Finance Act 2002

2002 CHAPTER 23

PART 3

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

CHAPTER 2

OTHER PROVISIONS

Employment income and related matters

33 Employer-subsidised public transport bus services

(1) In Part 5 of the Taxes Act 1988 (provisions relating to the Schedule E charge), section 197AB (exclusion of tax charge in respect of support by employer for certain transport services) is amended as follows.

(2) In subsection (2) (main definitions), in the definition of "qualifying journey" after "means" insert " the whole or part of ".

(3) For subsection (3) (conditions of exemption) substitute—

"(3) Except in the case of a local bus service, the exemption conferred by this section is subject to the condition that the terms on which the service is available to the employees mentioned in subsection (1) must not be more favourable than those available to other passengers.

(3A) The exemption conferred by this section is in every case subject to the condition that the service must be available generally to employees of the employer (or each employer) concerned.".

(4) In subsection (4) (minor definitions), at the appropriate place insert—

""local bus service" means a local service as defined by section 2 of the Transport Act 1985;".

(5) After that subsection insert—

"(5) If under this section there is no charge to tax under section 154 (or there would be no charge if the employee were in employment to which Chapter 2 of Part 5 applied), there is no charge to tax under section 141 (non-cash vouchers) in respect of a voucher evidencing the employee's entitlement to use the service.".

(6) This section has effect for the year 2002-03 and subsequent years of assessment.

34 Car fuel: calculation of cash equivalent of benefit

(1) In Part 5 of the Taxes Act 1988 (provisions relating to the Schedule E charge), section 158 (benefits in kind: car fuel) is amended as follows.

(2) For subsections (2) to (2B) (calculation of cash equivalent) substitute—

"(2) Subject to the following provisions of this section, the cash equivalent of that benefit is the appropriate percentage of £14,400.

The "appropriate percentage" means the appropriate percentage determined under Schedule 6 for the purpose of calculating the cash equivalent of the benefit of the car for which the fuel is provided.".

(3) In subsection (4) (power to substitute different amounts by Treasury order), for "a different Table for any of the Tables in subsection (2) above" substitute " a different amount for that specified in subsection (2) above ".

(4) For subsection (5) (proportionate reduction where car unavailable for part of the year) substitute—

"(5) The cash equivalent of the benefit in any year is proportionately reduced (see subsection (8) below) if the car for which the fuel is provided is unavailable (within the meaning of Schedule 6) for any part of the year.".

(5) After subsection (6) (nil cash equivalent where fuel provided on terms that employee meets cost of private use or fuel is made available only for business travel) insert—

"(6A) The cash equivalent of the benefit in any year is proportionately reduced (see subsection (8) below) if for any part of that year—

(a) the facility for the provision of fuel as mentioned in subsection (1) above is not available, or
(b) the employee is required to make good to the person providing the fuel the whole of the expense incurred by him in connection with the provision of the fuel for his private use and he does so, or
(c) the fuel is made available only for business travel.

(6B) The fact that any of the conditions specified in subsection (6A) above is met for part of a year shall be disregarded if there is a time later in that year when any of those conditions is not met.".

(6) At the end of the section add—

"(8) Where the cash equivalent falls to be proportionately reduced under subsection (5) or (6A) above (or under both those subsections), the reduced amount is given by:

$$CE \times \frac{365-D}{365}$$

where—

CE is the amount of the cash equivalent before any reduction; and

D is the total number of days in the year on which either the car is unavailable or one or more of the conditions in subsection (6A) above is met.".

(7) After that subsection add—

"(9) References in this section to fuel do not include any facility or means for supplying electrical energy for an electrically propelled vehicle.".

(8) This section has effect for the year 2003-04 and subsequent years of assessment.

35 Statutory paternity pay and statutory adoption pay

In section 150 of the Taxes Act 1988 (allowances and payments charged to income tax under Schedule E), after paragraph (d) insert—

"(e) payments of statutory paternity pay or statutory adoption pay under Part 12ZA or 12ZB of the Social Security Contributions and Benefits Act 1992 or, in Northern Ireland, under any corresponding legislation in force there.".

36 Exemption of minor benefits: application to non-cash vouchers

(1) In section 155ZB of the Taxes Act 1988 (power to provide for exemption of minor benefits), after subsection (2) add—

"(3) If by virtue of regulations under this section there is no charge to tax under section 154 in respect of a benefit (or there would be no charge if the employee were in employment to which Chapter 2 of Part 5 applied), there is no charge to tax under section 141 (non-cash vouchers) in respect of a voucher evidencing the employee's entitlement to the benefit.".

(2) This section has effect for the year 2002-03 and subsequent years of assessment.

37 Minor amendments to Schedule E charge

(1) Schedule 6 to this Act (which makes a number of minor changes to the Schedule E charge to income tax) has effect.

(2) The amendments made by that Schedule have effect for the year 2002-03 and subsequent years of assessment.

38 Provision of services through an intermediary: minor amendments

(1) Schedule 12 to the Finance Act 2000 (c. 17) (provision of services through an intermediary) is amended as follows.

(2) In Part 2 (the deemed Schedule E payment), after paragraph 7 insert—

7A “**Reimbursed expenses**

(1) The reference in Step Three of the calculation in paragraph 7 to expenses met by the intermediary includes expenses met by the worker and reimbursed by the intermediary.

(2) Where the intermediary is a partnership and the worker is a member of the partnership, expenses met by the worker for and on behalf of the intermediary shall be treated for the purposes of sub-paragraph (1) as expenses met by the worker and reimbursed by the intermediary.

7B **Treatment of mileage allowances**

(1) Where—

(a) the intermediary provides a vehicle for the worker, and

(b) the worker would have been entitled to an amount of mileage allowance relief for a tax year in respect of the use of the vehicle if the worker had been employed by the client and the vehicle had not been a company vehicle (within the meaning of paragraph 6 of Schedule 12AA to the Taxes Act 1988),

Step Three of the calculation in paragraph 7 has effect as if that amount were an amount of expenses deductible under that Step.

(2) Where—

(a) the intermediary is a partnership,

(b) the worker is a member of the partnership, and

(c) the worker provides a vehicle for the purposes of the business of the partnership,

then for the purposes of sub-paragraph (1) the vehicle shall be regarded as provided by the intermediary for the worker.

(3) Where the worker receives payments from the intermediary that are exempt from income tax under Schedule E by virtue of section 197AD or 197AE of the Taxes Act 1988 (mileage allowance payments and passenger payments), Step Seven of the calculation in paragraph 7 has effect as if the worker were chargeable to income tax under Schedule E in respect of the payments.”.

(3) In Part 3 (supplementary provisions), in paragraph 12(2) (date of deemed payment where intermediary is a company), after “relevant events” insert—

“(za) the company ceasing to trade;”.

(4) In that Part, in paragraph 18(3) (restriction on expenses deductible in calculating profits of partnership intermediary), for paragraph (a) substitute—

“(a) the amount that, in calculating the deemed Schedule E payment, is deducted under Step Three of the calculation in paragraph 7, and”.

(5) This section has effect for the year 2002-03 and subsequent years of assessment.

39 Employee share ownership plans: minor amendments

(1) Schedule 8 to the Finance Act 2000 (c. 17) (employee share ownership plans) is amended as follows.

(2) In paragraph 94 (PAYE: shares ceasing to be subject to plan), for ", subsection (3) of section 203F of the Taxes Act 1988 (PAYE: tradeable assets)" substitute—

"(a) section 203F of the Taxes Act 1988 (PAYE: readily convertible assets) shall have effect as if the participant were being provided with assessable income in the form of those shares—

(i) at the time the shares cease to be subject to the plan, and

(ii) in respect of the relevant employment in which the participant is employed at that time (or, if he is not employed in relevant employment at that time, the relevant employment in which he was last employed before that time), and

(b) subsection (3) of that section".

(3) In paragraph 95 (PAYE: shares ceasing to be subject to plan), in sub-paragraph (6), for the words from "a company" to "to whom" substitute " the company which employs the participant in relevant employment at the time when the shares cease to be subject to the plan (or, if the participant is not employed in relevant employment at that time, the company which last employed him in relevant employment before that time), provided that that company is one to whom ".

(4) In paragraph 96 (PAYE: capital receipts), in sub-paragraph (2), for the words from "the company" to "to whom" substitute " the company which employs the participant in relevant employment at the time the trustees receive the sum of money referred to in sub-paragraph (1) (or, if the participant is not employed in relevant employment at that time, the company which last employed him in relevant employment before that time), provided that that company is one to whom ".

(5) In paragraph 127 (jointly owned companies), at the end insert—

"(4) A company controlled by a jointly owned company may not—

(a) be a participating company in more than one group plan, or

(b) if the jointly owned company or any other company controlled by it is a participating company in a group plan, be a participating company in a different group plan.".

(6) In paragraph 128(2) (meaning of "readily convertible asset"), after "this Schedule" insert " (and that section in its application in relation to shares which cease to be subject to a plan) ".

(7) This section has effect for the year 2002-03 and subsequent years of assessment.

(8) However, nothing in subsection (5) prevents a company continuing to be a participating company in a group plan in which it was a participating company immediately before the day on which this Act is passed (and for the purposes of this subsection "participating company" and "group plan" have the same meaning as in Schedule 8 to the Finance Act 2000).

40 Treatment of deductions from payments to sub-contractors

(1) In Chapter 4 of Part 13 of the Taxes Act 1988 (sub-contractors in the construction industry), after section 559 (deductions on account of tax etc from payments to certain sub-contractors) insert—

"559A Treatment of sums deducted under s.559

(1) A sum deducted under section 559 from a payment made by a contractor—

(a) shall be paid to the Board, and

(b) shall be treated for the purposes of income tax or, as the case may be, corporation tax as not diminishing the amount of the payment.

(2) If the sub-contractor is not a company a sum deducted under section 559 and paid to the Board shall be treated as being income tax paid in respect of the sub-contractor's relevant profits.

If the sum is more than sufficient to discharge his liability to income tax in respect of those profits, so much of the excess as is required to discharge any liability of his for Class 4 contributions shall be treated as being Class 4 contributions paid in respect of those profits.

(3) If the sub-contractor is a company—

(a) a sum deducted under section 559 and paid to the Board shall be treated, in accordance with regulations, as paid on account of any relevant liabilities of the sub-contractor;

(b) regulations shall provide for the sum to be applied in discharging relevant liabilities of the year of assessment in which the deduction is made;

(c) if the amount is more than sufficient to discharge the sub-contractor's relevant liabilities, the excess may be treated, in accordance with the regulations, as being corporation tax paid in respect of the sub-contractor's relevant profits; and

(d) regulations shall provide for the repayment to the sub-contractor of any amount not required for the purposes mentioned in paragraphs (b) and (c).

(4) For the purposes of subsection (3) the "relevant liabilities" of a sub-contractor are any liabilities of the sub-contractor, whether arising before or after the deduction is made, to make a payment to a collector of inland revenue in pursuance of an obligation as an employer or contractor.

(5) In this section—

(a) "the sub-contractor" means the person for whose labour (or for whose employees' or officers' labour) the payment is made;

(b) references to the sub-contractor's "relevant profits" are to the profits from the trade, profession or vocation carried on by him in the course of which the payment was received;

(c) "Class 4 contributions" means Class 4 contributions within the meaning of the Social Security Contributions and Benefits Act 1992 or the Social Security Contributions and Benefits (Northern Ireland) Act 1992.

(6) References in this section to regulations are to regulations made by the Board.

(7) Regulations under this section—

(a) may contain such supplementary, incidental or consequential provision as appears to the Board to be appropriate, and

(b) may make different provision for different cases.”.

(2) In section 829 of the Taxes Act 1988 (application of Income Tax Acts to public departments), after subsection (2) insert—

“(2A) Subsections (1) and (2) above have effect in relation to Chapter 4 of Part 13 of this Act (sub-contractors in the construction industry) as if the whole of any deduction required to be made under section 559 were in all cases a deduction of income tax.”.

(3) In section 59D of the Taxes Management Act 1970 (c. 9) (payment of corporation tax), in subsection (4)(d) (amounts treated as corporation tax previously paid), for “under section 559” substitute “ by virtue of regulations under section 559A ”.

(4) This section has effect in relation to deductions made under section 559 of the Taxes Act 1988 on or after 6th April 2002.

Regulations under section 559A of that Act, inserted by this section, may be made so as to have effect in relation to any such deductions made on or after that date.

41 Parliamentary visits to EU candidate countries: tax treatment of members’ expenses

(1) This section amends—

(a) section 200 of the Taxes Act 1988 (which treats allowances paid to a Member of Parliament in respect of, among other things, expenses of visiting the national parliament of another member State as not being income for tax purposes), and

(b) section 200ZA of that Act (which makes corresponding provision in relation to members of the Scottish Parliament, the National Assembly for Wales and the Northern Ireland Assembly).

(2) In subsection (3)(b) of section 200, and in paragraph (b) of the definition of “EU travel expenses” in subsection (3) of section 200ZA, after “of another member State” insert “ or of a candidate country ”.

(3) After subsection (3) of each section insert—

“(4) In subsection (3) above “candidate country” means Bulgaria, Cyprus, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Romania, the Slovak Republic, Slovenia or Turkey.

(5) The Treasury shall by order made by statutory instrument make such amendments to the definition in subsection (4) above as are necessary to secure that the countries listed are those that are from time to time candidates for membership of the European Union.”.

(4) This section applies in relation to sums paid on or after 1st April 2002.

Chargeable gains

42 Reallocation within group of gain or loss accruing under section 179

(1) After section 179 of the Taxation of Chargeable Gains Act 1992 (c. 12) (company ceasing to be member of group) insert—

"**179A Reallocation within group of gain or loss accruing under section 179**

(1) This section applies where—

(a) a company ("company A") is treated by virtue of section 179(3) or (6) as having sold and immediately reacquired an asset at market value, and

(b) a chargeable gain or an allowable loss accrues to the company on the deemed sale.

(2) In this section "time of accrual" means—

(a) in a case where section 179(3) applies, the time at which, by virtue of section 179(4), the gain or loss referred to in subsection (1) above is treated as accruing to company A;

(b) in a case where section 179(6) applies, the latest time at which the company satisfies the conditions in section 179(7).

