(a\)](#); S.I. 2005/1126, art. 2(2)(h)
- F279** Words in Sch. 18 substituted (18.4.2005) by virtue of [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), s. 53(1), [Sch. 4 para. 68\(c\)](#); S.I. 2005/1126, art. 2(2)(h)

*Status: Point in time view as at 19/07/2011.*

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**F325** Words in Sch. 18 para. 37(4) substituted (1.4.2010) by [Finance Act 2008 \(c. 9\), s. 118\(2\), Sch. 39 para. 39; S.I. 2009/403, art. 2\(2\)](#) (with [art. 10](#))

*Extent of power to make determination*

- 38 (1) The power to make a determination under paragraph 36 or 37 includes power to determine—
- (a) any of the amounts mentioned in paragraph 8(1) (calculation of amount of tax payable), and
  - (b) any amount forming part of the calculation of any of those amounts.
- (2) Notice of a determination under either of those paragraphs may be accompanied by notice of any determination by [<sup>F230</sup>an officer of Revenue and Customs] relating to the dates on which amounts of tax become due and payable under section 59D or 59E of the <sup>M160</sup>Taxes Management Act 1970.

**Textual Amendments**

**F230** Words in Sch. 18 substituted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\), s. 53\(1\), Sch. 4 para. 68\(a\); S.I. 2005/1126, art. 2\(2\)\(h\)](#)

**Marginal Citations**

**M160** 1970 c. 9.

*Determination to have effect as self-assessment*

- 39 (1) A determination under paragraph 36 or 37 has effect for enforcement purposes as if it were a self-assessment by the company.
- (2) In sub-paragraph (1) “for enforcement purposes” means for the purposes of—
- (a) the following Parts of the <sup>M161</sup>Taxes Management Act 1970—
    - Part VA (payment),
    - Part VI (collection and recovery),
    - Part IX (interest on overdue tax), and
    - Part XI (miscellaneous and supplementary provisions);
  - (b) the provisions of this Schedule imposing tax-related penalties; and
  - (c) the provisions of the Corporation Tax Acts enabling unpaid tax assessed on a company to be assessed on other persons.
- (3) For those purposes the period for which the determination is made shall be treated as an accounting period of the company, even though—
- (a) in the case of a determination under paragraph 36, [<sup>F230</sup>an officer of Revenue and Customs][<sup>F279</sup>has] insufficient information to determine the accounting periods of the company and [<sup>F279</sup>exercises his] power under sub-paragraph (3)(c) of that paragraph, or

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- (b) in the case of a determination under paragraph 37, [<sup>F230</sup>an officer of Revenue and Customs][<sup>F279</sup>has] insufficient information to determine whether the outstanding period is an accounting period.

#### Textual Amendments

**F230** Words in Sch. 18 substituted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), s. 53(1), [Sch. 4 para. 68\(a\)](#); S.I. 2005/1126, art. 2(2)(h)

**F279** Words in Sch. 18 substituted (18.4.2005) by virtue of [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), s. 53(1), [Sch. 4 para. 68\(c\)](#); S.I. 2005/1126, art. 2(2)(h)

#### Marginal Citations

**M161** 1970 c. 9.

#### *Determination superseded by actual self-assessment*

- 40 (1) If after a determination has been made under paragraph 36—
- (a) the company delivers a company tax return for a period ending in or at the end of the period specified in the notice requiring a company tax return, and
  - (b) the period is, or is treated in the return as, an accounting period,
- the self-assessment included in that return supersedes the determination or, if there is more than one, the determination for the period which is, or most closely approximates to, the period for which the return is made.
- (2) If after a determination has been made under paragraph 37—
- (a) the company delivers a further company tax return for a period ending in or at the end of the period specified in the notice requiring a company tax return, and
  - (b) the period is, or is treated in the return as, an accounting period,
- the self-assessment included in that return supersedes the determination.
- (3) Sub-paragraphs (1) and (2) do not apply to a return made—
- (a) more than [<sup>F326</sup>3 years] after the day on which the power to make the determination first became exercisable (see paragraph 36(2) or 37(2)), or
  - (b) more than twelve months after the date of the determination,
- whichever is the later.
- (4) Where—
- (a) [<sup>F327</sup>proceedings have been begun] for the recovery of any tax charged by a determination under paragraph 36 or 37, and
  - (b) before the proceedings are concluded the determination is superseded by a self-assessment,
- the proceedings may be continued as if they were proceedings for the recovery of so much of the tax charged by the self-assessment as is due and payable and has not been paid.

#### Textual Amendments

**F326** Words in Sch. 18 para. 40(3) substituted (1.4.2010) by [Finance Act 2008 \(c. 9\)](#), s. 118(2), [Sch. 39 para. 40](#); S.I. 2009/403, art. 2(2) (with art. 10)

*Status: Point in time view as at 19/07/2011.*

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**F327** Words in Sch. 18 para. 40(4) substituted (11.5.2001 with application as mentioned in Sch. 29 para 17(3) of the amending Act) by 2001 c. 9, s. 88, **Sch. 29 para. 17(2)**

**Modifications etc. (not altering text)**

**C26** Sch. 18 para. 40 applied (with modifications) (with effect in accordance with reg. 1(2) of the amending S.I.) by **The Lloyds Underwriters (Tax) Regulations 2005 (S.I. 2005/3338)**, regs. 1(1), **6**

*Assessment where loss of tax discovered or  
determination of amount discovered to be incorrect*

- 41 (1) If [<sup>F230</sup>an officer of Revenue and Customs][<sup>F279</sup>discovers] as regards an accounting period of a company that—
- (a) an amount which ought to have been assessed to tax has not been assessed, or
  - (b) an assessment to tax is or has become insufficient, or
  - (c) relief has been given which is or has become excessive,
- [<sup>F279</sup>he] may make an assessment (a “discovery assessment”) in the amount or further amount which ought in [<sup>F279</sup>his] opinion to be charged in order to make good to the Crown the loss of tax.
- (2) If [<sup>F230</sup>an officer of Revenue and Customs][<sup>F279</sup>discovers] that a company tax return delivered by a company for an accounting period incorrectly states—
- (a) an amount that affects, or may affect, the tax payable by that company for another accounting period, or
  - (b) an amount that affects, or may affect, the tax liability of another company,
- [<sup>F279</sup>he] may make a determination (a “discovery determination”) of the amount which in [<sup>F279</sup>his] opinion ought to have been stated in the return.

**Textual Amendments**

**F230** Words in Sch. 18 substituted (18.4.2005) by **Commissioners for Revenue and Customs Act 2005 (c. 11)**, s. 53(1), **Sch. 4 para. 68(a)**; S.I. 2005/1126, art. 2(2)(h)

**F279** Words in Sch. 18 substituted (18.4.2005) by virtue of **Commissioners for Revenue and Customs Act 2005 (c. 11)**, s. 53(1), **Sch. 4 para. 68(c)**; S.I. 2005/1126, art. 2(2)(h)

**Modifications etc. (not altering text)**

**C27** Sch. 18 para. 41(2)-44 applied (with modifications) (with effect in accordance with reg. 1(2) of the amending S.I.) by **The Lloyds Underwriters (Tax) Regulations 2005 (S.I. 2005/3338)**, regs. 1(1), **7**

*Restrictions on power to make discovery assessment or determination*

- 42 (1) The power to make—
- (a) a discovery assessment for an accounting period for which the company has delivered a company tax return, or
  - (b) a discovery determination,
- is only exercisable in the circumstances specified in paragraph 43 or 44 and subject to paragraph 45 below.



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- (2) Those restrictions do not apply to an assessment or determination which only gives effect to a discovery determination duly made with respect to an amount stated in another company's company tax return.
- [<sup>F328</sup>(2A) Those restrictions, other than the restriction in paragraph 45, do not apply so far as regards any income or chargeable gains of the company in relation to which the company has been given, after any enquiries have been completed into the return, a notice [<sup>F329</sup>within sub-paragraph (4).]]
- (3) Any objection to a discovery assessment or determination on the ground that those paragraphs have not been complied with can only be made on an appeal against the assessment or determination.
- [<sup>F330</sup>(4) A notice is within this sub-paragraph if it is—
- (a) a notice under section 184G or 184H of the Taxation of Chargeable Gains Act 1992 (avoidance involving capital losses),
  - (b) a notice under section 81(2) of TIOPA 2010 (schemes and arrangements designed to increase relief), or
  - (c) a notice under section 232 or 249 of TIOPA 2010 (avoidance involving tax arbitrage).]

#### Textual Amendments

- F328** Sch. 18 para. 42(2A) inserted (with effect in accordance with s. 88(5) of the amending Act) by [Finance Act 2005 \(c. 7\), s. 88\(4\)](#)
- F329** Words in Sch. 18 para. 42(2A) substituted (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\), s. 381\(1\), Sch. 8 para. 321\(4\)](#) (with [Sch. 9 paras. 1-9, 22](#))
- F330** Sch. 18 para. 42(4) inserted (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\), s. 381\(1\), Sch. 8 para. 321\(5\)](#) (with [Sch. 9 paras. 1-9, 22](#))

#### Modifications etc. (not altering text)

- C27** Sch. 18 para. 41(2)-44 applied (with modifications) (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Lloyds Underwriters \(Tax\) Regulations 2005 \(S.I. 2005/3338\), regs. 1\(1\), 7](#)

*[<sup>F331</sup>Loss of tax brought about carelessly or deliberately]*

#### Textual Amendments

- F331** Sch. 18 para. 43 cross-heading substituted (1.4.2010) by [Finance Act 2008 \(c. 9\), s. 118\(2\), Sch. 39 para. 41\(3\)](#); [S.I. 2009/403, art. 2\(2\)](#) (with [art. 10](#))

- 43 A discovery assessment for an accounting period for which the company has delivered a company tax return, or a discovery determination, may be made if the situation mentioned in paragraph 41(1) or (2) [<sup>F332</sup>was brought about carelessly or deliberately by]—
- (a) the company, or
  - (b) a person acting on behalf of the company, or
  - (c) a person who was a partner of the company at the relevant time.



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#### Textual Amendments

**F332** Words in Sch. 18 para. 43 substituted (1.4.2010) by [Finance Act 2008 \(c. 9\), s. 118\(2\), Sch. 39 para. 41\(2\)](#); [S.I. 2009/403, art. 2\(2\)](#) (with [art. 10](#))

#### Modifications etc. (not altering text)

**C27** Sch. 18 para. 41(2)-44 applied (with modifications) (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Lloyds Underwriters \(Tax\) Regulations 2005 \(S.I. 2005/3338\), regs. 1\(1\), 7](#)

*Situation not disclosed by return or related documents etc.*

- 44 (1) A discovery assessment for an accounting period for which the company has delivered a company tax return, or a discovery determination, may be made if at the time when [<sup>F230</sup>an officer of Revenue and Customs]—
- (a) ceased to be entitled to give a notice of enquiry into the return, or
  - (b) completed [<sup>F279</sup>his] enquiries into the return,
- [<sup>F279</sup>he] could not have been reasonably expected, on the basis of the information made available to [<sup>F279</sup>him] before that time, to be aware of the situation mentioned in paragraph 41(1) or (2).
- (2) For this purpose information is regarded as made available to [<sup>F230</sup>an officer of Revenue and Customs] if—
- (a) it is contained in a relevant return by the company or in documents accompanying any such return, or
  - (b) it is contained in a relevant claim made by the company or in any accounts, statements or documents accompanying any such claim, or
  - (c) it is contained in any documents, accounts or information produced or provided by the company to [<sup>F230</sup>an officer of Revenue and Customs] for the purposes of an enquiry into any such return or claim, or
  - (d) it is information the existence of which, and the relevance of which as regards the situation mentioned in paragraph 41(1) or (2)—
    - (i) could reasonably be expected to be inferred by [<sup>F230</sup>an officer of Revenue and Customs] from information falling within paragraphs (a) to (c) above, or
    - (ii) are notified in writing to [<sup>F230</sup>an officer of Revenue and Customs] by the company or a person acting on its behalf.
- (3) In sub-paragraph (2)—
- “relevant return” means the company’s company tax return for the period in question or either of the two immediately preceding accounting periods, and
- “relevant claim” means a claim made by or on behalf of the company as regards the period in question [<sup>F333</sup>or an application under section 751A of the Taxes Act 1988 made by or on behalf of the company which affects the company’s tax return for the period in question].

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### Textual Amendments

- F230** Words in Sch. 18 substituted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), s. 53(1), [Sch. 4 para. 68\(a\)](#); S.I. 2005/1126, art. 2(2)(h)
- F279** Words in Sch. 18 substituted (18.4.2005) by virtue of [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), s. 53(1), [Sch. 4 para. 68\(c\)](#); S.I. 2005/1126, art. 2(2)(h)
- F333** Words in Sch. 18 para. 44(3) inserted (with effect in accordance with Sch. 15 para. 10 of the amending Act) by [Finance Act 2007 \(c. 11\)](#), [Sch. 15 para. 9](#)

### Modifications etc. (not altering text)

- C27** Sch. 18 para. 41(2)-44 applied (with modifications) (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Lloyds Underwriters \(Tax\) Regulations 2005 \(S.I. 2005/3338\)](#), regs. 1(1), 7
- C28** Sch. 18 para. 44(2)(3) applied by [Taxation of Chargeable Gains Act 1992 \(c. 12\)](#), s. 184I(6) (as inserted by [Finance Act 2006 \(c. 25\)](#), s. 71(1)(4))
- C29** Sch. 18 para. 44(2)(3) applied (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\)](#), ss. 256(5), 381(1) (with [Sch. 9 paras. 1-9, 22](#))

### *Return made in accordance with prevailing practice*

- 45 No discovery assessment for an accounting period for which the company has delivered a company tax return, or discovery determination, may be made if—
- (a) the situation mentioned in paragraph 41(1) or (2) is attributable to a mistake in the return as to the basis on which the company's liability ought to have been computed, and
  - (b) the return was in fact made on the basis or in accordance with the practice generally prevailing at the time when it was made.

### *General time limits for assessments*

- 46 (1) Subject to any provision of the Taxes Acts allowing a longer period in any particular class of case no assessment may be made more than [<sup>F334</sup>4 years] after the end of the accounting period to which it relates.
- [<sup>F335</sup>(2) An assessment in a case involving a loss of tax brought about carelessly by the company (or a related person) may be made at any time not more than 6 years after the end of the accounting period to which it relates (subject to sub-paragraph (2A) and to any other provision of the Taxes Acts allowing a longer period).
- (2A) An assessment in a case involving a loss of tax—
- (a) brought about deliberately by the company (or a related person),
  - (b) attributable to a failure by the company to comply with an obligation under paragraph 2, or
  - (c) attributable to arrangements in respect of which the company has failed to comply with an obligation under section 309, 310 or 313 of the Finance Act 2004 (obligation of parties to tax avoidance schemes to provide information to Her Majesty's Revenue and Customs),
- may be made at any time not more than 20 years after the end of the accounting period to which it relates (subject to any provision of the Taxes Acts allowing a longer period).
- (2B) In this paragraph “related person”, in relation to a company, means—

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- (a) a person acting on behalf of the company, or
  - (b) a person who was a partner of the company at the relevant time.]
- (3) Any objection to the making of an assessment on the ground that the time limit for making it has expired can only be made on an appeal against the assessment.

#### Textual Amendments

- F334** Words in Sch. 18 para. 46(1) substituted (1.4.2010) by [Finance Act 2008 \(c. 9\)](#), s. 118(2), [Sch. 39 para. 42\(2\)](#); [S.I. 2009/403](#), art. 2(2) (with art. 10)
- F335** Sch. 18 para. 46(2)-(2B) substituted for Sch. 18 para. 46(2) (1.4.2010) by [Finance Act 2008 \(c. 9\)](#), s. 118(2), [Sch. 39 para. 42\(3\)](#); [S.I. 2009/403](#), art. 2(2) (with arts. 8, 10)

#### Modifications etc. (not altering text)

- C30** Sch. 18 paras. 46-49 applied (with modifications) (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Lloyds Underwriters \(Tax\) Regulations 2005 \(S.I. 2005/3338\)](#), regs. 1(1), 7
- C31** Sch. 18 para. 46(2)(3) applied (28.7.2000 with application as mentioned in s. 63(4) of the amending Act) by [2000 c. 17](#), s. 63(1), [Sch. 15 Pt. VI para. 62\(3\)](#)
- C32** Sch. 18 para. 46(2) modified (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Lloyds Underwriters \(Tax\) Regulations 2005 \(S.I. 2005/3338\)](#), regs. 1(1), 11

#### Assessment procedure

- 47 (1) Notice of an assessment to tax on a company must be served on the company stating—
- (a) the date on which the notice is issued, and
  - (b) the time within which any appeal against the assessment may be made.
- (2) After that notice has been served on the company, the assessment may not be altered except in accordance with the express provisions of the Taxes Acts.

#### Modifications etc. (not altering text)

- C30** Sch. 18 paras. 46-49 applied (with modifications) (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Lloyds Underwriters \(Tax\) Regulations 2005 \(S.I. 2005/3338\)](#), regs. 1(1), 7

#### Appeal against assessment

- 48 (1) An appeal may be brought against any assessment to tax on a company which is not a self-assessment.
- (2) Notice of appeal must be given—
- (a) in writing,
  - (b) within 30 days after notice of the assessment was issued,
  - (c) to the officer of the Board by whom the notice of the assessment was given.

#### Modifications etc. (not altering text)

- C30** Sch. 18 paras. 46-49 applied (with modifications) (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Lloyds Underwriters \(Tax\) Regulations 2005 \(S.I. 2005/3338\)](#), regs. 1(1), 7

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- C33** Sch. 18 para. 48 modified (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Lloyds Underwriters \(Tax\) Regulations 2005 \(S.I. 2005/3338\)](#), regs. 1(1), **10**

*Application of provisions to discovery determinations*

- 49 The provisions of paragraphs 46 to 48 (assessments: general provisions as to time limits, procedure and appeals) apply to a discovery determination as they apply to an assessment.

**Modifications etc. (not altering text)**

- C30** Sch. 18 paras. 46-49 applied (with modifications) (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Lloyds Underwriters \(Tax\) Regulations 2005 \(S.I. 2005/3338\)](#), regs. 1(1), **7**

## PART VI

### [<sup>F336</sup>OVERPAID TAX,] EXCESSIVE ASSESSMENTS OR REPAYMENTS, ETC

**Textual Amendments**

- F336** Words in Sch. 18 Pt. VI heading inserted (with effect in accordance with s. 100(2) of the amending Act) by [Finance Act 2009 \(c. 10\)](#), **Sch. 52 para. 14**

*Relief in case of double assessment*

- 50 (1) A company which believes it has been assessed to tax more than once for the same cause and for the same accounting period may make a claim for relief—
- (a) by notice in writing,
  - (b) given to the Board.
- (2) If on a claim being made the Board are satisfied that the company has been assessed to tax more than once for the same cause and for the same accounting period, they shall amend the assessment or assessments concerned, or give relief by way of discharge or repayment of tax or otherwise, so as to eliminate the double charge.
- [<sup>F337</sup>(3) An appeal may be brought against the Board's decision on a claim for relief under this paragraph.]

**Textual Amendments**

- F337** Sch. 18 para. 50(3) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 263**

**Modifications etc. (not altering text)**

- C34** Sch. 18 paras. 50-50G applied (with modifications) (8.4.2010) by [Finance Act 2010 \(c. 13\)](#), **Sch. 1 paras. 31, 33**

*Status: Point in time view as at 19/07/2011.*

*Changes to legislation: Finance Act 1998 is up to date with all changes known to be in force on or before 18 October 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

*[<sup>F338</sup>Claim for relief for overpaid tax etc*

**Textual Amendments**

**F338** Sch. 18 paras. 51-51G and cross-headings substituted for Sch. 18 para. 51 (with effect in accordance with s. 100(2) of the amending Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 52 para. 13](#)

- 51 (1) This paragraph applies where—
- (a) a person has paid an amount by way of tax but believes that the tax was not due, or
  - (b) a person has been assessed as liable to pay an amount by way of tax, or there has been a determination or direction to that effect, but the person believes that the tax is not due.
- (2) The person may make a claim to the Commissioners for Her Majesty's Revenue and Customs for repayment or discharge of the amount.
- (3) Paragraph 51A makes provision about cases in which the Commissioners for Her Majesty's Revenue and Customs are not liable to give effect to a claim under this paragraph.
- (4) The following make further provision about making and giving effect to claims under this paragraph—
- (a) paragraphs 51B to 51F and Part 7 of this Schedule, and
  - (b) Schedule 1A to the Taxes Management Act 1970 (which is applied by that Part).
- (5) Paragraph 51G makes provision about the application of this paragraph and paragraphs 51A to 51F to amounts paid under contract settlements.
- (6) The Commissioners for Her Majesty's Revenue and Customs are not liable to give relief in respect of a case described in sub-paragraph (1)(a) or (b) except as provided—
- (a) by this Schedule and Schedule 1A to the Taxes Management Act 1970 (following a claim under this paragraph), or
  - (b) by or under another provision of the Corporation Tax Acts.
- (7) For the purposes of this paragraph and paragraphs 51A to 51G, an amount paid by one person on behalf of another is treated as paid by the other person.

**Modifications etc. (not altering text)**

- C34** Sch. 18 paras. 50-50G applied (with modifications) (8.4.2010) by [Finance Act 2010 \(c. 13\)](#), [Sch. 1 paras. 31, 33](#)
- C35** Sch. 18 para. 51 applied (with modifications) (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Lloyds Underwriters \(Tax\) Regulations 2005 \(S.I. 2005/3338\)](#), [regs. 1\(1\), 8](#)

*Cases in which Commissioners not liable to give effect to a claim*

- 51A (1) The Commissioners for Her Majesty's Revenue and Customs are not liable to give effect to a claim under paragraph 51 if or to the extent that the claim falls within a case described in this paragraph (see also [<sup>F339</sup>paragraphs 51BA and 51C(5)]).

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- (2) Case A is where the amount paid, or liable to be paid, is excessive by reason of—
  - (a) a mistake in a claim, election or a notice,
  - (b) a mistake consisting of making or giving, or failing to make or give, a claim, election or notice,
  - (c) a mistake in allocating expenditure to a pool for the purposes of the Capital Allowances Act or a mistake consisting of making, or failing to make, such an allocation, or
  - (d) a mistake in bringing a disposal value into account for the purposes of that Act or a mistake consisting of bringing, or failing to bring, such a value into account.
- (3) Case B is where the claimant is or will be able to seek relief by taking other steps under the Corporation Tax Acts.
- (4) Case C is where the claimant—
  - (a) could have sought relief by taking such steps within a period that has now expired, and
  - (b) knew, or ought reasonably to have known, before the end of that period that such relief was available.
- (5) Case D is where the claim is made on grounds that—
  - (a) have been put to a court or tribunal in the course of an appeal by the claimant relating to the amount paid or liable to be paid, or
  - (b) have been put to Her Majesty's Revenue and Customs in the course of an appeal by the claimant relating to that amount that is treated as having been determined by a tribunal (by virtue of section 54 of the Taxes Management Act 1970 (settling of appeals by agreement)).
- (6) Case E is where the claimant knew, or ought reasonably to have known, of the grounds for the claim before the latest of the following—
  - (a) the date on which an appeal by the claimant relating to the amount paid, or liable to be paid, in the course of which the ground could have been put forward (a “relevant appeal”) was determined by a court or tribunal (or is treated as having been so determined),
  - (b) the date on which the claimant withdrew a relevant appeal to a court or tribunal, and
  - (c) the end of the period in which the claimant was entitled to make a relevant appeal to a court or tribunal.
- (7) Case F is where the amount in question was paid or is liable to be paid—
  - (a) in consequence of proceedings enforcing the payment of that amount brought against the claimant by Her Majesty's Revenue and Customs, or
  - (b) in accordance with an agreement between the claimant and Her Majesty's Revenue and Customs settling such proceedings.
- (8) Case G is where—
  - (a) the amount paid, or liable to be paid, is excessive by reason of a mistake in calculating the claimant's liability to corporation tax, and
  - (b) liability was calculated in accordance with the practice generally prevailing at the time.

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#### Textual Amendments

**F339** Words in Sch. 18 para. 51A(1) substituted (with effect in accordance with art. 5 of the amending S.I.) by [The Enactment of Extra-Statutory Concessions Order 2011 \(S.I. 2011/1037\)](#), arts. 1, **3(2)**

#### Modifications etc. (not altering text)

**C34** Sch. 18 paras. 50-50G applied (with modifications) (8.4.2010) by [Finance Act 2010 \(c. 13\)](#), **Sch. 1 paras. 31, 33**

#### *Making a claim*

- 51B (1) A claim under paragraph 51 may not be made more than 4 years after the end of the relevant accounting period.
- (2) In relation to a claim made in reliance on paragraph 51(1)(a), the relevant accounting period is—
- where the amount paid, or liable to be paid, is excessive by reason of a mistake in a company tax return or returns, the accounting period to which the return (or, if more than one, the first return) relates, and
  - otherwise, the accounting period in respect of which the amount was paid.
- (3) In relation to a claim made in reliance on paragraph 51(1)(b), the relevant accounting period is the accounting period to which the assessment, determination or direction relates.
- (4) A claim under paragraph 51 may not be made by being included in a company tax return.

[<sup>F340</sup>(5) Sub-paragraph (1) is subject to paragraph 51BA.]

#### Textual Amendments

**F340** Sch. 18 para. 51B(5) inserted (with effect in accordance with art. 5 of the amending S.I.) by [The Enactment of Extra-Statutory Concessions Order 2011 \(S.I. 2011/1037\)](#), arts. 1, **3(3)**

#### Modifications etc. (not altering text)

**C34** Sch. 18 paras. 50-50G applied (with modifications) (8.4.2010) by [Finance Act 2010 \(c. 13\)](#), **Sch. 1 paras. 31, 33**

#### *[<sup>F341</sup>Determinations under paragraphs 36 and 37: special rules*

#### Textual Amendments

**F341** Sch. 18 para. 51BA and cross-heading inserted (with effect in accordance with arts. 4, 5 of the amending S.I.) by [The Enactment of Extra-Statutory Concessions Order 2011 \(S.I. 2011/1037\)](#), arts. 1, **3(4)**

- 51BA.(1) This paragraph applies where—
- a determination has been made under paragraph 36 or 37 of an amount that a person is liable to pay by way of tax, but the person believes the tax is not due or, if it has been paid, was not due,

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- (b) relief would be available under paragraph 51 but for the fact that—
    - (i) the claim falls within Case C (see paragraph 51A(4)),
    - (ii) the claim falls within Case F(a) (see paragraph 51A(7)(a)), or
    - (iii) more than 4 years have elapsed since the end of the relevant accounting period (see paragraph 51B(1)), and
  - (c) if the claim falls within Case F(a), the person was neither present nor legally represented during the enforcement proceedings in question.
- (2) A claim under paragraph 51 for repayment or discharge of the amount may be made, and effect given to it, despite paragraph 51A(4), paragraph 51A(7)(a) or paragraph 51B(1), as the case may be.
- (3) But the Commissioners for Her Majesty’s Revenue and Customs are not liable to give effect to a claim made in reliance on this paragraph unless conditions A, B and C are met.
- (4) Condition A is that in the opinion of the Commissioners for Her Majesty’s Revenue and Customs it would be unconscionable for the Commissioners for Her Majesty’s Revenue and Customs to seek to recover the amount (or to withhold repayment of it, if it has already been paid).
- (5) Condition B is that the person’s affairs (as respects matters concerning the Commissioners for Her Majesty’s Revenue and Customs) are otherwise up to date or arrangements have been put in place, to the satisfaction of the Commissioners for Her Majesty’s Revenue and Customs, to bring them up to date so far as possible.
- (6) Condition C is that either—
- (a) the person has not relied on this paragraph on a previous occasion (whether or not in respect of the same determination), or
  - (b) the person has done so, but in the exceptional circumstances of the case should be allowed to do so again on the present occasion.
- (7) For the purposes of sub-paragraph (6)—
- (a) a person has relied on this paragraph on a previous occasion if the person has made a claim (or a composite set of claims involving one or more determinations and accounting periods) in reliance on this paragraph on a previous occasion, and
  - (b) it does not matter whether that claim (or set of claims) succeeded.
- (8) A claim made in reliance on this paragraph must include (in addition to anything required by Schedule 1A to the Taxes Management Act 1970) such information and documentation as is reasonably required for the purpose of determining whether conditions A, B and C are met.]

*The claimant: one person accountable for amounts payable by another*

- 51C (1) Sub-paragraph (2) applies where a person (“P”) is accountable to the Commissioners for Her Majesty’s Revenue and Customs under a relevant enactment for an amount that has been or is to be set off against a liability of another person (“T”) under a relevant enactment.
- (2) A claim under paragraph 51 in respect of the amount may be made only by T.
- (3) Sub-paragraph (4) applies where—



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- (a) a person (“P”) has paid an amount described in sub-paragraph (1) in the belief that P was accountable to the Commissioners for the amount under a relevant enactment, but
  - (b) P was not so accountable.
- (4) A claim under paragraph 51 in respect of the amount may be made only by P.
- (5) The Commissioners for Her Majesty's Revenue and Customs are not liable to give effect to a claim under sub-paragraph (4) if or to the extent that the amount has been repaid to T or set against amounts payable to the Commissioners by T.
- (6) “Relevant enactment” means—
- (a) Chapter 3 of Part 3 of the Finance Act 2004 or regulations under that Chapter (construction industry scheme), or
  - (b) any other provision of or made under the Taxes Acts.

**Modifications etc. (not altering text)**

**C34** Sch. 18 paras. 50-50G applied (with modifications) (8.4.2010) by [Finance Act 2010 \(c. 13\)](#), [Sch. 1 paras. 31, 33](#)

*The claimant: partnerships*

- 51D (1) This paragraph applies where—
- (a) a trade, profession or business is carried on by two or more persons in partnership,
  - (b) an amount is paid, or liable to be paid, by one or more of those persons in accordance with a self-assessment, and
  - (c) the amount is excessive by reason of a mistake in a partnership return.
- (2) A claim under paragraph 51 in respect of the amount—
- (a) may be made by the relevant partner nominated to make the claim by all of the relevant partners, and
  - (b) may not be made by any other person.
- (3) In relation to such a claim, references in paragraphs 51A to 51F to the claimant are to any of the relevant partners.
- (4) “Relevant partner” means—
- (a) a person who was a partner in the partnership at any time during the period in respect of which the partnership return was made, or
  - (b) the personal representative of such a person.

**Modifications etc. (not altering text)**

**C34** Sch. 18 paras. 50-50G applied (with modifications) (8.4.2010) by [Finance Act 2010 \(c. 13\)](#), [Sch. 1 paras. 31, 33](#)

*Assessment of claimant in connection with claim*

- 51E (1) This paragraph applies where—

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- (a) a claim is made under paragraph 51,
  - (b) the grounds for giving effect to the claim also provide grounds for a discovery assessment or discovery determination on the claimant in respect of any accounting period, and
  - (c) such an assessment or determination could be made but for a relevant restriction.
- (2) The following are relevant restrictions—
- (a) the restrictions in paragraphs 42 to 45, and
  - (b) the expiry of a time limit for making a discovery assessment or discovery determination.
- (3) Where this paragraph applies—
- (a) the relevant restrictions are to be disregarded, and
  - (b) the discovery assessment or discovery determination is not out of time if it is made before the final determination of the claim.
- (4) A claim is not finally determined until it, or the amount to which it relates, can no longer be varied (whether on appeal or otherwise).

**Modifications etc. (not altering text)**

**C34** Sch. 18 paras. 50-50G applied (with modifications) (8.4.2010) by [Finance Act 2010 \(c. 13\)](#), [Sch. 1 paras. 31, 33](#)

*Amendment of partnership return etc in connection with claim*

- 51F (1) This paragraph applies where—
- (a) a claim is made under paragraph 51,
  - (b) the claimant is one of two or more persons carrying on a trade, profession or business in partnership,
  - (c) the grounds for giving effect to the claim also provide grounds for amending, under section 30B(1) of the Taxes Management Act 1970 (discovery of loss of tax from partnership), a return made by the partnership or any of the partners in respect of any period, and
  - (d) such an amendment could be made but for a relevant restriction.
- (2) The following are relevant restrictions—
- (a) the conditions in section 30B(4) to (6) of the Taxes Management Act 1970, and
  - (b) the expiry of a time limit for making an assessment under that section.
- (3) Where this paragraph applies—
- (a) the relevant conditions are to be disregarded, and
  - (b) the amendment is not out of time if it is made before the final determination of the claim.
- (4) A claim is not finally determined until it, or the amount to which it relates, can no longer be varied (whether on appeal or otherwise).

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**Modifications etc. (not altering text)**

C34 Sch. 18 paras. 50-50G applied (with modifications) (8.4.2010) by [Finance Act 2010 \(c. 13\)](#), [Sch. 1 paras. 31, 33](#)

*Contract settlements*

- 51G (1) In paragraph 51(1)(a) the reference to an amount paid by a company by way of tax includes an amount paid by a person under a contract settlement in connection with tax believed to be due.
- (2) Sub-paragraphs (3) to (6) apply if the person who paid the amount under the contract settlement (“the payer”) and the person from whom the tax was due (“the taxpayer”) are not the same person.
- (3) In relation to a claim under paragraph 51 in respect of that amount—
- (a) the references to the claimant in paragraph 51A(5) to (7) (Cases D, E and F) have effect as if they included the taxpayer,
  - (b) the reference to the claimant in paragraph 51A(8) (Case G) has effect as if it were a reference to the taxpayer,
  - (c) the references to the claimant in paragraphs 51E(1)(b) and 51F(1)(b) have effect as if they were references to the taxpayer, and
  - (d) references to tax in Schedule 1A to the Taxes Management Act 1970 (as it applies to a claim under this Part of this Schedule) include such an amount.
- (4) Sub-paragraph (5) applies where the grounds for giving effect to a claim by the payer in respect of the amount also provide grounds for a discovery assessment or discovery determination on the taxpayer in respect of any chargeable period.
- (5) The Commissioners for Her Majesty's Revenue and Customs may set any amount repayable to the payer by virtue of the claim against any amount payable by the taxpayer by virtue of the assessment or determination.
- (6) The obligations of the Commissioners for Her Majesty's Revenue and Customs and the taxpayer are discharged to the extent of any set-off under sub-paragraph (5).
- (7) “Contract settlement” means an agreement made in connection with any person's liability to make a payment to the Commissioners for Her Majesty's Revenue and Customs under or by virtue of an enactment.]

**Modifications etc. (not altering text)**

C34 Sch. 18 paras. 50-50G applied (with modifications) (8.4.2010) by [Finance Act 2010 \(c. 13\)](#), [Sch. 1 paras. 31, 33](#)

*Recovery of excessive repayments etc*

- 52 (1) The provisions of paragraphs 41 to 48 relating to discovery assessments apply to an amount to which this paragraph applies as if it were unpaid tax, unless—
- (a) it is assessable under those provisions apart from this paragraph, or
  - (b) it is recoverable under section 826(8A) of the Taxes Act 1988 (interest overpaid which is recoverable in same way as interest charged).

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- (2) This paragraph applies to an amount paid to a company by way of—
- (a) repayment of tax (or income tax) or payment of a tax credit,
  - (b) repayment supplement under section 825 of the Taxes Act 1988,
  - [<sup>F342</sup>(ba) R&D tax credit under [<sup>F343</sup>Chapter 2 or 7 of Part 13 of the Corporation Tax Act 2009],]
  - [<sup>F344</sup>(bb) land remediation tax credit or life assurance company tax credit under [<sup>F345</sup>Part 14 of the Corporation Tax Act 2009],] or
  - <sup>F346</sup>(bc) .....
  - [<sup>F347</sup>(bd) film tax credit [<sup>F348</sup>under Part 15 of the Corporation Tax Act 2009],]
  - (c) interest paid under section 826 of [<sup>F349</sup>the Taxes Act 1988],
- to the extent that it ought not to have been paid.
- [<sup>F350</sup>(2A) The provisions of paragraphs 41 and 45 to 48 relating to discovery assessments apply to an amount paid to a company by way of first-year tax credit under Schedule A1 to the Capital Allowances Act as if it were unpaid tax, but only to the extent that the company was not, or is no longer, entitled to it.]
- (3) For the purposes of this paragraph—
- (a) an amount is regarded as paid if it is allowed by way of set-off, and
  - (b) an amount is regarded as a repayment if it was intended as repayment but exceeds the amount paid by the company.
- <sup>F351</sup>(4) .....
- (5) An assessment to recover—
- (a) an amount of tax repaid to a company in respect of an accounting period, or interest on any such repayment,
  - [<sup>F352</sup>(ab) an amount of R&D tax credit paid to a company for an accounting period,]
  - [<sup>F353</sup>(ac) an amount of land remediation tax credit or life assurance company tax credit paid to a company for an accounting period,] or
  - <sup>F354</sup>(ad) .....
  - [<sup>F355</sup>(ae) an amount of film tax credit paid to a company for an accounting period,]
  - [<sup>F356</sup>(af) an amount of first-year tax credit under Schedule A1 to the Capital Allowances Act paid to a company for an accounting period,]
  - (b) an amount of income tax repaid to a company in respect of a payment received by the company in an accounting period, or interest on any such repayment,
- shall be treated as an assessment to tax for the accounting period referred to in paragraph (a)[<sup>F357</sup>, (ab)][<sup>F358</sup>(ac)]<sup>F359</sup> ... [<sup>F360</sup>, (ae)] or (b).
- (6) The sum assessed shall carry interest at the prescribed rate for the purposes of section 87A of the <sup>M162</sup>Taxes Management Act 1970 (interest on overdue corporation tax, etc.) from the date when the payment being recovered was made until payment.

#### Textual Amendments

**F342** Sch. 18 para. 52(2)(ba) inserted (28.7.2000 with effect as mentioned in s. 69(1) of the amending Act) by 2000 c. 17, s. 69(2), **Sch. 21 para. 3(a)**

*Status: Point in time view as at 19/07/2011.*

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- F343** Words in Sch. 18 para. 52(2)(ba) substituted (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), **Sch. 1 para. 454(6)(a)(i)** (with Sch. 2 Pts. 1, 2)
- F344** Sch. 18 para. 52(2)(bb) inserted (11.5.2001 with effect as mentioned in s. 70 of the amending Act) by 2001 c. 9, s. 70, **Sch. 23 para. 5(a)**
- F345** Words in Sch. 18 para. 52(2)(bb) substituted (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), **Sch. 1 para. 454(6)(a)(ii)** (with Sch. 2 Pts. 1, 2)
- F346** Sch. 18 para. 52(2)(bc) repealed (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), Sch. 1 para. 454(6)(a)(iii), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)
- F347** Sch. 18 para. 52(2)(bd) inserted (1.1.2007) by Finance Act 2006 (c. 25), s. 53(1), **Sch. 5 para. 28(a)**; S.I. 2006/3399, art. 2
- F348** Words in Sch. 18 para. 52(2)(bd) inserted (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), **Sch. 1 para. 454(6)(a)(iv)** (with Sch. 2 Pts. 1, 2)
- F349** Words in Sch. 18 para. 52(2)(C) substituted (11.5.2001 with effect as mentioned in s. 70 of the amending Act) by 2001 c. 9, s. 70, **Sch. 23 para. 5(b)**
- F350** Sch. 18 para. 52(2A) inserted (with effect in accordance with Sch. 25 para. 9 of the amending Act) by Finance Act 2008 (c. 9), **Sch. 25 para. 8(3)**
- F351** Sch. 18 para. 52(4) repealed (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), Sch. 1 para. 454(6)(b), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)
- F352** Sch. 18 para. 52(5)(ab) inserted (28.7.2000 with effect as mentioned in s. 69(1) of the amending Act) by 2000 c. 17, s. 69(2), **Sch. 21 para. 3(b)**
- F353** Sch. 18 para. 52(5)(ac) inserted (11.5.2001 with effect as mentioned in s. 70 of the amending Act) by 2001 c. 9, s. 70, **Sch. 23 para. 5(c)**
- F354** Sch. 18 para. 52(5)(ad) repealed (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), Sch. 1 para. 454(6)(c)(i), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)
- F355** Sch. 18 para. 52(5)(ae) inserted (1.1.2007) by Finance Act 2006 (c. 25), s. 53(1), **Sch. 5 para. 28(b)**; S.I. 2006/3399, art. 2
- F356** Sch. 18 para. 52(5)(af) inserted (with effect in accordance with Sch. 25 para. 9 of the amending Act) by Finance Act 2008 (c. 9), **Sch. 25 para. 8(4)**
- F357** Words in Sch. 18 para. 52(5) inserted (28.7.2000 with effect as mentioned in s. 69(1) of the amending Act) by 2000 c. 17, s. 69(2), **Sch. 21 para. 3(c)**
- F358** Word in Sch. 18 para. 52(2)(c) inserted (11.5.2001 with effect as mentioned in s. 70 of the amending Act) by 2001 c. 9, s. 70, **Sch. 23 para. 5(d)**
- F359** Word in Sch. 18 para. 52(5) repealed (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), Sch. 1 para. 454(6)(c)(ii), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)
- F360** Word in Sch. 18 para. 52(5) inserted (1.1.2007) by Finance Act 2006 (c. 25), s. 53(1), **Sch. 5 para. 28(c)**; S.I. 2006/3399, art. 2

#### Marginal Citations

M162 1970 c. 9.

#### *Time limit for recovery of excessive repayments, etc.*

- 53 (1) An assessment made by virtue of paragraph 52 is not out of time under paragraph 46(1) (general [<sup>F361</sup>4 year] time limit for assessments) if it is made—
- before the end of the accounting period following that in which the amount assessed was paid, or
  - if later, before the end of the period of three months beginning with the day on which [<sup>F230</sup>an officer of Revenue and Customs][<sup>F279</sup>completes] an enquiry into a relevant company tax return by the company concerned.
- (2) Sub-paragraph (1) above is without prejudice to [<sup>F362</sup>paragraph 46(2) and (2A) (time limit for assessment in case of loss of tax brought about carelessly or deliberately)].

*Status: Point in time view as at 19/07/2011.*

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### Textual Amendments

- F230** Words in Sch. 18 substituted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), s. 53(1), [Sch. 4 para. 68\(a\)](#); S.I. 2005/1126, art. 2(2)(h)
- F279** Words in Sch. 18 substituted (18.4.2005) by virtue of [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), s. 53(1), [Sch. 4 para. 68\(c\)](#); S.I. 2005/1126, art. 2(2)(h)
- F361** Words in Sch. 18 para. 53(1) substituted (1.4.2010) by [Finance Act 2008 \(c. 9\)](#), s. 118(2), [Sch. 39 para. 44\(2\)](#); S.I. 2009/403, art. 2(2) (with art. 10)
- F362** Words in Sch. 18 para. 53(2) substituted (1.4.2010) by [Finance Act 2008 \(c. 9\)](#), s. 118(2), [Sch. 39 para. 44\(3\)](#); S.I. 2009/403, art. 2(2) (with art. 10)

## PART VII

### GENERAL PROVISIONS AS TO CLAIMS AND ELECTIONS

#### *Claims must be quantified*

- 54            A claim under any provision of the Corporation Tax Acts for a relief, an allowance or a repayment of tax must be for an amount which is quantified at the time when the claim is made.

### Modifications etc. (not altering text)

- C36** Sch. 18 para. 54-60 excluded (27.7.1999 with effect in relation to accounting periods ending on or after 1.7.1999) by [1990 c. 1, s. 59C\(7\)\(b\)](#) (as substituted (27.7.1999 with effect in relation to accounting periods ending on or after 1.7.1999) by [1999 c. 16, s. 93\(1\)\(2\)](#), [Sch. 11 para. 6](#))  
 Sch. 18 paras. 54-60 excluded (28.7.2000) by [1990 c. 1, s. 76B\(5\)\(b\)](#) (as inserted (28.7.2000) by [2000 c. 17, s. 77\(1\)](#))  
 Sch. 18 paras. 54-60 applied (22.3.2001 with effect as mentioned in [s. 579\(1\)](#) of the amending Act) by [2001 c. 2, s. 3\(5\)\(6\)](#)  
 Sch. 18 paras. 54-60 excluded (22.3.2001 with effect as mentioned [s. 579\(1\)](#) of the amending Act) by [2001 c. 2, s. 201](#) (5)(b) (with Sch. 3 Pt. 4 paras. 54, 55)  
 Sch. 18 paras. 54-60 excluded (22.3.2001 with effect as mentioned in [s. 579\(1\)](#) of the amending Act) by [2001 c. 2, s. 227\(5\)\(b\)](#) (with [Sch. 3 Pt. 4 paras. 54, 55](#))
- C37** Sch. 18 paras. 54-60 excluded by [Income and Corporation Taxes Act 1988 \(c. 1\)](#), s. 444ABBA(3) (as inserted (with effect in accordance with art. 1(4) of the amending S.I.) by [S.I. 2008/381](#), arts. 1(1), [14](#))

#### *General time limit for making claims*

- 55            Subject to any provision prescribing a longer or shorter period, a claim for relief under any provision of the Corporation Tax Acts must be made within [<sup>F363</sup>4 years] from the end of the accounting period to which it relates.

### Textual Amendments

- F363** Words in Sch. 18 para. 55 substituted (1.4.2010) by [Finance Act 2008 \(c. 9\)](#), s. 118(2), [Sch. 39 para. 45](#); S.I. 2009/403, art. 2(2) (with art. 10)



*Status: Point in time view as at 19/07/2011.*

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**Modifications etc. (not altering text)**

- C36** Sch. 18 para. 54-60 excluded (27.7.1999 with effect in relation to accounting periods ending on or after 1.7.1999) by 1990 c. 1, s. 59C(7)(b) (as substituted (27.7.1999 with effect in relation to accounting periods ending on or after 1.7.1999) by 1999 c. 16, s. 93(1)(2), Sch. 11 para. 6)  
Sch. 18 paras. 54-60 excluded (28.7.2000) by 1990 c. 1, s. 76B(5)(b) (as inserted (28.7.2000) by 2000 c. 17, s. 77(1))  
Sch. 18 paras. 54-60 applied (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, s. 3(5)(6)  
Sch. 18 paras. 54-60 excluded (22.3.2001 with effect as mentioned s. 579(1) of the amending Act) by 2001 c. 2, s. 201 (5)(b) (with Sch. 3 Pt. 4 paras. 54, 55)  
Sch. 18 paras. 54-60 excluded (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, s. 227(5)(b) (with Sch. 3 Pt. 4 paras. 54, 55)
- C37** Sch. 18 paras. 54-60 excluded by Income and Corporation Taxes Act 1988 (c. 1), s. 444ABBA(3) (as inserted (with effect in accordance with art. 1(4) of the amending S.I.) by S.I. 2008/381, arts. 1(1), 14)

*Supplementary claim or election*

- 56 A company which has made a claim or election under any provision of the Corporation Tax Acts (by including it in a return or otherwise) and subsequently discovers that a mistake has been made in it may make a supplementary claim or election within the time allowed for making the original claim or election.

**Modifications etc. (not altering text)**

- C36** Sch. 18 para. 54-60 excluded (27.7.1999 with effect in relation to accounting periods ending on or after 1.7.1999) by 1990 c. 1, s. 59C(7)(b) (as substituted (27.7.1999 with effect in relation to accounting periods ending on or after 1.7.1999) by 1999 c. 16, s. 93(1)(2), Sch. 11 para. 6)  
Sch. 18 paras. 54-60 excluded (28.7.2000) by 1990 c. 1, s. 76B(5)(b) (as inserted (28.7.2000) by 2000 c. 17, s. 77(1))  
Sch. 18 paras. 54-60 applied (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, s. 3(5)(6)  
Sch. 18 paras. 54-60 excluded (22.3.2001 with effect as mentioned s. 579(1) of the amending Act) by 2001 c. 2, s. 201 (5)(b) (with Sch. 3 Pt. 4 paras. 54, 55)  
Sch. 18 paras. 54-60 excluded (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, s. 227(5)(b) (with Sch. 3 Pt. 4 paras. 54, 55)
- C37** Sch. 18 paras. 54-60 excluded by Income and Corporation Taxes Act 1988 (c. 1), s. 444ABBA(3) (as inserted (with effect in accordance with art. 1(4) of the amending S.I.) by S.I. 2008/381, arts. 1(1), 14)
- C38** Sch. 18 para. 56 applied (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), ss. 192(6)(b), 1184(1) (with Sch. 2)

*Claims or elections affecting a single accounting period*

- 57 (1) This paragraph applies to a claim or election for tax purposes which affects only one accounting period ("the relevant accounting period").

<sup>F364</sup>(1A) But this paragraph does not apply to a claim by a company for an amount to be exempt from tax by virtue of—

- (a) section 472 of CTA 2010 (gifts qualifying for gift aid relief: charitable companies), or
- (b) section 475 of that Act (gifts qualifying for gift aid relief: eligible bodies).]

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- (2) If notice has been given under paragraph 3 requiring a company to deliver a company tax return for the relevant accounting period, a claim or election by the company which can be made by being included in the return (as originally made or by amendment) must be so made.
- (3) If a company has delivered a company tax return for the relevant accounting period, a claim or election made by the company which could be made by amending the return is treated as an amendment of the return.

The provisions of paragraph 15 (amendment of return by company) apply.

- (4) Schedule 1A to the <sup>M163</sup>Taxes Management Act 1970 (claims and elections not included in returns) applies to a claim or election made by a company which cannot be included in a company tax return for the relevant accounting period.

This applies in particular to a claim or election made—

- (a) before any notice is given under paragraph 3 requiring a company tax return for the relevant accounting period, or
- (b) at a time when its return for the relevant accounting period cannot be amended.

#### Textual Amendments

**F364** Sch. 18 para. 57(1A) inserted (with effect in accordance with Sch. 8 para. 8(6) of the amending Act) by [Finance Act 2010 \(c. 13\)](#), [Sch. 8 para. 6\(3\)](#)

#### Modifications etc. (not altering text)

**C36** Sch. 18 para. 54-60 excluded (27.7.1999 with effect in relation to accounting periods ending on or after 1.7.1999) by [1990 c. 1, s. 59C\(7\)\(b\)](#) (as substituted (27.7.1999 with effect in relation to accounting periods ending on or after 1.7.1999) by [1999 c. 16, s. 93\(1\)\(2\)](#), [Sch. 11 para. 6](#))

Sch. 18 paras. 54-60 excluded (28.7.2000) by [1990 c. 1, s. 76B\(5\)\(b\)](#) (as inserted (28.7.2000) by [2000 c. 17, s. 77\(1\)](#))

Sch. 18 paras. 54-60 applied (22.3.2001 with effect as mentioned in [s. 579\(1\)](#) of the amending Act) by [2001 c. 2, s. 3\(5\)\(6\)](#)

Sch. 18 paras. 54-60 excluded (22.3.2001 with effect as mentioned [s. 579\(1\)](#) of the amending Act) by [2001 c. 2, s. 201](#) (5)(b) (with Sch. 3 Pt. 4 paras. 54, 55)

Sch. 18 paras. 54-60 excluded (22.3.2001 with effect as mentioned in [s. 579\(1\)](#) of the amending Act) by [2001 c. 2, s. 227\(5\)\(b\)](#) (with [Sch. 3 Pt. 4 paras. 54, 55](#))

**C37** Sch. 18 paras. 54-60 excluded by Income and Corporation Taxes Act 1988 (c. 1), s. 444ABBA(3) (as inserted (with effect in accordance with art. 1(4) of the amending S.I.) by [S.I. 2008/381](#), arts. 1(1), [14](#))

#### Marginal Citations

**M163** [1970 c. 9](#).

#### *Claims or elections involving more than one accounting period*

- 58 (1) This paragraph applies to a claim or election for tax purposes if—
- (a) the event or occasion giving rise to it occurs in one accounting period (the period to which it “relates”), and
  - (b) it affects one or more other accounting periods (whether or not it also affects the period to which it relates).



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- (2) If a company makes a claim or election which—
- (a) relates to an accounting period for which the company has delivered a company tax return and could be made by amendment of the return, or
  - (b) affects an accounting period for which the company has delivered a company tax return and could be given effect by amendment of the return,
- the claim or election is treated as an amendment of the return.
- The provisions of paragraph 15 (amendment of return by company) apply.
- (3) Schedule 1A to the <sup>M164</sup>Taxes Management Act 1970 (claims and elections not included in returns) applies to a claim or election made by a company if or to the extent that it is not—
- (a) made by being included (by amendment or otherwise) in the company tax return for the accounting period to which it relates, and
  - (b) given effect by being included (by amendment or otherwise) in company tax returns for the accounting periods affected by it.

**Modifications etc. (not altering text)**

- C36** Sch. 18 paras. 54-60 excluded (27.7.1999 with effect in relation to accounting periods ending on or after 1.7.1999) by 1990 c. 1, s. 59C(7)(b) (as substituted (27.7.1999 with effect in relation to accounting periods ending on or after 1.7.1999) by 1999 c. 16, s. 93(1)(2), Sch. 11 para. 6)
- Sch. 18 paras. 54-60 excluded (28.7.2000) by 1990 c. 1, s. 76B(5)(b) (as inserted (28.7.2000) by 2000 c. 17, s. 77(1))
- Sch. 18 paras. 54-60 applied (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, s. 3(5)(6)
- Sch. 18 paras. 54-60 excluded (22.3.2001 with effect as mentioned s. 579(1) of the amending Act) by 2001 c. 2, s. 201 (5)(b) (with Sch. 3 Pt. 4 paras. 54, 55)
- Sch. 18 paras. 54-60 excluded (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, s. 227(5)(b) (with Sch. 3 Pt. 4 paras. 54, 55)
- C37** Sch. 18 paras. 54-60 excluded by Income and Corporation Taxes Act 1988 (c. 1), s. 444ABBA(3) (as inserted (with effect in accordance with art. 1(4) of the amending S.I.) by S.I. 2008/381, arts. 1(1), 14)

**Marginal Citations**

**M164** 1970 c. 9.

*Other claims and elections*

- 59 (1) Schedule 1A to the Taxes Management Act 1970 applies to a claim or election for tax purposes which is not within paragraph 57 or 58, whether or not it is included (by amendment or otherwise) in a company tax return.
- (2) The provisions of this Schedule do not apply where or to the extent that the provisions of Schedule 1A apply.

**Modifications etc. (not altering text)**

- C36** Sch. 18 para. 54-60 excluded (27.7.1999 with effect in relation to accounting periods ending on or after 1.7.1999) by 1990 c. 1, s. 59C(7)(b) (as substituted (27.7.1999 with effect in relation to accounting periods ending on or after 1.7.1999) by 1999 c. 16, s. 93(1)(2), Sch. 11 para. 6)

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- Sch. 18 paras. 54-60 excluded (28.7.2000) by 1990 c. 1, s. 76B(5)(b) (as inserted (28.7.2000) by 2000 c. 17, s. 77(1))
- Sch. 18 paras. 54-60 applied (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, s. 3(5)(6)
- Sch. 18 paras. 54-60 excluded (22.3.2001 with effect as mentioned s. 579(1) of the amending Act) by 2001 c. 2, s. 201 (5)(b) (with Sch. 3 Pt. 4 paras. 54, 55)
- Sch. 18 paras. 54-60 excluded (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, s. 227(5)(b) (with Sch. 3 Pt. 4 paras. 54, 55)
- C37** Sch. 18 paras. 54-60 excluded by Income and Corporation Taxes Act 1988 (c. 1), s. 444ABBA(3) (as inserted (with effect in accordance with art. 1(4) of the amending S.I.) by S.I. 2008/381, arts. 1(1), 14)
- C39** Sch. 18 para. 59 applied (with effect in accordance with s. 381(1) of the amending Act) by Taxation (International and Other Provisions) Act 2010 (c. 8), ss. 183(2), 381(1) (with ss. 213, 214, Sch. 9 paras. 1-9, 22)

*Provisions supplementary to paragraphs 57 to 59*

- 60 (1) Paragraphs 57 to 59 have effect subject to any express provision to the contrary.
- (2) Nothing in those paragraphs affects the time limit or any other conditions for making a claim or election.
- (3) Where Schedule 1A to the <sup>M165</sup>Taxes Management Act 1970 applies by virtue of any of those paragraphs and the claim or election results in an increase in the amount of tax payable, all such adjustments by way of assessment or otherwise shall be made as are necessary to give effect to it.

**Modifications etc. (not altering text)**

- C36** Sch. 18 para. 54-60 excluded (27.7.1999 with effect in relation to accounting periods ending on or after 1.7.1999) by 1990 c. 1, s. 59C(7)(b) (as substituted (27.7.1999 with effect in relation to accounting periods ending on or after 1.7.1999) by 1999 c. 16, s. 93(1)(2), Sch. 11 para. 6)
- Sch. 18 paras. 54-60 excluded (28.7.2000) by 1990 c. 1, s. 76B(5)(b) (as inserted (28.7.2000) by 2000 c. 17, s. 77(1))
- Sch. 18 paras. 54-60 applied (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, s. 3(5)(6)
- Sch. 18 paras. 54-60 excluded (22.3.2001 with effect as mentioned s. 579(1) of the amending Act) by 2001 c. 2, s. 201 (5)(b) (with Sch. 3 Pt. 4 paras. 54, 55)
- Sch. 18 paras. 54-60 excluded (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, s. 227(5)(b) (with Sch. 3 Pt. 4 paras. 54, 55)
- C37** Sch. 18 paras. 54-60 excluded by Income and Corporation Taxes Act 1988 (c. 1), s. 444ABBA(3) (as inserted (with effect in accordance with art. 1(4) of the amending S.I.) by S.I. 2008/381, arts. 1(1), 14)

**Marginal Citations**

**M165** 1970 c. 9.

*Consequential claims, etc. arising out of certain Revenue amendments or assessments*

- 61 (1) Paragraphs 62 to 64 have effect to allow certain claims, elections, applications and notices to be made or given, or if previously given to be revoked or varied, where—
- (a) an amendment of a company tax return is made under paragraph [F36534(2A)] (amendments of other returns required in consequence of closure notice) which has the effect of increasing the amount of tax payable by a company,

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- (b) a discovery assessment is made, or
  - (c) an assessment is made under paragraph 76 (recovery of excessive group relief).
- (2) Paragraphs 62 to 64 do not apply in relation to an assessment made in a case involving [<sup>F366</sup>a loss of tax brought about carelessly or deliberately by]—
- (a) the company, or
  - (b) a person acting on behalf of the company, or
  - (c) a person who was a partner of the company at the relevant time.
- In such a case more limited provision is made by paragraph 65.
- (3) In paragraphs 62 to 64 “the relevant accounting period”, in relation to the time limit for making a consequential claim, election, application or notice, means—
- (a) in relation to an amendment of a company tax return under paragraph [<sup>F367</sup>34(2A)], the accounting period in which the closure notice was issued;
  - (b) in relation to an assessment, the accounting period in which the assessment was made.