(3) If—

(a) a joint election under this section is made by company A and a company ("company C") that was a member of the relevant group at the time of accrual, and

(b) the conditions in subsections (6) to (8) below are all met,

the chargeable gain or allowable loss accruing on the deemed sale, or such part of it as may be specified in the election, shall be treated as accruing not to company A but to company C.

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

(a) in a case where section 179(3) applies, the group of which company A was a member at the time of accrual;

(b) in a case where section 179(6) applies, the second group referred to in section 179(5).

(5) Where two or more elections are made each specifying a part of the same gain or loss, the total amount specified may not exceed the whole of that gain or loss.

(6) The first condition is that, at the time of accrual, company C—

(a) was resident in the United Kingdom, or

(b) owned assets that were chargeable assets in relation to it.

(7) The second condition is that neither company A nor company C was at that time a qualifying friendly society within the meaning given by section 171(5)).

(8) The third condition is that company C was not at that time an investment trust, a venture capital trust or a dual resident investing company.

(9) A gain or loss treated by virtue of this section as accruing to a company that is not resident in the United Kingdom shall be treated as accruing in respect of a chargeable asset held by that company.

(10) An election under this section must be made—

(a) by notice to an officer of the Board;

(b) no later than two years after the end of the accounting period of company A in which the time of accrual fell.

(11) Any payment by company A to company C, or by company C to company A, in pursuance of an agreement between them in connection with the election—

(a) shall not be taken into account in computing profits or losses of either company for corporation tax purposes, and

(b) shall not for any purposes of the Corporation Tax Acts be regarded as a distribution or a charge on income,

provided it does not exceed the amount of the chargeable gain or allowable loss that is treated, as a result of the election, as accruing to company C.

(12) For the purposes of this section an asset is a "chargeable asset" in relation to a company at a particular time if any gain accruing to the company on a disposal of the asset by the company at that time would be a chargeable gain and would by virtue of section 10(3) form part of its chargeable profits for corporation tax purposes.".

(2) In Schedule 7B to that Act (modification of Act in relation to overseas life insurance companies), immediately before paragraph 8 insert—

"7A In section 179A(12), the words "section 11(2)(b), (c) or (d) of the Taxes Act" shall be treated as substituted for "section 10(3)".".

(3) In section 97(1) of the Inheritance Tax Act 1984 (c. 51) (transfers within group, etc)—

(a) after sub-paragraph (ii) of paragraph (a) insert "or—

(iii) an election under section 179A of that Act as a result of which a chargeable gain is treated as accruing to the transferor company instead of to another member of the group, or an allowable loss is treated as accruing to another member of the group instead of to the transferor company,";

(b) in paragraph (aa) for "the deemed transfer" substitute " the election ".

(4) This section applies—

(a) in relation to a case where a company is treated by virtue of section 179(3) of the Taxation of Chargeable Gains Act 1992 (c. 12) as having sold and immediately reacquired an asset, where the company's ceasing to be a member of the group in question happens on or after 1st April 2002;

(b) in relation to a case where a company is so treated by virtue of section 179(6) of that Act, where the relevant time (within the meaning of that subsection) is on or after that date.

43 Roll-over of degrouping charge on business assets

(1) After section 179A of the Taxation of Chargeable Gains Act 1992 (c. 12) (inserted by section 42 above) insert—

"179B Roll-over of degrouping charge on business assets

(1) Where a company is treated by virtue of section 179(3) or (6) as having sold and immediately reacquired an asset at market value, relief under section 152 or 153 (roll-over relief on replacement of business assets) is available in accordance with this section in relation to any gain accruing to the company on the deemed sale.

(2) For this purpose, sections 152 and 153 and the other enactments specified in Schedule 7AB apply with the modifications set out in that Schedule.

(3) Where there has been an election under section 179A, any claim for relief available in accordance with this section must be made by company C rather than company A.

(4) For this purpose, the enactments modified by Schedule 7AB have effect as if—

- (a) references to company A, except those in sections 152(1)(a) and (1B), 153(1B), 153A(5), 159(1), 175 and 198(1), were to company C;
- (b) the references to "that company" in section 159(1) and "the company" in section 185(3)(b) were to company C;
- (c) the reference to "that trade" in section 198(1) were to a ring fence trade carried on by company C.

(5) Where there has been an election under section 179A in respect of part only of the chargeable gain accruing on the deemed sale of an asset, the enactments modified by Schedule 7AB and subsections (3) and (4) above apply as if the deemed sale had been of a separate asset representing a corresponding part of the asset; and any necessary apportionments shall be made accordingly.

(6) A reference in this section to company A or to company C is to the company referred to as such in section 179A.".

(2) After Schedule 7AA to the 1992 Act insert the Schedule 7AB set out in Schedule 7 to this Act.

(3) In section 86(2) of the Finance Act 1993 (c. 34) (roll-over relief: power to amend section 155 of the 1992 Act by order), at the end add—

"Any such order may make such consequential amendments of Schedule 7AB as appear to the Treasury to be appropriate.".

(4) This section applies—

- (a) in relation to a case where a company is treated by virtue of section 179(3) of the 1992 Act as having sold and immediately reacquired an asset, where the company's ceasing to be a member of the group in question happens on or after 1st April 2002;
- (b) in relation to a case where a company is so treated by virtue of section 179(6) of that Act, where the relevant time (within the meaning of that subsection) is on or after that date.

44 Exemptions for disposals by companies with substantial shareholding

(1) In Chapter 1 of Part 6 of the Taxation of Chargeable Gains Act 1992 (c. 12) (provisions relating to chargeable gains of companies), after section 192 insert—

"Disposals by companies with substantial shareholding

192A Exemptions for gains or losses on disposal of shares etc

Schedule 7AC (exemptions for disposal of shares etc by companies with substantial shareholding) has effect.".

(2) Schedule 8 to this Act (exemptions for disposals by companies with substantial shareholding) has effect.

In that Schedule—

Part 1 contains Schedule 7AC to be inserted after Schedule 7AB to the Taxation of Chargeable Gains Act 1992 (c. 12) (inserted by Schedule 7 to this Act); and

Part 2 contains consequential amendments.

(3) This section and Schedule 8 to this Act apply in relation to disposals on or after 1st April 2002.

(4) Paragraph 38 of the Schedule 7AC inserted by that Schedule (degrouping: time when deemed sale and reacquisition treated as taking place) has effect where the time of degrouping or relevant time (as defined for the purposes of that paragraph) is on or after that date.

(5) The amendment made by paragraph 2 of Schedule 8 to this Act has effect where the company in question ceases to be a member of the group in question on or after that date.

45 Share exchanges and company reconstructions

(1) Schedule 9 to this Act (chargeable gains: share exchanges and company reconstructions) has effect.

(2) In that Schedule—

Part 1 provides for the replacement of sections 135 and 136 of the Taxation of Chargeable Gains Act 1992;

Part 2 makes consequential amendments; and

Part 3 provides for commencement.

46 Taper relief: holding period for business assets

(1) In the table in section 2A(5) of the Taxation of Chargeable Gains Act 1992 (calculation of taper relief), for the first two columns (under the heading "Gains on disposals of business assets") substitute—

Number of whole years in qualifying holding period	Percentage of gain chargeable
1	50

2 or more	25

(2) This section applies to disposals on or after 6th April 2002.

47 Taper relief: minor amendments

Schedule 10 to this Act contains minor amendments relating to taper relief under the Taxation of Chargeable Gains Act 1992 (c. 12).

48 Use of trading losses against chargeable gains

(1) In section 72 of the Finance Act 1991 (c. 31) (use of trading losses against chargeable gains), in subsection (4) (which has the effect that the maximum amount of trading loss that may be so used is calculated by reference to the amount of chargeable gains after taper relief) for "disregarding section 3(1)" substitute " disregarding sections 2A (taper relief) and 3(1) (annual exempt amount) ".

(2) The amendment in subsection (1) has effect in relation to claims under that section in respect of trading losses sustained in the year 2004-05 or subsequent years of assessment, subject to the following provisions.

(3) A person making a claim under section 72 of that Act in respect of a trading loss sustained in the year 2002-03 may elect that, for the purposes of the claim, the amendment made by subsection (1) above shall have effect—

(a) in relation to the chargeable gains accruing to him in the year 2001-02,

(b) in relation to the chargeable gains accruing to him in the year 2002-03, or

(c) in relation to the chargeable gains accruing to him in the year 2001-02 and the year 2002-03.

(4) A person making a claim under that section in respect of a trading loss sustained in the year 2003-04 may elect that, for the purposes of the claim, the amendment made by subsection (1) above shall have effect—

(a) in relation to the chargeable gains accruing to him in the year 2002-03,

(b) in relation to the chargeable gains accruing to him in the year 2003-04, or

(c) in relation to the chargeable gains accruing to him in the year 2002-03 and the year 2003-04.

(5) An election under subsection (3) or (4) must be made—

(a) in writing,

(b) to an officer of the Board,

(c) within the time for making a claim under section 72 of the Finance Act 1991 in respect of a trading loss sustained in the year 2002-03 or, as the case may be, the year 2003-04,

and must specify the year or years of assessment in relation to the chargeable gains of which it is made.

49 Election to forgo roll-over relief on transfer of business

(1) After section 162 of the Taxation of Chargeable Gains Act 1992 (c. 12) (roll-over relief on transfer of business) insert—

"162A Election for section 162 not to apply

(1) Section 162 shall not apply where the transferor makes an election under this section.

(2) An election under this section must be made by a notice given to an officer of the Board no later than the relevant date.

(3) Except where subsection (4) below applies, the relevant date is the second anniversary of the 31st January next following the year of assessment in which the transfer of the business took place.

(4) Where, by the end of the year of assessment following the one in which the transfer of the business took place, the transferor has disposed of all the new assets, the relevant date is the first anniversary of the 31st January next following the year of assessment in which the transfer of the business took place.

(5) For the purposes of subsection (4) above—

(a) a disposal of any of the new assets by the transferor shall be disregarded if it falls within section 58(1) (transfers between husband and wife); but

(b) where a disposal of any assets to a person is disregarded by virtue of paragraph (a) above, a subsequent disposal by that person of any of those assets (other than a disposal to the transferor) shall be regarded as a disposal by the transferor.

(6) All such adjustments shall be made, whether by way of discharge or repayment of tax, the making of assessments or otherwise, as are required to give effect to an election under this section.

(7) Where, immediately before it was transferred, the business was owned by two or more persons—

(a) each of them has a separate entitlement to make an election under this section;

(b) an election made by a person by virtue of paragraph (a) above shall apply only to—

(i) the share of the amount of the gain on the old assets, and

(ii) the share of the new assets,

that is attributable to that person for the purposes of this Act.

(8) The reference in subsection (7) above to ownership by two or more persons includes, in Scotland as well as elsewhere in the United Kingdom, a reference to ownership by a partnership consisting of two or more persons.

(9) Expressions used in this section and in section 162 have the same meaning in this section as in that one.

But references in this section to new assets also include any shares or debentures that are treated by virtue of one or more applications of section 127 (including that section as applied by virtue of any enactment relating to chargeable gains) as the same asset as the new assets.".

(2) This section applies in relation to a transfer of a business on or after 6th April 2002.

50 Shares acquired on same day: election for alternative treatment

(1) After section 105 of the Taxation of Chargeable Gains Act 1992 (c. 12) (disposal on or before day of acquisition of shares and other unidentified assets) insert—

"105A Shares acquired on same day: election for alternative treatment

(1) Subsection (2) below applies where an individual—

(a) acquires shares ("the relevant shares") of the same class, on the same day and in the same capacity, and

(b) some of the relevant shares ("the approved-scheme shares") are shares acquired by him as a result of—

(i) the exercise of a qualifying option within the meaning of paragraph 1(1) of Schedule 14 to the Finance Act 2000 (enterprise management incentives) in circumstances where paragraph 44, 45 or 46 of that Schedule (exercise of option to acquire shares) applies, or

(ii) the exercise of an option to which subsection (1) of section 185 of the Taxes Act (approved share option schemes) applies in circumstances where paragraphs (a) and (b) of subsection (3) of that section apply.

(2) Where the individual first makes a disposal of any of the relevant shares, he may elect for subsections (3) to (5) below to have effect in relation to that disposal and all subsequent disposals of any of those shares.

(3) In circumstances where section 105 applies, that section shall have effect as if—

(a) paragraph (a) of subsection (1) of that section required the approved-scheme shares to be treated as acquired by the individual by a single transaction separate from the remainder of the relevant shares (which shall also be treated by virtue of that paragraph as acquired by the individual by a single transaction), and

(b) subsection (1) of that section required the approved-scheme shares to be treated as disposed of after the remainder of the relevant shares.

(4) If the relevant shares include shares to which relief under Chapter 3 of Part 7 of the Taxes Act or deferral relief (within the meaning of Schedule 5B to this Act) is attributable—

(a) paragraph 4(4) of that Schedule has effect as if it required the approved-scheme shares falling within paragraph (a), (b), (c) or (d) of that provision to be treated as disposed of after the remainder of the relevant shares falling within the paragraph in question, and

(b) section 299 of the Taxes Act has effect for the purposes of section 150A(4) below as if it required—

(i) the approved-scheme shares falling within paragraph (a), (b), (c) or (d) of subsection (6A) of section 299 of that Act to be treated as disposed of after the remainder of the relevant shares falling within the paragraph in question, and

(ii) the approved-scheme shares to which subsection (6B) of that section applies to be treated as disposed of after the remainder of the relevant shares to which that subsection applies.

(5) Where section 127 applies in relation to any of the relevant shares ("the reorganisation shares"), that section shall apply separately to such of those shares as are approved-scheme shares and to the remainder of the reorganisation shares (so that those approved-scheme shares and the remainder of the reorganisation shares are treated as comprised in separate holdings of original shares and identified with separate new holdings).

(6) In subsection (5)—

(a) the reference to section 127 includes a reference to that section as it is applied by virtue of any enactment relating to chargeable gains, and

(b) "original shares" and "new holding" have the same meaning as in section 127 or (as the case may be) that section as applied by virtue of the enactment in question.

(7) For the purposes of subsection (1) above—

(a) any shares to which relief under Chapter 3 of Part 7 of the Taxes Act is attributable and which were transferred to an individual as mentioned in section 304 of that Act, and

(b) any shares to which deferral relief (within the meaning of Schedule 5B to this Act), but not relief under that Chapter, is attributable and which were acquired by an individual on a disposal to which section 58 above applies,

shall be treated as acquired by the individual on the day on which they were issued.

(8) In this section the references to Chapter 3 of Part 7, section 299 and section 304 of the Taxes Act shall be read as references to those provisions as they apply to shares issued after 31st December 1993 (enterprise investment scheme).

105B Provision supplementary to section 105A

(1) The provisions of section 105A 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.

(2) An election must be made, by a notice given to an officer of the Board, on or before the first anniversary of the 31st January next following the year of assessment in which the individual first makes a disposal of any of the relevant shares.

(3) Where—

(a) an election is made in respect of the relevant shares, and

(b) any shares ("the other shares") acquired by the individual on the same day and in the same capacity as the relevant shares cease to be treated under section 104(4) as shares of a different class from the relevant shares,

the election shall have effect in respect of the other shares from the time they cease to be so treated.

(4) In determining for the purposes of section 105A(2) and subsection (2) above whether the individual has made a disposal of any of the relevant shares, sections 122(1) and 128(3) shall be disregarded.

(5) No election may be made in respect of ordinary shares in a venture capital trust.

For this purpose "ordinary shares" has the meaning given in section 151A(7).

(6) For the purposes of section 105A, shares in 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.

(7) In section 105A(2) to (5) and subsections (2) to (4) above, any reference to the relevant shares or to the approved-scheme shares includes a reference to the securities (if any) directly or indirectly derived from the shares in question by virtue of one or more applications of section 127 (including that section as applied by virtue of any enactment relating to chargeable gains).

(8) In this section—

"the approved-scheme shares" has the same meaning as in section 105A;

"election" means an election under that section;

"the relevant shares" has the same meaning as in that section; and

"securities" has the meaning given in section 104(3);

and in subsection (4) the reference to section 128(3) includes a reference to that provision as it is applied by virtue of any enactment relating to chargeable gains.".

(2) The amendment made by subsection (1) has effect in relation to shares acquired by an individual on or after 6th April 2002.

(3) For this purpose—

(a) any shares to which relief under Chapter 3 of Part 7 of the Taxes Act 1988 is attributable and which were transferred to an individual as mentioned in section 304 of that Act, and

(b) any shares to which deferral relief (within the meaning of Schedule 5B to the Taxation of Chargeable Gains Act 1992 (c. 12)), but not relief under that Chapter, is attributable and which were acquired by an individual on a disposal to which section 58 of that Act applies,

shall be treated as acquired by the individual on the day on which they were issued.

(4) In subsection (3)(a), the references to Chapter 3 of Part 7 and section 304 of the Taxes Act 1988 shall be read as references to those provisions as they apply to shares issued after 31st December 1993 (enterprise investment scheme).

51 Deduction of personal losses from gains treated as accruing to settlors

Schedule 11 to this Act (deduction of personal losses from gains treated as accruing to settlors) has effect.

52 Capital gains tax: variation of dispositions taking effect on death

(1) In section 62(7) of the Taxation of Chargeable Gains Act 1992 (c. 12) (election to treat subsequent variation of dispositions taking effect on death as if effected by deceased) for the words from "unless" to the end of the subsection substitute " unless the instrument contains a statement by the persons making the instrument to the effect that they intend the subsection to apply to the variation. ".

(2) This section applies in relation to instruments made on or after 1st August 2002.

New reliefs

53 Tax relief for expenditure on research and development

(1) Schedule 12 to this Act has effect for accounting periods ending on or after 1st April 2002.

(2) In that Schedule—

Part 1 makes provision about tax relief for large companies on expenditure on research and development;

Part 2 makes provision about tax relief for small companies on expenditure on research and development that is sub-contracted to them;

Parts 3 to 6 make provision about the form of the relief, special provision about insurance companies and supplementary and general provision.

54 Tax relief for expenditure on vaccine research etc

(1) Schedule 13 to this Act (which makes provision for tax relief for companies' expenditure on vaccine research etc) has effect.

(2) Schedule 14 to this Act (which makes provision consequential on Schedule 13) has effect.

55 Gifts of medical supplies and equipment

(1) This section applies where, for humanitarian purposes, a company makes a gift from trading stock of medical supplies, or medical equipment, for human use.

(2) For the purposes of the Tax Acts, no amount shall be required to be brought into account as a trading receipt of the company in consequence of the making of the gift.

(3) Any costs of transportation, delivery or distribution incurred by the company in making the gift may be deducted in computing for the purposes of corporation tax the profits of the company's trade for the accounting period in which the costs are incurred.

(4) In any case where—

(a) relief is given under subsection (2) in respect of the making of a gift and any benefit received in any accounting period by the company or any connected person is in any way attributable to the making of that gift, or

(b) relief is given under subsection (3) and any benefit so received is in any way attributable to the company's incurring of the costs referred to in that subsection, the company shall in respect of that period be charged to corporation tax under Case I of Schedule D or, if the company is not chargeable to corporation tax under that Case for that period, under Case VI of Schedule D on an amount equal to the amount of that benefit.

(5) Section 839 of the Taxes Act 1988 (connected persons) applies for the purposes of subsection (4).

(6) The Treasury may by order provide that this section is not to have effect in relation to medical supplies or medical equipment of such descriptions as may be specified in the order.

(7) This section has effect in relation to gifts made on or after 1 April 2002.

56 R&D tax relief for small and medium-sized enterprises: minor and consequential amendments

Schedule 15 to this Act (which makes minor amendments to Schedule 20 to the Finance Act 2000 (tax relief for R&D expenditure of small and medium-sized enterprises), including amendments consequential on Schedules 12 and 13 to this Act) has effect for accounting periods ending on or after 1st April 2002.

57 Community investment tax relief

(1) Schedule 16 to this Act (community investment tax relief) has effect.

(2) Schedule 17 to this Act (which makes provision consequential on the introduction of community investment tax relief) has effect.

(3) Schedules 16 and 17 shall come into force on such day as the Treasury may by order appoint.

(4) On and after that day—
- (a) Schedule 16 shall have effect in relation to—
  - (i) investments made on or after such day as the Treasury may so appoint, being a day not earlier than 17th April 2002, and
  - (ii) claims made on or after such day as the Treasury may so appoint,
- (b) paragraphs 2 to 4 of Schedule 17 shall have effect for years of assessment ending on or after the day appointed under paragraph (a)(i), and
- (c) paragraph 5 of that Schedule shall have effect for accounting periods ending on or after that day.

58 Relief for community amateur sports clubs

(1) Schedule 18 to this Act (relief for community amateur sports clubs) has effect.

(2) Parts 1, 5 and 6 of that Schedule shall be deemed to have come into force on 1st April 2002.

Accordingly, an application under that Schedule by a club to be registered as a community amateur sports club may be granted with effect from that date or any subsequent date before the passing of this Act.

(3) Parts 2 and 4 of that Schedule have effect in relation to accounting periods ending on or after 1st April 2002.

(4) Part 3 of that Schedule has effect in relation to gifts made on or after 6th April 2002.

Capital allowances and related matters

59 Cars with low carbon dioxide emissions

Schedule 19 to this Act (first-year allowances in respect of expenditure on cars with low CO_2 emissions and exemption from single asset pool rules) has effect in relation to expenditure incurred on or after 17th April 2002.

60 Expense of hiring cars with low carbon dioxide emissions

(1) In section 578A of the Taxes Act (expenditure on car hire) after subsection (2) (cars to which section 578A applies) insert—

"(2A) This section does not apply to the hiring of a car, other than a motorcycle, if—

(a) it is an electrically-propelled car, or

(b) it is a car with low CO_2 emissions.

(2B) In subsection (2A) above—

"car" has the meaning given by section 578B;

"car with low CO_2 emissions" has the meaning given by section 45D of the Capital Allowances Act 2001 (expenditure on cars with low CO_2 emissions to be first-year qualifying expenditure);

"electrically-propelled car" has the meaning given by that section.".

(2) The amendment made by this section has effect in relation to expenditure—

(a) which is incurred on or after 17th April 2002 on the hiring of a car which is first registered on or after that date, and

(b) which is incurred on the hiring of a car, for a period of hire which begins on or before 31st March 2008, under a contract entered into on or before 31st March 2008.

61 Plant or machinery for gas refuelling station: first-year allowances

Schedule 20 to this Act (first-year allowances in respect of expenditure on plant or machinery for gas refuelling station) has effect in relation to expenditure incurred on or after 17th April 2002.

62 Expenditure on green technologies: leasing

(1) In section 46 of the Capital Allowances Act 2001 (c. 2) (general exclusions affecting first-year qualifying expenditure) after subsection (4) (which is inserted by Schedule 19) insert—

"(5) General exclusion 6 does not prevent expenditure being first-year qualifying expenditure under section 45A, 45D or 45E.".

(2) The amendment made by this section has effect in relation to expenditure incurred on or after 17th April 2002.

63 First-year allowances for expenditure wholly for a ring fence trade

(1) Schedule 21 to this Act shall have effect.

(2) In that Schedule—

(a) Part 1 makes provision for and in connection with first-year allowances under Part 2 of the Capital Allowances Act 2001 in respect of expenditure incurred by a company on the provision of plant or machinery for use wholly for the purposes of a ring fence trade chargeable to tax under section 501A of the Taxes Act 1988 (inserted by section 91 of this Act); and

(b) Part 2 makes provision for and in connection with first-year allowances under Part 5 of that Act (mineral extraction allowances) in respect of expenditure incurred by a company wholly for the purposes of such a trade.

(3) The amendments made by that Schedule have effect in relation to expenditure incurred on or after 17th April 2002.

Computation of profits

64 Adjustment on change of basis

(1) The provisions of Schedule 22 to this Act have effect as to the adjustment or adjustments to be made for tax purposes where—

(a) there is, from one period of account to the next of a trade, profession or vocation, a change of basis in computing profits for the purposes of Case I or II of Schedule D,

(b) the old basis accorded with the law or practice applicable in relation to the period of account before the change, and

(c) the new basis accords with the law and practice applicable in relation to the period of account after the change.

For the purposes of paragraphs (b) and (c) the practice applicable in any case means the accepted practice in cases of that description as to how profits should be computed for the purposes of Case I or II of Schedule D.

(2) A "change of basis" means—

(a) a relevant change of accounting approach, or

(b) a change in the tax adjustments applied.

(3) A "relevant change of accounting approach" means a change of accounting principle or practice that, in accordance with generally accepted accounting practice, gives rise to a prior period adjustment.

(4) A "tax adjustment" means any such adjustment as is mentioned in section 42(1) of the Finance Act 1998 (c. 36) (adjustments required or authorised by law in computing profits for tax purposes).

(5) A "change in the tax adjustments applied"—

(a) does not include a change made in order to comply with amending legislation not applicable to the previous period of account, but
(b) includes a change resulting from a change of view as to what is required or authorised by law, or as to whether any adjustment is so required or authorised.

(6) The provisions of this section and Schedule 22 to this Act have effect in place of the provisions of section 44 of, and Schedule 6 to, the Finance Act 1998 (c. 36).

65 Postponement of change to mark to market in certain cases

(1) This section applies in relation to the computation in accordance with the provisions of Case I of Schedule D of the profits of the insurance business, other than life assurance business, of—
(a) an insurance company,
(b) a corporate member of Lloyd's, or
(c) a controlled foreign company.

(2) For periods of account to which this section applies nothing in—
(a) section 70 of the Taxes Act 1988 (assessment to corporation tax on full amount of profits, etc), or
(b) section 42 of the Finance Act 1998 (c. 36) (computation of profits to be on basis giving true and fair view),

prevents the company from computing the profits of that business on a realisation basis rather than a mark to market basis.

A "realisation basis" means not recognising a profit or loss on an asset until it is realised, and a "mark to market basis" means bringing assets into account in each period of account at a fair value.

(3) Subject to subsection (4), this section applies in relation to any period of account that—
(a) began before 1st August 2001, and
(b) ends before 31st July 2002.

(4) This section does not apply if—
(a) an earlier period of account beginning on or after 1st January 2001 ended with an accounting date different from that with which the previous period of account ended,
(b) the change of accounting date was notified—
(i) to the registrar of companies, or
(ii) in the case of a company established under the law of a country or territory outside the United Kingdom, to the corresponding authority of that country or territory,

on or after 17th April 2002, and
(c) the purpose, or one of the purposes, for which the change was made was so that a subsequent period of account would be one to which section 64 above applies (computation of profits: adjustment on change of basis).

(5) In this section—

"controlled foreign company" has the same meaning as in Chapter 4 of Part 17 of the Taxes Act 1988; and "corporate member of Lloyd's" means a corporate member as defined in section 230(1) of the Finance Act 1994 (c. 9).

66 Election to continue postponement of mark to market

(1) Where section 65 (postponement of change to mark to market in certain cases) applies in relation to a period of account, the company may elect that it shall continue to apply in relation to subsequent periods of account as regards assets held by it on 1st January 2002.

Any such election must be made within twelve months after the end of the accounting period of the company current on that date.

(2) An insurance company that carries on both long-term business and business other than long-term business may make an election under this section limited to assets held by the company otherwise than in the company's long-term insurance fund.

(3) For the purpose of determining whether an election under this section applies to an asset in a case where—

(a) assets are realised by the company in an accounting period beginning on or after 1st January 2002,

(b) the assets are of such a kind that the particular assets realised are not readily identifiable,

(c) the realisation does not exhaust the company's holding, and

(d) some but not all of the company's holding was acquired after 1st January 2002,

assets realised shall be identified with assets acquired on the same basis as that used by the company for accounting purposes, unless the basis used by the company is "last in, first out" in which case assets realised shall be identified with assets acquired on or before 1st January 2002 in priority to assets acquired after that day.

(4) Where a company has made an election under this section and—

(a) an asset in relation to which the election has effect is transferred to another company ("the transferee company") in pursuance of a transfer scheme, and

(b) immediately after the transfer either—

(i) the transferee company is resident in the United Kingdom, or

(ii) the asset is held for the purposes of a business carried on by the transferee company in the United Kingdom through a branch or agency,

this section applies as if the transferee company had made an election under this section in relation to that asset.