#### Textual Amendments

**F365** Word in Sch. 18 para. 61(1)(a) substituted (1.4.2010) by [Finance Act 2008 \(c. 9\), s. 119\(9\)\(13\)](#); [S.I. 2009/405, art. 2](#)

**F366** Words in Sch. 18 para. 61(2) substituted (1.4.2010) by [Finance Act 2008 \(c. 9\), s. 118\(2\)](#), [Sch. 39 para. 46](#); [S.I. 2009/403, art. 2\(2\)](#) (with [art. 10](#))

**F367** Word in Sch. 18 para. 61(3)(a) substituted (1.4.2010) by [Finance Act 2008 \(c. 9\), s. 119\(9\)\(13\)](#); [S.I. 2009/405, art. 2](#)

#### *Consequential claims etc that may be made*

- 62 (1) A claim, election, application or notice to which this paragraph applies—
- (a) may be made or given at any time within one year from the end of the relevant accounting period, or
  - (b) if previously made or given may at any such time be revoked or varied—
    - (i) in the same manner as it was made or given, and
    - (ii) by or with the consent of the same person or persons who made, gave or consented to it (or, if a person has died, by or with the consent of his personal representatives),unless, by virtue of any enactment, it is irrevocable.
- [<sup>F368</sup>(1A) This paragraph applies to a claim under paragraph 51 relating to the accounting period in respect of which the amendment or assessment is made.]
- (2) This paragraph applies to [<sup>F369</sup>any other claim], election, application or notice—
- (a) relating to the accounting period in respect of which the amendment or assessment is made, or
  - (b) made or given by reference to an event occurring in that period, whose making, giving, revocation or variation has or could have the effect of reducing a relevant liability of the company.
- (3) The following are relevant liabilities of the company for this purpose—

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- (a) the increased liability to tax resulting from the amendment or assessment;
  - (b) any other liability to tax of the company—
    - (i) for the accounting period to which the amendment or assessment relates, or
    - (ii) for any subsequent accounting period ending not later than one year after the end of the relevant accounting period.
- (4) Where a claim, election, application or notice is made, given, revoked or varied by virtue of this paragraph, all such adjustments shall be made, whether by way of discharge or repayment of tax or the making of amendments, assessments or otherwise, as are required to take account of the effect of the taking of that action on any person's liability to tax for any chargeable period.
- (5) The provisions of the <sup>M166</sup>Taxes Management Act 1970 relating to appeals against decisions on claims apply with any necessary modifications to a decision on the revocation or variation of a claim by virtue of this paragraph.
- (6) This paragraph has effect subject to—
- paragraph 63 (consequential claims etc. affecting tax liability of another person), and
  - paragraph 64 (consequential claims etc. not to give rise to reduction in liability).

#### Textual Amendments

**F368** Sch. 18 para. 62(1A) inserted (with effect in accordance with s. 100(2) of the amending Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 52 para. 15\(2\)](#)

**F369** Words in Sch. 18 para. 62(2) substituted (with effect in accordance with s. 100(2) of the amending Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 52 para. 15\(3\)](#)

#### Modifications etc. (not altering text)

**C40** Sch. 18 para. 62 applied (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), [ss. 192\(6\)\(b\)](#), [1184\(1\)](#) (with [Sch. 2](#))

#### Marginal Citations

**M166** 1970 c. 9.

#### *Consequential claims etc. affecting tax liability of another person*

- 63 (1) If the effect of the exercise by any person of a power conferred by paragraph 62 would be to alter the liability to tax of another person, the power may not be exercised except with the consent in writing of that other person or, if he has died, of his personal representatives.
- (2) Where such a power is exercised so as to increase the liability to tax of another person, neither paragraph 61 above nor section 43A of the <sup>M167</sup>Taxes Management Act 1970 (which makes corresponding provision in relation to income tax or capital gains tax) applies in relation to any amendment or assessment made because of that increased liability.
- (3) In this paragraph “tax” includes income tax or capital gains tax.

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#### Marginal Citations

M167 1970 c. 9.

#### *Consequential claims etc. not to give rise to reduction in liability*

- 64 (1) If in any case—
- (a) one or more claims, elections, applications or notices are made, given, revoked or varied under paragraph 62 in consequence of an amendment or assessment, and
  - (b) the total of the reductions in liability to tax resulting from that action would exceed the additional liability to tax resulting from the amendment or assessment,
- the excess is not available to reduce any liability to tax.
- (2) Where sub-paragraph (1) has the effect of limiting either—
- (a) the reduction in a person’s liability to tax for more than one period, or
  - (b) the reduction in the liability to tax of more than one person,
- the limited amount shall be apportioned between the periods or persons concerned.
- (3) The apportionment shall be made in such manner as [<sup>F230</sup>an officer of Revenue and Customs] may specify by notice in writing to the person or persons concerned, unless notice is given under the following provision.
- (4) If the person concerned gives (or the persons concerned jointly give) notice in writing to [<sup>F230</sup>an officer of Revenue and Customs] within the period of 30 days beginning with—
- (a) the day on which notice under sub-paragraph (3) is given to the person concerned, or
  - (b) where more than one person is concerned, the latest date on which such notice is given to any of them,
- the apportionment shall be made in such manner as may be specified in the notice given by the person or persons concerned.
- (5) In this paragraph “tax” includes income tax or capital gains tax.

#### Textual Amendments

**F230** Words in Sch. 18 substituted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), s. 53(1), [Sch. 4 para. 68\(a\)](#); S.I. 2005/1126, art. 2(2)(h)

#### Modifications etc. (not altering text)

**C41** Sch. 18 para. 64 excluded (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), [ss. 192\(6\)\(b\)](#), 1184(1) (with Sch. 2)

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*Consequential claims in case of <sup>F370</sup>loss of tax brought about carelessly or deliberately]*

**Textual Amendments**

**F370** Words in Sch. 18 para. 65 cross-heading substituted (1.4.2010) by [Finance Act 2008 \(c. 9\), s. 118\(2\), Sch. 39 para. 47\(3\)](#); [S.I. 2009/403, art. 2\(2\)](#) (with [art. 10](#))

- 65 (1) This paragraph applies where an assessment is made on a company in a case involving [<sup>F371</sup>a loss of tax brought about carelessly or deliberately by]—
- (a) the company, or
  - (b) a person acting on behalf of the company, or
  - (c) a person who was a partner of the company at the relevant time.
- (2) If the company so requires, effect shall be given in determining the amount of the tax charged by the assessment to any relief or allowance to which the company would have been entitled for that accounting period on a claim or application made within the time allowed by the Taxes Acts.

**Textual Amendments**

**F371** Words in Sch. 18 para. 65(1) substituted (1.4.2010) by [Finance Act 2008 \(c. 9\), s. 118\(2\), Sch. 39 para. 47\(2\)](#); [S.I. 2009/403, art. 2\(2\)](#) (with [art. 10](#))

## PART VIII

### CLAIMS FOR GROUP RELIEF

**Modifications etc. (not altering text)**

**C42** Sch. 18 Pt. VIII (except paras. 70(4), 71(4)) applied (with modifications) (23.11.1999) by [S.I. 1999/2975, reg. 10\(3\)](#)  
 Sch. 18 Pt. VIII (except para. 77) applied (28.7.2000) by [2000 c. 17, s. 82, Sch. 22 Pt. IX para. 81\(3\)](#)

#### *Introduction*

- 66 This Part of this Schedule applies to claims for relief under [<sup>F372</sup>Part 5 of the Corporation Tax Act 2010] (group relief).

**Textual Amendments**

**F372** Words in Sch. 18 para. 66 substituted (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\), s. 1184\(1\), Sch. 1 para. 297\(8\)](#) (with [Sch. 2](#))

#### *Claim to be included in company tax return*

- 67 (1) A claim for group relief must be made by being included in the claimant company's company tax return for the accounting period for which the claim is made.
- (2) It may be included in the return originally made or by amendment.

*Status: Point in time view as at 19/07/2011.*

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**Modifications etc. (not altering text)**

- C43** Sch. 18 para. 67 applied (with modifications) (31.3.2001 with effect as mentioned in reg. 1(2) of the amending S.I.) by [S.I. 2001/1163](#), [regs. 1, 8](#)

*Content of claims*

- 68 (1) A claim for group relief must specify—
- (a) the amount of relief claimed, and
  - (b) the name of the surrendering company.
- (2) The amount specified must be an amount which is quantified at the time the claim is made.
- [<sup>F373</sup>(3) A claim for group relief must also state whether or not there is a company mentioned in sub-paragraph (4) that was not resident in the United Kingdom in either or both of the following periods—
- (a) the accounting period of the surrendering company to which the surrender relates,
  - (b) the corresponding accounting period of the claimant company.
- (4) Those companies are the claimant company, the surrendering company and any other company by reference to which—
- (a) the claimant company and the surrendering company are members of the same group, or
  - [<sup>F374</sup>(b) consortium condition 1, 2 or 3 in sections 132 and 133 of the Corporation Tax Act 2010 is satisfied in the case of the claimant company and the surrendering company.]]

**Textual Amendments**

- F373** Sch. 18 para. 68(3)(4) inserted (28.7.2000 with effect as mentioned in [Sch. 27 para. 12\(1\)](#) of the amending Act) by [2000 c. 17, s. 97](#), [Sch. 27 Pt. II para. 11](#)
- F374** Sch. 18 para. 68(4)(b) substituted (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\), s. 1184\(1\)](#), [Sch. 1 para. 297\(9\)](#) (with [Sch. 2](#))

**Modifications etc. (not altering text)**

- C44** Sch. 18 para. 68 applied (with modifications) (31.3.2001 with effect as mentioned in reg. 1(2) of the amending S.I.) by [S.I. 2001/1163](#), [regs. 1, 8](#)

*Claims for more or less than the amount available for surrender*

- 69 (1) A claim for group relief may be made for less than the amount available for surrender at the time the claim is made.
- (2) A claim is ineffective if the amount claimed exceeds the amount available for surrender at the time the claim is made.
- (3) For these purposes the amount available for surrender at any time is calculated as follows.

*First step*



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Determine the total amount available for surrender under [<sup>F375</sup>Part 5 of the Corporation Tax Act 2010]—

- (a) on the basis of the information in the company’s company tax return, and
- (b) disregarding any amendments whose effect is deferred under paragraph 31(3).

*Second step*

Then deduct the total of all amounts for which notices of consent have been given by the company and not withdrawn.

- (4) Where one or more claims are withdrawn on the same day as one or more claims are made, the withdrawals are given effect first.
- (5) Where more than one claim is made on the same day, and the claims together take the amount claimed over the limit of what is available for surrender, [<sup>F230</sup>an officer of Revenue and Customs] may determine which of the claims is to be ineffective.
- (6) The power under sub-paragraph (5) shall not be exercised to any greater extent than is necessary to bring the total amount claimed within the amount available for surrender.

#### **Textual Amendments**

**F230** Words in Sch. 18 substituted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), s. 53(1), [Sch. 4 para. 68\(a\)](#); S.I. 2005/1126, art. 2(2)(h)

**F375** Words in Sch. 18 para. 69(3) substituted (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), [Sch. 1 para. 297\(10\)](#) (with Sch. 2)

#### *Consent to surrender*

- 70 (1) [<sup>F376</sup>In accordance with Requirement 1 in section 130(2) of the Corporation Tax Act 2010 or Requirement 1 in section 135(2) of that Act (as the case may be), a] claim for group relief requires the consent of the surrendering company.
- (2) A consortium claim also requires the consent of each member of the consortium.
- (3) The necessary consent or consents must be given—
- (a) by notice in writing,
  - (b) to the officer of the Board to whom the surrendering company makes its company tax returns,
  - (c) at or before the time the claim is made.
- Otherwise the claim is ineffective.
- (4) A claim for group relief is ineffective unless it is accompanied by a copy of the notice of consent to surrender given by the surrendering company.
- (5) A consortium claim is ineffective unless it is also accompanied by a copy of the notice of consent to surrender given by each member of the consortium.
- [<sup>F377</sup>(6) In this paragraph “consortium claim” means a claim for group relief under Part 5 of the Corporation Tax Act 2010 based on consortium condition 1, 2 or 3 (see Requirement 3 in section 130(2) of that Act).]



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#### Textual Amendments

**F376** Words in Sch. 18 para. 70(1) substituted (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), [Sch. 1 para. 297\(11\)\(a\)](#) (with [Sch. 2](#))

**F377** Sch. 18 para. 70(6) inserted (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), [Sch. 1 para. 297\(11\)\(b\)](#) (with [Sch. 2](#))

#### Modifications etc. (not altering text)

**C45** Sch. 18 para. 70(1)(3)(4) applied (with modifications) (31.3.2001 with effect as mentioned in reg. 1(2) of the amending S.I.) by [S.I. 2001/1163](#), [regs. 1, 8](#)

#### *Notice of consent*

71 (1) Notice of consent by the surrendering company must contain all the following details—

- (a) the name of the surrendering company;
- (b) the name of the company to which relief is being surrendered;
- (c) the amount of relief being surrendered;
- (d) the accounting period of the surrendering company to which the surrender relates;
- (e) the tax district references of the surrendering company and the company to which relief is being surrendered.

Otherwise the notice is ineffective.

(2) Notice of consent may not be amended, but it may be withdrawn and replaced by another notice of consent.

(3) Notice of consent may be withdrawn by notice to the officer of the Board to whom the notice of consent was given.

(4) Except where the consent is withdrawn under paragraph 75 (withdrawal in consequence of reduction of amount available for surrender), the notice of withdrawal must be accompanied by a notice signifying the consent of the claimant company to the withdrawal.

Otherwise the notice is ineffective.

(5) The claimant company must, so far as it may do so, amend its company tax return for the accounting period for which the claim was made so as to reflect the withdrawal of consent.

#### Modifications etc. (not altering text)

**C46** Sch. 18 para. 71 applied (with modifications) (31.3.2001 with effect as mentioned in reg. 1(2) of the amending S.I.) by [S.I. 2001/1163](#), [regs. 1, 8](#)

#### *Notice of consent requiring amendment of return*

72 (1) Where notice of consent by the surrendering company is given after the company has made a company tax return for the period to which the surrender relates, the

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surrendering company must at the same time amend its return so as to reflect the notice of consent.

- (2) Where notice of consent by the surrendering company relates to a loss in respect of which relief has been given under [F378 section 45 of the Corporation Tax Act 2010] (carry forward of trading losses), the surrendering company must at the same time amend its company tax return for the period or, if more than one, each of the periods in which relief for that loss has been given under [F379 section 45] so as to reflect the new notice of consent.

For this purpose relief under [F379 section 45] is treated as given for losses incurred in earlier accounting periods before losses incurred in later accounting periods.

- (3) The time limits otherwise applicable to amendment of a company tax return do not prevent an amendment being made under sub-paragraph (1) or (2).
- (4) If the surrendering company fails to comply with sub-paragraph (1) or (2), the notice of consent is ineffective.

#### **Textual Amendments**

**F378** Words in Sch. 18 para. 72(2) substituted (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), **Sch. 1 para. 297(12)(a)** (with Sch. 2)

**F379** Words in Sch. 18 para. 72(2) substituted (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), **Sch. 1 para. 297(12)(b)** (with Sch. 2)

#### **Modifications etc. (not altering text)**

**C47** Sch. 18 para. 72(1)(4) applied (with modifications) (31.3.2001 with effect as mentioned in reg. 1(2) of the amending S.I.) by S.I. 2001/1163, **regs. 1, 8**

#### *Withdrawal or amendment of claim*

- 73 (1) A claim for group relief may be withdrawn by the claimant company only by amending its company tax return.
- (2) A claim for group relief may not be amended, but must be withdrawn and replaced by another claim.

#### **Modifications etc. (not altering text)**

**C48** Sch. 18 para. 73 applied (with modifications) (31.3.2001 with effect as mentioned in reg. 1(2) of the commencing Regulations) by S.I. 2001/1163, **regs. 1, 8**

#### *Time limit for claims*

- 74 (1) A claim for group relief may be made or withdrawn at any time up to whichever is the last of the following dates—
- (a) the first anniversary of the filing date for the company tax return of the claimant company for the accounting period for which the claim is made;
  - (b) if notice of enquiry is given into that return, 30 days after the enquiry is completed;

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- (c) if after such an enquiry [<sup>F230</sup>an officer of Revenue and Customs][<sup>F279</sup>amends] the return under paragraph 34(2), 30 days after notice of the amendment is issued;
  - (d) if an appeal is brought against such an amendment, 30 days after the date on which the appeal is finally determined.
- (2) A claim for group relief may be made or withdrawn at a later time if [<sup>F230</sup>an officer of Revenue and Customs][<sup>F279</sup>allows] it.
- (3) The time limits otherwise applicable to amendment of a company tax return do not apply to an amendment to the extent that it makes or withdraws a claim for group relief within the time allowed by or under this paragraph.
- (4) The references in sub-paragraph (1) to an enquiry into a company tax return do not include an enquiry restricted to a previous amendment making or withdrawing a claim for group relief.

An enquiry is so restricted if—

- (a) the scope of the enquiry is limited as mentioned in paragraph 25(2), and
- (b) the amendment giving rise to the enquiry consisted of the making or withdrawing of a claim for group relief.

#### Textual Amendments

**F230** Words in Sch. 18 substituted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), s. 53(1), **Sch. 4 para. 68(a)**; S.I. 2005/1126, art. 2(2)(h)

**F279** Words in Sch. 18 substituted (18.4.2005) by virtue of [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), s. 53(1), **Sch. 4 para. 68(e)**; S.I. 2005/1126, art. 2(2)(h)

#### Modifications etc. (not altering text)

**C49** Sch. 18 para. 74 applied by [Income and Corporation Taxes Act 1988 \(c. 1\)](#), Sch. 19B para. 15(3) (as inserted (22.7.2004) by [Finance Act 2004 \(c. 12\)](#), **Sch. 38**)

**C50** Sch. 18 para. 74 applied (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), **ss. 320(2), 1184(1)** (with [Sch. 2](#))

**C51** Sch. 18 para. 74 applied (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), **ss. 321(3), 1184(1)** (with [Sch. 2](#))

#### *Reduction in amount available for surrender*

- 75 (1) This paragraph applies if, after the surrendering company has given one or more notices of consent to surrender, the [<sup>F380</sup>total amount available for surrender] is reduced to less than the amount stated in the notice, or the total of the amounts stated in the notices, as being surrendered.
- (2) The company must within 30 days withdraw the notice of consent, or as many of the notices as is necessary to bring the total amount surrendered within the new [<sup>F381</sup>total] amount available for surrender, and may give one or more new notices of consent.
- (3) The company must give notice in writing of the withdrawal of consent, and send a copy of any new notice of consent—
- (a) to each of the companies affected, and
  - (b) to [<sup>F230</sup>an officer of Revenue and Customs].

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- (4) If the surrendering company fails to act in accordance with sub-paragraph (2), [<sup>F230</sup>an officer of Revenue and Customs] may by notice to the surrendering company give such directions as [<sup>F279</sup>he thinks] fit as to which notice or notices are to be ineffective or are to have effect in a lesser amount.

This power shall not be exercised to any greater extent than is necessary to secure that the total amount stated in the notice or notices is consistent with the [<sup>F381</sup>total] amount available for surrender.

- (5) [<sup>F230</sup>An officer of Revenue and Customs] must at the same time send a copy of the notice to the claimant company, or each claimant company, affected by [<sup>F279</sup>his] action.
- (6) A claimant company which receives—
- (a) notice of the withdrawal of consent, or a copy of a new notice of consent, under sub-paragraph (3), or
  - (b) a copy of a notice containing directions by [<sup>F230</sup>an officer of Revenue and Customs] under sub-paragraph (4),
- must, so far as it may do so, amend its company tax return for the accounting period for which the claim is made so that it is consistent with the new position with regard to consent to surrender.
- (7) An appeal may be brought by the surrendering company against any directions given by [<sup>F230</sup>an officer of Revenue and Customs] under sub-paragraph (4).
- (8) Notice of appeal must be given—
- (a) in writing,
  - (b) within 30 days after the notice containing the directions was issued,
  - (c) to the officer of the Board by whom the notice was given.

#### Textual Amendments

- F230** Words in Sch. 18 substituted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), s. 53(1), [Sch. 4 para. 68\(a\)](#); S.I. 2005/1126, art. 2(2)(h)
- F279** Words in Sch. 18 substituted (18.4.2005) by virtue of [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), s. 53(1), [Sch. 4 para. 68\(c\)](#); S.I. 2005/1126, art. 2(2)(h)
- F380** Words in Sch. 18 para. 75(1) substituted (27.7.1999 with effect in relation to accounting periods ending on or after 1.7.1999) by [1999 c. 16, s. 92\(2\)\(a\)\(7\)](#)
- F381** Words in Sch. 18 para. 75(2)(4) inserted (27.7.1999 with effect in relation to accounting periods ending on or after 1.7.1999) by [1999 c. 16, s. 92\(2\)\(b\)\(7\)](#)

#### Modifications etc. (not altering text)

- C52** Sch. 18 para. 75 applied (with modifications) (31.3.2001 with effect as mentioned in reg. 1(2) of the commencing Regulations) by [S.I. 2001/1163, regs. 1, 8](#)

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### <sup>F382</sup>[Assessment on other claimant companies]

#### Textual Amendments

**F382** Sch. 18 para. 75A and crossheading inserted (27.7.1999 with effect in relation to accounting periods ending on or after 1.7.1999) by 1999 c. 16, s. 92(3)(7)

- <sup>F383</sup>(1) This paragraph applies where, after the surrendering company has given notice of consent to surrender, a claimant company (“the chargeable company”) has become liable to tax in consequence of receiving—
- (a) notice of the withdrawal of consent, or a copy of a new notice of consent, under paragraph 75(3), or
  - (b) a copy of a notice containing directions by <sup>F230</sup>an officer of Revenue and Customs] under paragraph 75(4).
- (2) If any of the tax is unpaid six months after the chargeable company’s time limit for claims, <sup>F230</sup>an officer of Revenue and Customs] may make an assessment to tax in the name of the chargeable company on any other company that has obtained group relief as a result of the surrender.
- (3) The assessment may not be made more than two years after that time limit.
- (4) The amount of the assessment must not exceed—
- (a) the amount of the unpaid tax, or
  - (b) if less, the amount of tax which the other company saves by virtue of the surrender.
- (5) A company assessed to an amount of tax under sub-paragraph (2) is entitled to recover from the chargeable company—
- (a) a sum equal to that amount, and
  - (b) any interest on that amount which it has paid under section 87A of the <sup>M168</sup>Taxes Management Act 1970 (interest on unpaid corporation tax).
- (6) For the purposes of this paragraph the chargeable company’s time limit for claims is the last of the dates mentioned in paragraph 74(1) on which the chargeable company could make or withdraw a claim for group relief for the accounting period for which the claim in question is made.]

#### Textual Amendments

**F230** Words in Sch. 18 substituted (18.4.2005) by Commissioners for Revenue and Customs Act 2005 (c. 11), s. 53(1), Sch. 4 para. 68(a); S.I. 2005/1126, art. 2(2)(h)

**F383** Sch. 18 Pt. VIII para. 75A inserted (27.7.1999 with effect in relation to accounting periods ending on or after 1.7.1999) by 1999 c. 16, s. 92(3)(7)

#### Modifications etc. (not altering text)

**C53** Sch. 18 para. 75A applied (with modifications) (31.3.2001 with effect as mentioned in reg. 1(2) of the commencing Regulations) by S.I. 2001/1163, regs. 1, 8

#### Marginal Citations

**M168** 1970 c.9.

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*Assessment to recover excessive group relief*

- 76 (1) If [<sup>F230</sup>an officer of Revenue and Customs][<sup>F279</sup>discovers] that any group relief which has been given is or has become excessive, [<sup>F279</sup>he] may make an assessment to tax in the amount which in [<sup>F279</sup>his] opinion ought to be charged.
- (2) This power is without prejudice to—
- (a) the power to make a discovery assessment under paragraph 41(1);
  - (b) the making of all such adjustments by way of discharge or repayment of tax or otherwise as may be required where a claimant company has obtained too much relief, or a surrendering company has forgone relief in respect of a corresponding amount.
- <sup>F384</sup>(3) If an assessment under this paragraph is made because a claimant company fails, or is unable, to amend its company tax return under paragraph 75(6), the assessment is not out of time if it is made within one year from—
- (a) the date on which the surrendering company gives notice of the withdrawal of consent, or (if later) sends a copy of a new notice of consent, to the claimant company under paragraph 75(3), or
  - (b) the date on which [<sup>F230</sup>an officer of Revenue and Customs][<sup>F279</sup>sends] the claimant company a copy of a notice containing [<sup>F279</sup>his] directions under paragraph 75(4).]

**Textual Amendments**

**F230** Words in Sch. 18 substituted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), s. 53(1), [Sch. 4 para. 68\(a\)](#); [S.I. 2005/1126](#), art. 2(2)(h)

**F279** Words in Sch. 18 substituted (18.4.2005) by virtue of [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), s. 53(1), [Sch. 4 para. 68\(c\)](#); [S.I. 2005/1126](#), art. 2(2)(h)

**F384** Sch. 18 para. 76(3) added (27.7.1999 with effect in relation to accounting periods ending on or after 1.7.1999) by [1999 c. 16, s. 92\(4\)\(7\)](#)

**Modifications etc. (not altering text)**

**C54** Sch. 18 para. 76 applied (with modifications) (31.3.2001 with effect as mentioned in reg. 1(2) of the amending S.I.) by [S.I. 2001/1163](#), [regs. 1, 8](#)

*Joint amended returns*

- 77 (1) The Treasury may by regulations make provision for arrangements under which—
- (a) a claim for group relief may be made without being accompanied by a copy of the notice of consent to surrender given by the surrendering company [<sup>F385</sup>, provided authority for the claim being so made is given by a company which is authorised in relation to the claimant company as mentioned in paragraph (b)], and
  - (b) one company may be authorised to act on behalf of two or more companies in the same group in amending their company tax returns for the purpose of claiming or surrendering group relief or revising the amounts of group relief claimed or surrendered by them.
- (2) Regulations under this paragraph may add to, exclude or modify the operation of any provisions of this Part of this Schedule to such extent as the Treasury think necessary or expedient for the purpose of, or in connection with, such arrangements.

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- (3) Provision may in particular be made—
- (a) altering the conditions for making and withdrawing claims for group relief, and
  - (b) giving [<sup>F230</sup>an officer of Revenue and Customs] power to recover from the authorised company or another company in the group any amount which might be recovered from the claimant company by an assessment under paragraph 76.