(5) In this section—

"insurance business" means business that consists of the effecting or carrying out of contracts of insurance and for the purposes of this definition "contract of insurance" has the meaning given in Article 3(1) of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (S.I. 2001/544);

"insurance company", "long-term business" and "long-term insurance fund" have the same meaning as in Chapter 1 of Part 12 of the Taxes Act 1988 (see section 431(2) of that Act);

"transfer scheme" means—

(a) a scheme under section 105 of the Financial Services and Markets Act 2000 (c. 8), including an excluded scheme falling within Case 2, 3 or 4 of subsection (3) of that section, or
(b) a qualifying overseas transfer scheme.

(6) A "qualifying overseas transfer scheme" means—
(a) so much of a transfer of the whole or part of the business of an overseas life insurance company carried on through a branch or agency in the United Kingdom as takes place in accordance with an authorisation granted outside the United Kingdom for the purposes of Article 11 of the third life insurance directive, or
(b) so much of a transfer of the whole or part of the business of an insurance company other than an overseas life insurance company as takes place in accordance with an authorisation granted outside the United Kingdom for the purposes of Article 12 of the third non-life insurance directive.

(7) In subsection (6)—
"overseas life insurance company" has the same meaning as in Chapter 2 of Part 12 of the Taxes Act 1988 (see section 431(2) of that Act);
"the third life insurance directive" means Council Directive 92/96/EEC on the co-ordination of laws, regulations and administrative provisions relating to direct life assurance and amending Directive 79/267/EEC and 990/96/EEC; and
"the third non-life insurance directive" means Council Directive 92/49/EEC on the co-ordination of laws, regulations and administrative provisions relating to direct insurance other than life assurance and amending Directives 73/239/EEC and 88/357/EEC.

67 Mark to market: miscellaneous amendments

(1) In section 473 of the Taxes Act 1988 (roll-over of securities held as circulating capital)—
(a) in the opening words of subsection (2), omit ", if the securities were not such as are mentioned in subsection (1)(b) above";
(b) in subsection (2)(a), and in subsection (7), for "would result" substitute " results "; and
(c) in subsection (2)(b) for "would be" substitute " is ".

(2) After subsection (2) of that section insert—

"(2A) This section does not apply to securities in respect of which unrealised profits or losses, calculated by reference to the fair value of the securities at the end of a period of account, are taken into account in the period of account in which the transaction mentioned in subsection (2) above occurs.

(2B) Subsection (2A) above shall be disregarded in determining for the purposes of section 66 of the Finance Act 2002 (election to continue postponement of mark to market) whether an asset was held by a person on 1st January 2002.".

(3) In section 81 of the Finance Act 1999 (c. 16) (acquisitions disregarded under insurance companies concession), at the end add—

"(13) If the relevant company changes from—

(a) not recognising a profit or loss on an asset until it is realised, to

(b) bringing assets into account in each period of account at a fair value,

then, in calculating the amount of any adjustment required under Schedule 22 to the Finance Act 2002 (calculation of adjustment on change of basis), the amount to be taken into account as the cost of the asset in relation to a period of account before the change is the cost of the previous acquisition.".

(4) The provisions of this section come into force as follows—

(a) the amendments in subsections (1) and (2) apply in relation to periods of account ending on or after 1st August 2001;

(b) the amendment in subsection (3) applies wherever an adjustment falls to be made under Schedule 22 to the Finance Act 2002 (see Part 5 of that Schedule).

68 Expenditure involving crime

(1) In section 577A(1) of the Taxes Act 1988 (no deduction to be made for expenditure incurred in making a payment the making of which constitutes a criminal offence)—

(a) after "incurred" insert " (a) ", and

(b) at the end insert ", or

(b) in making a payment outside the United Kingdom where the making of a corresponding payment in any part of the United Kingdom would constitute a criminal offence there.".

(2) This section applies in relation to expenditure incurred on or after 1st April 2002.

Financial instruments

69 Qualifying contracts for unallowable purposes

(1) After section 168 of the Finance Act 1994 (c. 9) insert—

"168A Qualifying contracts for unallowable purposes

(1) Where in any accounting period a qualifying contract to which a company is party has an unallowable purpose, any amounts which for that period fall, in the case of the company, to be brought into account for the purposes of section 155 above as part of amount B shall (subject to subsection (2) below) not include so much of the amounts given by the accounting method used as respects the contract as, on a just and reasonable apportionment, is referable to the unallowable purpose.

(2) The total of any amounts which by virtue of subsection (1) above are not to be brought into account in the accounting period as part of amount B may not exceed the maximum amount.

(3) For the purposes of subsection (2) above, the maximum amount, in relation to the accounting period, is—

(a) if in the accounting period amount B exceeds amount A, the amount by which amount B exceeds amount A; and

(b) if in the accounting period amount A exceeds or equals amount B, nil.

(4) For the purposes of subsection (3) above, amount A and amount B shall be determined in relation to the qualifying contract in accordance with section 155 above and, in so determining amount B, so much of any amount as is referable to the unallowable purpose of the contract shall (notwithstanding subsection (1) above) be brought into account.

(5) For the purposes of this section a qualifying contract to which a company is party shall be taken to have an unallowable purpose in an accounting period where the purposes for which, at times during that period, the company is party to the contract include a purpose ("the unallowable purpose") which is not amongst the business or other commercial purposes of the company.

(6) For the purposes of this section the business and other commercial purposes of a company do not include the purposes of any part of its activities in respect of which it is not within the charge to corporation tax.

(7) For the purposes of this section, where one of the purposes for which a company is party to a qualifying contract at any time is a tax avoidance purpose, that purpose shall be taken to be a business or other commercial purpose of the company only where it is not the main purpose, or one of the main purposes, for which the company is party to the contract at that time.

(8) The reference in subsection (7) above to a tax avoidance purpose is a reference to any purpose that consists in securing a tax advantage (whether for the company or any other person).

(9) In this section "tax advantage" has the same meaning as in Chapter 1 of Part 17 of the Taxes Act 1988 (tax avoidance).".

(2) Subject to subsection (3), this section has effect for accounting periods ending on or after 26th July 2001 in relation to any qualifying contract to which a company is party, unless the company has ceased to be a party to the contract before that date.

(3) Where such an accounting period begins before 26th July 2001, there shall not be included in the amounts, which by virtue of section 168A(1) of the Finance Act 1994 (c. 9) (as it has effect subject to section 168A(2) (maximum amount)) are not to be brought into account, such part of those amounts as, on a just and reasonable apportionment, is attributable to the part of the accounting period which falls before 26th July 2001.

(4) For the purposes of subsection (3), section 168A(3) shall have effect for the purposes of determining the maximum amount in section 168A(2) as if the references in section 168A(3) to amount A and amount B were references to such part of amount A or amount B as, on a just and reasonable apportionment, is attributable to the part of the accounting period which falls after 25th July 2001.

70 Forward premiums and discounts under currency contracts

(1) In section 153 of the Finance Act 1994 (c. 9) (qualifying payments), for subsections (4) and (5) (premiums and discounts) substitute—

"(5) For the purposes of this Chapter, in the case of any qualifying contract which is a currency contract,—

(a) the amount of any forward discount arising under the contract to a qualifying company shall be treated as a qualifying payment received by the company; and

(b) the amount of any forward premium arising under the contract from a qualifying company shall be treated as a qualifying payment made by the company.

(6) The amounts of any forward discounts and premiums arising under a contract to a qualifying company shall be determined for the purposes of subsection (5) above—

(a) in accordance with subsections (7) to (9) below in the case of a currency contract which provides for a rate of exchange between the reporting currency and another currency, and

(b) in accordance with subsection (10) below in the case of a currency contract which provides for a rate of exchange between two currencies, neither of which is the reporting currency.

(7) For the purposes of subsection (5)(a) above, the cases where a forward discount arises under a currency contract to a company are those cases where—

(a) the acquisition spot price exceeds the acquisition contract price, or

(b) the sale contract price exceeds the sale spot price;

and the amount of the forward discount is the amount of the excess mentioned in paragraph (a) or (b) above, as the case may be.

(8) For the purposes of subsection (5)(b) above, the cases where a forward premium arises under a currency contract from a company are those cases where—

(a) the acquisition contract price exceeds the acquisition spot price, or

(b) the sale spot price exceeds the sale contract price;

and the amount of the forward premium is the amount of the excess mentioned in paragraph (a) or (b) above, as the case may be.

(9) In subsections (7) and (8) above—

"the acquisition contract price" means the amount of any currency (other than the reporting currency) to be acquired under the contract by the company, expressed in the reporting currency, using the rate of exchange determined by the terms of the contract;

"the acquisition spot price" means the amount of any currency (other than the reporting currency) to be acquired under the contract by the company, expressed in the reporting currency, using such rate of exchange for the date on which the company becomes entitled to rights and subject to duties under the contract as is used for the purposes of the company's accounts (as defined in section 156(6) below);

"the sale contract price" means the amount of any currency (other than the reporting currency) to be disposed of under the contract by the company, expressed in the reporting currency, using the rate of exchange determined by the terms of the contract;

"the sale spot price" means the amount of any currency (other than the reporting currency) to be disposed of under the contract by the company, expressed in the reporting currency, using such rate of exchange for the date on which the company becomes entitled to rights and subject to duties under the contract as is used for the purposes of the company's accounts (as defined in section 156(6) below).

(10) Where this subsection has effect in accordance with subsection (6)(b) above, the amounts of any forward premiums and discounts arising under the contract are the amounts which, in accordance with generally accepted accounting practice, are brought into account in the same way as any forward premiums and discounts which fall to be determined in accordance with subsections (7) and (8) above.

(11) Subsection (5) above is subject to subsection (12) below.

(12) Where a qualifying company is using, as respects a qualifying contract which is a currency contract, a basis of accounting which conforms to generally accepted accounting practice and—

(a) an amount which would, but for this subsection, fall to be treated as a qualifying payment by virtue of subsection (5) above is brought into account by the company, in accordance with that basis of accounting, as a qualifying payment made or received by the company but otherwise than by virtue of being a forward premium or discount, or

(b) that basis of accounting is such that no forward premiums or discounts are treated as arising under a qualifying contract,

subsection (5) above shall not have effect in relation to that amount or, as the case may be, in relation to that contract.

(13) In this section "the reporting currency" means sterling, unless the case is one where section 93 of the Finance Act 1993 (use of foreign currency) applies, in which case it means the currency which is the relevant foreign currency for the purposes of that section.".

(2) This section has effect for accounting periods ending on or after 26th July 2001 in relation to any currency contract to which a company is party, unless the company has ceased to be a party to the contract before that date.

Loan relationships

71 Accounting method where rate of interest etc is reset

(1) After section 88 of the Finance Act 1996 (c. 8) insert—

"88A Accounting method where rate of interest is reset

(1) This section applies where—

(a) the conditions in subsections (2) and (3) below are satisfied in relation to an asset representing a creditor relationship of a company; and

(b) the object, or one of the main objects, of the company entering into or becoming a party to the creditor relationship was the securing, whether for itself or any other person, of a tax advantage (within the meaning of Chapter 1 of Part 17 of the Taxes Act 1988).

(2) The first condition is that there is or has at any time been a change in—

(a) the rate of interest payable in the case of the asset;
(b) the amount payable to discharge the debt; or
(c) the time at which any payments under the asset (whether of interest or otherwise) fall due.

(3) The second condition is that the difference between—
(a) the fair value of the asset immediately after the change, and
(b) the issue price of the asset,

is equal to at least 5 per cent of the issue price of the asset.

(4) On and after the day on which the conditions in subsections (2) and (3) above become satisfied in the case of an asset, the only accounting method authorised for the purposes of this Chapter for use by any company as respects a creditor relationship represented by the asset shall be an authorised mark to market basis of accounting.

(5) Where section 90 below applies in consequence of subsection (4) above, no debit shall be brought into account under subsection (2)(c) or (3)(b) of that section.

(6) In determining the fair value of an asset for any purpose of this section it shall be assumed that all amounts payable by the debtor will be paid in full as they fall due.".

(2) This section has effect on and after the relevant day.

(3) Where an authorised mark to market basis of accounting—
(a) is required by virtue of this section to be used on and after the relevant day as respects a creditor relationship of a company, but
(b) was not being used immediately before that day as respects the relationship,

the asset representing the relationship shall be treated for the purposes of Chapter 2 of Part 4 of the Finance Act 1996 as having been acquired by the company for the asset's fair value (as determined for the purposes of section 88A of that Act) on the relevant day.

(4) For the purposes of this section "the relevant day" is—
(a) 19th December 2001, in a case where section 88A of that Act applies by reason of a change in the rate of interest payable in the case of the asset in question; or
(b) 24th April 2002, in any other case.

72 Convertible securities etc: loan relationships

(1) Section 92 of the Finance Act 1996 (c. 8) (convertible securities etc) is amended as follows.

(2) Amend subsection (1) (the assets to which section 92 applies) in accordance with subsections (3) to (9).

(3) In paragraph (b) (which requires the asset to carry rights to acquire any shares in a company) for "any shares in a company" substitute " shares in a company ".

(4) After paragraph (b) insert—

"(bb) the only shares that may be so acquired under any such provision are shares which, at the time when the asset comes or came into existence are or were, and at all times since have been,—
(i) qualifying ordinary shares in one or more companies, or
(ii) mandatorily convertible preference shares in one or more companies;".

(5) In paragraph (c) (extent to which shares may be acquired under that provision not to be determined using specified cash value) for "that provision", where first occurring, substitute " any such provision ".

(6) In paragraph (d) (asset not to be a relevant discounted security within the meaning of Schedule 13 to the Finance Act 1996) after "Act" insert " or an excluded indexed security within the meaning of that Schedule ".

(7) After paragraph (d) insert—
"(dd) the rights attached to the asset do not include provision by virtue of which the company may require a person other than the issuing company to acquire the asset for an amount which would, if payable on redemption, be an amount involving a deep gain for the purposes of paragraph 3 of that Schedule;".

(8) In paragraph (e)(more than negligible likelihood of the right to acquire shares being exercised to significant extent)—
(a) for "the right" substitute " the rights ", and
(b) omit "and".

(9) After paragraph (e) insert—
"(ee) the rights to acquire shares in a company (whether by conversion or exchange or otherwise) are such that exercising them to their full extent would result in the replacement of the asset—
(i) wholly by shares, or
(ii) in a case where exercising the rights to acquire shares to their full extent would not confer an entitlement to a whole number of shares, wholly by shares and a cash adjustment in respect of the fraction of a share so arising,
and the ending of the creditor relationship; and".

(10) After subsection (1) insert—

"(1A) In subsection (1) above—
"the issuing company" means the company that brought into existence the asset mentioned in subsection (1) above;
"mandatorily convertible preference shares" means shares (other than qualifying ordinary shares) which are issued upon terms that stipulate that, by a time no more than 24 hours after their acquisition by a person who immediately before that acquisition had the creditor relationship represented by those shares, they must be converted into or exchanged for qualifying ordinary shares;
"qualifying ordinary shares" means shares in a company which satisfy the conditions in subsections (1B) and (1C) below.

(1B) The first condition is that the shares are shares representing some or all of the issued share capital (by whatever name called) of the company, other than—

(a) capital the holders of which have a right to a dividend at a fixed rate but have no other right to share in the profits of the company, or

(b) capital the holders of which have no right to a dividend of any description nor any other right to share in the profits of the company.

(1C) The second condition is that the shares are—

(a) shares which are listed on a recognised stock exchange, or

(b) shares in a company which is a trading company or a holding company;

and for this purpose "trading company" and "holding company" have the meaning given by paragraph 22(1) of Schedule A1 to the Taxation of Chargeable Gains Act 1992.".

(11) After subsection (1C) insert—

"(1D) For the purposes of subsection (1)(ee)(ii) above, the amount which may be paid by way of a cash adjustment may not exceed five per cent of the value of the relevant shares at the relevant time; and for these purposes—

(a) "the relevant shares" means the shares which would be acquired by exercising the rights attached to the asset to their full extent, and

(b) "the relevant time" means the time at which the rights to acquire those shares are exercised.".

(12) In consequence of the amendments made by this section and sections 73 and 74, the sidenote becomes " Convertible securities etc: creditor relationships ".

(13) The amendments made by this section do not have effect for the purpose of determining, in relation to such part of an accounting period as falls before 26th July 2001, whether an asset is, or has ceased to be, an asset to which section 92 of the Finance Act 1996 (c. 8) applies.

(14) Subsection (15) has effect where—

(a) an asset is, immediately before 26th July 2001, an asset to which section 92 of the Finance Act 1996 applies, but

(b) on that date, by virtue only of the amendments of that section made by this section, the asset ceases to be an asset to which that section applies.

(15) Where this subsection has effect, the asset shall be taken to have ceased immediately before 26th July 2001 to be an asset to which section 92 of the Finance Act 1996 (c. 8) applies and, accordingly, any deemed disposal and re-acquisition under subsection (7) of that section shall be treated as having taken place immediately before that date.

(16) Subject to subsections (13) to (15), the amendments made by this section have effect for accounting periods ending on or after 26th July 2001 in relation to any asset representing a creditor relationship of a company, unless the creditor relationship in question is one to which the company ceased to be a party before that date.

73 Convertible securities etc: issuing company not to be connected company

(1) In section 92 of the Finance Act 1996 (convertible securities etc) after subsection (1D) (which is inserted by section 72) insert—

"(1E) This section does not apply to an asset representing a creditor relationship of a company if, for the accounting period in which the asset comes into existence, there is a connection between the company and the company which is the issuing company in relation to that asset.

(1F) If, in the case of an asset representing a creditor relationship of a company, the company and the company which is the issuing company in relation to that asset become companies between which, for any accounting period, there is a connection—

(a) the asset shall cease to be an asset to which this section applies, and

(b) it shall be treated, for the purposes of subsection (7)(a) below, as having ceased to be such an asset at the time when the circumstances giving rise to that connection arose.

(1G) Section 87(3) above (connection between a company and another person for an accounting period) applies for the purposes of subsections (1E) and (1F) above.".

(2) The amendments made by this section do not have effect for the purpose of determining, in relation to such part of an accounting period as falls before 19th December 2001, whether an asset is, or has ceased to be, an asset to which section 92 of the Finance Act 1996 applies.

(3) Subsection (4) has effect where—

(a) an asset is, immediately before 19th December 2001, an asset to which section 92 of the Finance Act 1996 applies, but

(b) on that date, by virtue only of the amendments of that section made by this section, the asset ceases to be an asset to which that section applies.

(4) Where this subsection has effect, the asset shall be taken to have ceased immediately before 19th December 2001 to be an asset to which section 92 of the Finance Act 1996 applies and, accordingly, any deemed disposal and re-acquisition under subsection (7) of that section shall be treated as having taken place immediately before that date.

(5) Subject to subsections (2) to (4), the amendments made by this section have effect for accounting periods ending on or after 19th December 2001 in relation to any asset representing a creditor relationship of a company—

(a) unless the creditor relationship in question is one to which the company ceased to be a party before that date, or

(b) unless, as regards the company holding the asset representing the creditor relationship immediately before 19th December 2001 ("the creditor company") and the company which brought that asset into existence ("the issuing company"), the first or the second condition is satisfied.

(6) The first condition is that, during any period before 19th December 2001 when the creditor company was holding the asset, there was an accounting period in which there was no connection between the creditor company and the issuing company.

(7) The second condition is that immediately before 19th December 2001—

(a) the creditor company was not a 100 per cent subsidiary of the issuing company,

(b) the issuing company was not a 100 per cent subsidiary of the creditor company, and

(c) the creditor company and the issuing company were not 100 per cent subsidiaries of the same company.

(8) Section 87(3) of the Finance Act 1996 (c. 8) (connection between a company and another person for an accounting period) applies for the purposes of subsection (6).

(9) In its application for the purposes of subsection (7), section 838 of the Taxes Act 1988 (meaning of "subsidiaries" for the purposes of the Tax Acts) has effect as if in subsection (1)(b) of that section—

(a) "a 100 per cent subsidiary" were substituted for " a 75 per cent subsidiary ", and

(b) "not less than 100 per cent" were substituted for " not less than 75 per cent ".

74 Convertible securities etc: debtor relationships

(1) After section 92 of the Finance Act 1996 insert—

"92A Convertible securities etc: debtor relationships

(1) This section applies to a liability if—

(a) the liability represents a debtor relationship of a company ("the debtor company"); and

(b) the rights attached to the asset that represents the corresponding creditor relationship include provision by virtue of which a person is or may become entitled to acquire (whether by conversion or exchange or otherwise)—

(i) any shares in the debtor company, or

(ii) any shares in another company.

(2) The debits falling for any accounting period to be brought into account for the purposes of this Chapter in respect of a debtor relationship represented by a liability to which this section applies shall not include debits in relation to any of the amounts falling within subsection (3) below.

(3) The amounts are—

(a) any amounts payable by the debtor company in respect of, or in connection with, any such acquisition of shares as is described in subsection (1)(b)(ii) above, but not any amounts to which subsection (4) below applies; and

(b) any charges or expenses incurred by the debtor company as described in paragraph (b), (c) or (d) of section 84(3) above, where the related transaction in question relates to, or is connected with, the acquisition of shares by another person (whether by conversion or exchange or otherwise) as described in subsection (1)(b) above.

(4) This subsection applies to amounts payable by the debtor company, as described in subsection (3)(a) above, in respect of the debtor relationship in a case where—

(a) the debtor company is carrying on a banking business or a business consisting wholly or partly in dealing in securities, and

(b) it entered into the debtor relationship in the ordinary course of that business.

(5) For the purposes of subsection (4) above "securities" has the same meaning as in section 473 of the Taxes Act.

(6) Subject to subsection (7) below, only an authorised accruals basis of accounting shall be used for ascertaining the amounts which fall to be taken into account as described in subsection (2) above.

(7) The requirement in subsection (6) above to use an authorised accruals basis of accounting does not apply in the case of a debtor relationship where—
   (a) the debtor company is carrying on a banking business or a business consisting wholly or partly in dealing in securities, and
   (b) it entered into the debtor relationship in the ordinary course of that business.".

(2) The amendments made by this section have effect—
   (a) in relation to any amounts falling within section 92A(3)(a), where those amounts fall to be paid after 25th July 2001, and
   (b) in relation to any charges or expenses falling within section 92A(3)(b), where those charges or expenses accrue after 25th July 2001.

75 Asset-linked loan relationships

(1) Section 93 of the Finance Act 1996 (c. 8) (relationships linked to the value of chargeable assets) is amended as follows.

(2) In subsection (1) (application of section and exclusion of cases where dealing in loan relationships is part of a trade)—
   (a) for "unless it is one" substitute "unless—
      (a) in a case where the loan relationship is a creditor relationship, the asset representing the loan relationship is one"; and
   (b) at the end of that subsection insert—
      "(b) in a case where the loan relationship is a debtor relationship, the liability representing the loan relationship is a liability entered into by the company in the course of activities forming an integral part of a trade carried on by the company; or
      (c) the loan relationship is one to which section 93A below applies.".

(3) In subsection (10) (meaning of chargeable asset) for the words from "if" to the end substitute—

"the asset is—
   (a) an estate or interest in land (wherever situated), or
   (b) qualifying ordinary shares which are listed on a recognised stock exchange.".

(4) Subsection (11)(assumptions applying to determine if disposal is chargeable gain for the purposes of subsection (10)) shall cease to have effect.

(5) After subsection (12) insert—

"(12A) In subsection (10)(b) above "qualifying ordinary shares", in relation to a company, means shares representing some or all of the issued share capital (by whatever name called) of the company, other than—

(a) capital the holders of which have a right to a dividend at a fixed rate but have no other right to share in the profits of the company, or

(b) capital the holders of which have no right to a dividend of any description nor any other right to share in the profits of the company.".

(6) Subsection (13)(which makes provision in respect of certain indices which, in consequence of the amendment made by subsection (3) above, cannot be indices of chargeable assets) shall cease to have effect.

(7) At the end of the section add—

"(14) This section is supplemented by section 93B below.".

(8) The amendments made by this section do not have effect for the purpose of determining, in relation to such part of an accounting period as falls before 26th July 2001, whether a loan relationship is, or has ceased to be, a loan relationship to which section 93 of the Finance Act 1996 (c. 8) applies.

(9) Subject to subsection (8), the amendments made by this section have effect for accounting periods ending on or after 26th July 2001 in relation to any loan relationship of a company, unless the loan relationship in question is one to which the company ceased to be a party before that date.

76 Asset-linked loan relationships involving guaranteed returns

(1) After section 93 of the Finance Act 1996 insert—

"93A Relationships linked to the value of chargeable assets: guaranteed returns

(1) This section applies to a loan relationship which is a creditor relationship of a company if—

(a) that loan relationship and one or more other transactions are associated transactions designed to produce a guaranteed return;

(b) any such other transaction is a disposal of futures or options; and

(c) the guaranteed return comprises the return consisting of the amount that must be paid to discharge the money debt arising in connection with that loan relationship taken together with the return from any one or more of the disposals of futures or options.

(2) For the purposes of this section a loan relationship of a company and one or more disposals of futures or options are transactions designed to produce a guaranteed return if, taking the transactions together, it would be reasonable to assume, from considering—

(a) the likely effect of the transactions,

(b) the circumstances in which the transactions are entered into, or in which any of them is entered into, or

(c) the matters in both of paragraphs (a) and (b), that the main purpose of the transactions, or one of their main purposes, is or was the production of a guaranteed return from the loan relationship and any one or more of the disposals.

(3) For the purposes of this section a guaranteed return is produced from the loan relationship and any one or more of the disposals of futures or options wherever (taking all the transactions together) risks from fluctuations in the underlying subject matter are so eliminated or reduced as to produce a return from the transactions—

(a) the amount of which is not, to any significant extent, attributable (otherwise than incidentally) to any such fluctuations; and

(b) which equates, in substance, to the return on an investment of money at interest.

(4) For the purposes of subsection (3) above the cases where risks from fluctuations in the underlying subject matter are eliminated or reduced shall be deemed to include any case where the main reason, or one of the main reasons, for the choice of that subject matter is—

(a) that there appears to be no risk that that subject matter will fluctuate; or

(b) that the risk that it will fluctuate appears to be insignificant.

(5) In this section—

(a) the references, in relation to a loan relationship, to the underlying subject matter are references to the value of chargeable assets of a particular description to which that relationship is linked;

(b) the references, in relation to a disposal of futures or options, to the underlying subject matter are references to or to the value of the commodities, currencies, shares, stock or securities, interest rates, indices or other matters to which, or to the value of which, those futures or options are referable.

(6) Subsection (5)(a) above is to be construed in accordance with section 93 above.

(7) For the purposes of this section—

(a) references to the disposal of futures or options are to be construed in accordance with paragraphs 4 and 4A of Schedule 5AA to the Taxes Act 1988;

(b) references to the return from one or more disposals of futures or options are to be construed in accordance with paragraph 5 of that Schedule; and

(c) references to associated transactions are to be construed in accordance with paragraph 6 of that Schedule.".

(2) The amendment made by this section has effect for accounting periods ending on or after 26th July 2001 in relation to any loan relationship of a company, unless the loan relationship in question is one to which the company ceased to be a party before that date.

77 Loan relationships ceasing to be within section 93 of the Finance Act 1996

(1) After section 93A of the Finance Act 1996 (c. 8) (which is inserted by section 76) insert—

"93B Loan relationships ceasing to be within section 93

(1) Where a loan relationship of a company—

(a) ceases at any time to be a loan relationship to which section 93 above applies, but

(b) does not cease at that time to be a loan relationship of that company,

subsection (2) below shall have effect in relation to the asset representing that relationship.

(2) Where this subsection has effect in relation to an asset representing a loan relationship of a company, the company shall be deemed for the purposes of the Taxation of Chargeable Gains Act 1992 and this Chapter—

(a) to have disposed of the asset for the relevant consideration immediately before the time when the loan relationship ceases to be one to which section 93 above applies, and

(b) to have re-acquired it for the relevant consideration immediately after that time.

(3) Any deemed disposal and re-acquisition of an asset under subsection (2) above shall be treated for the purposes of the Taxation of Chargeable Gains Act 1992 as a transaction in the case of which—

(a) sections 127 to 130 of that Act would apply, apart from the provisions of section 116 of that Act, by virtue of any provision of Chapter 2 of Part 4 of that Act;

(b) the asset in question represents both the original shares and the new holding for the purposes of those sections;

(c) the market value of the asset at the time of the transaction is an amount equal to the relevant consideration.

(4) Subject to subsection (5) below, in subsections (2) and (3) above "the relevant consideration", in relation to an asset, means the amount that would have been taken, in accordance with the relevant accounting method, to be the value of the asset at the time of its deemed disposal if that method had been applied to the asset for tax purposes at all times until then.