#### Textual Amendments

**F230** Words in Sch. 18 substituted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), s. 53(1), [Sch. 4 para. 68\(a\)](#); S.I. 2005/1126, art. 2(2)(h)

**F385** Words in Sch. 18 para. 77(1)(a) inserted (28.7.2000) by [2000 c. 17, s. 99](#)

#### *[<sup>F386</sup>Claims in respect of overseas losses of non-resident companies*

#### Textual Amendments

**F386** Sch. 18 para. 77A and cross-heading inserted (with effect in accordance with Sch. 1 para. 9 of the amending Act) by [Finance Act 2006 \(c. 25\)](#), [Sch. 1 para. 8](#)

- 77A (1) This paragraph applies if a claim for group relief is made in respect of any loss or other amount as a result of the condition in [<sup>F387</sup>section 136 of the Corporation Tax Act 2010 being met (claims for group relief based on the EEA group condition).]
- (2) In relation to the surrendering company, this Part of this Schedule applies as if—
- (a) references to the relief being surrendered were to the EEA amount and to the relief being claimed, and
  - (b) references to its accounting period were to [<sup>F388</sup>the accounting period that the company is assumed to have under section 125 of the Corporation Tax Act 2010 for the purpose of recalculating the EEA amount at Step 3 in section 113 of that Act.]
- (3) Notice of consent of the surrendering company—
- (a) is to be given to the officer of the Board under paragraph 70(3)(b) by the claimant company (and not by the surrendering company), and
  - (b) is to be given to the officer to whom the claimant company makes its company tax returns.
- (4) If the surrendering company is not within the charge to income or corporation tax, the requirement under paragraph 71(1)(e) for notice of consent by the surrendering company to contain details of its tax district reference is not to apply.
- (5) If notice of consent is withdrawn under paragraph 71, the notice of the withdrawal is to be given to the officer of the Board by the claimant company (and not by the surrendering company).
- (6) If notice of consent is withdrawn under paragraph 75—



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- (a) the notice of withdrawal, and any copy of any new notice of consent, is to be sent to an officer of Revenue and Customs by the claimant company (and not by the surrendering company), and
  - (b) any notice containing directions by an officer of Revenue and Customs under sub-paragraph (4) of that paragraph is to be given to the claimant company (and not to the surrendering company).
- (7) The remaining provisions of that paragraph, and the rest of this Part of this Schedule, are, accordingly, to be read with the appropriate modifications (so that, in particular, it is the claimant company (and not the surrendering company) which can bring an appeal under paragraph 75(7)).
- (8) A notice under [<sup>F389</sup>paragraph 1 of Schedule 36 to the Finance Act 2008 (notice to taxpayer to produce documents etc)] given to the claimant company may require the claimant company—
- (a) to explain why the EEA amount meets the conditions mentioned in [<sup>F390</sup>Step 2 in section 113(2) of the Corporation Tax Act 2010 and is not prevented from being surrendered by section 127] of that Act, and
  - (b) to provide details of the recalculation required under [<sup>F391</sup>Step 3 in section 113(2) of that Act] in relation to the EEA amount.
- (9) Except where expressly indicated, requirements imposed under this paragraph are in addition to those imposed apart from this paragraph.
- (10) In this paragraph “the EEA amount” has the same meaning as in [<sup>F392</sup>Chapter 3 of Part 5 of the Corporation Tax Act 2010].]

#### Textual Amendments

- F387** Words in Sch. 18 para. 77A(1) substituted (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), **Sch. 1 para. 297(13)(a)** (with Sch. 2)
- F388** Words in Sch. 18 para. 77A(2)(b) substituted (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), **Sch. 1 para. 297(13)(b)** (with Sch. 2)
- F389** Words in Sch. 18 para. 77A(8) substituted (13.8.2009) by The Finance Act 2009, Schedule 47 (Consequential Amendments) Order 2009 (S.I. 2009/2035), art. 1, **Sch. para. 38**
- F390** Words in Sch. 18 para. 77A(8)(a) substituted (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), **Sch. 1 para. 297(13)(c)** (with Sch. 2)
- F391** Words in Sch. 18 para. 77A(8)(b) substituted (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), **Sch. 1 para. 297(13)(d)** (with Sch. 2)
- F392** Words in Sch. 18 para. 77A(10) substituted (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), **Sch. 1 para. 297(13)(e)** (with Sch. 2)

## PART IX

### CLAIMS FOR CAPITAL ALLOWANCES

#### Modifications etc. (not altering text)

- C55** Sch. Pt. IX applied (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, s. 135(5) (with Sch. 3 Pt. IV paras. 54, 55)



*Status: Point in time view as at 19/07/2011.*

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### *Introduction*

- [<sup>F393</sup>78 This Part of this Schedule applies to claims for allowances under the Capital Allowances Act which—
- (a) are made for corporation tax purposes, and
  - (b) are required under section 3 of that Act to be included in a tax return.]

#### **Textual Amendments**

**F393** Sch. 18 para. 78 substituted (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, ss. 578, 579, **Sch. 2 para. 103(1)**

### *Claim to be included in company tax return*

- [<sup>F394</sup>79(1) A claim for capital allowances must be included in the claimant company's company tax return for the accounting period for which the claim is made.]
- (2) It may be included in the return originally made or by amendment.

#### **Textual Amendments**

**F394** Sch. 18 para. 79(1) substituted (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, ss. 578, 579, **Sch. 2 para. 103(2)**

### *Content of claims*

- 80 A claim for capital allowances must specify the amount claimed, which must be an amount which is quantified at the time the claim is made.

### *Amendment or withdrawal of claim*

- 81 A claim for capital allowances may be amended or withdrawn by the claimant company only by amending its company tax return.

### *Time limit for claims*

- 82 (1) A claim for capital allowances may be made, amended or withdrawn at any time up to whichever is the last of the following dates—
- (a) the first anniversary of the filing date for the company tax return of the claimant company for the accounting period for which the claim is made;
  - (b) if notice of enquiry is given into that return, 30 days after the enquiry is completed;
  - (c) if after such an enquiry [<sup>F230</sup>an officer of Revenue and Customs][<sup>F279</sup>amends] the return under paragraph 34(2), 30 days after notice of the amendment is issued;
  - (d) if an appeal is brought against such an amendment, 30 days after the date on which the appeal is finally determined.
- (2) A claim for capital allowances may be made, amended or withdrawn at a later time if [<sup>F230</sup>an officer of Revenue and Customs][<sup>F279</sup>allows] it.

*Status: Point in time view as at 19/07/2011.*

*Changes to legislation: Finance Act 1998 is up to date with all changes known to be in force on or before 18 October 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (3) The time limits otherwise applicable to amendment of a company tax return do not apply to an amendment to the extent that it makes, amends or withdraws a claim for capital allowances within the time allowed by or under this paragraph.
- (4) The references in sub-paragraph (1) to an enquiry into a company tax return do not include an enquiry restricted to a previous amendment making, amending or withdrawing a claim for capital allowances.

An enquiry is so restricted if—

- (a) the scope of the enquiry is limited as mentioned in paragraph 25(2), and
- (b) the amendment giving rise to the enquiry consisted of the making, amending or withdrawing of a claim for capital allowances.

#### Textual Amendments

**F230** Words in Sch. 18 substituted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), s. 53(1), **Sch. 4 para. 68(a)**; S.I. 2005/1126, art. 2(2)(h)

**F279** Words in Sch. 18 substituted (18.4.2005) by virtue of [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), s. 53(1), **Sch. 4 para. 68(c)**; S.I. 2005/1126, art. 2(2)(h)

#### *Consequential amendment of return for another accounting period*

- 83 (1) This paragraph applies if the effect of a claim for capital allowances is to reduce the amount available by way of capital allowances for another accounting period of the company for which a company tax return has been delivered.
- (2) The company has 30 days within which to make any necessary amendments of the company tax return for that other period.
- (3) If it does not do so, [<sup>F230</sup>an officer of Revenue and Customs] may by notice in writing to the company amend the return to make it consistent with the amount available by way of capital allowances.
- (4) The time limits otherwise applicable to amendment of a company tax return do not prevent an amendment being made under sub-paragraph (2) or (3).
- (5) An appeal may be brought by the company against any such amendment.
- (6) Notice of appeal must be given—
- (a) in writing,
  - (b) within 30 days after notice of the amendment was issued,
  - (c) to the officer of the Board by whom the notice of amendment was issued.

#### Textual Amendments

**F230** Words in Sch. 18 substituted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), s. 53(1), **Sch. 4 para. 68(a)**; S.I. 2005/1126, art. 2(2)(h)

- [<sup>F395</sup>83(1)] Subject as follows, this Part of this Schedule applies to claims for a first-year tax credit under Schedule A1 to the Capital Allowances Act as it applies to claims for allowances under that Act.

*Status: Point in time view as at 19/07/2011.*

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- (2) A company tax return in which a claim to a first-year tax credit is made must specify—
- (a) the plant or machinery to which the relevant first-year expenditure relates,
  - (b) the amount of the relevant first-year expenditure incurred in respect of that plant or machinery, and
  - (c) the date on which that expenditure was incurred.
- (3) Where an order under section 45B or 45I of that Act (first-year allowance available only if relevant certificate in force) applies in relation to the plant or machinery, the company tax return must be accompanied by the relevant certificate.

<sup>F396</sup>(4) . . . . .

<sup>F397</sup>(5) . . . . . ]

**Textual Amendments**

**F395** Sch. 18 para. 83ZA inserted (with effect in accordance with Sch. 25 para. 9 of the amending Act) by [Finance Act 2008 \(c. 9\)](#), **Sch. 25 para. 8(5)**

**F396** Sch. 18 para. 83ZA(4) omitted (1.4.2009) by virtue of [Finance Act 2008 \(c. 9\)](#), s. 122(2), **Sch. 40 para. 21(f)**; [S.I. 2009/571](#), art. 2

**F397** Sch. 18 para. 83ZA(5) omitted (1.4.2009) by virtue of [Finance Act 2008 \(c. 9\)](#), s. 122(2), **Sch. 40 para. 21(f)**; [S.I. 2009/571](#), art. 2

<sup>F398</sup>**PART IXA**

CLAIMS FOR <sup>F399</sup>R&D TAX RELIEF]

**Textual Amendments**

**F398** [Sch. 18 Pt. 9A](#) (paras. 83A-83F) inserted (28.7.2000 with effect as mentioned in s. 69(1) of the amending Act) by [2000 c. 17](#), s. 69(2), **Sch. 21 para. 4**

**F399** Words in [Sch. 18 Pt. 9A](#) title substituted (with effect in accordance with Sch. 3 para. 10 of the amending Act) by [Finance Act 2006 \(c. 25\)](#), **Sch. 3 para. 5**

*Introduction*

83A This Part of this Schedule applies to <sup>F400</sup>claims for R&D tax relief] under <sup>F401</sup>Part 13 of the Corporation Tax Act 2009].

**Textual Amendments**

**F400** Words in Sch. 18 para. 83A substituted (with effect in accordance with Sch. 3 para. 10 of the amending Act) by [Finance Act 2006 \(c. 25\)](#), **Sch. 3 para. 3**

**F401** Words in Sch. 18 para. 83A substituted (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), **Sch. 1 para. 454(7)** (with [Sch. 2 Pts. 1, 2](#))

*Status: Point in time view as at 19/07/2011.*

*Changes to legislation: Finance Act 1998 is up to date with all changes known to be in force on or before 18 October 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

*Claim to be included in company tax return*

- 83B (1) A [<sup>F402</sup>claim to which this Part of this Schedule applies] must be made by being included in the claimant company's company tax return for the accounting period for which the claim is made.
- (2) It may be included in the return originally made or by amendment.

**Textual Amendments**

**F402** Words in Sch. 18 para. 83B(1) substituted (with effect in accordance with Sch. 3 para. 10 of the amending Act) by [Finance Act 2006 \(c. 25\)](#), **Sch. 3 para. 4(a)**

*Content of claim*

- 83C A [<sup>F403</sup>claim to which this Part of this Schedule applies] must specify the amount of the relief claimed, which must be an amount quantified at the time the claim is made.

**Textual Amendments**

**F403** Words in Sch. 18 para. 83C substituted (with effect in accordance with Sch. 3 para. 10 of the amending Act) by [Finance Act 2006 \(c. 25\)](#), **Sch. 3 para. 4(b)**

*Amendment or withdrawal of claim*

- 83D A [<sup>F404</sup>claim to which this Part of this Schedule applies] may be amended or withdrawn by the claimant company only by amending its company tax return.

**Textual Amendments**

**F404** Words in Sch. 18 para. 83D substituted (with effect in accordance with Sch. 3 para. 10 of the amending Act) by [Finance Act 2006 \(c. 25\)](#), **Sch. 3 para. 4(c)**

*Time limit for claims*

- 83E (1) A [<sup>F405</sup>claim to which this Part of this Schedule applies] may be made, amended or withdrawn at any time up to the first anniversary of the filing date for the company tax return of the claimant company for the accounting period for which the claim is made.
- (2) The claim may be made, amended or withdrawn at a later date if [<sup>F230</sup>an officer of Revenue and Customs][<sup>F279</sup>allows] it.

**Textual Amendments**

**F230** Words in Sch. 18 substituted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), s. 53(1), **Sch. 4 para. 68(a)**; S.I. 2005/1126, art. 2(2)(h)

**F279** Words in Sch. 18 substituted (18.4.2005) by virtue of [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), s. 53(1), **Sch. 4 para. 68(c)**; S.I. 2005/1126, art. 2(2)(h)

*Status: Point in time view as at 19/07/2011.*

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**F405** Words in Sch. 18 para. 83E(1) substituted (with effect in accordance with Sch. 3 para. 10 of the amending Act) by [Finance Act 2006 \(c. 25\)](#), [Sch. 3 para. 4\(d\)](#)

### *Penalty*

<sup>F406</sup>83F .....]

#### **Textual Amendments**

**F406** Sch. 18 para. 83F omitted (1.4.2009) by virtue of [Finance Act 2008 \(c. 9\)](#), s. 122(2), [Sch. 40 para. 21\(f\)](#); [S.I. 2009/571](#), art. 2

## <sup>F407</sup>**PART 9B**

### CLAIMS RELATING TO REMEDIATION OF CONTAMINATED <sup>F408</sup>OR DERELICT] LAND

#### **Textual Amendments**

**F407** Sch. 18 Pt. 9B inserted (11.5.2001 with effect as mentioned in s. 70 of the amending Act) by virtue of [2001 c. 9](#), s. 70, [Sch. 23 para. 6](#)

**F408** Words in Sch. 18 Pt. 9B heading inserted (with effect in accordance with Sch. 7 paras. 27, 28 of the amending Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 7 para. 25](#)

### *Introduction*

83G This Part of this Schedule applies to claims for—

- (a) land remediation tax credits under <sup>F409</sup>section 1151 of the Corporation Tax Act 2009] (“land remediation tax credits”), and
- (b) life assurance company tax credits under <sup>F410</sup>section 1164 of that Act] (“life assurance company tax credits”).

#### **Textual Amendments**

**F409** Words in Sch. 18 para. 83G(a) substituted (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), [Sch. 1 para. 454\(9\)\(a\)](#) (with Sch. 2 Pts. 1, 2)

**F410** Words in Sch. 18 para. 83G(b) substituted (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), [Sch. 1 para. 454\(9\)\(b\)](#) (with Sch. 2 Pts. 1, 2)

### *Claim to be included in company tax return*

<sup>F411</sup>83H(1) A claim for a land remediation tax credit or a life assurance company tax credit must be made by being included in the claimant company’s company tax return for the accounting period for which the claim is made.

(2) It may be included in the return originally made or by amendment.

*Status: Point in time view as at 19/07/2011.*

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**Textual Amendments**

**F411** Sch. 18 Pt. 9B para. 83H inserted (11.5.2001 with effect as mentioned in s. 70 of the amending Act) by 2001 c. 9, s. 70, **Sch. 23 para. 6**

*Content of claim*

**F412**83I A claim for a land remediation tax credit or a life assurance company tax credit must specify the amount of the tax credit claimed, which must be an amount quantified at the time the claim is made.

**Textual Amendments**

**F412** Sch. 18 Pt. 9B para. 83I inserted (11.5.2001 with effect as mentioned in s. 70 of the amending Act) by 2001 c. 9, s. 70, **Sch. 23 para. 6**

*Amendment or withdrawal of claim*

**F413**83J A claim for a land remediation tax credit or a life assurance company tax credit may be amended or withdrawn by the claimant company only by amending its company tax return.

**Textual Amendments**

**F413** Sch. 18 Pt. 9B para. 83J inserted (11.5.2001 with effect as mentioned in s. 70 of the amending Act) by 2001 c. 9, s. 70, **Sch. 23 para. 6**

*Time limit for claims*

**F414**83K(1) A claim for a land remediation tax credit or a life assurance company tax credit may be made, amended or withdrawn at any time up to the first anniversary of the filing date for the company tax return of the claimant company for the accounting period for which the claim is made.

(2) The claim may be made, amended or withdrawn at a later date if [<sup>F230</sup>an officer of Revenue and Customs][<sup>F279</sup>allows] it.

**Textual Amendments**

**F230** Words in Sch. 18 substituted (18.4.2005) by **Commissioners for Revenue and Customs Act 2005 (c. 11)**, s. 53(1), **Sch. 4 para. 68(a)**; S.I. 2005/1126, art. 2(2)(h)

**F279** Words in Sch. 18 substituted (18.4.2005) by virtue of **Commissioners for Revenue and Customs Act 2005 (c. 11)**, s. 53(1), **Sch. 4 para. 68(c)**; S.I. 2005/1126, art. 2(2)(h)

**F414** Sch. 18 Pt. 9B para. 83K inserted (11.5.2001 with effect as mentioned in s. 70 of the amending Act) by 2001 c. 9, s. 70, **Sch. 23 para. 6**

*Penalty*

**F415**83L ..... ]

*Status: Point in time view as at 19/07/2011.*

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**Textual Amendments**

**F415** Sch. 18 para. 83L omitted (1.4.2009) by virtue of [Finance Act 2008 \(c. 9\)](#), s. 122(2), [Sch. 40 para. 21\(f\)](#); [S.I. 2009/571](#), art. 2

**F416 PART 9BA**

CLAIMS FOR RELIEF UNDER SCHEDULE 12 TO THE FINANCE ACT 2002

**Textual Amendments**

**F416** Sch. 18 Pt. 9BA repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), Sch. 1 para. 454(10), [Sch. 3 Pt. 1](#) (with Sch. 2 Pts. 1, 2)

83LA	.....
83LB	.....
83LC	.....
83LD	.....
83LE	.....

**F417 PART 9C**

CLAIMS FOR RELIEF UNDER SCHEDULE 13 TO THE FINANCE ACT 2002

**Textual Amendments**

**F417** Sch. 18 Pt. 9C repealed (with effect in accordance with s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1329(1), Sch. 1 para. 454(11), [Sch. 3 Pt. 1](#) (with Sch. 2 Pts. 1, 2)

.....

*Status: Point in time view as at 19/07/2011.*

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## [<sup>F418</sup>PART 9D

### CLAIMS FOR FILM TAX RELIEF

#### Textual Amendments

**F418** Sch. 18 Pt. 9D inserted (1.1.2007) by Finance Act 2006 (c. 25), s. 53(1), **Sch. 5 para. 29**; S.I. 2006/3399, art. 2

#### *Introduction*

83S This Part of this Schedule applies to claims for film tax relief.

#### *Claim to be included in company tax return*

83T (1) A claim to which this Part of this Schedule applies must be made by being included in the claimant company's tax return for the accounting period for which the claim is made.

(2) It may be included in the return originally made or by amendment.

#### *Content of claim*

83U A claim to which this Part of this Schedule applies must specify the amount of the relief claimed, which must be an amount quantified at the time the claim is made.

#### *Amendment or withdrawal of claim*

83V A claim to which this Part of this Schedule applies may be amended or withdrawn by the claimant company only by amending its company tax return.

#### *Time limits for claim*

83W (1) A claim to which this part of this Schedule applies may be made, amended or withdrawn at any time up to the first anniversary of the filing date for the company tax return of the claimant company for the accounting period for which the claim is made.

(2) The claim may be made, amended or withdrawn at a later date if an officer of Revenue and Customs allows it.

#### *Penalty*

<sup>F419</sup>83X .....]

#### Textual Amendments

**F419** Sch. 18 para. 83X omitted (1.4.2009) by virtue of Finance Act 2008 (c. 9), s. 122(2), **Sch. 40 para. 21(f)**; S.I. 2009/571, art. 2



*Status: Point in time view as at 19/07/2011.*

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## PART X

### SPECIAL PROVISIONS

F420 .....

#### Textual Amendments

**F420** Sch. 18 para. 84 and cross-heading repealed (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), Sch. 1 para. 454(12), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

F420 84 .....

#### *Non-annual accounting of general insurance business*

85 (1) This paragraph applies where a company carrying on insurance business delivers a company tax return based wholly or partly on accounts drawn up using the method described in [F421] paragraph 58 in Section E of Part 2 of Schedule 3 to the Large and Medium-sized Companies and Groups (Accounts and Reports) Regulations 2008].

That paragraph provides for a technical provision to be made in the accounts which is later replaced by a provision for estimated claims outstanding.

(2) Where this paragraph applies—

- (a) the company may make any amendments of its return arising from the replacement of the technical provision at any time within twelve months from the date on which the provision was replaced, and
- (b) [F230] an officer of Revenue and Customs] may give notice of enquiry into the return at any time up to two years from that date.

(3) Nothing in this paragraph prevents notice of enquiry being given at any later time in accordance with the general rule in paragraph 24(3).

#### Textual Amendments

**F230** Words in Sch. 18 substituted (18.4.2005) by Commissioners for Revenue and Customs Act 2005 (c. 11), s. 53(1), **Sch. 4 para. 68(a)**; S.I. 2005/1126, art. 2(2)(h)

**F421** Words in Sch. 18 para. 85(1) substituted (1.10.2009) by The Companies Act 2006 (Consequential Amendments) (Taxes and National Insurance) Order 2009 (S.I. 2009/1890), arts. 1(1), **5(2)(b)**

#### *Insurance companies with non-annual actuarial investigations*

F422 86 .....

#### Textual Amendments

**F422** Sch. 18 para. 86 repealed (19.7.2007) by Finance Act 2007 (c. 11), Sch. 10 para. 16(7), **Sch. 27 Pt. 2(10)**

*Status: Point in time view as at 19/07/2011.*

*Changes to legislation: Finance Act 1998 is up to date with all changes known to be in force on or before 18 October 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

*Friendly societies with non-annual actuarial investigations*

- 87 (1) This paragraph applies where a company tax return is delivered by a friendly society which is required by section [F423 5.2 of the Prudential Sourcebook (Friendly Societies)] to cause an investigation to be made into its financial condition at least once in every period of three years.
- (2) Where this paragraph applies—
- (a) the society may make any amendments of its return arising from the relevant investigation at any time within 15 months from the date as at which that investigation is carried out, and
  - (b) [F230 an officer of Revenue and Customs] may give notice of enquiry into the return at any time up to 27 months from that date.
- (3) “The relevant investigation” means—
- (a) if the return is for a period as at the end of which there is carried out an investigation under section [F423 5.2 of the Prudential Sourcebook (Friendly Societies)] into the financial condition of the society, that investigation;
  - (b) if the return is not for such a period, the first such investigation to be made into the financial condition of the company as at the end of a subsequent period.
- [F424 (4) In this paragraph “the Prudential Sourcebook (Friendly Societies)” means the Interim Prudential Sourcebook for Friendly Societies made by the Financial Services Authority under the Financial Services and Markets Act 2000 F425.]

**Textual Amendments**

- F230** Words in Sch. 18 substituted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), s. 53(1), [Sch. 4 para. 68\(a\)](#); [S.I. 2005/1126](#), art. 2(2)(h)
- F423** Words in Sch. 18 paras. 87(1)(3) substituted (1.12.2001 with effect as mentioned in art. 103(5) of the amending S.I.) by [S.I. 2001/3629](#), [art. 103\(4\)\(a\)\(5\)](#)
- F424** Sch. 18 para. 87(4) inserted (1.12.2001 with effect as mentioned in art. 103(5) of the amending S.I.) by [S.I. 2001/3629](#), [art. 103\(4\)\(b\)\(5\)](#)
- F425** This sourcebook is part of the FSA Handbook. The FSA Handbook may be purchased on paper and on CD Rom from the Publications Department (Sales), Financial Services Authority, 25 The North Colonnade, Canary Wharf, London E14 5HS and is available on line at [www.fsa.gov.uk](http://www.fsa.gov.uk).

[F426] **PART 10A**

SES

**Textual Amendments**

- F426** Sch. 18 Pt. 10A inserted (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\)](#), s. 381(1), [Sch. 7 para. 108\(2\)](#) (with Sch. 9 paras. 1-9, 22)

*Status: Point in time view as at 19/07/2011.*

*Changes to legislation: Finance Act 1998 is up to date with all changes known to be in force on or before 18 October 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

*Company ceasing to be UK resident on formation of SE by merger*

- 87A (1) Sub-paragraph (2) applies if at any time a company ceases to be resident in the United Kingdom in the course of the formation of an SE by merger, whether or not the company continues to exist after the formation of the SE.
- (2) The other Parts of this Schedule apply after that time, but in relation to liabilities accruing and matters arising before that time—
- (a) as if the company were still resident in the United Kingdom, and
  - (b) if the company has ceased to exist, as if the SE were the company.

*SE ceasing to be UK resident*

- 87B (1) Sub-paragraph (2) applies if at any time an SE—
- (a) transfers its registered office from the United Kingdom, and
  - (b) ceases to be resident in the United Kingdom.
- (2) The other Parts of this Schedule apply after that time, but in relation to liabilities accruing and matters arising before that time, as if the SE were still resident in the United Kingdom.

*Meaning of SE*

- 87C In this Part “SE” means a European public limited-liability company (or Societas Europaea) within the meaning of Council Regulation (EC) No. 2157/2001 on the Statute for a European company.]

**PART XI**

SUPPLEMENTARY PROVISIONS

*Conclusiveness of amounts stated in return*

- 88 (1) This paragraph applies to an amount stated in a company tax return for an accounting period which is required to be included in the return and which affects or may affect—
- (a) the tax payable by the company making the return for another accounting period, or
  - (b) the tax liability of another company for any accounting period.
- (2) If such an amount can no longer be altered it is taken to be conclusively determined for the purposes of the Corporation Tax Acts in relation to that other period or other company.

Sub-paragraphs (3) to (5) explain what is meant by can no longer be altered.

- (3) An amount is regarded as one that can no longer be altered if—
- (a) the period specified in paragraph 15(4) (general period for amendment by company) has ended,
  - (b) any enquiry into the return has been completed <sup>F427</sup> ... ,
  - (c) if [<sup>F230</sup>an officer of Revenue and Customs][<sup>F279</sup>amends] the return under paragraph [<sup>F428</sup>34], the period within which an appeal may be brought against that amendment has ended, and

*Status: Point in time view as at 19/07/2011.*

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- (d) if an appeal is brought, the appeal has been finally determined.
- (4) If the return is amended by the company under a provision that allows an amendment after the end of the period specified in paragraph 15(4), an amount affected by the amendment ceases to be regarded as one that can no longer be altered until after whichever is the last of the following—
- the end of the period within which notice of enquiry into the return may be given in consequence of the amendment;
  - if such a notice is given, [<sup>F429</sup>the completion of the enquiry];
  - if [<sup>F230</sup>an officer of Revenue and Customs][<sup>F279</sup>amends] the return under paragraph [<sup>F430</sup>34], the end of the period within which an appeal against that amendment may be brought;
  - if an appeal is brought, the date on which the appeal is finally determined.
- (5) If the return is amended by [<sup>F230</sup>an officer of Revenue and Customs] under paragraph 83(3) (consequential amendment of return where amount available by way of capital allowances is reduced), an amount affected by the amendment ceases to be regarded as one that can no longer be altered until after—
- the end of the period within which an appeal against that amendment may be brought, or
  - if an appeal is brought, the date on which the appeal is finally determined.
- (6) For the purposes of this paragraph an amount carried forward from a period for which a return was made under section 11 of the <sup>M169</sup>Taxes Management Act 1970 is not regarded as one required to be included in a company tax return for a later period.
- (7) Nothing in this paragraph affects any power to make an assessment other than a self-assessment or the power to make a discovery determination.
- [<sup>F431</sup>(8) Nothing in this paragraph affects a power of the company making the return to make a claim under paragraph 51 (claim for relief for overpaid tax).]

#### Textual Amendments

- F230** Words in Sch. 18 substituted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), s. 53(1), [Sch. 4 para. 68\(a\)](#); S.I. 2005/1126, art. 2(2)(h)
- F279** Words in Sch. 18 substituted (18.4.2005) by virtue of [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), s. 53(1), [Sch. 4 para. 68\(c\)](#); S.I. 2005/1126, art. 2(2)(h)
- F427** Words in Sch. 18 para. 88(3)(b) omitted (1.4.2010) by virtue of [Finance Act 2008 \(c. 9\)](#), s. [119\(10\)\(a\)\(13\)](#); S.I. 2009/405, art. 2
- F428** Word in Sch. 18 para. 88(3)(c) substituted (1.4.2010) by [Finance Act 2008 \(c. 9\)](#), s. [119\(10\)\(b\)\(13\)](#); S.I. 2009/405, art. 2
- F429** Words in Sch. 18 para. 88(4)(b) substituted (1.4.2010) by [Finance Act 2008 \(c. 9\)](#), s. [119\(10\)\(c\)\(13\)](#); S.I. 2009/405, art. 2
- F430** Word in Sch. 18 para. 88(4)(c) substituted (1.4.2010) by [Finance Act 2008 \(c. 9\)](#), s. [119\(10\)\(d\)\(13\)](#); S.I. 2009/405, art. 2
- F431** Sch. 18 para. 88(8) inserted (with effect in accordance with s. 100(2) of the amending Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 52 para. 16](#)

#### Marginal Citations

- M169** 1970 c. 9.

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### *Penalty for fraud or negligence*

F432<sup>89</sup> .....

#### **Textual Amendments**

**F432** Sch. 18 para. 89 repealed (1.4.2008 for specified purposes, 1.7.2008 for specified purposes, 1.1.2009 for specified purposes, 1.4.2009 in so far as not already in force) by [Finance Act 2007 \(c. 11\), s. 97\(2\), Sch. 24 para. 29\(c\), Sch. 27 Pt. 5\(5\)](#); S.I. 2008/568, art. 2(a)(b)(c)(d)(e)(f) (with art. 3) (see also S.I. 2009/56, [Sch. 1 para. 265](#))

### *Multiple tax-related penalties in respect of same accounting period*

- 90 (1) This paragraph applies where a company incurs more than one penalty whose amount falls to be determined by reference to the tax payable by it for an accounting period.
- (2) Each penalty after the first shall be reduced so that the total amount of the penalties, so far as determined by reference to any particular part of the tax, does not exceed whichever is, or but for this paragraph would be, the greater or greatest of them, so far as so determined.