(5) Section 93(5) above shall not apply in the case of a deemed disposal and re-acquisition under subsection (2) above; but the amount of the relevant consideration in such a case shall be treated for the purposes of the Taxation of Chargeable Gains Act 1992 as reduced by so much (if any) of the amount mentioned in subsection (4) above as is referable to interest which—

(a) is not paid or payable to the company before the time of the deemed disposal; but

(b) is interest falling to be brought into account under section 93(2) and (3) above as having accrued before that time.

(6) In subsection (4) above "the relevant accounting method", in relation to an asset representing a loan relationship of a company, means the accounting method which, for the accounting period of that company in which the deemed

re-acquisition takes place, is used as respects that asset and the part of that accounting period beginning with the deemed re-acquisition.

(7) This section shall be construed as one with section 93 above.”.

(2) The amendment made by this section does not have effect in relation to a loan relationship which, before 26th July 2001, ceased to be a loan relationship to which section 93 of the Finance Act 1996 (c. 8) (as it has effect by virtue of section 75(8) above) applies.

(3) Subject to subsection (2), the amendment made by this section has effect for accounting periods ending on or after 26th July 2001 in relation to any loan relationship of a company, unless the loan relationship in question is one to which the company ceased to be a party before that date.

78 Guaranteed returns on transactions involving futures and options

(1) Schedule 5AA to the Taxes Act 1988 (guaranteed returns on transactions in futures and options) is amended as follows.

(2) In paragraph 2 (transactions to which Schedule applies) at the end insert—

“(3) This Schedule also applies to a transaction if it is one of the disposals of futures or options to which section 93A of the Finance Act 1996 (loan relationships linked to the value of chargeable assets designed to produce guaranteed returns when taken together with disposals of options and futures) refers.”.

(3) In paragraph 4 (meaning of disposals of futures or options) after sub-paragraph (4) insert—

“(4A) Where this paragraph has effect in relation to one of the associated transactions to which section 93A of the Finance Act 1996 refers, sub-paragraph (4) shall have effect as if for paragraph (a) of that sub-paragraph there were substituted—

(“) any one of the associated transactions to which section 93A of the Finance Act 1996 refers is the grant of an option, ".”.

(4) In paragraph 4A (futures running to delivery and options exercised) after sub-paragraph (10) insert—

“(10A) Where this paragraph has effect in relation to one of the associated transactions to which section 93A of the Finance Act 1996 refers—

(a) sub-paragraph (1)(a) shall have effect as if for “two or more related transactions" there were substituted “two or more of the associated transactions to which section 93A of the Finance Act 1996 refers", and

(b) sub-paragraph (1)(c) shall have effect as if for “the other transaction, or one of the other transactions," there were substituted “one of the other transactions".”.

(5) In paragraph 6 (meaning of related transactions) after sub-paragraph (3) insert—

“(3A) Where this paragraph has effect in relation to one of the associated transactions to which section 93A of the Finance Act 1996 refers—

(a) sub-paragraph (1) shall have effect as if for “two or more transactions are related" there were substituted “two or more transactions are associated transactions to which section 93A of the Finance Act 1996 refers“, and

(b) sub-paragraph (2) shall have effect as if for “related transactions" there were substituted “associated transactions to which that section refers".”.

(6) This section has effect for accounting periods ending on or after 26th July 2001 in relation to profits and gains realised, and losses sustained, on or after that date.

Foreign exchange gains and losses, loan relationships and currency

79 Forex and exchange gains and losses from loan relationships etc

(1) The following provisions shall cease to have effect—

(a) paragraph 4 of Schedule 9 to the Finance Act 1996 (c. 8) (which excludes foreign exchange gains and losses from the computation of credits and debits under the loan relationships legislation); and

(b) in consequence, sections 125 to 169 of the Finance Act 1993 (c. 34) (taxation of foreign exchange gains and losses).

(2) Schedule 23 to this Act (which makes provision in relation to exchange gains and losses from loan relationships etc) shall have effect.

(3) The amendments made by subsection (1) and by Parts 1 and 2 of Schedule 23 have effect in relation to accounting periods beginning on or after 1st October 2002.

Modifications etc. (not altering text)

C1 S. 79(1)(b) extended (retrospective to 30.9.2002) by Finance Act 2003 (c. 14), **s. 177(4)(8)(11)**

80 Corporation tax: currency

(1) Schedule 24 to this Act (which makes provision in relation to corporation tax and currency) shall have effect.

(2) This section has effect in relation to accounting periods beginning on or after 1st October 2002.

Modifications etc. (not altering text)

C2 S. 80 extended (retrospective to 30.9.2002) by Finance Act 2003 (c. 14), **s. 177(4)(8)(11)**

81 Transitional provision

(1) The Treasury may by regulations make such transitional or consequential provision, or such savings (with or without modifications), as they may from time to time consider appropriate in consequence of, or otherwise in connection with, any provision of section 79 or 80 or Schedule 23 or 24 (or any repeal consequential on any such provision).

(2) The power conferred by subsection (1) includes power—

(a) to make different provision for different cases or different purposes;
(b) to amend any statutory instrument; and
(c) to make incidental or supplementary provision.

(3) The provision that may be made by virtue of subsection (1) or (2) includes provision for or in connection with bringing amounts into account—
(a) for the purposes of the Taxation of Chargeable Gains Act 1992 (c. 12), as if they were chargeable gains or allowable losses; or
(b) for the purposes of Chapter 2 of Part 4 of the Finance Act 1996 (c. 8), as if they were credits or debits in respect of a loan relationship or a related transaction of the company concerned.

(4) Nothing in any provision of Schedule 23 or 24 shall prejudice the operation of this section.

(5) Nothing in this section or in Schedule 23 or 24 limits the operation of section 16 or 17 of the Interpretation Act 1978 (c. 30) (effect of repeals).

Modifications etc. (not altering text)
C3 S. 81 extended (retrospective to 30.9.2002) by Finance Act 2003 (c. 14), **s. 177(6)(8)(11)**

Loan relationships and other money debts

82 Loan relationships: general amendments

(1) Schedule 25 to this Act (which makes provision in relation to loan relationships) shall have effect.

(2) The amendments made by Parts 1 and 2 of that Schedule have effect in relation to accounting periods beginning on or after 1st October 2002.

Derivative contracts

83 Derivative contracts

(1) The following shall have effect—
(a) Schedule 26 to this Act (which makes provision for the taxation of derivative contracts);
(b) Schedule 27 to this Act (which makes minor and consequential amendments relating to the taxation of derivative contracts); and
(c) Schedule 28 to this Act (which contains transitional provisions etc in connection with the coming into force of this section and Schedules 26 and 27).

(2) Sections 147 to 175 and 177 of the Finance Act 1994 (c. 9) (which make provision for the taxation of interest rate and currency contracts) shall cease to have effect.

(3) This section has effect in relation to accounting periods beginning on or after 1st October 2002.

(4) Subsection (3) is subject to any specific provision of Schedule 28.

Modifications etc. (not altering text)

C4 S. 83 extended (retrospective to 30.9.2002) by Finance Act 2003 (c. 14), **s. 177(4)(8)(11)**

Intangible fixed assets

84 Gains and losses from intangible fixed assets of company

(1) Schedule 29 to this Act has effect with respect to gains and losses from a company's intangible fixed assets.

(2) Schedule 30 to this Act contains consequential amendments.

Insurance

85 Gains of insurance company from venture capital investment partnership

(1) In Chapter 3 of Part 6 of the Taxation of Chargeable Gains Act 1992 (c. 12) (insurance), after section 211 insert—

> **"211A Gains of insurance company from venture capital investment partnership**
>
> Schedule 7AD to this Act has effect with respect to the gains of an insurance company from a venture capital investment partnership.".

(2) After Schedule 7AC to that Act (inserted by Part 1 of Schedule 8 to this Act) insert the Schedule 7AD set out in Schedule 31 to this Act.

86 Lloyd's underwriters

(1) Schedule 32 to this Act (which makes provision about the taxation of Lloyd's underwriters) has effect.

(2) The amendments in that Schedule have effect in relation to quota share contracts (within the meaning of section 178 of the Finance Act 1993 (c. 34) or section 225 of the Finance Act 1994) entered into on or after 17th April 2002.

87 Life policies etc: chargeable events

(1) Chapter 2 of Part 13 of the Taxes Act 1988 (life policies, life annuities and capital redemption policies) is amended in accordance with the following provisions of this section.

(2) Section 541 (computation of gain in case of life policy or, as applied by section 545, capital redemption policy) is amended as follows.

(3) In subsection (1)(c) (amounts and values to be brought into account in computing gain on an assignment) before "of any previously assigned share in the rights conferred by the policy" insert " , subject to subsection (3A) below, ".

(4) After subsection (3) (assignments between connected persons) insert—

"(3A) he amount or value of such a previously assigned share as is mentioned in paragraph (c) of subsection (1) above falls to be brought into account for the purposes of that paragraph only where that share was so assigned—

(a) in a year (as defined in section 546(4)) beginning on or before 5th April 2001; or

(b) for money or money's worth in a year (as so defined) beginning on or after 6th April 2001.".

(5) Section 543 (life annuity contracts: computation of gain) is amended as follows.

(6) In subsection (1)(b) (amounts and values to be brought into account in computing gain on an assignment) before "of any previously assigned share in the rights conferred by the contract" insert " , subject to subsection (2A) below, ".

(7) After subsection (2) (which applies section 541(3): assignments between connected persons) insert—

"(2A) The amount or value of such a previously assigned share as is mentioned in paragraph (b) of subsection (1) above falls to be brought into account for the purposes of that paragraph only where that share was so assigned—

(a) in a year (as defined in section 546(4)) beginning on or before 5th April 2001; or

(b) for money or money's worth in a year (as so defined) beginning on or after 6th April 2001.".

(8) Section 546B (special provision in respect of certain section 546 excesses) is amended as follows.

(9) In subsection (1) (application of section) after paragraph (b) add—

"This subsection is subject to subsection (1A) below.".

(10) After subsection (1) insert—

"(1A) In the case of a policy which is a qualifying policy (whether or not the premiums under the policy are eligible for relief under section 266) this section applies only if—

(a) the section 546 excess occurs within the time described in section 540(1)(b)(i); or

(b) the policy has been converted into a paid-up policy within that time.".

(11) The amendments made by subsections (2) to (7) have effect in relation to any assignment on or after 6th April 2002 of the rights conferred by a policy or contract.

(12) The amendments made by subsections (8) to (10) have effect and shall be taken always to have had effect, in relation to any policy, in relation to any year (as defined in section 546(4) of the Taxes Act 1988) beginning on or after 6th April 2001.

International matters

88 Extension of power to give effect to double taxation arrangements

(1) In section 788(1) of the Taxes Act 1988 (relief by agreement with other countries: power to give effect to arrangements), for "made with the government of any territory" substitute " made in relation to any territory ".

(2) The following amendments are consequential on that above—

(a) in sections 788(7)(a), 790(3), (5)(b), (10A)(d) and (10C), 792(1) and (3), 793A(1)(a) and (3), 795A(1)(b), 812(2), 815AA(1) and 815C(1) of the Taxes Act 1988, for "with the government of" substitute " in relation to ";

(b) in the headings (or sidenotes) to sections 788 and 815C of the Taxes Act 1988, for "countries" substitute " territories ";

(c) in section 816(1) of the Taxes Act 1988, for "government" substitute " authorities ";

(d) in section 816(2) of the Taxes Act 1988, for "government with" substitute " authorities of the territory in relation to ";

(e) in section 816(2ZA) of the Taxes Act 1988, for "government with" substitute " authorities of the territory in relation to ", for "is bound" substitute " are bound " and for "has undertaken" substitute " have undertaken ";

(f) in sections 277(1) (twice) and (3) and 278(1) of the Taxation of Chargeable Gains Act 1992 (c. 12), for "country" substitute " territory ".

(3) This section applies on and after the date on which this Act is passed in relation to arrangements made before that date (as well as in relation to arrangements made on or after that date).

89 Controlled foreign companies: territorial exclusions from s.748 exemptions

(1) In section 748 of the Taxes Act 1988 (controlled foreign companies: cases where no apportionment falls to be made under section 747(3)) after subsection (5) insert—

"(6) This section is subject to section 748A.".

(2) After section 748 of the Taxes Act 1988 insert—

Territorial exclusions from exemption under section 748

(1) Nothing in section 748 prevents an apportionment under section 747(3) falling to be made as regards an accounting period of a controlled foreign company if the company—

(a) is a company incorporated in a territory to which this section applies as respects that accounting period; or

(b) is at any time in that accounting period liable to tax in such a territory by reason of domicile, residence or place of management; or

(c) at any time in that accounting period carries on business through a branch or agency in such a territory.

(2) The condition in subsection (1)(c) above is not satisfied as regards an accounting period of a controlled foreign company if the business carried on by the company in that period through branches or agencies in territories to

which this section applies, taken as a whole, is only a minimal part of the whole of the business carried on by the company in that period.

(3) The territories to which this section applies as respects an accounting period of a controlled foreign company are those specified as such in regulations made by the Treasury.

(4) Regulations under subsection (3) above—

(a) may make different provision for different cases or with respect to different territories; and

(b) may contain such incidental, supplemental, consequential or transitional provision as the Treasury may think fit.

(5) A statutory instrument containing regulations under subsection (3) above shall not be made unless a draft of the instrument has been laid before, and approved by a resolution of, the House of Commons.”.

(3) This section has effect in relation to accounting periods of controlled foreign companies beginning on or after the day on which this Act is passed.

(4) In this section “accounting period” and “controlled foreign company” have the same meaning as in Chapter 4 of Part 17 of the Taxes Act 1988.

90 Controlled foreign companies and treaty non-resident companies

(1) In section 747 of the Taxes Act 1988 (imputation of chargeable profits and creditable tax of controlled foreign companies), after subsection (1A) insert—

“(1B) In determining, for the purposes of any provision of this Chapter except subsection (1)(a) above, whether a company is a person resident in the United Kingdom, section 249 of the Finance Act 1994 (under which a company is treated as non-resident if it is so treated for double taxation relief purposes) shall be disregarded.”.

(2) Subsection (1)—

(a) shall be deemed to have come into force on 1st April 2002, and

(b) does not apply to a company that—

(i) by virtue of section 249 of the Finance Act 1994 (c. 9) was treated as resident outside the United Kingdom, and not resident in the United Kingdom, immediately before that date, and

(ii) has not subsequently ceased to be so treated.

Supplementary charge in respect of ring fence trades

91 Supplementary charge in respect of ring fence trades

After section 501 of the Taxes Act 1988 insert—

“501A Supplementary charge in respect of ring fence trades

(1) Where in any accounting period beginning on or after 17th April 2002 a company carries on a ring fence trade, a sum equal to 10 per cent of its adjusted

ring fence profits for that period shall be charged on the company as if it were an amount of corporation tax chargeable on the company.

(2) A company's adjusted ring fence profits for an accounting period are the amount which, on the assumption mentioned in subsection (3) below, would be determined for that period (in accordance with this Chapter) as the profits of the company's ring fence trade chargeable to corporation tax.

(3) The assumption is that financing costs are left out of account in computing—

(a) the amount of the profits or loss of any ring fence trade of the company's for each accounting period beginning on or after 17th April 2002; and

(b) where for any such period the whole or part of any loss relief is surrendered to the company in accordance with section 492(8), the amount of that relief or, as the case may be, that part.

(4) For the purposes of this section, "financing costs" means the costs of debt finance.

(5) In calculating the costs of debt finance for an accounting period the matters to be taken into account include—

(a) any costs giving rise to debits in respect of debtor relationships of the company under Chapter 2 of Part 4 of the Finance Act 1996 (loan relationships);

(b) any exchange gain or loss, within the meaning of Chapter 2 of Part 2 of the Finance Act 1993, in relation to debt finance;

(c) any trading profit or loss, under Chapter 2 of Part 4 of the Finance Act 1994 (interest rate and currency contracts), in relation to debt finance;

(d) the financing cost implicit in a payment under a finance lease; and

(e) any other costs arising from what would be considered in accordance with generally accepted accounting practice to be a financing transaction.

(6) Where an amount representing the whole or part of a payment falling to be made by a company—

(a) falls (or would fall) to be treated as a finance charge under a finance lease for the purposes of accounts relating to that company and one or more other companies and prepared in accordance with generally accepted accounting practice, but

(b) is not so treated in the accounts of the company,

the amount shall be treated for the purposes of this section as financing costs falling within subsection (5)(d) above.

(7) If—

(a) in computing the adjusted ring fence profits of a company for an accounting period, an amount falls to be left out of account by virtue of subsection (5)(d) above, but

(b) the whole or any part of that amount is repaid,

the repayment shall also be left out of account in computing the adjusted ring fence profits of the company for any accounting period.

(8) In this section "finance lease" means any arrangements—

(a) which provide for an asset to be leased or otherwise made available by a person to another person ("the lessee"), and

(b) which, under generally accepted accounting practice,—

(i) fall (or would fall) to be treated, in the accounts of the lessee or a person connected with the lessee, as a finance lease or a loan, or

(ii) are comprised in arrangements which fall (or would fall) to be so treated.

(9) For the purposes of applying subsection (8)(b) above, the lessee and any person connected with the lessee are to be treated as being companies which are incorporated in a part of the United Kingdom.

(10) In this section "accounts", in relation to a company, includes any accounts which—

(a) relate to two or more companies of which that company is one, and

(b) are drawn up in accordance with—

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

(ii) Article 235 of the Companies (Northern Ireland) Order 1986.".

92 Assessment, recovery and postponement of supplementary charge

(1) After section 501A of the Taxes Act 1988 insert—

"501B Assessment, recovery and postponement of supplementary charge

(1) Subject to subsection (3) below, the provisions of section 501A(1) relating to the charging of a sum as if it were an amount of corporation tax shall be taken as applying, subject to the provisions of the Taxes Acts, and to any necessary modifications, all enactments applying generally to corporation tax, including—

(a) those relating to returns of information and the supply of accounts, statements and reports;

(b) those relating to the assessing, collecting and receiving of corporation tax;

(c) those conferring or regulating a right of appeal; and

(d) those concerning administration, penalties, interest on unpaid tax and priority of tax in cases of insolvency under the law of any part of the United Kingdom.

(2) Accordingly (but without prejudice to subsection (1) above) the Management Act shall have effect as if any reference to corporation tax included a reference to a sum chargeable under section 501A(1) as if it were an amount of corporation tax.

(3) In any regulations made under section 32 of the Finance Act 1998 (as at 17th April 2002, the Corporation Tax (Treatment of Unrelieved Surplus Advance Corporation Tax) Regulations 1999)—

(a) references to corporation tax do not include a reference to a sum chargeable on a company under section 501A(1) as if it were corporation tax; and

(b) references to profits charged to corporation tax do not include a reference to adjusted ring fence profits, within the meaning of section 501A(1).

(4) In this section "the Taxes Acts" has the same meaning as in the Management Act.".

(2) In section 59E of the Taxes Management Act 1970 (c. 9) (further provision as to when corporation tax is due and payable) in subsection (11) (extension of references in the section to corporation tax) after paragraph (b) add—

"(c) to any sum chargeable on a company under section 501A(1) of the principal Act (supplementary charge in respect of ring fence trades) as if it were an amount of corporation tax chargeable on the company".

(3) In Schedule 18 to the Finance Act 1998 (c. 36) (company tax returns: assessments and related matters) in paragraph 1 (meaning of "tax") in the second sentence (amounts assessable or chargeable as if they were corporation tax) for the word "and" immediately preceding the paragraph beginning "section 747(4)(a)" substitute the following paragraph—

"section 501A(1) of that Act (supplementary charge in respect of ring fence trades), and".

(4) In paragraph 8 of that Schedule (calculation of tax payable) after paragraph number 1 of the third step insert—

"1A Any sum chargeable under section 501A(1) of that Act (supplementary charge in respect of ring fence trades).".

(5) Regulation 3 of the Instalment Payment Regulations (large companies) is amended as follows.

(6) In paragraph (1) (which, subject to paragraphs (2) and (3), defines a large company) for "paragraphs (2) and (3)," substitute " paragraphs (2) to (3A), ".

(7) After paragraph (3) insert—

"(3A) Any question whether a company is, or is not, a large company as respects an accounting period beginning on or after 17th April 2002 shall, so far as not falling to be determined by reference to the company's total liability, be determined as it would have been determined apart from section 501A of the Taxes Act (supplementary charge in respect of ring fence trades).".

(8) The amendment by this section of any provision contained in regulations shall not be taken to have prejudiced any power to make further regulations revoking or amending that provision, whether in relation to the same or any other chargeable periods.

(9) In this section "the Instalment Payment Regulations" means the Corporation Tax (Instalment Payments) Regulations 1998 (S.I. 1998/3175).

93 Supplementary charge: transitional provisions

(1) In the case of a straddling period, that is to say, an accounting period which begins before 17th April 2002 and ends on or after that date—

(a) sections 501A and 501B of the Taxes Act 1988 (which are inserted by sections 91 and 92) shall apply as if so much of the straddling period as falls before 17th April 2002, and so much of that period as falls on or after that date, were separate accounting periods; and

(b) all necessary apportionments between the two separate accounting periods shall be made in proportion to the number of days in those periods.

(2) In the case of a straddling period, the Instalment Payment Regulations shall apply separately—

(a) in relation to any tax chargeable on the company under section 501A(1) of the Taxes Act 1988; and

(b) in relation to any other tax chargeable on the company.

(3) In their application by virtue of paragraph (a) of subsection (2), the Instalment Payment Regulations shall have effect in relation to the tax mentioned in that paragraph as if—

(a) the deemed accounting period treated under subsection (1)(a) as beginning on 17th April 2002 were an accounting period for the purposes of those Regulations; and

(b) that tax were chargeable for that period.

(4) Any reference in the Instalment Payment Regulations to the total liability of a company shall accordingly be construed—

(a) in their application by virtue of paragraph (a) of subsection (2), as a reference to the tax mentioned in that paragraph; and

(b) in their application by virtue of paragraph (b) of that subsection, as a reference to the amount that would be the company's total liability for the straddling period if the tax mentioned in paragraph (a) of that subsection were left out of account.

(5) For the purposes of the Instalment Payment Regulations—

(a) a company shall be regarded as a large company as respects the deemed accounting period under subsection (3)(a) if, and only if, it is a large company for those purposes as respects the straddling period; and

(b) any question whether a company is a large company as respects the straddling period shall be determined as it would have been determined apart from section 501A of the Taxes Act 1988.

(6) In this section "the Instalment Payment Regulations" has the same meaning as in section 92.

Deduction of tax

94 Deduction of tax: payments to exempt bodies etc

(1) In section 349A of the Taxes Act 1988 (exceptions to requirement to deduct tax from certain payments made by a company)—

(a) in subsection (1)—

(i) after "by a company" insert " or a local authority ", and

(ii) after "the company" insert " or authority ",

(b) in subsection (6)—

(i) after "section" insert " (a) ", and

(ii) at the end insert ", and

(b) a payment by a partnership is treated as made by a local authority if any member of the partnership is a local authority".

(2) In section 349B of that Act (section 349A(1): conditions to be met), after subsection (2) insert—

"(3) The third of those conditions is that the payment is made to—

(a) a local authority;

(b) a health service body within the meaning of section 519A(2);

(c) a public office or department of the Crown to which section 829(1) applies;

(d) a charity (within the meaning of section 506(1));

(e) a body for the time being mentioned in section 507(1) (bodies that are allowed the same exemption from tax as charities the whole income of which is applied to charitable purposes);

(f) an Association of a description specified in section 508 (scientific research organisations);

(g) the United Kingdom Atomic Energy Authority;

(h) the National Radiological Protection Board;

(i) the administrator (within the meaning of section 611AA) of a scheme entitled to exemption under section 592(2) or 608(2)(a) (exempt approved schemes and former approved superannuation funds);

(j) the trustees of a scheme entitled to exemption under section 613(4) (Parliamentary pension funds);

(k) the persons entitled to receive the income of a fund entitled to exemption under section 614(3) (certain colonial, etc pension funds);

(l) the trustees or other persons having the management of a fund entitled to exemption under section 620(6) (retirement annuity trust schemes); or

(m) a person holding investments or deposits for the purposes of a scheme entitled to exemption under section 643(2) (approved personal pension schemes).

(4) The fourth of those conditions is that—

(a) the person to whom the payment is made is, or is the nominee of, the plan manager of a plan,

(b) an individual investing under the plan is entitled to exemption by virtue of regulations under section 333 (personal equity plans and individual savings accounts), and

(c) the plan manager receives the payment in respect of investments under the plan.

(5) The fifth of those conditions is that—

(a) the person to whom the payment is made is a society or institution with whom tax-exempt special savings accounts (within the meaning of section 326A) may be held, and

(b) the society or institution receives the payment in respect of investments held for the purposes of such accounts.

(6) The sixth of those conditions is that the person beneficially entitled to the income in respect of which the payment is made is a partnership each member of which is—

(a) a person or body mentioned in subsection (3) above, or

(b) a person or body mentioned in subsection (7) below.

(7) The persons and bodies referred to in subsection (6)(b) above are—

(a) a company resident in the United Kingdom;

(b) a company that—

(i) is not resident in the United Kingdom,

(ii) carries on a trade there through a branch or agency, and

(iii) is required to bring into account, in computing its chargeable profits (within the meaning of section 11(2)), the whole of any share of that payment that falls to it by reason of sections 114 and 115;

(c) the European Investment Fund.

(8) The Treasury may by order amend—

(a) subsection (3) above;

(b) subsection (7) above;

so as to add to, restrict or otherwise alter the persons and bodies falling within that subsection.".

(3) In section 349C (directions disapplying section 349A(1))—

(a) in subsection (1)—

(i) after "a company" insert " or local authority ", and

(ii) after "the company" insert " or authority ",

(b) in subsection (2) for "neither" substitute " none ", and

(c) for subsection (4) substitute—

"(4) In this section—

"company" includes a partnership of which any member is a company; and

"local authority" includes a partnership of which any member is a local authority.".

(4) In section 349D (section 349A(1): consequences of reasonable but incorrect belief)—

(a) in subsection (1)—

(i) in paragraph (a) after "company" insert " or local authority ",

(ii) in paragraphs (b) and (c) after "company" insert " or authority ", and

(iii) in paragraph (d) for "neither" substitute " none ", and

(b) for subsection (2) substitute—

"(2) In this section—

"company" includes a partnership of which any member is a company; and

"local authority" includes a partnership of which any member is a local authority.".

(5) In section 98 of the Taxes Management Act 1970 (c. 9) (special returns, etc), in subsection (4B)—

(a) in paragraph (a), after "a company" insert " or local authority ",

(b) in paragraph (b)—

(i) after "the company" insert " or authority ", and

(ii) for "either", in each place, substitute " one ",

(c) in paragraph (c), after "the company" insert " or authority ", and

(d) in paragraph (d), for "neither" substitute " none ".

(6) In that section, for subsection (4C) substitute—

"(4C) In subsection (4B) above—

"company" includes a partnership of which any member is a company; and

"local authority" includes a partnership of which any member is a local authority.".

(7) The amendments made by this section apply for the purposes of payments made on or after 1st October 2002.

95 Deduction of tax by persons dealing in financial instruments

(1) Section 349 of the Taxes Act 1988 (payment of annual interest etc) is amended as follows.

(2) In subsection (3) (cases where obligation to make interest payments net of tax does not apply), at the end insert "or

(i) in the case of a person who is authorised for the purposes of the Financial Services and Markets Act 2000 and whose business consists wholly or mainly of dealing in financial instruments as principal, to interest paid by that person in the ordinary course of his business.".

(3) After subsection (4) insert—

"(5) For the purposes of subsection (3)(i) above, a financial instrument includes—

(a) any money,

(b) any shares or securities,

(c) an option, future or contract for differences if, but only if, its underlying subject-matter is (or is primarily) a financial instrument, or financial instruments, and

(d) an instrument the underlying subject-matter of which is (or is primarily) creditworthiness.

(6) For the purposes of subsection (5) above, the "underlying" subject-matter of an instrument the effect of which depends on an index or factor is the matter by reference to which the index or factor is determined.".

(4) This section applies in relation to the payment of interest on or after 1st October 2002.