### *European Economic Interest Groupings*

- 91 An act or omission such as is mentioned in section 98B of the <sup>M170</sup>Taxes Management Act 1970 (European Economic Interest Groupings: acts or omissions attracting penalties) on the part of a grouping, or a member of a grouping, is treated as the act or omission of each member of the grouping for the purposes of—
- paragraphs 43 and 46(2) (assessment in case of fraud or negligence), and
- paragraphs 61(2) and 65(1) (consequential claims in case of such an assessment).

#### **Marginal Citations**

**M170** 1970 c. 9.

### *Notices of appeal*

- 92 (1) This paragraph applies in relation to any appeal under this Schedule.
- (2) The notice of appeal shall specify the grounds of appeal.
- F433 (3) .....

#### **Textual Amendments**

**F433** Sch. 18 para. 92(3) omitted (1.4.2009) by virtue of [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\), art. 1\(2\), Sch. 1 para. 266](#)

### *General jurisdiction of Special or General Commissioners*

F434<sup>93</sup> .....

*Status: Point in time view as at 19/07/2011.*

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**Textual Amendments**

**F434** Sch. 18 para. 93 omitted (1.4.2009) by virtue of [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 267**

*Election to take appeal to Special Commissioners*

**F435**<sup>94</sup> .....

**Textual Amendments**

**F435** Sch. 18 para. 94 omitted (1.4.2009) by virtue of [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 1(2), **Sch. 1 para. 267**

*Meaning of “the Inland Revenue”*

**F436**<sup>95</sup> .....

**Textual Amendments**

**F436** Sch. 18 para. 95 repealed (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), s. 53(1), Sch. 4 para. 68(b), **Sch. 5**; S.I. 2005/1126, art. 2(2)(h)(i)

*The self-assessment appointed day*

96 In this Schedule “the self-assessment appointed day” means the day appointed by the Treasury under section 199 of the <sup>M171</sup>Finance Act 1994 for the purposes of Chapter III of Part IV of that Act (corporation tax self-assessment).

**Marginal Citations**

**M171** 1994 c. 9.

*Construction of references to assessment*

97 Any reference in the Tax Acts (however expressed) to a person being assessed to tax, or being charged to tax by an assessment, include a reference to his being so assessed, or being so charged—

- (a) by a self-assessment under this Schedule, or an amendment of such a self-assessment, or
- (b) by a determination under paragraph 36 or 37 of this Schedule (which, until superseded by a self-assessment, has effect as if it were one).

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### <sup>F437</sup>Meaning of TIOPA 2010

#### Textual Amendments

**F437** Sch. 18 para. 97A and cross-heading inserted (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\), s. 381\(1\), Sch. 8 para. 321\(6\)](#) (with Sch. 9 paras. 1-9, 22)

97A In this Schedule “TIOPA 2010” means the Taxation (International and Other Provisions) Act 2010.]

#### *Index of defined expressions*

98 In this Schedule the expressions listed below are defined or otherwise explained by the provisions indicated—

the Board	paragraph 95(6)
closure notice	paragraph 32(1)
company tax return	paragraph 3(1)
delivery (in relation to company tax return)	paragraph 4
discovery assessment	paragraph 41(1)
discovery determination	paragraph 41(2)
filing date	paragraph 14
Inland Revenue	paragraph 95
notice of enquiry	paragraph 24(1)
notice requiring company tax return	paragraph 3(1)
<sup>F438</sup> SE (in Part 10A)	paragraph 87C]
self-assessment	paragraph 7
self-assessment appointed day	paragraph 96
tax	paragraph 1 (and see paragraphs 63(3) and 64(5))
tax payable	paragraph 8
<sup>F439</sup> TIOPA 2010	paragraph 97A]
wrong period (return for)	paragraph 26(2) to (4)

#### Textual Amendments

**F438** Words in Sch. 18 para. 98 inserted (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\), s. 381\(1\), Sch. 7 para. 108\(3\)](#) (with Sch. 9 paras. 1-9, 22)

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**F439** Words in Sch. 18 para. 98 inserted (with effect in accordance with s. 381(1) of the amending Act) by Taxation (International and Other Provisions) Act 2010 (c. 8), s. 381(1), **Sch. 8 para. 321(7)** (with Sch. 9 paras. 1-9, 22)

SCHEDULE 19

Section 117(3).

COMPANY TAX RETURNS, ETC.: MINOR AND CONSEQUENTIAL AMENDMENTS

*Taxes Management Act 1970 (c.9)*

- 1       The following provisions of the Taxes Management Act 1970 shall cease to have effect—
  - section 10 (notice of liability to corporation tax),
  - section 11 (return of profits),
  - section 11AA (return of profits to include self-assessment),
  - section 11AB (power to enquire into return of profits),
  - sections 11AC to 11AE (modifications of sections 11AA and 11AB for certain insurance companies and friendly societies).
- 2       In section 12(2) of the Taxes Management Act 1970 (information about chargeable gains), omit “or section 11”.
- 3       In section 12AA(7) of the Taxes Management Act 1970 (partnership return: information about chargeable gains), after “section 12(2) of this Act” insert “ or paragraph 13 of Schedule 18 to the Finance Act 1998 ”.

F440<sub>4</sub>       .....

**Textual Amendments**

**F440** Sch. 19 para. 4 repealed (11.5.2001 with effect in accordance with s. 88 and Sch. 29 of the amending Act) by 2001 c. 9, ss. 88, 110, **Sch. 33 Pt. 2(13)** Note

F441<sub>5</sub>       .....

**Textual Amendments**

**F441** Sch. 19 para. 5 repealed (11.5.2001 with effect as mentioned in s. 88 and Sch. 29 of the amending Act) by 2001 c. 9, ss. 88, 110, **Sch. 33 Pt. 2(13)** Note

- 6       In section 12B(1) of the Taxes Management Act 1970 (records to be kept for purposes of returns), omit “, 11”.
- 7       In section 19A(1) of the Taxes Management Act 1970 (power to call for documents for purposes of certain enquiries), omit “, 11AB(1)”.

F442<sub>8</sub>       .....



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**Textual Amendments**

**F442** Sch. 19 para. 8 repealed (11.5.2001 with effect in accordance with Sch. 33 Pt. 2(13) of the amending Act) by 2001 c. 9, ss. 88, 110, Sch. 33 Pt. 2(13)

9 Sections 28AA and 28AB of the Taxes Management Act 1970 (amendment of return of profits made for wrong period) shall cease to have effect.

**F443** 10 .....

**Textual Amendments**

**F443** Sch. 19 para. 10 repealed (11.5.2001 with effect in accordance with Sch.33 Pt. 2(13) of the amending Act) by 2001 c. 9, ss. 88, 110, Sch. 33 Pt. 2(13) Note

11 Sections 28D, 28E and 28F of the Taxes Management Act 1970 (determination of corporation tax in absence of self-assessment) shall cease to have effect.

12 (1) Section 29 of the Taxes Management Act 1970 (assessment where loss of tax discovered) is amended as follows.

(2) In subsection (1) for “profits which ought to have been assessed to tax” substitute “income which ought to have been assessed to income tax, or chargeable gains which ought to have been assessed to capital gains tax, ”.

(3) For “chargeable period”, wherever it occurs, substitute “ year of assessment ”.

(4) In subsections (2), (3), (5)(a), (6)(a) and (7)(a) for “section 8, 8A or 11” substitute “ section 8 or 8A ”.

(5) In subsection (3)(b) omit “in the case of a return under section 8 or 8A,”.

(6) Omit subsection (10).

13 (1) Section 30 of the Taxes Management Act 1970 (recovery of overpayment of tax, etc.) is amended as follows.

(2) In subsection (1) for “tax” in the first place where it occurs substitute “ income tax or capital gains tax ”.

(3) In subsection (2)(a), omit “or 825”.

(4) Omit subsection (2A).

(5) In subsection (3), omit “or corporation tax”.

(6) Omit subsection (3A).

**F444** (7) .....

(8) Omit subsection (4A).

(9) In subsection (5)(a), for “chargeable period” substitute “ year of assessment ”.

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#### Textual Amendments

**F444** Sch. 19 para. 13(7) repealed (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), s. 883\(1\)](#), [Sch. 3](#) (with [Sch. 2](#))

- 14 (1) Section 30B of the Taxes Management Act 1970 (amendment of partnership statement where loss of tax discovered) is amended as follows.

<sup>F445</sup>(2) .....

(3) In subsection (7)(b) for “section 8, 8A or 11” substitute “ section 8 or 8A ”.

(4) In subsection (9) for the definition of “profits” substitute—

““profits”—

- (a) in relation to income tax, means income,
- (b) in relation to capital gains tax, means chargeable gains, and
- (c) in relation to corporation tax, means profits as computed for the purposes of that tax.”.

#### Textual Amendments

**F445** [Sch. 19 para. 14\(2\)](#) repealed (11.5.2001 with effect in accordance with s. 88 and [Sch. 29](#) of the amending Act) by [2001 c. 9, ss. 88, 110, Sch. 33 Pt. 2](#) (13) Note

- 15 (1) Section 33 of the Taxes Management Act 1970 (error or mistake) is amended as follows.

(2) For subsection (1) substitute—

“(1) If a person who has paid income tax or capital gains tax under an assessment (whether a self-assessment or otherwise) alleges that the assessment was excessive by reason of some error or mistake in a return, he may by notice in writing at any time not later than five years after the 31st January next following the year of assessment to which the return relates, make a claim to the Board for relief.”.

(3) In subsection (5), after paragraph (a) insert “, and ” and omit paragraph (c).

- 16 (1) Section 33A of the Taxes Management Act 1970 (error or mistake in partnership statement) is amended as follows.

(2) In subsection (1) omit “under section 9 or 11AA of this Act”.

<sup>F446</sup>(3) .....

#### Textual Amendments

**F446** [Sch. 19 para. 16\(3\)](#) repealed (11.5.2001 with effect in accordance with s. 88 and [Sch. 29](#) of the amending Act) by [2001 c. 9, ss. 88, 110, Sch. 33 Pt. 2\(13\)](#) Note

- 17 In section 34(1) of the Taxes Management Act 1970 (ordinary time limit for assessment), for the words from “an assessment to tax may be made” to the end substitute “ an assessment to income tax or capital gains tax may be made at any

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time not later than five years after the 31st January next following the year of assessment to which it relates”.

F447 18 .....

**Textual Amendments**

**F447** Sch. 19 para. 18 omitted (1.4.2010) by virtue of Finance Act 2008 (c. 9), s. 118(2), Sch. 39 para. 65(d); S.I. 2009/403, art. 2(2) (with art. 10)

19 Sections 41A, 41B and 41C of the Taxes Management Act 1970 (corporation tax determinations) shall cease to have effect.

20 (1) Section 42 of the Taxes Management Act 1970 (procedure for making claims, etc.) is amended as follows.

(2) In subsections (2), (9) and (11)(a) omit “, 11”.

(3) Omit subsections (4) and (4A), and in subsection (5) the words from “and the reference in subsection (4)” to the end.

(4) In subsection (13), after paragraph (a) insert “, and” and omit paragraph (c).

21 In section 43 of the Taxes Management Act 1970, for subsection (1) substitute—

“(1) Subject to any provision of the Taxes Acts prescribing a longer or shorter period, no claim for relief in respect of income tax or capital gains tax may be made more than five years after the 31st January next following the year of assessment to which it relates.”.

22 (1) Section 43A of the Taxes Management Act 1970 (further assessments: claims etc.) is amended as follows.

(2) In subsection (1) for paragraph (a) substitute—

“(a) where by virtue of section 29 of this Act an assessment to income tax or capital gains tax is made on any person for a year of assessment, and”.

(3) In subsections (2), (3), (4) and (5) for “chargeable period”, wherever occurring, substitute “year of assessment”.

23 In section 46(2) of the Taxes Management Act 1970 (determinations of Commissioner to be final), omit the words “and in particular save as provided by section 29 of this Act”.

F448 24 .....

**Textual Amendments**

**F448** Sch. 19 para. 24 repealed (11.5.2001 with effect as mentioned in s. 88 and Sch. 29 of the amending Act) by 2001 c. 9, ss. 88, 110, Sch. 33 Pt. 2 (13) Note

F449 25 .....

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#### Textual Amendments

**F449** Sch. 19 para. 25 repealed (11.5.2001 with effect in accordance with s. 88 and Sch. 29 of the amending Act) by 2001 c. 9, ss. 88, 110, Sch. 33 Pt. 2(13) Note

**F450** 26 .....

#### Textual Amendments

**F450** Sch. 19 para. 26 repealed (11.5.2001 with effect as mentioned in s. 88 and Sch. 29 of the amending Act) by 2001 c. 9, ss. 88, 110, Sch. 33 Pt. 2(13) Note

27 (1) Section 50 of the Taxes Management Act 1970 (procedure) is amended as follows.

**F451** (2) .....

**F452** (3) .....

(4) For subsection (9) substitute—

“(9) Where any amounts contained in a partnership statement are reduced under subsection (6) above or increased under subsection (7) above, an officer of the Board shall by notice to each of the relevant partners amend—

- (a) the partner’s self-assessment under section 9 of this Act, or
- (b) the partner’s company tax return,

so as to give effect to the reductions or increases of those amounts.”.

#### Textual Amendments

**F451** Sch. 19 para. 27(2) repealed (11.5.2001 with effect as mentioned in s. 88 and Sch. 29 of the amending Act) by 2001 c. 9, ss. 88, 110, Sch. 33 Pt. 2(13) Note

**F452** Sch. 19 para. 27(3) repealed (11.5.2001 with effect as mentioned in s. 88 and Sch. 29 of the amending Act) by 2001 c. 9, ss. 88, 110, sch. 33 Pt. 2(13) Note

28 In section 55(1) of the Taxes Management Act 1970 (recovery of tax not postponed), for paragraphs (a) and (b) substitute—

“(a) an amendment of a self-assessment under—

- (i) section 28A(2) or (4) of this Act, or
- (ii) paragraph 30 or 34(2) of Schedule 18 to the Finance Act 1998,

(b) an assessment to tax other than a self-assessment.”.

29 (1) In Part VA of the Taxes Management Act 1970 (payment of tax), before section 59A insert the heading “*Income tax and capital gains tax*”.

(2) For section 59D of that Act substitute—

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## “ Corporation tax

### **59D General rule as to when corporation tax is due and payable.**

- (1) Corporation tax for an accounting period is due and payable on the day following the expiry of nine months from the end of that period.
- (2) If the tax payable is then exceeded by the total of any relevant amounts previously paid (as stated in the relevant company tax return), the excess shall be repaid.
- (3) The tax payable means the amount computed in accordance with paragraph 8 of Schedule 18 to the Finance Act 1998.
- (4) Relevant amounts previously paid means any of the following, so far as relating to the accounting period in question—
  - (a) any amount of corporation tax paid by the company and not repaid;
  - (b) any corporation tax refund surrendered to the company by another group company;
  - (c) any amount by which the sums available for set off under Step 4 of the calculation in paragraph 8 of Schedule 18 to the Finance Act 1998 (amounts set off against overall tax liability) exceeds the amount against which they may be set off under that provision;
  - (d) any amount treated as corporation tax paid in respect of profits of the company under section 559 of the principal Act (deductions from payments to sub-contractors).
- (5) This section has effect subject to section 59E.

### **59DA Claim for repayment in advance of liability being established.**

- (1) This section applies where a company has paid an amount of corporation tax for an accounting period and the circumstances of the company change, so that the company has grounds for believing that the amount paid exceeds its probable tax liability although that liability has not been finally established.
- (2) The company may, by notice given to an officer of the Board, claim repayment of the excess.

No such claim may be made before the date which under section 826 of the principal Act (interest on overpaid tax), subject to regulations under section 826A of that Act, is the material date in relation to that tax.

- (3) The notice must state—
  - (a) the amount which the company considers should be repaid, and
  - (b) its grounds for believing that the amount paid exceeds its probable tax liability.
- (4) If the company has appealed against an amendment of an assessment, or an assessment, relating to the tax liability in question, and the appeal has not been finally determined, it may apply to the Commissioners to whom the appeal stands referred for a determination of the amount which should be repaid to the company pending determination of the liability.

Status: Point in time view as at 19/07/2011.

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- (5) Any claim under subsection (2) or application under subsection (4) shall be heard and determined in the same way as an appeal.
- (6) If the company makes an application under section 55(3) or (4) (application to postpone payment pending determination of appeal), that application may be combined with an application under subsection (4) above.
- (7) If a company makes a claim or application under this section before it has delivered a company tax return for the period in question, any deductions under section 559 of the principal Act (deductions from payments to certain subcontractors) shall be disregarded in considering whether the amount paid by the company exceeds its probable tax liability.
- (8) This section has effect subject to section 59E.”.

- 30 (1) Section 65 of the Taxes Management Act 1970 (recovery of small amounts of tax by civil proceedings in the magistrates’ court) is amended as follows.
  - (2) In subsection (1) for the words from the beginning to “payment or tax” substitute “ Any amount due and payable by way of income tax, capital gains tax or corporation tax which does not exceed £2,000 ”.
  - (3) In subsection (3), omit the words from “for the recovery of” to the end of paragraph (b).
  - (4) In subsection (5) for “sums” substitute “ sum ”.

F453 31 .....

**Textual Amendments**  
**F453** Sch. 19 para. 31 repealed (11.5.2001 with effect as mentioned in Sch. 33(14) Note 2 of the amending Act) by 2001 c. 9, ss. 88, 110, Sch. 33 Pt. 2(14)

F454 32 .....

**Textual Amendments**  
**F454** Sch. 19 para. 32 omitted (21.7.2008) by virtue of Finance Act 2008 (c. 9), Sch. 44 para. 11(c)

- 33 Section 94 of the Taxes Management Act 1970 (penalty for failure to make return for corporation tax) shall cease to have effect.
- 34 Section 96 of the Taxes Management Act 1970 (incorrect return or accounts for corporation tax) shall cease to have effect.
- 35 In section 97 of the Taxes Management Act 1970 (incorrect return or accounts: supplemental), in subsections (1) and (2) for “sections 95 and 96” substitute “ section 95 ”.

F455 36 .....

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### Textual Amendments

**F455** Sch. 19 para. 36 omitted (1.4.2009) by virtue of Finance Act 2008 (c. 9), s. 113(2), Sch. 36 para. 92(f) (with Sch. 36 para. 38); S.I. 2009/404, art. 2 (with art. 12)

- 37 In section 97A of the Taxes Management Act 1970 (two or more tax-geared penalties in respect of same tax), omit paragraph (b) and the word “or” preceding it.
- 38 In section 100(6)(a) of the Taxes Management Act 1970 (determination of penalties), for “section 94(6) above” substitute “ paragraph 18(2) of Schedule 18 to the Finance Act 1998 ”.
- 39 For section 101 of the Taxes Management Act 1970 (evidence of profits for purposes of preceding provisions of Part X) substitute—

#### “101 Evidence for purposes of proceedings relating to penalties.

An assessment which can no longer be varied by any Commissioners on appeal or by order of any court is sufficient evidence, for the purposes of—

- (a) the preceding provisions of this Part, and
- (b) the provisions of Schedule 18 to the Finance Act 1998 relating to penalties,

that the amounts in respect of which tax is charged in the assessment arose or were received as stated in the assessment.”.

- 40 In section 103A of the Taxes Management Act 1970 (interest on penalties), after “this Part of this Act” insert “, or Schedule 18 to the Finance Act 1998, ”.
- 41 In section 113(1B) of the Taxes Management Act 1970 (Revenue assessments to tax), after “section 29 of this Act” insert “ or paragraph 41 of Schedule 18 to the Finance Act 1998 ”.
- 42 (1) Schedule 1A to the Taxes Management Act 1970 (claims, etc. not included in returns) is amended as follows.
- (2) In paragraph 1, for the definition of “profits” substitute—
- ““profits”—
  - (a) in relation to income tax, means income,
  - (b) in relation to capital gains tax, means chargeable gains, and
  - (c) in relation to corporation tax, means profits as computed for the purposes of that tax;”.
- (3) In paragraph 2(5)(c) after “section 12 of this Act” insert “ or paragraph 13 of Schedule 18 to the Finance Act 1998 ”.
- (4) In paragraph 2A (keeping and preserving of records), in sub-paragraphs (3) and (5) (a) after “12B(4A) of this Act” insert “ or paragraph 22(3) of Schedule 18 to the Finance Act 1998 ”.
- (5) In paragraph 5 (power to enquire into claims), in sub-paragraph (3)(b) for “section 9A(1), 11AB(1) or 12AC(1) of this Act” substitute “ section 9A(1) or 12AC(1) of this Act or paragraph 24 of Schedule 18 to the Finance Act 1998 ”.

F456(6) .....

*Status: Point in time view as at 19/07/2011.*

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F457 (7) .....

**Textual Amendments**

**F456** Sch. 19 para. 42(6) omitted (1.4.2009) by virtue of Finance Act 2008 (c. 9), s. 113(2), Sch. 36 para. 92(f) (with Sch. 36 para. 38); S.I. 2009/404, art. 2 (with art. 12)

**F457** Sch. 19 para. 42(7) omitted (1.4.2009) by virtue of Finance Act 2008 (c. 9), s. 113(2), Sch. 36 para. 92(f) (with Sch. 36 para. 38); S.I. 2009/404, art. 2 (with art. 12)

- 43 (1) Schedule 3A to the Taxes Management Act 1970 (electronic lodgement of tax returns) is amended as follows.
- (2) In paragraph 1(4)(a), after “Part II of this Act” insert “ or Schedule 18 to the Finance Act 1998 ”.
- (3) In paragraph 8(2)(a), after “Part II of this Act” insert “ or Schedule 18 to the Finance Act 1998 ”.

*Income and Corporation Taxes Act 1988 (c.1)*

- 44 (1) Section 246Q of the Taxes Act 1988 (repayment or set-off of ACT in respect of foreign income dividend) is amended as follows.
- (2) In subsection (6) for the words from the beginning to “section 11 of the Management Act” substitute “ A company tax return made by the company for the relevant period ”.
- (3) In subsection (7) for “a return under section 11 of the Management Act” substitute “ a company tax return ”.
- 45 (1) Section 246U of the Taxes Act 1988 (repayments treated as repayments of ACT in case of international headquarters company) is amended as follows.
- (2) In subsection (7), for paragraph (a) substitute—
- “(a) a company tax return made by the company for the accounting period, or”.
- (3) In subsection (8) for “a return under section 11 of the Management Act” substitute “ a company tax return ”.

F458 46 .....

**Textual Amendments**

**F458** Sch. 19 para. 46 repealed (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), Sch. 3 Pt. 1 (with Sch. 2)

F459 47 .....

**Textual Amendments**

**F459** Sch. 19 para. 47 repealed (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), Sch. 3 Pt. 1 (with Sch. 2)



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48 (1) Section 488 of the Taxes Act 1988 (co-operative housing associations) is amended as follows.

<sup>F460</sup>(2) .....

(3) For subsection (12) substitute—

“(12) A housing association making a claim under this section may be required—

(a) under paragraph 3 of Schedule 18 to the Finance Act 1998, if the claim is included in a company tax return, and

(b) under paragraph 2(5) of Schedule 1A to the Taxes Management Act 1970 if it is not so included,

to deliver as part of the return or claim an authority, granted by all members of the association, for any relevant information contained in any return made by a member under the provisions of the Income Tax Acts to be used by an officer of the Board in such manner as he may think fit in connection with any enquiry relating to the association’s claim.”.

**Textual Amendments**

**F460** Sch. 19 para. 48(2) repealed (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), Sch. 3 Pt. 1 (with Sch. 2)

<sup>F461</sup>49 .....

**Textual Amendments**

**F461** Sch. 19 para. 49 repealed (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), Sch. 3 Pt. 1 (with Sch. 2)

50 (1) Schedule 13A to the Taxes Act 1988 (surrenders of advance corporation tax) is amended as follows.

(2) In paragraph 5(1) for “a return under section 11 of the Management Act” substitute “a company tax return”.

(3) For paragraph 5(2) substitute—

“(2) The provisions of Part VII of Schedule 18 to the Finance Act 1998 (general provisions as to claims and elections) do not apply to the making of claims.”.

(4) In paragraph 14(1) omit the words from “(which correspond” to “Management Act)”.

(5) In paragraph 14(6) for “an amendment of a self-assessment under section 28A(4) of that Act” substitute “an amendment of a company tax return under paragraph 34(2) of Schedule 18 to the Finance Act 1998”.

(6) In paragraph 14(8) omit the words from “against an amendment” to the end.

<sup>F462</sup>51 .....

*Status: Point in time view as at 19/07/2011.*

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**Textual Amendments**

**F462** Sch. 19 para. 51 repealed (11.5.2001 with effect in accordance with Sch. 33 Pt. 2(12) of the amending Act) by 2001 c. 9, s. 110, Sch. 33 Pt. 2(12) Note

**F463** SCHEDULE 20

Section 121.

**Textual Amendments**

**F463** Sch. 20 omitted (with effect in accordance with Sch. 2 para. 56(3) to the amending Act) by virtue of Finance Act 2008 (c. 9), Sch. 2 para. 55(a)(iii)

SCHEDULE 21

Section 121.

AMENDMENTS IN CONNECTION WITH TAPER RELIEF

*Introductory*

1 The <sup>M172</sup>Taxation of Chargeable Gains Act 1992 shall be amended in accordance with the following provisions of this Schedule.

**Marginal Citations**

**M172** 1992 c. 12.

*Gains of trustees attributed to settlor*

**F464**<sub>2</sub>

**Textual Amendments**

**F464** Sch. 21 para. 2 omitted (with effect in accordance with Sch. 2 para. 56(3) to the amending Act) by virtue of Finance Act 2008 (c. 9), Sch. 2 para. 55(a)(iv)

*Annual exempt amount*

3 For subsection (5) of section 3 (definition of taxable amount) there shall be substituted the following subsections—

“(5) For the purposes of this section an individual’s taxable amount for any year of assessment is the amount which, after—

- (a) making every deduction for which section 2(2) provides,

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- (b) applying any reduction in respect of taper relief under section 2A, and
  - (c) adding any amounts falling to be added by virtue of section 2(5)(b),
- is (apart from this section) the amount for that year on which that individual is chargeable to capital gains tax in accordance with section 2.
- (5A) Where, in the case of any individual, the amount of the adjusted net gains for any year of assessment is equal to or less than the exempt amount for that year, no deduction shall be made for that year in respect of—
- (a) any allowable losses carried forward from a previous year; or
  - (b) any allowable losses carried back from a subsequent year in which the individual dies.
- (5B) Where, in the case of any individual, the amount of the adjusted net gains for any year of assessment exceeds the exempt amount for the year, the deductions made for that year in respect of allowable losses falling within subsection (5A)(a) or (b) above shall not be greater than the excess.
- (5C) In subsections (5A) and (5B) above the references, in relation to any individual's case, to the adjusted net gains for any year are references to the amount given in his case by—
- (a) taking the amount for that year from which the deductions for which section 2(2)(a) and (b) provides are to be made;
  - (b) deducting only the amounts falling to be deducted in accordance with section 2(2)(a); and
  - (c) in a year in which any amount falls to be brought into account by virtue of section 2(5)(b), adding whichever is the smaller of the exempt amount for that year and the amount falling to be so brought into account.”

*Gains attributed to members of non-resident companies*

F465 4 .....

**Textual Amendments**

**F465** Sch. 21 para. 4 omitted (with effect in accordance with Sch. 2 para. 56(3) to the amending Act) by virtue of Finance Act 2008 (c. 9), **Sch. 2 para. 55(a)(iv)**

*Carry back of losses on death*

- 5 In section 62 (general provisions about death), the following subsections shall be inserted after subsection (2)—
- “(2A) Amounts deductible from chargeable gains for any year in accordance with subsection (2) above shall not be so deductible from any such gains so far as they are gains that are brought into account for that year by virtue of section 2(5)(b).
  - (2B) Where deductions under subsection (2) above fall to be made from the chargeable gains for any year, the provisions of this Act relating to taper

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relief shall have effect as if those deductions were deductions under section 2(2)(a) and (b) and, accordingly, as if—

- (a) those deductions were to be made (before the application of the relief) in computing for that year the excess (if any) mentioned in section 2A(1); and
- (b) for the purpose of determining the gains represented in that excess, the gains for that year from which those deductions are treated as made were to be ascertained in accordance with section 2A(6).”

*Gains attributed to settlors and beneficiaries*

6<sup>F466</sup>F467 (1) . . . . .

F466 (2) . . . . .

F468 (3) . . . . .

F469 (4) . . . . .

**Textual Amendments**

**F466** Sch. 21 para. 6(1)(2) repealed (24.7.2002 with effect as mentioned in Sch. 40 Pt. 3(4) Note to the amending Act) by 2002 c. 23, s. 141, **Sch. 40 Pt. 3(4)** Note

**F467** Sch. 21 para. 6(1) omitted (with effect in accordance with Sch. 2 para. 22 to the amending Act) by virtue of Finance Act 2008 (c. 9), **Sch. 2 para. 21(c)(ii)**

**F468** Sch. 21 para. 6(3) omitted (with effect in accordance with Sch. 2 para. 56(3) to the amending Act) by virtue of Finance Act 2008 (c. 9), **Sch. 2 para. 55(a)(iv)**; and omitted (with effect in accordance with Sch. 7 para. 115 to the amending Act) by virtue of Finance Act 2008 (c. 9), **Sch. 7 para. 114(a)**

**F469** Sch. 21 para. 6(4) omitted (with effect in accordance with Sch. 2 para. 56(3) to the amending Act) by virtue of Finance Act 2008 (c. 9), **Sch. 2 para. 55(a)(iv)**; and omitted (with effect in accordance with Sch. 7 para. 115 to the amending Act) by virtue of Finance Act 2008 (c. 9), **Sch. 7 para. 114(a)**

*Gains on assets deriving from reorganisation of body carrying on a mutual business etc.*

F470<sup>7</sup> . . . . .

**Textual Amendments**

**F470** Sch. 21 para. 7 omitted (with effect in accordance with Sch. 2 para. 56(3) to the amending Act) by virtue of Finance Act 2008 (c. 9), **Sch. 2 para. 55(a)(iv)**

*Commercial letting of furnished holiday dwellings*

8 In section 241(3) (provisions for the purposes of which letting of furnished holiday dwellings is to be treated as a trade), for “Schedule 6” there shall be substituted “Schedule A1 and Schedule 6”.

*Delayed remittances in respect of foreign assets*

F471<sup>9</sup> . . . . .

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### Textual Amendments

**F471** Sch. 21 para. 9 omitted (with effect in accordance with Sch. 2 para. 56(3) to the amending Act) by virtue of Finance Act 2008 (c. 9), Sch. 2 para. 55(a)(iv)

## SCHEDULE 22

Section 131.

### TRANSITIONAL PROVISION AND CONSEQUENTIAL AMENDMENTS FOR SECTION 131

#### *Introductory*

1 The <sup>M173</sup>Taxation of Chargeable Gains Act 1992 shall be amended as follows.

### Marginal Citations

M173 1992 c. 12.

#### *Transitional for settlements created before 17th March 1998*

2 (1) In the words at the end of sub-paragraph (1) of paragraph 2 of Schedule 5 (which specifies the provisions to which that sub-paragraph is subject), after “(4) to (6)” there shall be inserted “ and paragraph 2A ”.

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

#### *“ Settlements created before 17th March 1998*

2A (1) In determining for the purposes of section 86(1)(d) whether the settlor has an interest at any time during any year of assessment in a settlement created before 17th March 1998, paragraphs (da) and (db) of paragraph 2(3) above, and the reference to those paragraphs in paragraph 2(3)(e), shall be disregarded unless—

(a) that year is a year in which one of the four conditions set out in the following provisions of this paragraph becomes fulfilled as regards the settlement; or

(b) one of those conditions became fulfilled as regards that settlement in any previous year of assessment ending on or after 5th April 1998.

(2) The first condition is (subject to sub-paragraph (3) below) that on or after 17th March 1998 property or income is provided directly or indirectly for the purposes of the settlement—

(a) otherwise than under a transaction entered into at arm’s length, and

(b) otherwise than in pursuance of a liability incurred by any person before that date.

(3) For the purposes of the first condition, where the settlement’s expenses relating to administration and taxation for a year of assessment exceed its income for the year, property or income provided towards meeting those expenses shall be ignored if the value of the property or income so provided

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does not exceed the difference between the amount of those expenses and the amount of the settlement's income for the year.

- (4) The second condition is that—
- (a) the trustees become on or after 17th March 1998 neither resident nor ordinarily resident in the United Kingdom, or
  - (b) the trustees, while continuing to be resident and ordinarily resident in the United Kingdom, become on or after 17th March 1998 trustees who fall to be regarded for the purposes of any double taxation relief arrangements as resident in a territory outside the United Kingdom.
- (5) The third condition is that on or after 17th March 1998 the terms of the settlement are varied so that any person falling within sub-paragraph (7) below becomes for the first time a person who will or might benefit from the settlement.
- (6) The fourth condition is that—
- (a) on or after 17th March 1998 a person falling within sub-paragraph (7) below enjoys a benefit from the settlement for the first time, and
  - (b) the person concerned is not one who (looking only at the terms of the settlement immediately before 17th March 1998) would be capable of enjoying a benefit from the settlement on or after that date.
- (7) Each of the following persons falls within this sub-paragraph—
- (a) any grandchild of the settlor or of the settlor's spouse;
  - (b) the spouse of any such grandchild;
  - (c) a company controlled by a person or persons falling within paragraph (a) or (b) above;
  - (d) a company controlled by any such person or persons together with any person or persons (not so falling) each of whom is for the purposes of paragraph 2(1) above a defined person in relation to the settlement;
  - (e) a company associated with a company falling within paragraph (c) or (d) above.
- (8) For the purposes of sub-paragraph (7) above the question whether a company is controlled by a person or persons shall be construed in accordance with section 416 of the Taxes Act; but in deciding that question for those purposes no rights or powers of (or attributed to) an associate or associates of a person shall be attributed to him under section 416(6) if he is not a participator in the company.
- (9) For the purposes of sub-paragraph (7) above the question whether one company is associated with another shall be construed in accordance with section 416 of the Taxes Act; but where in deciding that question for those purposes it falls to be decided whether a company is controlled by a person or persons, no rights or powers of (or attributed to) an associate or associates of a person shall be attributed to him under section 416(6) if he is not a participator in the company.
- (10) In this paragraph—  
'child' includes a step-child;

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'grandchild' means a child of a child;  
'participator' has the meaning given by section 417(1) of the Taxes Act."

- (3) In construing section 86(1)(e) as regards any year of assessment and in relation to a settlement which—
- (a) was created before 17th March 1998, and
  - (b) is a settlement in which the settlor has an interest during that year by virtue only of the fulfilment for the purposes of the paragraph inserted by sub-paragraph (2) above of one of the conditions set out in that paragraph,
- no account shall be taken of disposals made before the relevant day (whether for the purpose of arriving at gains or for the purpose of arriving at losses).
- (4) In sub-paragraph (3) above "the relevant day" means—
- (a) for the year 1997-98, 17th March 1998; and
  - (b) for any other year of assessment, the 6th April which is the first day of that year.

*Consequential amendments of paragraphs 4 and 5 of Schedule 5 to the 1992 Act*

- 3 (1) In paragraphs 4(1)(a) and 5(1)(a) of Schedule 5 (disapplication of section 86 in certain cases where beneficiaries die), for "(d)" there shall be substituted "(db)".
- (2) In paragraph 4(4) of that Schedule (disapplication of section 86 in certain cases where a beneficiary ceases to be married)—
- (a) in paragraph (b), for "or (d)" there shall be substituted ", (d) or (db)"; and
  - (b) for "or child" there shall be substituted ", child or grandchild".

*Consequential amendment of paragraph 9 of Schedule 5 to the 1992 Act*

- 4 (1) In sub-paragraph (7) of paragraph 9 of Schedule 5 (persons listed for the purpose of the conditions the fulfilment of which makes a pre-19th March 1991 settlement a qualifying settlement)—
- (a) after paragraph (d) there shall be inserted the following paragraphs—
    - "(da) any grandchild of a settlor or of a settlor's spouse;
    - (db) the spouse of any such grandchild;" and
  - (b) in paragraph (e), for "(d)" there shall be substituted "(db)".
- (2) For sub-paragraph (11) of that paragraph there shall be substituted the following sub-paragraph—
- "(11) In this paragraph—
- 'child' includes a step-child;
  - 'grandchild' means a child of a child;
  - 'participator' has the meaning given by section 417(1) of the Taxes Act."

(3) Sub-paragraph (1) above shall be disregarded for the purpose of determining whether either of the conditions set out in sub-paragraphs (5) and (6) of that paragraph became fulfilled at any time before 17th March 1998.

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*Consequential amendment of Schedule 5A*

- 5 (1) In paragraph 2(1) of Schedule 5A (returns in relation to dealings involving settlements created before 19th March 1991), in paragraph (a) for “19th March 1991” there shall be substituted “ 17th March 1998 ”.
- (2) This paragraph has effect in relation to transfers on or after 17th March 1998.

SCHEDULE 23

Section 132.

TRANSITIONAL PROVISION IN CONNECTION WITH SECTION 132

*Pre-6th April 1999 gains and losses of settlements that become qualifying*

- 1 (1) This paragraph applies to a settlement in the case of any person who is a settlor in relation to that settlement if that settlement—
- (a) is one created before 19th March 1991;
  - (b) is not a qualifying settlement in the year 1998-99; and
  - (c) is a qualifying settlement in the year 1999-00 without having been a protected settlement in relation to that settlor immediately after the beginning of 6th April 1999.
- (2) Subject to sub-paragraph (3) below, section 86 of the 1992 Act (attribution of gains to settlor of non-resident or dual resident trusts) shall have effect in relation to any settlement to which this paragraph applies—
- (a) as if any relevant gains or relevant losses accruing to the trustees of the settlement on or after 17th March 1998 and before 6th April 1999 were gains or losses accruing to those trustees on 6th April 1999; and
  - (b) where it is not the case, as if the trustees fulfilled the condition as to residence in the year 1999-00.
- (3) Where (apart from sub-paragraph (2)(b) above) the trustees of a settlement to which this paragraph applies do not fulfil the condition as to residence in the year 1999-00, section 86 of the 1992 Act shall have effect (without prejudice to any charge imposed otherwise than by virtue of that section) as if the only gains and losses accruing to the trustees of that settlement in that year were those which are treated as accruing to those trustees on 6th April 1999 by virtue of sub-paragraph (2)(a) above.
- (4) The gains and losses that are relevant gains or relevant losses for the purposes of this paragraph are those which (apart from this paragraph) accrue to the trustees of a settlement to which this paragraph applies in any year of assessment in which those trustees fulfil the condition as to residence.

*Pre-6th April 1999 gains and losses where there is a transfer to another settlement*

- 2 (1) This paragraph applies, subject to sub-paragraph (5) below, to any chargeable gain or loss accruing on the disposal of any asset by the trustees of a settlement (“the transferor settlement”) if—
- (a) that settlement was created before 19th March 1991;
  - (b) the disposal on which the gain or loss accrues is one made—
    - (i) on or after 17th March 1998 and before 6th April 1999; and



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- (ii) in a year of assessment in which the trustees of the transferor settlement fulfil the condition as to residence but the settlement is not a qualifying settlement;
  - (c) a person who is a settlor in relation to the transferor settlement (“the chargeable settlor”)—
    - (i) is domiciled in the United Kingdom at some time in the year 1999-00 and in the year of assessment in which the disposal is made;
    - (ii) is either resident in the United Kingdom during any part of each of those years or ordinarily resident in the United Kingdom during each of those years; and
    - (iii) is alive at the end of the year 1999-00;
  - (d) the asset disposed of is property originating from the chargeable settlor;
  - (e) the property comprised in another settlement (“the transferee settlement”) at any time after the disposal and before 6th April 1999 is or includes (whether in consequence of the disposal or otherwise) the asset disposed of or any relevant property;
  - (f) the transferor settlement has a relevant connection with the transferee settlement; and
  - (g) the gain or loss in question is not one treated under paragraph 1 above as accruing on 6th April 1999 to the trustees of the transferor settlement.
- (2) If, in the case of the chargeable settlor, section 86 of the 1992 Act applies (apart from this paragraph) for the year 1999-00 in relation to the transferee settlement, that section shall apply for that year in relation to that settlement as if any chargeable gain or loss to which this paragraph applies—
  - (a) were a gain or loss accruing on 6th April 1999 to the trustees of the transferee settlement; and
  - (b) so accrued on the disposal by those trustees of any asset that was property originating from the chargeable settlor.
- (3) Where sub-paragraph (2) above does not apply, section 86 of the 1992 Act shall have effect in relation to the chargeable settlor as if—
  - (a) in the year 1999-00 the conditions specified in paragraphs (a) to (d) and (f) of subsection (1) of that section were fulfilled in his case in relation to the transferee settlement;
  - (b) any gain or loss to which this paragraph applies—
    - (i) were a gain or loss accruing on 6th April 1999 to the trustees of the transferee settlement; and
    - (ii) so accrued on the disposal by them of an asset that was property originating from the chargeable settlor;and
  - (c) any chargeable gains and losses accruing to the trustees of the transferee settlement which are not gains or losses to which this paragraph applies were to be disregarded for the purposes of that section.
- (4) Where (but for this sub-paragraph) the same gain or loss would fall to be treated by virtue of sub-paragraph (2) or (3) above as a gain or loss accruing to the trustees of more than one settlement—
  - (a) that gain or loss shall be apportioned between those settlements in such manner as may be just and reasonable; and

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- (b) only such part of the gain or loss as on that apportionment is attributable to a particular settlement shall be treated in accordance with that sub-paragraph as accruing to that settlement.
- (5) This paragraph does not apply to any chargeable gain or loss accruing on any disposal if, for the year of assessment in which that disposal is made, section 86 of the 1992 Act would, on the relevant assumption, have been prevented by virtue of paragraph 3, 4 or 5 of Schedule 5 to that Act—
- (a) from applying in the case of the chargeable settlor in relation to the transferor settlement; or
  - (b) from applying in his case in relation to the transferee settlement.
- (6) The relevant assumption for the purposes of sub-paragraph (5) above is that section 86 of the 1992 Act would have applied in the case of the chargeable settlor apart from paragraphs 3 to 5 of Schedule 5 to that Act.
- (7) In this paragraph “relevant property”, in relation to any disposal made by the trustees of the transferor settlement, means any property (not being the asset disposed of) which—
- (a) is or represents property or income originating from the chargeable settlor;
  - (b) has been comprised in, or has arisen to, the transferor settlement at any time after the time of that disposal; and
  - (c) is property or income of the trustees of the transferee settlement acquired or otherwise deriving, directly or indirectly, from the trustees of the transferor settlement.
- (8) For the purposes of this paragraph the transferor settlement has, in relation to a disposal by its trustees, a relevant connection with the transferee settlement if—
- (a) immediately before the time of the disposal, the beneficiaries of the transferor settlement are or include persons who are defined persons in relation to that settlement at that time;
  - (b) the transferor settlement is not a protected settlement at that time in relation to the chargeable settlor;
  - (c) at the beginning of 6th April 1999, the beneficiaries of the transferee settlement are or include persons who—
    - (i) have attained the age of eighteen; and
    - (ii) have been defined persons in relation to the transferor settlement;
 and
  - (d) the property comprised in the transferee settlement in respect of which some or all of the persons mentioned in paragraph (c) above are beneficiaries of that settlement at the beginning of 6th April 1999 is or includes anything which, in relation to either that settlement or the transferor settlement, is property or income originating from the chargeable settlor.
- (9) For the purposes of this paragraph a person is a defined person in relation to a settlement at a time if he would fall at that time to be treated, by reference to the chargeable settlor, as a defined person in relation to that settlement for the purposes of paragraph 2 of Schedule 5 to the 1992 Act.
- (10) Sub-paragraph (3)(c) above is without prejudice to any charge imposed otherwise than by virtue of this paragraph.

*Status: Point in time view as at 19/07/2011.*

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*Pre-6th April 1999 gains and losses where there is a transfer to a foreign institution*

- 3 (1) This paragraph applies, subject to sub-paragraphs (4) and (6) below, to a chargeable gain or loss accruing on the disposal of any asset by the trustees of a settlement (“the transferor settlement”) if—
- (a) that settlement was created before 19th March 1991;
  - (b) the disposal on which the gain or loss accrues is one made—
    - (i) on or after 17th March 1998 and before 6th April 1999; and
    - (ii) in a year of assessment in which the trustees of the transferor settlement fulfil the condition as to residence but the settlement is not a qualifying settlement;
  - (c) a person who is a settlor in relation to the transferor settlement (“the chargeable settlor”)—
    - (i) is domiciled in the United Kingdom at some time in the year 1999-00 and in the year of assessment in which the disposal is made;
    - (ii) is either resident in the United Kingdom during any part of each of those years or ordinarily resident in the United Kingdom during each of those years; and
    - (iii) is alive at the end of the year 1999-00;
  - (d) the asset disposed of is property originating from the chargeable settlor;
  - (e) the property comprised in a foreign institution (“the transferee institution”) at any time after the disposal and before 6th April 1999 is or includes (whether in consequence of the disposal or otherwise) the asset disposed of or any relevant property;
  - (f) the transferor settlement has a relevant connection with the transferee institution; and
  - (g) the gain or loss in question is neither—
    - (i) a gain or loss treated under paragraph 1 above as accruing on 6th April 1999 to the trustees of any settlement; nor
    - (ii) a gain or loss to which paragraph 2 above applies.
- (2) If, in the case of the chargeable settlor, section 86 of the 1992 Act applies (apart from this paragraph) for the year 1999-00 in relation to the transferor settlement, that section shall apply for that year in relation to that settlement as if any chargeable gain or loss to which this paragraph applies—
- (a) were a gain or loss accruing on 6th April 1999 to the trustees of the transferor settlement; and
  - (b) so accrued on the disposal by them of an asset that was property originating from the chargeable settlor.
- (3) Where sub-paragraph (2) above does not apply, section 86 of the 1992 Act shall have effect in relation to the chargeable settlor as if—
- (a) (where it is not the case) the transferor settlement existed in the year 1999-00;
  - (b) that settlement were a settlement in relation to which all the conditions specified in paragraphs (a) to (d) and (f) of subsection (1) of that section were fulfilled in the case of the chargeable settlor in that year;
  - (c) any gain or loss to which this paragraph applies—
    - (i) were a gain or loss accruing on 6th April 1999 to the trustees of the transferor settlement; and

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- (ii) so accrued on the disposal by them of an asset that was property originating from the chargeable settlor;
- and
- (d) any chargeable gains and losses which are not gains or losses to which this paragraph applies were to be disregarded for the purposes of that section.
- (4) This paragraph does not apply to any chargeable gain or loss accruing on any disposal if, for the year of assessment in which that disposal is made, section 86 of the 1992 Act would, on the relevant assumption, have been prevented by virtue of paragraph 3, 4 of 5 of Schedule 5 to that Act from applying in the case of the chargeable settlor in relation to the transferor settlement.
- (5) The relevant assumption for the purposes of sub-paragraph (4) above is that section 86 of the 1992 Act would have applied in the case of the chargeable settlor apart from paragraphs 3 to 5 of Schedule 5 to that Act.
- (6) This paragraph does not apply to any chargeable gain or loss accruing on any disposal if the chargeable settlor stands in such a relationship to the foreign institution that if—
- (a) that institution were a settlement,
  - (b) property of the institution were property comprised in the settlement, and
  - (c) income arising to the institution were income arising under the settlement,
- paragraph 4 or 5 of Schedule 5 to the 1992 Act would (assuming that nothing else did) prevent section 86 of that Act from applying in the case of the chargeable settlor in relation to that settlement for the year of assessment in which that disposal is made.
- (7) In this paragraph “relevant property”, in relation to any disposal made by the trustees of the transferor settlement, means any property which—
- (a) is or represents property or income originating from the chargeable settlor;
  - (b) has been comprised in, or has arisen to, the transferor settlement at any time after the time of that disposal; and
  - (c) is property or income of the transferee institution acquired or otherwise deriving, directly or indirectly, from the trustees of the transferor settlement.
- (8) For the purposes of this paragraph the transferor settlement has, in relation to a disposal by its trustees, a relevant connection with the transferee institution if—
- (a) immediately before the time of the disposal, the beneficiaries of the transferor settlement are or include persons who are defined persons in relation to that settlement at that time;
  - (b) the transferor settlement is not a protected settlement at that time in relation to the chargeable settlor; and
  - (c) the transferee institution is—
    - (i) one in which a relevant defined person is a participator at the beginning of 6th April 1999;
    - (ii) one which is under the control of a company in which, or two or more companies in any of which, a relevant defined person is a participator at that time; or
    - (iii) one whose relevant property or relevant income includes property or income in which a relevant defined person has an interest at that time.
- (9) For the purposes of this paragraph a person is a relevant defined person at any time if he—

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- (a) has attained the age of eighteen; and
  - (b) has been, by reference to the chargeable settlor, a defined person in relation to the transferor settlement.
- (10) For the purposes of this paragraph a person has an interest in any property or income of a foreign institution at any time if—
- (a) there are any circumstances whatever in which that property or income is or will or may become applicable for his benefit or payable to him;
  - (b) there are any circumstances whatever in which income which is or may arise from that property or income is or will or may become applicable for his benefit or payable to him;
  - (c) he enjoys a benefit directly or indirectly from that property or income or from any income arising from that property or income.
- (11) For the purposes of this paragraph a person is a defined person in relation to a settlement at a time if he would fall at that time to be treated, by reference to the chargeable settlor, as a defined person in relation to that settlement for the purposes of paragraph 2 of Schedule 5 to the 1992 Act.
- (12) In this paragraph—
- “foreign institution” means any company or other institution resident outside the United Kingdom;
  - “participator” has the meaning given (for the purposes of Part XI of the Taxes Act 1988 (close companies)) by section 417(1) of that Act;
  - “relevant income”, in relation to a foreign institution, means any income of that institution which, if that institution were a settlement, would be treated for the purposes of Schedule 5 to the 1992 Act as originating from the chargeable settlor;
  - “relevant property”, in relation to a foreign institution, means any property of that institution which, if that institution were a settlement, would be treated for the purposes of Schedule 5 to the 1992 Act as originating from the chargeable settlor.
- (13) Sub-paragraph (3)(d) above is without prejudice to any charge imposed otherwise than by virtue of this paragraph.

*Rule to prevent a double charge*

- 4
- (1) This paragraph applies, in the case of a person who is a settlor in relation to any settlement (“the relevant settlement”), to so much (if any) of the amount falling in his case within section 86(1)(e) of the 1992 Act for the year 1999-00 as (apart from this paragraph) would be treated by virtue only of the preceding provisions of this Schedule, as gains accruing to him in that year.
  - (2) Where there is an excess of the relevant chargeable amounts for the transitional period over the amount of the section 87 pool on 17th March 1998, only so much (if any) of the amount to which this paragraph applies as exceeds that excess shall fall in accordance with this Schedule to be, or (as the case may be) to be included in, the amount treated as accruing to the settlor in the year 1999-00.
  - (3) In sub-paragraph (2) above, the reference to the relevant chargeable amounts for the transitional period is (subject to sub-paragraph (5) below) a reference to the aggregate of the amounts on which beneficiaries of the relevant settlement are charged to tax

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under section 87 or 89(2) of the 1992 Act for any year of assessment ending after 17th March 1998 and before 6th April 1999 in respect of capital payments received by them.

- (4) In sub-paragraph (2) above, the reference to the section 87 pool on 17th March 1998 is (subject to sub-paragraph (5) below) a reference to the amount (if any) which, in accordance with subsection (2) of section 87 of the 1992 Act, would have fallen in relation to the relevant settlement to be carried forward from the year 1997-98 to be included in the amount of the trust gains for the year 1998-99 if—
- (a) the year 1997-98 had ended with 16th March 1998; and
  - (b) the year 1998-99 had begun with 17th March 1998.
- (5) Where the property comprised in the relevant settlement has at any time included property not originating from the settlor, only so much (if any) of any capital payment or of any amount that would have been carried forward in accordance with section 87(2) of the 1992 Act as, on a just and reasonable apportionment, is properly referable to property originating from the settlor shall be taken into account for the purposes of sub-paragraphs (3) and (4) above.
- (6) Where any reduction falls to be made by virtue of sub-paragraph (2) above in the amount to be attributed in accordance with this Schedule to any settlor for the year 1999-00, the reduction to be treated as made for that year in accordance with section 87(3) of the 1992 Act in the case of the settlement in question shall not be made until—
- (a) the reduction (if any) falling to be made by virtue of that sub-paragraph has been made in the case of every settlor to whom any amount is so attributed; and
  - (b) effect has been given to any reduction required to be made under paragraph 5(1) below.
- (7) In this paragraph “the transitional period” means the period beginning with 17th March 1998 and ending with 5th April 1999.
- 5 (1) Where in the case of any settlement there is (after the making of any reduction or reductions in accordance with paragraph 4(2) above) any amount or amounts falling in accordance with this Schedule to be attributed for the year 1999-00 to settlors of the settlement, the amount or (as the case may be) aggregate amount falling in accordance with this Schedule to be so attributed shall be applied in reducing the amount which (after any reductions in accordance with section 86A(6A) of that Act) is carried forward to that year in accordance with section 87(2) of that Act.
- (2) Where an amount or aggregate amount has been applied, in accordance with sub-paragraph (1) above, in reducing the amount which in the case of any settlement is carried forward to the year 1999-00 in accordance with section 87(2) of the 1992 Act, that amount (or, as the case may be, so much of it as does not exceed the amount which it is applied in reducing) shall be deducted from the amount used for that year in the case of that settlement for making the reduction under section 87(3) of that Act.

#### *Interpretation of Schedule*

- 6 (1) In this Schedule—
- “the 1992 Act” means the <sup>M174</sup>Taxation of Chargeable Gains Act 1992;

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“qualifying settlement”, in relation to any year of assessment, means a settlement that is a qualifying settlement in that year for the purposes of section 86 of and Schedule 5 to the 1992 Act;

“settlor”, in relation to a settlement, has the same meaning as in Schedule 5 to the 1992 Act.

- (2) In this Schedule “protected settlement”, in relation to any time and any settlor, means (subject to sub-paragraph (3) below)—
- (a) a settlement that is a protected settlement at that time, within the meaning given by sub-paragraph (10A) of paragraph 9 of Schedule 5 to the 1992 Act, or
  - (b) a settlement that would be such a settlement at that time if that settlor were the only settlor of the settlement.
- (3) For the purposes of construing, in accordance with sub-paragraph (2) above, the references in paragraphs 2(8) and 3(8) above to a protected settlement, paragraph 9(10A)(a) of Schedule 5 to the 1992 Act shall be deemed to have effect with the omission of the words “or who were under that age at the end of the immediately preceding year of assessment”.
- (4) References in this Schedule to the condition as to residence are references to the condition set out in section 86(2) of the 1992 Act.
- (5) For the purposes of this Schedule a person is a beneficiary of a settlement if—
- (a) there are any circumstances whatever in which property which is or may become comprised in the settlement is or will or may become applicable for his benefit or payable to him;
  - (b) there are any circumstances whatever in which income which arises or may arise from property comprised in the settlement is or will or may become applicable for his benefit or payable to him;
  - (c) he enjoys a benefit directly or indirectly from any property comprised in the settlement or any income arising from any such property;
- and references in this paragraph to the property comprised in the settlement in respect of which a person is a beneficiary shall be construed accordingly.
- (6) For the purposes of this paragraph, paragraph 8 of Schedule 5 to the 1992 Act shall apply for determining if property is property originating from any person as it applies for the purposes of that Schedule.
- (7) Expressions used in this Schedule and in the 1992 Act have the same meanings in this Schedule as in that Act.

**Marginal Citations**

M174 1992 c. 12.

*Status: Point in time view as at 19/07/2011.*

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#### Textual Amendments

**F472** Sch. 24 repealed (with effect in accordance with Sch. 26 Pt. 3(9) Note 1 of the amending Act) by [Finance Act 2006 \(c. 25\)](#), [Sch. 26 Pt. 3\(9\)](#)

## SCHEDULE 25

Section 142.

### PROPERTY OF HISTORIC INTEREST ETC

#### *Meaning of “the 1984 Act”*

1 In this Schedule “the 1984 Act” means the <sup>M175</sup>Inheritance Tax Act 1984.

#### Marginal Citations

**M175** 1984 c. 51.

#### *Claims for designation*

2 (1) In section 30 of the 1984 Act (conditionally exempt transfers), after subsection (3B) there shall be inserted the following subsection—

“(3BA) A claim under subsection (1) above must be made no more than two years after the date of the transfer of value to which it relates or, in the case of a claim with respect to a potentially exempt transfer, the date of the death, or (in either case) within such longer period as the Board may allow.”

(2) This paragraph has effect in relation to any transfer of value or death on or after 17th March 1998.

3 (1) In section 78 of the 1984 Act (conditionally exempt occasions), after subsection (1) there shall be inserted the following subsection—

“(1A) A claim under subsection (1) above must be made no more than two years after the date of the transfer or other event in question or within such longer period as the Board may allow.”

(2) This paragraph has effect in relation to transfers of property made, and other events occurring, on or after 17th March 1998.

#### *Property capable of designation*

4 (1) In section 31 of the 1984 Act, in subsection (1) (property capable of designation under that section), for paragraph (a) there shall be substituted the following paragraphs—

“(a) any relevant object which appears to the Board to be pre-eminent for its national, scientific, historic or artistic interest;

(aa) any collection or group of relevant objects which, taken as a whole, appears to the Board to be pre-eminent for its national, scientific, historic or artistic interest.”



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- (2) In subsections (2) and (3) of that section, for “(1)(a)”, wherever occurring, there shall be substituted “(1)(a) or (aa)”.
- (3) For subsection (5) of that section, there shall be substituted the following subsection—
- “ (5) In this section—
- ‘national interest’ includes interest within any part of the United Kingdom; and
- ‘relevant object’ means—
- (a) a picture, print, book, manuscript, work of art or scientific object, or
- (b) anything not falling within paragraph (a) above that does not yield income;
- and in determining under subsection (1)(a) or (aa) above whether an object or a collection or group of objects is pre-eminent, regard shall be had to any significant association of the object, collection or group with a particular place.”
- (4) This paragraph has effect in relation to the making of any designation on a claim made on or after the day on which this Act is passed.

*Access to designated property*

- 5 (1) In section 31 of the 1984 Act (designation of property and requisite undertakings), after subsection (4F) there shall be inserted the following subsection—
- “(4FA) For the purposes of this section, the steps agreed for securing reasonable access to the public must ensure that the access that is secured is not confined to access only where a prior appointment has been made.”
- (2) This paragraph has effect in relation to the giving of any undertaking on or after the day on which this Act is passed.

*Publication of information about designated property*

- 6 (1) In section 31 of the 1984 Act (designation of property and requisite undertakings), after the subsection (4FA) of that section inserted by paragraph 5 above there shall be inserted the following subsection—
- “(4FB) Subject to subsection (3) above, where the steps that may be set out in any undertaking include steps for securing reasonable access to the public to any property, the steps that may be agreed and set out in that undertaking may also include steps involving the publication of—
- (a) the terms of any undertaking given or to be given for any of the purposes of this Act with respect to the property; or
- (b) any other information relating to the property which (apart from this subsection) would fall to be treated as confidential;
- and references in this Act to an undertaking for access to any property shall be construed as including references to so much of any undertaking as provides for the taking of steps involving any such publication.”

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- (2) This paragraph has effect in relation to the giving of any undertaking on or after the day on which this Act is passed.

*Undertakings on death, disposal of property, etc.*

- 7 (1) In section 32 of the 1984 Act (chargeable events in relation to conditionally exempt transfers), in subsection (2), for “subsection (5)(b)” there shall be substituted “subsection (5AA)”.

- (2) In subsection (5) of that section, for paragraph (b) there shall be substituted the following paragraph—

“(b) the condition specified in subsection (5AA) below is satisfied with respect to the property.”

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

“(5AA) The condition referred to in subsection (5)(b) above is satisfied if—

- (a) the requisite undertaking described in section 31 above is given with respect to the property by such person as the Board think appropriate in the circumstances of the case, or
- (b) (where the property is an area of land within section 31(1)(d) above) the requisite undertakings described in that section are given with respect to the property by such person or persons as the Board think appropriate in the circumstances of the case.”

- (4) In section 32A of the 1984 Act (chargeable events in relation to associated properties), in subsection (6), for the words from “unless” to “case; and” there shall be substituted—

“unless—

- (a) the requisite undertaking described in section 31 above is given with respect to the property (or part) not disposed of by such person as the Board think appropriate in the circumstances of the case, or
- (b) (where any of the property or part not disposed of is an area of land within section 31(1)(d) above) the requisite undertakings described in that section are given with respect to that property (or that part) by such person or persons as the Board think appropriate in the circumstances of the case;

and”.

- (5) In subsection (8) of that section, for paragraph (b) there shall be substituted the following paragraph—

“(b) the condition specified in subsection (8A) below is satisfied with respect to the property (or part) concerned.”

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

“(8A) The condition referred to in subsection (8)(b) above is satisfied if—

- (a) the requisite undertaking described in section 31 above is given with respect to the property (or part) by such person as the Board think appropriate in the circumstances of the case, or

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- (b) (where any of the property or part is an area of land within section 31(1)(d) above) the requisite undertakings described in that section are given with respect to the property (or part) by such person or persons as the Board think appropriate in the circumstances of the case.”
- (7) For subsection (9) of that section there shall be substituted the following subsection—
- “(9) If the whole or part of any property is disposed of by sale and—
- (a) the requisite undertaking described in section 31 above is given with respect to the property (or part) by such person as the Board think appropriate in the circumstances of the case, or
- (b) (where any of the property or part is an area of land within section 31(1)(d) above) the requisite undertakings described in that section are given with respect to the property (or part) by such person or persons as the Board think appropriate in the circumstances of the case,
- the disposal is a chargeable event only with respect to the whole or part actually disposed of (if it is a chargeable event with respect to such whole or part apart from this subsection).”
- (8) In Schedule 5 to the 1984 Act, for paragraph 5 (undertaking capable of preventing disposal from being chargeable in cases where death occurred before 7th April 1976) there shall be substituted the following paragraph—
- “5 (1) The further undertaking referred to in paragraph 1 above is the requisite undertaking described in section 31(2) of this Act given with respect to the object in question by such person as the Board think appropriate in the circumstances of the case.
- (2) Subsection (3) of section 31 of this Act shall apply in relation to documents which are designated as objects to which section 31 of the <sup>M176</sup>Finance Act 1975 applies as that subsection applies in relation to documents designated under section 31(1)(a) of this Act.
- (3) The further undertaking referred to in paragraph 3 above is—
- (a) the requisite undertaking described in subsection (4) of section 31 of this Act given with respect to the property in question by such person as the Board think appropriate in the circumstances of the case, or
- (b) (where applicable) the requisite undertakings described in subsections (4) and (4A) of that section given with respect to the property in question by such person or persons as the Board think appropriate in the circumstances of the case.”
- (9) This paragraph has effect in relation to the giving of any undertaking on or after the day on which this Act is passed.

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*Variation of undertakings*

- 8 (1) After section 35 of the 1984 Act there shall be inserted the following section—

**“35A Variation of undertakings.**

- (1) An undertaking given under section 30, 32 or 32A above or paragraph 5 of Schedule 5 to this Act may be varied from time to time by agreement between the Board and the person bound by the undertaking.
- (2) Where a Special Commissioner is satisfied that—
  - (a) the Board have made a proposal for the variation of such an undertaking to the person bound by the undertaking,
  - (b) that person has failed to agree to the proposed variation within six months after the date on which the proposal was made, and
  - (c) it is just and reasonable, in all the circumstances, to require the proposed variation to be made,
 the Commissioner may direct that the undertaking is to have effect from a date specified by him as if the proposed variation had been agreed to by the person bound by the undertaking.
- (3) The date specified by the Special Commissioner must not be less than sixty days after the date of his direction.
- (4) A direction under this section shall not take effect if, before the date specified by the Special Commissioner, a variation different from that to which the direction relates is agreed between the Board and the person bound by the undertaking.”

- (2) After section 79 of the 1984 Act there shall be inserted the following section—

**“79A Variation of undertakings.**

- (1) An undertaking given under section 78 or 79 above may be varied from time to time by agreement between the Board and the person bound by the undertaking.
- (2) Where a Special Commissioner is satisfied that—
  - (a) the Board have made a proposal for the variation of such an undertaking to the person bound by the undertaking,
  - (b) that person has failed to agree to the proposed variation within six months after the date on which the proposal was made, and
  - (c) it is just and reasonable, in all the circumstances, to require the proposed variation to be made,
 the Commissioner may direct that the undertaking is to have effect from a date specified by him as if the proposed variation had been agreed to by the person bound by the undertaking.
- (3) The date specified by the Special Commissioner must not be less than sixty days after the date of his direction.
- (4) A direction under this section shall not take effect if, before the date specified by the Special Commissioner, a variation different from that to which the

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direction relates is agreed between the Board and the person bound by the undertaking.”

- (3) In Schedule 4 to the 1984 Act (maintenance funds for historic buildings), in paragraph 3, after sub-paragraph (3) there shall be inserted the following sub-paragraph—

“(3A) Section 35A of this Act shall apply in relation to an undertaking given under sub-paragraph (3) above as it applies in relation to an undertaking given under section 30 of this Act.”

- (4) Subject to paragraph 10 below, this paragraph has effect in relation to undertakings given on or after the day on which this Act is passed.

- 9 (1) In section 258 of the <sup>M177</sup>Taxation of Chargeable Gains Act 1992 (disposal of works of art), after subsection (8) there shall be inserted the following subsection—

“(8A) Section 35A of the 1984 Act (variation of undertakings) shall have effect in relation to an undertaking given under this section as it has effect in relation to an undertaking given under section 30 of that Act.”

- (2) Subject to paragraph 10 below, this paragraph has effect in relation to undertakings given on or after the day on which this Act is passed.

#### Marginal Citations

M177 1992 c. 12.

- 10 (1) Section 35A of the 1984 Act applies in relation to a relevant undertaking given with respect to any property before the day on which this Act is passed except in a case where there has been a chargeable event with respect to that property at any time after the giving of the undertaking but before that day.

- (2) In its application to such a relevant undertaking, section 35A of the 1984 Act applies with the modifications set out in sub-paragraphs (3) and (4) below.

- (3) The first modification is the substitution, for paragraph (a) of subsection (2), of the following paragraph—

“(a) the Board have made a proposal to the person bound by such an undertaking for the undertaking to be varied so as to include (where it does not already do so) an extended access requirement or a publication requirement (or both those requirements).”

- (4) The second modification is the insertion, after subsection (4), of the following subsections—

“(5) For the purposes of subsection (2)(a) above—

- (a) an extended access requirement is a requirement for the taking of steps ensuring that the access to the public that is secured is not confined to access only where a prior appointment has been made; and
- (b) a publication requirement is a requirement for the taking of steps involving the publication of any matter mentioned in paragraph (a) or (b) of section 31(4FB) above.

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- (6) In determining for the purposes of subsection (2)(a) above whether an undertaking already includes an extended access requirement, there shall be disregarded so much of the undertaking as includes provision for the property with respect to which the undertaking was given to be made available temporarily for the purposes of special exhibitions.”
- (5) In this paragraph “relevant undertaking” means any of the following—
- (a) an undertaking given under section 30, 32, 32A, 78 or 79 of the 1984 Act;
  - (b) an undertaking given under paragraph 3(3) of Schedule 4 to the 1984 Act or paragraph 5(2) of Schedule 5 to that Act;
  - (c) an undertaking given under section 76, 78, 81 or 82 of the <sup>M178</sup>Finance Act 1976;
  - (d) an undertaking given under section 34(2) of the <sup>M179</sup>Finance Act 1975;
  - (e) an undertaking given under section 258 of the <sup>M180</sup>Taxation of Chargeable Gains Act 1992.
- (6) In this paragraph “chargeable event”, in relation to any property means—
- (a) an event which under section 32 or 32A of the 1984 Act is a chargeable event with respect to that property; or
  - (b) an event which under either of those sections would be such an event if (where it is not the case) the undertaking in question had been given under section 30 of that Act.

#### Marginal Citations

**M178** 1976 c. 40.

**M179** 1975 c. 7.

**M180** 1992 c. 12.

## SCHEDULE 26

Section 160.

### NATIONAL LOANS

#### Commencement Information

**I27** Sch. 26 has effect in accordance with Sch. 26 para. 3.

#### *Amendment of National Loans Act 1968 (c.13)*

- 1 (1) The National Loans Act 1968 shall be amended as follows.
- (2) After section 20 there shall be inserted—

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*“ The Debt Management Account*

**20A The Debt Management Account.**

Schedule 5A to this Act (the Debt Management Account) shall have effect.”

(3) After Schedule 5 there shall be inserted—

“SCHEDULE  
5A

THE DEBT MANAGEMENT ACCOUNT

*The account*

- 1 (1) The Treasury shall establish an account to be known as the Debt Management Account.
- (2) The Treasury shall operate the Debt Management Account with the objects of—
  - (a) securing over time that sums are available to meet any daily shortfalls in the National Loans Fund and that any daily surpluses in that Fund are used to the best advantage;
  - (b) facilitating the raising of money under section 12 of this Act;
  - (c) promoting the liquidity, stability and efficiency of the market in securities issued under section 12 of this Act and the market in Treasury bills issued under the <sup>M181</sup>Treasury Bills Act 1877;
  - (d) providing a facility by which public bodies may exercise their powers to acquire and transfer such securities and bills;
  - (e) securing the general management of debt so far as it takes the form of such securities and bills.

*General powers*

- 2 (1) For the purposes of exercising their functions with regard to the Debt Management Account the Treasury may—
  - (a) exercise the powers conferred by the following provisions of this Schedule;
  - (b) generally manage the Account in the way the Treasury consider the most efficient.
- (2) Any sums held by the Treasury for the purposes of the Debt Management Account may be held in sterling or in any other currency or medium of exchange, whether national or international; and sums may be changed into any currency or medium.
- (3) The Treasury may exercise any power with regard to the Debt Management Account with a view to promoting one or more of the objects mentioned in paragraph 1(2) above, and it is immaterial if a particular object is not promoted or is not promoted as fully as it might be.

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### *Financial instruments*

- 3 (1) For the purposes of exercising their functions with regard to the Debt Management Account the Treasury may—
- (a) acquire (and arrange to acquire) and hold securities issued under section 12 of this Act, Treasury bills issued under the <sup>M182</sup>Treasury Bills Act 1877, and other financial instruments (by whatever person issued);
  - (b) transfer (and arrange to transfer) such securities, bills and other instruments.
- (2) Acquisitions under sub-paragraph (1)(a) above may be made on issue or otherwise.
- (3) Acquisitions, transfers and arrangements under sub-paragraph (1)(a) and (b) above may be made on such terms as the Treasury think fit.

### *Borrowing*

- 4 (1) If the Treasury consider it expedient to raise money for the purpose of exercising their functions with regard to the Debt Management Account they may raise it in such manner and on such terms as they think fit, and money so raised shall be paid into the Account.
- (2) For the purpose of raising money under this paragraph the Treasury may—
- (a) create and issue such securities as they think fit;
  - (b) create and issue them at such rates of interest and subject to such conditions as to repayment, redemption and other matters as they think fit.
- (3) The power to raise money under this paragraph extends to raising money either within or outside the United Kingdom and either in sterling or in any other currency or medium of exchange, whether national or international.
- (4) The power to raise money under this paragraph extends to raising money by the issue of Treasury bills under the <sup>M183</sup>Treasury Bills Act 1877.
- (5) The following shall be charged on and paid out of the Debt Management Account with recourse to the National Loans Fund and then to the Consolidated Fund—
- (a) the principal of and interest on any money borrowed under this paragraph (whether by the issue of securities or otherwise);
  - (b) any other sums to be paid by the Treasury in accordance with the terms on which they borrow under this paragraph.
- (6) Section 5 of the <sup>M184</sup>Treasury Bills Act 1877 (principal of and interest on Treasury bills) shall not apply in the case of Treasury bills issued by virtue of this paragraph.
- (7) Any expenses incurred in connection with the raising of money under this paragraph (including expenses in connection with the issue, repayment or redemption of securities or Treasury bills) shall be charged on and paid out of the National Loans Fund with recourse to the Consolidated Fund.



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- 5 Section 14 of this Act shall have effect for the purposes of paragraph 4 above as if—
- (a) the references in subsections (1) and (2) to section 12 were references to paragraph 4;
  - (b) the references in subsections (8) and (9) to the National Loans Fund were references to the Debt Management Account.

#### *Lending*

- 6 (1) The Treasury may—
- (a) lend sums from the Debt Management Account for the purpose of exercising their functions with regard to the Account;
  - (b) lend from the Debt Management Account sums not immediately needed for any other purpose.
- (2) The power to lend under this paragraph includes power to lend to the National Loans Fund; and sums lent to the Fund and for the time being outstanding shall be a liability of the Fund to the Debt Management Account.
- (3) Loans under this paragraph may be made at such times and on such terms as the Treasury think fit.

#### *Borrowing and lending: general*

- 7 The powers under paragraphs 4 to 6 above may be exercised by means (or partly by means) of automatic devices programmed to respond to events as they arise.

#### *Cap on borrowing*

- 8 (1) The Treasury shall secure that the position at the end of any given day is such that the total of relevant debts does not exceed the total of relevant deposits.
- (2) A relevant debt is the principal outstanding of any money raised under paragraphs 4 and 5, but excluding money raised from the National Loans Fund.
- (3) A relevant deposit is the principal outstanding of any sum standing to the credit of the Debt Management Account in the National Loans Fund or at the Bank of England.
- (4) For the purposes of this paragraph a debt or deposit not designated in sterling must be expressed in sterling, and the exchange rate or rates used to calculate the sterling equivalent of debts and deposits must be such as the Treasury consider prudent.

#### *National Loans Fund*

- 9 (1) If securities issued under section 12 of this Act or Treasury bills are acquired on issue under paragraph 3(1)(a) above the Treasury shall pay from the Debt Management Account into the National Loans Fund a sum of such amount as the Treasury may determine to be appropriate.
- (2) A payment under this paragraph—

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- (a) may be made before, at or after issue;
  - (b) may be made in instalments, any of which may be paid before, at or after issue.
- 10 (1) The Treasury may lend to the Debt Management Account from the National Loans Fund such sums as they think fit, at such times and on such terms as they think fit; and section 5 of this Act shall not apply in the case of such a loan.
- (2) The Treasury may repay from the Debt Management Account to the National Loans Fund sums lent under this paragraph.
- (3) Sums lent under this paragraph and for the time being outstanding shall be a liability of the Debt Management Account to the National Loans Fund.
- 11 (1) Any excess for the time being of the liabilities of the Debt Management Account over its assets shall be a liability of the National Loans Fund to the Account.
- (2) Any excess for the time being of the assets of the Debt Management Account over its liabilities shall be a liability of the Account to the National Loans Fund.
- (3) The Treasury may pay from the Debt Management Account to the National Loans Fund an amount representing all or any of any excess mentioned in subparagraph (2) above, and if they do the liability there mentioned shall be extinguished or reduced accordingly.
- 12 The Treasury shall exercise their powers under paragraphs 10 and 11 above so as to secure that the external liabilities of the Debt Management Account at any given time can be met; and the external liabilities of the Account are its liabilities other than those in favour of the National Loans Fund.

#### *Interest*

- 13 (1) The Treasury shall from time to time pay out of the National Loans Fund into the Debt Management Account sums (if any) which the Treasury consider appropriate to compensate the Account in respect of payments of interest made from the Account.
- (2) Payments to be made out of the National Loans Fund under subparagraph (1) above shall be treated for the purposes of section 15 of this Act as charges on that Fund for the service of national debt.
- (3) The Treasury may from time to time pay out of the Debt Management Account into the National Loans Fund sums (if any) which the Treasury consider appropriate in respect of interest received or earned by the Account.

#### *Redemption*

- 14 (1) Any securities issued by or on behalf of the Treasury and for the time being held by the Treasury for the purposes of the Debt Management Account may be redeemed by the Treasury before maturity at market prices determined in such manner as the Treasury think fit.

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- (2) Any expenses incurred by the Treasury in connection with the redemption of securities under this paragraph shall be paid out of the National Loans Fund.

#### *Accounts*

- 15 (1) For each financial year in which the Debt Management Account operates the Treasury shall prepare in such form as they may prescribe an account relating to the transactions, assets and liabilities of the Account.
- (2) The Treasury shall send the account to the Comptroller and Auditor General not later than the end of November following the end of the financial year to which it relates.
- (3) The Comptroller and Auditor General shall examine, certify and report on the account and lay a copy of it, together with his report, before each House of Parliament.”

#### **Modifications etc. (not altering text)**

C56 Sch. 5A modified (25.10.1999) by S.I. 1999/2908, art. 7(1)(2)

#### **Marginal Citations**

M181 1877 c. 2.

M182 1877 c. 2.

M183 1877 c. 2.

M184 1877 c. 2.

#### *Amendment of Finance Act 1993 (c.34)*

- 2 Section 211 of the Finance Act 1993 (National Debt Commissioners: securities) shall cease to have effect.

#### *Commencement*

- 3 (1) The amendments made by this Schedule shall have effect in accordance with provision made by the Treasury by an order (or orders) made by statutory instrument.
- (2) Different provision may be made—
  - (a) for different amendments;
  - (b) for different purposes of the same amendment.
- (3) In particular, provision may be made for the Debt Management Account to begin operating at different times with regard to different objects (as set out in paragraph 1(2) of Schedule 5A to the <sup>M185</sup>National Loans Act 1968).
- (4) Any order may include such supplementary, incidental, consequential, transitional or saving provisions as appear to the Treasury to be necessary or expedient.
- (5) In particular, any order may—
  - (a) provide that any liability of the National Debt Commissioners to the National Loans Fund arising for the purposes of accountancy practice by virtue of

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- section 211 of the <sup>M186</sup>Finance Act 1993 shall be treated as discharged in circumstances prescribed by the order;
- (b) confer power to acquire, hold or transfer securities issued under section 12 of the <sup>M187</sup>National Loans Act 1968 or Treasury bills issued under the <sup>M188</sup>Treasury Bills Act 1877;
- (c) impose on the National Debt Commissioners a duty to transfer securities issued under section 12 of the <sup>M189</sup>National Loans Act 1968 at such price as the Treasury may determine;
- (d) confer power to advance sums from the National Loans Fund.

#### Subordinate Legislation Made

P7 Sch. 26 para. 3 power fully exercised (25.10.1999): 15.11.1999 appointed by S.I. 1999/2908, art. 2(2) (with arts. 5-7)

#### Marginal Citations

M185 1968 c. 13.  
M186 1993 c. 34.  
M187 1968 c. 13.  
M188 1877 c. 2.  
M189 1968 c. 13.

## SCHEDULE 27

### REPEALS

#### PART I

#### EXCISE DUTIES

##### (1)

#### DRAWBACK OF DUTY ON BEER

Chapter	Short title	Extent of repeal
1979 c. 4.	The Alcoholic Liquor Duties Act 1979.	Section 42.
1991 c. 31.	The Finance Act 1991.	In Schedule 2, paragraph 9.
1993 c. 34.	The Finance Act 1993.	In section 4(2), paragraphs (c) and (d).

These repeals have effect in accordance with section 5(2) of this Act.

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(2)

HYDROCARBON OIL DUTY

Chapter	Short title	Extent of repeal
1979 c. 5.	The Hydrocarbon Oil Duties Act 1979.	In section 6(1)(b), the words from “and delivered” to “above”.

This repeal has effect in accordance with section 6(3) of this Act.

(3)

VEHICLE EXCISE DUTY: RATES WHERE POLLUTION REDUCED

Chapter	Short title	Extent of repeal
1994 c. 22.	The Vehicle Excise and Registration Act 1994.	In Schedule 1, paragraphs 6(3A), 7(4), (5) and (6), 9(5) and 11(5).
1995 c. 4.	The Finance Act 1995.	In Schedule 4, paragraph 12.

These repeals have effect in accordance with paragraph 17(1) of Schedule 1 to this Act.

(4)

VEHICLE EXCISE AND REGISTRATION: NIL LICENCES

Chapter	Short title	Extent of repeal
1994 c. 22.	The Vehicle Excise and Registration Act 1994.	In section 22(2A)(a), the word “and” immediately before paragraph (b).

(5)

ASSESSMENTS FOR EXCISE DUTY PURPOSES

Chapter	Short title	Extent of repeal
1992 c. 48.	The Finance (No. 2) Act 1992.	In section 2(3), paragraph (b) and the word “and” immediately preceding it.
1994 c. 9.	The Finance Act 1994.	At the end of section 12A(3) (b) the word “or”.

These repeals have effect in accordance with an order made under paragraph 12 of Schedule 2 to this Act.

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## PART II

### VALUE ADDED TAX

Chapter	Short title	Extent of repeal
1994 c. 23.	The Value Added Tax Act 1994.	In section 36(1)(a), the words “for a consideration in money”.

This repeal has effect in accordance with section 23(7) of this Act.

## PART III

### INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

#### (1)

#### RELIEF FOR QUALIFYING MAINTENANCE PAYMENTS

Chapter	Short title	Extent of repeal
1988 c. 1.	The Income and Corporation Taxes Act 1988.	In section 347B(5A), the words after paragraph (b).

This repeal has effect for the year 1999-00 and subsequent years of assessment.

#### (2)

#### ADVANCE CORPORATION TAX

Chapter	Short title	Extent of repeal
1968 c. 2.	The Provisional Collection of Taxes Act 1968.	In section 1(1), the words “(including advance corporation tax)”.
1970 c. 9.	The Taxes Management Act 1970.	Section 10(4).  In section 87, in subsection (1), the words “13 or”, in subsection (2), paragraph (a), in subsection (6), the words “13 or” and, in subsection (7), the words “advance corporation tax and”.  Section 87A(4), (4B) and (7).  Section 94(8).

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1988 c. 1.	The Income and Corporation Taxes Act 1988.	<p>In section 98, in the second column of the Table, the words “Schedule 13;” and “Schedule 13A, paragraphs 11, 12 and 13;”.</p> <p>Section 14(1) and (3) to (5).</p> <p>In section 75(2), the words “group income”.</p> <p>In section 116(2), paragraph (d).</p> <p>Sections 238 to 241.</p> <p>Sections 245, 245A, 245B and 246.</p> <p>In section 247—</p> <p>(a) subsections (1), (2) and (3),</p> <p>(b) in subsection (5), the words “and shall not apply to a dividend” onwards,</p> <p>(c) in subsection (6), paragraph (a) and the words “advance corporation tax ought to have been paid or”, “as the case may be”, “paying or”, “receiving or” and “the advance corporation tax had been duly paid or”,</p> <p>(d) in subsection (7), the words “paying or” and “receiving or”, and</p> <p>(e) in subsection (10), the words “dividends or”, and “and references to “group income” shall be construed accordingly”.</p> <p>In section 248, in subsections (2) and (3), the words “dividends or other”.</p> <p>In section 252(1), paragraph (a).</p> <p>In section 253, in subsection (1), paragraph (b) and the words “and to Schedule 13”, subsection (2) and, in subsection (3)(a), the words “advance corporation tax or”.</p>
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		Section 255.
		Section 434(3), (6) and (8).
		Section 434C.
		In section 490(1), the words “(including group income)”.
		Sections 497 to 499.
		Section 703(4) to (6).
		In section 704, in paragraph A, sub-paragraph (d).
		Section 705(6) to (8).
		Section 797(4) and (5).
		In section 802(2)(a), the words “and group income”.
		In section 813(6), paragraph (b).
		Section 826(2A), (7), (7AA) and (7CA).
		In section 832(1), the definitions of “franked payment”, “group income”, “the rate of advance corporation tax” and “surplus of franked investment income”.
		Schedules 13 and 13A.
		In Schedule 24, in paragraph 6, sub-paragraph (1)(a) and, in sub-paragraph (2), the words “dividends or”, and paragraph 7.
		In Schedule 26, paragraph 2.
		In Schedule 29, paragraphs 10(4)(c) and (7).
1989 c. 26.	The Finance Act 1989.	Section 97.
		Section 98.
		Section 99(2).
		Section 149(3)(c).
1990 c. 29.	The Finance Act 1990.	Section 45(6).
1992 c. 12.	The Taxation of Chargeable Gains Act 1992.	In Schedule 10, paragraph 14(15).
1993 c. 34.	The Finance Act 1993.	Section 78.



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		Section 81. In Schedule 6, paragraphs 12 and 16. In Schedule 14, paragraphs 4(1) and 10(1), (3), (5) and (6).
1994 c. 9.	The Finance Act 1994.	In Schedule 16, paragraphs 2, 3(1) to (4), (11) and (13) and 20(3).
1995 c. 4.	The Finance Act 1995.	In Schedule 8, paragraphs 18, 19(3) and 22. In Schedule 24, paragraphs 9 and 12(1), (2), (4) and (5).
1996 c. 8.	The Finance Act 1996.	Section 139. In Schedule 14, paragraphs 1(2) and 48(2). In Schedule 23, paragraphs 1 to 3, 5 and 7 to 9. Schedule 25.
1997 c. 58.	The Finance (No. 2) Act 1997.	Section 50(2). In Schedule 3, paragraph 3(3), (4), (6) and (7). In Schedule 4, paragraphs 8, 9, 18 and 23.

These repeals have effect in accordance with Schedule 3 to this Act.

### (3)

#### INTEREST ON GILT-EDGED SECURITIES

<b>Chapter</b>	<b>Short title</b>	<b>Extent of repeal</b>
1970 c. 9.	The Taxes Management Act 1970.	In the Table in section 98, in the entry in the second column relating to the Taxes Act 1988, the words “regulations under section 51B;”.
1988 c. 1.	The Income and Corporation Taxes Act 1988.	Section 51B.  In Schedule 19AB, in paragraph 3(1C) (as inserted by Schedule 34

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		to the Finance Act 1996), paragraph (c) and the word “or” immediately preceding it.
1995 c. 4.	The Finance Act 1995.	Section 78.
1996 c. 8.	The Finance Act 1996.	In Schedule 6, paragraph 4.
1997 c. 58.	The Finance (No. 2) Act 1997.	In section 37— (a) subsection (6); and (b) in subsection (11), the word “51B”.

These repeals have effect in accordance with section 37(3) of this Act.

#### (4)

#### RENTS AND OTHER RECEIPTS FROM LAND

<b>Chapter</b>	<b>Short title</b>	<b>Extent of repeal</b>
1970 c. 9.	The Taxes Management Act 1970.	In section 42(7), the reference to section 579(4) of the Taxes Act 1988.  In the second column of the Table in section 98, the reference to section 41(2) of the Taxes Act 1988.
1988 c. 1.	The Income and Corporation Taxes Act 1988.	Section 15(2).  In section 24— (a) in subsection (6), paragraph (c) and the word “and” preceding it; (b) subsection (7).  Section 25.  In section 26— (a) in subsection (1)(a), the words “at a full rent (not being a tenant's repairing lease)”; (b) subsection (2)(a).  Sections 28 and 29.  Section 31.  Section 33.  Sections 33A and 33B.  Section 40(5).

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		Section 41.
		Section 42A(8).
		Section 65(2A) and (2B).
		In section 82(6), the words from “and shall be treated” to the end.
		Section 87(10).
		In section 96(11), the words from “or to any profits” to the end.
		Section 401(1B).
		Section 404(6)(c).
		Section 434E(3).
		Section 488(3).
		Section 494(4) and (5).
		In section 577(1) and (9), the words “Schedule A or”.
		In section 577A(1) and (1A), the words “Schedule A or”.
		Section 579(4).
		Section 588(4A).
		Section 589A(9A).
		Schedule 1.
1990 c. 1.	The Capital Allowances Act 1990.	Section 15(2), (2A) and (3).
		Section 15A.
		Section 28A(2).
		In section 29— (a) in subsection (1), the words “Subject to subsection (1A) below,”; (b) subsection (1A).
		In section 53(1)(b), the words “or for leasing otherwise than in the course of a trade”.
		Section 61(6).
		Section 67(2), (3) and (3A).
		In section 73— (a) subsection (1A); and

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		(b) in subsection (2), the words "and section 67(3)".
		In section 159(1A), the words from "or to any such activities" to the end.
		In Schedule 1, paragraph 8(3).
1990 c. 29.	The Finance Act 1990.	In Schedule 14, paragraph 2(a) and (b).
1991 c. 31.	The Finance Act 1991.	In Schedule 15, paragraphs 13 and 26.
1992 c. 48.	The Finance (No. 2) Act 1992.	Sections 57 and 58.
1995 c. 4.	The Finance Act 1995.	Section 39. Section 41.
		In Schedule 6, paragraphs 1, 4 to 7, 9 to 16, 20 to 25, 29, 30, 32 and 34 to 37.
1996 c. 8.	The Finance Act 1996.	In Schedule 14, paragraph 32(4). In Schedule 20, paragraph 30. In Schedule 39, in paragraph 1— (a) sub-paragraph (2); (b) in sub-paragraph (4), the words from the beginning to "passed, and".
1997 c. 16.	The Finance Act 1997.	In Schedule 12, paragraphs 3(6), 6(9)(b), 8, 13(7) and 20(b). In Schedule 15, paragraphs 2(2), 5(1) and (2) and 6.
1997 c. 58.	The Finance (No. 2) Act 1997.	In Schedule 7, paragraph 3.

These repeals have effect in accordance with section 38(2) and (3) of this Act.

**(5)**

LAND MANAGED AS ONE ESTATE ETC.

Chapter	Short title	Extent of repeal
1988 c. 1.	The Income and Corporation Taxes Act 1988.	Sections 26 and 27.

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1998 c. 36.	The Finance Act 1998.	In Schedule 5, paragraphs 6 and 7.
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These repeals have effect in accordance with section 39 of this Act.

(6)

COMPUTATION OF PROFITS OF TRADE, PROFESSION OR VOCATION

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<b>Chapter</b>	<b>Short title</b>	<b>Extent of repeal</b>
1988 c. 1.	The Income and Corporation Taxes Act 1988.	In the heading to Chapter VI of Part IV, the words “AND CHANGE OF BASIS OF COMPUTATION”.  In the sidenote to section 104, the words “or change of basis”.  Section 104(4), (5) and (7).  Section 105(4).

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These repeals apply to a change of accounting basis taking effect on or after 6th April 1999.

(7)

CONSTRUCTION WORKERS SUPPLIED BY AGENCIES

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<b>Chapter</b>	<b>Short title</b>	<b>Extent of repeal</b>
1988 c. 1.	The Income and Corporation Taxes Act 1988.	In section 134, subsection (5) (c) and the word “or” immediately preceding it.
1995 c. 4.	The Finance Act 1995.	In Schedule 27, paragraph 1(1).

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These repeals have effect in accordance with section 55(3) of this Act.

(8)

SUB-CONTRACTORS IN THE CONSTRUCTION INDUSTRY

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<b>Chapter</b>	<b>Short title</b>	<b>Extent of repeal</b>
1988 c. 1.	The Income and Corporation Taxes Act 1988.	In section 566(2)(c), the words “by inspectors”.

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*Status: Point in time view as at 19/07/2011.*

*Changes to legislation: Finance Act 1998 is up to date with all changes known to be in force on or before 18 October 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

## (9)

## PAYMENTS AND OTHER BENEFITS IN CONNECTION WITH TERMINATION OF EMPLOYMENT ETC.

<b>Chapter</b>	<b>Short title</b>	<b>Extent of repeal</b>
1970 c. 9.	The Taxes Management Act 1970.	Section 35.  In the second column of the Table in section 98, the entry relating to section 148(7) of the Taxes Act 1988.
1988 c. 1.	The Income and Corporation Taxes Act 1988.	Section 188.
1988 c. 39.	The Finance Act 1988.	Section 74.
1990 c. 1.	The Capital Allowances Act 1990.	In Schedule 1, paragraph 8(39).
1996 c. 8.	The Finance Act 1996.	In Schedule 21, paragraph 24.

These repeals apply where section 58 of this Act applies.

## (10)

## TRAVELLING EXPENSES

<b>Chapter</b>	<b>Short title</b>	<b>Extent of repeal</b>
1988 c. 1.	The Income and Corporation Taxes Act 1988.	In section 158— (a) in subsection (6), the words “Subject to subsection (7) below,”; (b) subsection (7).  Section 198A.
1997 c. 16.	The Finance Act 1997.	Section 62(1) to (3).

These repeals have effect for the year 1998-99 and subsequent years of assessment.

## (11)

## FOREIGN EARNINGS DEDUCTION

<b>Chapter</b>	<b>Short title</b>	<b>Extent of repeal</b>
1988 c. 1.	The Income and Corporation Taxes Act 1988.	In section 19(1), in Case I of Schedule E, the words from “and to section 193(1)” to the end.

*Status: Point in time view as at 19/07/2011.*

*Changes to legislation: Finance Act 1998 is up to date with all changes known to be in force on or before 18 October 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

		Section 193(1).
		In Schedule 12, paragraphs 3(2A) and 7.
1988 c. 39.	The Finance Act 1988.	Section 67.
1991 c. 31.	The Finance Act 1991.	Section 45.

These repeals have effect in relation to emoluments in relation to which subsections (1) to (4) of section 63 have effect: see subsections (5) and (6) of that section.

## (12)

### PAYE: APPLICATION TO NON-CASH BENEFITS

Chapter	Short title	Extent of repeal
1988 c. 1.	The Income and Corporation Taxes Act 1988.	In section 203H, subsection (2).  In section 203K, subsections (1) to (3).

1. The repeal of section 203H(2) of the Taxes Act 1988 has effect in accordance with section 68(4)(b) of this Act.

2. The repeal of section 203K(1) to (3) of that Act has effect in relation to assets provided and non-cash vouchers received at any time on or after 6th April 1998 and in relation to any use of a credit-token on or after that date.

## (13)

### THE ENTERPRISE INVESTMENT SCHEME AND VENTURE CAPITAL TRUSTS

Chapter	Short title	Extent of repeal
1988 c. 1.	The Income and Corporation Taxes Act 1988.	In section 842AA(14), the word "preferential", in the second place where it occurs.  In Schedule 15B, in paragraph 6(1), the word "preferential", in the second place where it occurs.  In Schedule 28B, in paragraph 5(5), the word "and" at the end of the definition of "associate".
1994 c. 9.	The Finance Act 1994.	In Schedule 15, paragraph 25(d).

*Status: Point in time view as at 19/07/2011.*

*Changes to legislation: Finance Act 1998 is up to date with all changes known to be in force on or before 18 October 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

1. The repeals in section 842AA of, and Schedule 15B to, the Taxes Act 1988 have effect in accordance with section 73 of this Act.
2. The repeal in the Finance Act 1994 has effect in accordance with section 71(5) of this Act.

(14)

OTHER CHANGES TO EIS ETC.

Chapter	Short title	Extent of repeal
1988 c. 1.	The Income and Corporation Taxes Act 1988.	<p>In section 289(7), the word "preferential", in the second place where it occurs.</p> <p>Section 290A.</p> <p>In section 291(2), the words "and sections 291A and 291B".</p> <p>In section 291A(5), the words "and the reference to a trade previously carried on includes part of such a trade".</p> <p>In section 293, in subsection (6), the words "it is shown that", and subsection (7).</p> <p>In section 297(1), the words "Subject to section 298(7) below".</p> <p>In section 299, subsections (7) and (8)(a).</p> <p>In section 306(3A), the words "but section 289B(5) shall not apply for the purposes of this subsection".</p> <p>In section 310(2), the words "or payment".</p> <p>In section 312, in subsection (1), the definition of "new consideration", in subsection (1A), the words "(disregarding section 289B(5))" and, in subsection (1B)(c), the words "dealt in on the Unlisted Securities Market or".</p>



*Status: Point in time view as at 19/07/2011.*

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1992 c. 12.	The Taxation of Chargeable Gains Act 1992.	<p>In section 150, in subsection (8), the word “eligible” and, in subsection (8A)(a), the word “preferential”, in the second place where it occurs.</p> <p>In section 150A, in subsections (1) and (2), the word “eligible” and, in subsection (8A)(a), the word “preferential”, in the second place where it occurs.</p> <p>In section 150B(1), the word “eligible”.</p> <p>In Schedule 5B, paragraph 3(2).</p>
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1. The repeals in sections 293(6) and 310(2) of the Taxes Act 1988 and in section 150(8) of the Taxation of Chargeable Gains Act 1992 have effect in relation to events occurring on or after 6th April 1998.

2. The repeal of section 299(7) of the Taxes Act 1988, and the repeals in sections 150A(1) and (2) and 150B(1) of the Taxation of Chargeable Gains Act 1992, have effect in relation to disposals made on or after that date.

3. The repeals in sections 150(8A) and 150A(8A) of the Taxation of Chargeable Gains Act 1992 have effect in relation to new shares (within the meaning of the provision in question) issued on or after that date.

4. The other repeals have effect in relation to shares issued on or after that date.

(15)

INDIVIDUAL SAVINGS ACCOUNTS

Chapter	Short title	Extent of repeal
1988 c. 1.	The Income and Corporation Taxes Act 1988.	In section 333(3)(b), the words “and minimum periods for which investments are to be held”.
1992 c. 12.	The Taxation of Chargeable Gains Act 1992.	In section 151— (a) in subsection (2), the words “(personal equity plans)”; and (b) in subsection (2A), the words “personal equity plans:”.

*Status: Point in time view as at 19/07/2011.*

*Changes to legislation: Finance Act 1998 is up to date with all changes known to be in force on or before 18 October 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

## (16)

## RELIEF FOR LOSSES ON UNLISTED SHARES IN TRADING COMPANIES

Chapter	Short title	Extent of repeal
1988 c. 1.	The Income and Corporation Taxes Act 1988.	In section 576(5), in the definition of “trading group”, the words “or not resident in the United Kingdom”.

The above repeal has effect in relation to shares issued on or after 6th April 1998.

## (17)

## CARRY FORWARD OF NON-TRADING DEFICIT ON LOAN RELATIONSHIPS

Chapter	Short title	Extent of repeal
1988 c. 1.	The Income and Corporation Taxes Act 1988.	In section 797(3B)(b), the words “or in accordance with subsection (3) of that section”.  In section 797A(5), paragraph (c) and the word “and” preceding it.  In Schedule 28A— (a) in paragraph 6(db), the words “(dc) or”; (b) paragraph 11(2)(a); (c) in paragraph 13(1)(eb), the words “(ec) or”.

These repeals have effect in accordance with section 82(3) of this Act.

## (18)

## CAPITAL ALLOWANCES

Chapter	Short title	Extent of repeal
1990 c. 1.	The Capital Allowances Act 1990.	Section 76(3).
1997 c. 58.	The Finance (No. 2) Act 1997.	Section 42(6) and (7).

1. The repeal of section 76(3) of the Capital Allowances Act 1990 has effect in relation to every chargeable period ending on or after 12th May 1998.

*Status: Point in time view as at 19/07/2011.*

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2. The repeal of section 42(6) and (7) of the Finance (No. 2) Act 1997 has effect in accordance with section 84(3) of this Act.

(19)

LIFE POLICIES, LIFE ANNUITIES AND CAPITAL REDEMPTION POLICIES

Chapter	Short title	Extent of repeal
1988 c. 1.	The Income and Corporation Taxes Act 1988.	In section 547, in subsection (1)(a), the words from “(including” to “1964)” and subsection (3).

These repeals have effect in accordance with Schedule 14 to this Act.

(20)

RETIREMENT BENEFIT SCHEMES

Chapter	Short title	Extent of repeal
1988 c. 1.	The Income and Corporation Taxes Act 1988.	In section 591C(3), the words “in his capacity as such”.

(21)

PERSONAL PENSION SCHEMES

**Commencement Information**

**I28** Sch. 27 Pt. III(21) wholly in force; Sch. 27 Pt. III(21) in force for specified purposes at Royal Assent, see s. 96(4); Sch. 27 Pt. III(21) in force insofar as not already in force at 1.10.2000 by S.I. 2000/2319, art. 2

Chapter	Short title	Extent of repeal
1970 c. 9.	The Taxes Management Act 1970.	In section 98, in the Table, the entry relating to section 652 of the Taxes Act 1988.
1988 c. 1.	The Income and Corporation Taxes Act 1988.	Section 652.

Subsection (4) of section 96 of this Act applies in relation to these repeals as it applies in relation to subsections (2) and (3)(b) of that section.

*Status: Point in time view as at 19/07/2011.*

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## (22)

## ACCRUED INCOME

Chapter	Short title	Extent of repeal
1988 c. 1.	The Income and Corporation Taxes Act 1988.	In section 717— (a) in subsection (1), the words “or (4)”; (b) subsections (4) and (5).

## (23)

## DEALERS IN SECURITIES ETC

Chapter	Short title	Extent of repeal
1988 c. 1.	The Income and Corporation Taxes Act 1988.	Section 470(1) and (3).  Section 471. Section 472. In section 473(2), the words after paragraph (b).
1989 c. 26.	The Finance Act 1989.	Section 80.
1996 c. 8.	The Finance Act 1996.	In Schedule 21, paragraphs 12 and 13.

1. The repeal of section 471 of the Taxes Act 1988, the words after paragraph (b) in section 473(2) of that Act and paragraph 12 of Schedule 21 to the Finance Act 1996 has effect in accordance with section 101(3) of this Act.

2. The repeal of section 472 of the Taxes Act 1988 and paragraph 13 of Schedule 21 to the Finance Act 1996 has effect in accordance with section 101(4) of this Act.

## (24)

## DISTRIBUTIONS AND MANUFACTURED DIVIDENDS: MISCELLANEOUS AMENDMENTS

Chapter	Short title	Extent of repeal
1988 c. 1.	The Income and Corporation Taxes Act 1988.	In section 737D(2), the words “manufactured dividend”.  In Schedule 23A— (a) in paragraph 2, in sub-paragraph (3), paragraph (a), sub-paragraphs (4) and (5) and, in sub-paragraph (6), paragraph (b) and the word

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“and” immediately preceding it;  
(b) in paragraph 2A, in sub-paragraph (1), the words “together with an amount equal to the notional ACT” and sub-paragraph (3).

These repeals have effect in accordance with section 102 of this Act.

(25)

TRANSFER PRICING ETC

Chapter	Short title	Extent of repeal
1970 c. 9.	The Taxes Management Act 1970.	In the Table in section 98— (a) in the first column, the entry relating to section 772(1) and (3) of the Taxes Act 1988; and (b) in the second column, the entry relating to section 772(6) of that Act.
1990 c. 1.	The Capital Allowances Act 1990.	In Schedule 1, paragraph 8(32).
1990 c. 29.	The Finance Act 1990.	In Schedule 14, paragraph 12.

These repeals have effect in accordance with section 108(5) of this Act.

(26)

DIRECTIONS BY THE BOARD

Chapter	Short title	Extent of repeal
1993 c. 34.	The Finance Act 1993	In section 135(1), paragraph (d), and the word “and” immediately preceding that paragraph.  In section 136— (a) paragraph (d) of subsection (1) and the word “and” immediately preceding that paragraph; and (b) in each of subsections (5) and (9), the words after paragraph (b).

*Status: Point in time view as at 19/07/2011.*

*Changes to legislation: Finance Act 1998 is up to date with all changes known to be in force on or before 18 October 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

1994 c. 9.	The Finance Act 1994.	<p>In section 136A, in each of subsections (3) and (7), the words after paragraph (b).</p> <p>In section 137(1), paragraph (d), and the word “and” immediately preceding that paragraph.</p> <p>In section 167(2), paragraph (b), and the word “and” immediately preceding that paragraph.</p>
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These repeals have effect in accordance with section 109(4) of this Act.

(27)

CONTROLLED FOREIGN COMPANIES

Chapter	Short title	Extent of repeal
1988 c. 1.	The Income and Corporation Taxes Act 1988.	<p>In section 747(1), the words “the Board have reason to believe that” and “and the Board so direct,”.</p> <p>Section 748(2).</p> <p>In section 751(1)(b), the words “not being the subject of an earlier direction under section 747(1)”.</p> <p>Section 753.</p> <p>Section 754(4).</p> <p>Section 755.</p> <p>In Schedule 24, paragraph 4(2A), in paragraph 9, in sub-paragraph (1) the words “Subject to sub-paragraph (2) below” and sub-paragraphs (2), (5) and (6) and paragraphs 11 and 11A(3) and (6).</p> <p>In Schedule 26, in paragraph 1, in sub-paragraph (1), paragraph (c) and the word “and” immediately preceding it, and the words “or, as the case may be, of the excess of it referred to in paragraph (c)</p>

*Status: Point in time view as at 19/07/2011.*

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1996 c. 8.	The Finance Act 1996.	above" and sub-paragraphs (4) and (6).  In Schedule 36, in paragraph 3, sub-paragraph (6)(b) and the word "and" immediately preceding it and sub-paragraph (7).
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These repeals have effect in accordance with paragraph 37 of Schedule 17 to this Act.

(28)

COMPANY TAX RETURNS ETC.

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<b>Chapter</b>	<b>Short title</b>	<b>Extent of repeal</b>
1970 c. 9.	The Taxes Management Act 1970.	Section 10.  Section 11.  Sections 11AA to 11AE.  In section 12(2), the words "or section 11".  In section 12B(1), the words ", 11".  In section 19A(1), the words ", 11AB(1)".  In section 28A— (a) in subsection (1), the words "or 11AB(1)"; (b) in subsection (7B), paragraph (b) and the word "and" preceding it; (c) subsection (7C).  Sections 28AA and 28AB.  Sections 28D, 28E and 28F.  In section 29— (a) in subsection (3)(b), the words "in the case of a return under section 8 or 8A,"; (b) subsection (10).  In section 30— (a) in subsection (2)(a), the words "or 825"; (b) subsection (2A); (c) in subsection (3), the words "or corporation tax";

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*Status: Point in time view as at 19/07/2011.*

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		(d) subsections (3A) and (4A).
		Section 33(5)(c).
		In section 33A(1), the words "under section 9 or 11AA of this Act".
		Sections 41A, 41B and 41C.
		In section 42—
		(a) in subsections (2), (9) and (11)(a), the words "11";
		(b) subsections (4) and (4A);
		(c) in subsection (5), the words from "and the reference in subsection (4)" to the end;
		(d) subsection (13)(c).
		In section 46(2), the words "and in particular save as provided by section 29 of this Act".
		In section 65(3), the words from "for the recovery of" to the end of paragraph (b).
		Section 94.
		Section 96.
		In section 97A, paragraph (b) and the word "or" preceding it.
1987 c. 51.	The Finance (No.2) Act 1987.	Sections 82 and 83.
		Section 88.
1988 c. 1.	The Income and Corporation Taxes Act 1988.	In section 7—
		(a) in subsection (2), the words "by an assessment made";
		(b) subsections (5) to (7).
		In section 11(3), the words "by an assessment made".
		In section 419(4), the words "by discharge or repayment".
		In Schedule 13A—
		(a) in paragraph 14(1), the words from "(which correspond" to "Management Act)";



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		(b) in paragraph 14(8), the words from “against an amendment” to the end.
		Schedule 17A.
		In Schedule 29, in paragraph 10—
		(a) in sub-paragraph (3), the words “and (3A)”; and
		(b) sub-paragraph (7).
1988 c. 39.	The Finance Act 1988.	Section 121.
1990 c. 1.	The Capital Allowances Act 1990.	Section 145A.
		Schedule A1.
1990 c. 29.	The Finance Act 1990.	Section 91.
		Section 95.
		Section 98(3).
		Section 100.
		Section 102.
		Schedules 15 and 16.
1993 c. 34.	The Finance Act 1993.	In Schedule 14, paragraphs 1, 2 and 6.
1994 c. 9.	The Finance Act 1994.	Sections 181 to 183.
		Section 195.
		Section 197.
		In Schedule 19, paragraphs 8(1), 10, 14 to 16, 17(3) and 19.
1995 c. 4.	The Finance Act 1995.	Section 104(5).
		Section 107(5) and (6).
1996 c. 8.	The Finance Act 1996.	Section 121(5).
		Section 170.
		In Schedule 19, in paragraph 2, the words “11AB(1),”.
		In Schedule 20, paragraph 28(5).
		In Schedule 24, paragraphs 2 to 4, 6, 7, 8(2) and 13.
		In Schedule 34, paragraph 1(8).

*Status: Point in time view as at 19/07/2011.*

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1997 c. 58.	The Finance (No.2) Act 1997.	In Schedule 4, paragraph 3.
1998 c. 36.	The Finance Act 1998.	In Schedule 3, paragraph 5. In Schedule 5, paragraph 33.

These repeals have effect in relation to accounting periods ending on or after the self-assessment appointed day within the meaning of section 117 of this Act.

(29)

CHARGEABLE GAINS: APPLICABLE RATE

Chapter	Short title	Extent of repeal
1992 c. 12.	The Taxation of Chargeable Gains Act 1992.	In section 4(1), the words "and section 5". Section 5.
1993 c. 34.	The Finance Act 1993.	In Schedule 6, paragraph 23.

These repeals have effect in accordance with section 120(2) of this Act.

(30)

CHARGEABLE GAINS: OFFSHORE SETTLEMENTS

Chapter	Short title	Extent of repeal
1992 c. 12.	The Taxation of Chargeable Gains Act 1992.	In section 87(1), the words from "if the settlor" to the end of the subsection. In section 88(1), paragraph (c) and the word "and" immediately preceding it. In Schedule 5, paragraph 9(2) and (8).

1. The repeals in sections 87 and 88 of the Taxation of Chargeable Gains Act 1992 have effect in accordance with section 130 of this Act.

2. The repeal of paragraph 9(2) of Schedule 5 to that Act has effect in accordance with section 132(2) of this Act.

3. The repeal of paragraph 9(8) of that Schedule has effect in accordance with section 131(4) of this Act.

*Status: Point in time view as at 19/07/2011.*

*Changes to legislation: Finance Act 1998 is up to date with all changes known to be in force on or before 18 October 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(31)

RETIREMENT RELIEF

<b>Chapter</b>	<b>Short title</b>	<b>Extent of repeal</b>
1992 c. 12.	The Taxation of Chargeable Gains Act 1992.	Sections 163 and 164.  In section 165, in subsection (3), paragraphs (a) and (b) and, in subsection (6), the words “and (in appropriate cases) Schedule 6”.  In section 241(3), the words “and Schedule 6”.  In section 260(5), the words from “or, if part of the gain” to the end.  Schedule 6.  In Schedule 7, paragraph 8.
1993 c. 34.	The Finance Act 1993.	In Schedule 7, paragraphs 1(2) and 2.
1994 c. 9.	The Finance Act 1994.	Section 92.
1996 c. 8.	The Finance Act 1996.	Section 176.  In Schedule 20, paragraph 66.  In Schedule 21, paragraph 44.  In Schedule 39, paragraph 7.

The above repeals have effect in relation to disposals in the year 2003-04 and subsequent years of assessment.

(32)

ABOLITION OF CERTAIN CGT RELIEFS

<b>Chapter</b>	<b>Short title</b>	<b>Extent of repeal</b>
1992 c. 12.	The Taxation of Chargeable Gains Act 1992.	In Part V, Chapter IA.  Sections 254 and 255.

1. The repeal of Chapter IA of Part V of the Taxation of Chargeable Gains Act 1992 has effect in relation to acquisitions made on or after 6th April 1998.

2. The other repeals have effect in relation to loans made on or after 17th March 1998.

*Status: Point in time view as at 19/07/2011.*

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## PART IV

### INHERITANCE TAX

Chapter	Short title	Extent of repeal
1984 c. 51.	The Inheritance Tax Act 1984.	Section 26.  In section 76— (a) paragraph (d) of subsection (1) and the word “or” immediately preceding it; and (b) subsection (2).
1986 c. 41.	The Finance Act 1986.	Section 102(5)(g).
1992 c. 12.	The Taxation of Chargeable Gains Act 1992.	Section 258(1).  Section 260(2)(b)(ii).

1. The repeal of section 26 of the Inheritance Tax Act 1984 has effect in accordance with section 143(1) of this Act and the repeals in section 76 of that Act have effect in accordance with section 143(5) of this Act.

2. The other repeals have effect in relation to any disposal on or after 17th March 1998.

## PART V

### OTHER TAXES

#### (1)

#### INSURANCE PREMIUM TAX

Chapter	Short title	Extent of repeal
1994 c. 9.	The Finance Act 1994.	In section 52A(9), the definition of “tour operator” and “travel agent”.

This repeal has effect in accordance with section 147 of this Act.

#### (2)

#### STAMP DUTY

Chapter	Short title	Extent of repeal
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*Status: Point in time view as at 19/07/2011.*

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1920 c. 67.	The Government of Ireland Act 1920.	Section 29.
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(3)

ABOLITION OF GAS LEVY

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<b>Chapter</b>	<b>Short title</b>	<b>Extent of repeal</b>
1981 c. 3.	The Gas Levy Act 1981.	The whole Act.
1986 c. 44.	The Gas Act 1986.	In section 60— (a) in subsection (1), paragraph (b) and the word “and” immediately preceding it; and (b) subsection (4). Schedule 6.
1990 c. 29.	The Finance Act 1990.	Section 123.
1992 c. 48.	The Finance (No. 2) Act 1992.	Section 78.
1993 c. 34.	The Finance Act 1993.	Section 209.
1995 c. 45.	The Gas Act 1995.	In Schedule 5, in paragraph 11, sub-paragraph (b) and the word “and” immediately preceding it.

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1. Subject to note 2 below, these repeals do not have effect in relation to gas levy for the year 1997-98 or any previous year.

2. The repeal of section 209(3) of the Finance Act 1993 does not affect any case in which the cessation of liability to gas levy was before the end of the year 1997-98.

(4)

DUMPING AND SUBSIDIES

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<b>Chapter</b>	<b>Short title</b>	<b>Extent of repeal</b>
1969 c. 16.	The Customs Duties (Dumping and Subsidies) Act 1969.	The whole Act.
1978 c. 42.	The Finance Act 1978.	In section 6, subsections (5), (6), (7) and (9). Schedule 1. In Schedule 12, paragraph 26.

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*Status: Point in time view as at 19/07/2011.*

*Changes to legislation: Finance Act 1998 is up to date with all changes known to be in force on or before 18 October 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

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1979 c. 2.	The Customs and Excise Management Act 1979.	In paragraph 12 of Schedule 4, in Part I of the Table, the entries for the Customs Duties (Dumping and Subsidies) Act 1969.
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## PART VI

### MISCELLANEOUS

#### (1)

### TREASURY BILLS

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<b>Chapter</b>	<b>Short title</b>	<b>Extent of repeal</b>
1992 c. 48.	The Finance (No. 2) Act 1992.	Section 79.

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This repeal has effect in accordance with section 159 of this Act.

#### (2)

### SECURITIES

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<b>Chapter</b>	<b>Short title</b>	<b>Extent of repeal</b>
1993 c. 34.	The Finance Act 1993.	Section 211.

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This repeal has effect in accordance with an order made under paragraph 3 of Schedule 26 to this Act.

**Status:**

Point in time view as at 19/07/2011.

**Changes to legislation:**

Finance Act 1998 is up to date with all changes known to be in force on or before 18 October 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.