96 Cross-border royalties

(1) After section 349D of the Taxes Act 1988 insert—

"349E Deductions under section 349(1): payment of royalties overseas

(1) Where—

(a) a company makes a payment of a royalty to which section 349(1) applies, and

(b) the company reasonably believes that, at the time the payment is made, the payee is entitled to relief in respect of the payment under any arrangements under section 788 (double taxation relief),

the company may, if it thinks fit, calculate the sum to be deducted from the payment under section 349(1) by reference to the rate of income tax appropriate to the payee pursuant to the arrangements.

(2) But, where the payee is not at that time entitled to such relief, section 350 and Schedule 16 shall have effect as if subsection (1) above never applied in relation to the payment.

(3) Where the Board are not satisfied that the payee will be entitled to such relief in respect of one or more payments to be made by a company, they may direct the company that subsection (1) above is not to apply to the payment or payments.

(4) A direction under subsection (3) above may be varied or revoked by a subsequent such direction.

(5) In this section—

"payee", in relation to a payment, means the person beneficially entitled to the income in respect of which the payment is made; and

"royalty" includes—

(a) any payment received as a consideration for the use of, or the right to use, any copyright, patent, trade mark, design, process or information, or

(b) any proceeds of sale of all or any part of any patent rights.

(6) Paragraph 3(1) of Schedule 18 to the Finance Act 1998 (requirement to make return in respect of information relevant to application of Corporation Tax Acts) has effect as if the reference to the Corporation Tax Acts included a reference to this section.

(7) Paragraph 20 of that Schedule (penalties for incorrect returns), in its application to an error relating to information required in a return by virtue of subsection (6) above, has effect as if—

(a) the reference in sub-paragraph (1) to a tax-related penalty were a reference to an amount not exceeding £3000, and

(b) sub-paragraphs (2) and (3) were omitted.".

(2) In section 350(1A) of that Act, at the end insert "(or, where the payment is one to which subsection (1) of section 349E applies, the rate referred to in that subsection)".

(3) In section 98 of the Taxes Management Act 1970 (c. 9) (special returns etc)—

(a) in subsection (4A)(b), after "subsection (4B)" insert " or (4D) ", and

(b) after subsection (4C) insert—

"(4D) A payment is within this subsection if—

(a) it is a payment to which section 349(1) of the principal Act (requirement to deduct tax) applies,

(b) it is made by a company which, purporting to rely on section 349E(1) of that Act (power for companies to take account of double taxation treaty relief when paying royalties), deducts less tax from the payment than required by section 349(1) of that Act , and

(c) at the time the payment is made the payee (within the meaning of section 349E of that Act) is not entitled to relief in respect of the payment under any arrangements under section 788 of that Act (double taxation relief) and the company—

(i) does not believe that it is entitled to such relief, or

(ii) if it does so believe, cannot reasonably do so.".

(4) This section applies in relation to payments made on or after 1st October 2002.

Charitable giving

97 Gifts of real property to charity

(1) In section 587B of the Taxes Act 1988 (gifts of shares and securities to charities) in subsection (9), in the definition of "qualifying investment", omit the word "and" immediately preceding paragraph (d) and at the end of that paragraph insert "; and

(e) a qualifying interest in land".

(2) After that subsection insert—

"(9A) In this section a "qualifying interest in land" means—

(a) a freehold interest in land, or

(b) a leasehold interest in land which is a term of years absolute,

where the land in question is in the United Kingdom.

This subsection is subject to subsections (9B) to (9D) below.

(9B) Where a person makes a disposal to a charity of—

(a) the whole of his beneficial interest in such freehold or leasehold interest in land as is described in subsection (9A)(a) or (b) above, and

(b) any easement, servitude, right or privilege so far as benefiting that land,

the disposal falling within paragraph (b) above is to be regarded for the purposes of this section as a disposal by the person of the whole of his beneficial interest in a qualifying interest in land.

(9C) Where a person who has a freehold or leasehold interest in land in the United Kingdom grants a lease for a term of years absolute (or, in the case of land in Scotland, grants a lease) to a charity of the whole or part of that land, the grant of that lease is to be regarded for the purposes of this section as a disposal by the person of the whole of the beneficial interest in the leasehold interest so granted.

(9D) For the purposes of subsection (9A) above, an agreement to acquire a freehold interest and an agreement for a lease are not qualifying interests in land.

(9E) In the application of this section to Scotland—

(a) references to a freehold interest in land are references to the interest of the owner,

(b) references to a leasehold interest in land which is a term of years absolute are references to a tenant's right over or interest in a property subject to a lease, and

(c) references to an agreement for a lease do not include references to missives of let that constitute an actual lease.".

(3) After subsection (11) of that section insert—

"(12) This section is supplemented by section 587C below.".

(4) In consequence of the amendments made by subsections (1) to (3), the sidenote of section 587B becomes "Gifts of shares, securities and real property to charities etc".

(5) After section 587B of the Taxes Act 1988 insert—

"**587C Supplementary provision for gifts of real property**

(1) This section applies for the purposes of section 587B where a qualifying investment is a qualifying interest in land.

(2) Where two or more persons—

(a) are jointly beneficially entitled to the qualifying interest in land, or

(b) are, taken together, beneficially entitled in common to the qualifying interest in land,

section 587B applies only if each of those persons disposes of the whole of his beneficial interest in the qualifying interest in land to the charity.

(3) Relief under section 587B shall be available to each of the persons referred to in subsection (2) above, but the amount that may be allowed as respects any of them shall be only such share of the relevant amount as they may agree in the case of that person.

(4) No person may make a claim for a relief under subsection (2) of section 587B unless he has received a certificate given by or on behalf of the charity.

(5) The certificate must—

(a) specify the description of the qualifying interest in land which is the subject of the disposal,

(b) specify the date of the disposal, and

(c) contain a statement that the charity has acquired the qualifying interest in land.

(6) If, in the case of a disposal of a qualifying interest in land, a disqualifying event occurs at any time in the relevant period, the person (or each of the persons) who made the disposal to the charity shall be treated as never having been entitled to relief under section 587B in respect of the disposal.

(7) All such assessments and adjustments of assessments are to be made as are necessary to give effect to subsection (6) above.

(8) For the purposes of subsection (6) above a disqualifying event occurs if the person (or any one of the persons) who made the disposal or any person connected with him (or any one of them)—

(a) becomes entitled to an interest or right in relation to all or part of the land to which the disposal relates, or

(b) becomes party to an arrangement under which he enjoys some right in relation to all or part of that land,

otherwise than for full consideration in money or money's worth.

(9) A disqualifying event does not occur, for the purposes of subsection (6) above, if a person becomes entitled to an interest or right as mentioned in subsection (8)(a) above as a result of a disposition of property on death, whether the disposition is effected by will, under the law relating to intestacy or otherwise.

(10) For the purposes of subsection (6) above the relevant period is the period beginning with the date of the disposal of the qualifying interest in land and ending with—

(a) in the case of an individual, the fifth anniversary of the 31st January next following the end of the year of assessment in which the disposal was made, and

(b) in the case of a company, the sixth anniversary of the end of the accounting period in which the disposal was made.

(11) Section 839 (connected persons) applies for the purposes of this section.

(12) This section shall be construed as one with section 587B.".

(6) This section has effect in relation to any disposal of a qualifying interest in land to a charity where the disposal is made—

(a) in the case of a disposal to the charity by an individual, on or after 6th April 2002, or

(b) in the case of a disposal to the charity by a company, on or after 1st April 2002.

(7) Subsection (9E)(a) of section 587B of the Taxes Act 1988 has effect until the appointed day as if for "the interest of the owner" there were substituted " the estate or interest of the proprietor of the*dominium utile* (or, in the case of property other than feudal property, of the owner) ".

(8) For the purposes of subsection (7) "the appointed day" means such day as may be appointed by the Scottish Ministers under section 71 of the Abolition of Feudal Tenure etc (Scotland) Act 2000 for the purposes of the Act.

98 Gift aid: election to be treated as if gift made in previous tax year

(1) A person ("the donor") who makes a gift that is a qualifying donation within section 25 of the Finance Act 1990 (c. 29) (gift aid) may elect to be treated for the purposes of that section as if the gift were a qualifying donation made by him in the previous year of assessment.

(2) Any such election must be made by notice in writing to an officer of the Inland Revenue—

(a) on or before the date on which the donor delivers his return for the previous year of assessment under section 8 of the Taxes Management Act 1970 (c. 9) (personal return), and

(b) not later than the 31st January next following the end of that year.

(3) No such election may be made unless in the previous year the grossed up amount of the gift would, if made in that year, be payable out of profits or gains brought into charge to income tax or capital gains tax.

(4) The effect of an election under this section is that the provisions of section 25(6) to (9A) of the Finance Act 1990 (c. 29) have effect in relation to the donor as if the gift were a qualifying donation made in the previous year of assessment.

(5) An election under this section does not affect the position of the recipient of the gift.

The reference in section 25(10) of the Finance Act 1990 to the relevant year of assessment shall be construed accordingly as a reference to the year of assessment in which the gift is actually made.

(6) This section has effect in relation to gifts made on or after 6th April 2003.

Films

99 Restriction of relief to films genuinely intended for theatrical release

(1) Relief under the following provisions is available only for a film that is genuinely intended for theatrical release—

(a) section 40D of the Finance (No. 2) Act 1992 (c. 48) (election to claim capital allowances for production or acquisition expenditure);

(b) section 41 of that Act (relief for pre-production expenditure);

(c) section 42 of that Act (three year write-off for production or acquisition expenditure);

(d) section 48 of the Finance (No. 2) Act 1997 (c. 58) (relief for expenditure on production or acquisition of film with total production expenditure of £15 million or less).

(2) For the purposes of subsection (1)—

(a) the relevant intention is the intention at the time the film is completed of the person then entitled to determine how the film is to be exploited;

(b) "theatrical release" means exhibition to the paying public at the commercial cinema; and

(c) a film is not regarded as genuinely intended for theatrical release unless it is intended that a significant proportion of the earnings from the film should be obtained by such exhibition.

(3) Subject to the following provisions, this section applies to any film—

(a) completed on or after 17th April 2002, or

(b) completed before 1st January 2002 but not certified by the Secretary of State before 17th April 2002, unless an application for certification was received by the Secretary of State before 17th April 2002.

References in this subsection to certification are to certification of the master version of the film under Schedule 1 to the Films Act 1985 (c. 21) as a qualifying film, tape or disc.

(4) This section does not apply to a film completed on or after 17th April 2002 if—

(a) it is a drama with an average production expenditure per hour of running time of the completed film greater than £500,000, and

(b) it was commissioned on or before 17th April 2002 and the first day of principal photography was on or before 30th June 2002.

(5) For the purposes of subsection (4) "drama" does not include—

(a) anything in the nature of—

(i) an advertisement or promotional film,

(ii) a discussion programme, news or current affairs programme, quiz show, panel show, variety show or similar entertainment, or

(iii) a training film, or

(b) a film of a live event or of a theatrical or artistic performance given otherwise than for the purpose of being filmed;

but it includes a documentary involving the dramatic reconstruction of events if the dramatic content forms 50% or more of the running time.

(6) For the purposes of this section—

(a) a film is completed at the time when it is first in a form in which it can reasonably be regarded as ready for copies of it to be made and distributed for presentation to the general public;

(b) the production expenditure on a film means the total of all expenditure on the production of the film, whenever incurred and whether or not incurred by the person claiming relief; and

(c) subsections (6A) and (7) of section 48 of the Finance (No. 2) Act 1997 (c. 58) (production expenditure: exclusion of deferments and treatment of transactions not at arm's length) apply as they apply for the purposes of that section.

100 Exclusion of deferments from production expenditure

(1) Section 48 of the Finance (No. 2) Act 1997 (c. 58) (relief for expenditure on production or acquisition of qualifying film with total production expenditure of £15 million or less) is amended as follows.

(2) In subsection (6) (meaning of "total production expenditure"), for "subject to subsection (7)" substitute " subject to subsections (6A) and (7) ".

(3) After that subsection insert—

"(6A) For the purposes of this section the production expenditure on a film shall be taken not to include any amount that at the time the film is completed—

(a) has not been paid, and

(b) is not the subject of an unconditional obligation to pay within four months after the date of completion.".

(4) This section applies to films completed on or after 17th April 2002.

For this purpose a film is completed at the time when it is first in a form in which it can reasonably be regarded as ready for copies of it to be made and distributed for presentation to the general public.

101 Restriction of relief for successive acquisitions of the same film

(1) Relief under section 48 of the Finance (No. 2) Act 1997 (relief for expenditure on production or acquisition of film with total production expenditure of £15 million or less) in respect of acquisition expenditure is available only in relation to an acquisition—

(a) by the producer, or

(b) directly from the producer,

and not in relation to any subsequent acquisition (or in relation to any acquisition within paragraph (a) or (b) other than the first).

(2) For this purpose—

(a) "acquisition expenditure" means expenditure to which subsection (3) of section 42 of the Finance (No. 2) Act 1992 (c. 48) applies (relief for acquisition expenditure);

(b) "acquisition" means acquisition of the master negative of a film, or any master tape or master disc of a film, within the meaning of that section; and

(c) "the producer" means the person who commissions the making of the film and is entitled to control its exploitation.

(3) This section applies to acquisition expenditure incurred on or after 30th June 2002.

For this purpose when expenditure is incurred shall be determined as for the purposes of section 48 of the Finance (No. 2) Act 1997 (c. 58) (see subsection (9) of that section).

Miscellaneous

102 Distributions: reasonable commercial return for use of principal secured

(1) In section 209 of the Taxes Act 1988 (meaning of "distribution") after subsection (3A) insert—

"(3AA) If, in the case of any security issued by a company, the amount of new consideration received by the company for the issue of the security exceeds the amount of the principal secured by the security—

(a) the amount of the principal so secured shall be treated for the purposes of paragraph (d) of subsection (2) above as increased to the amount of the new consideration so received; and

(b) subsection (3A) above, so far as relating to that paragraph, shall not have effect in relation to the security;

but this subsection is subject to sections 209A and 209B.".

(2) After that section insert—

"209A Section 209(3AA): link to shares of company or associated company

(1) Subsection (3AA) of section 209 does not apply in relation to a security issued by a company (the "issuing company") if the security is one which to a significant extent reflects dividends or other distributions in respect of, or fluctuations in the value of, shares in one or more companies each of which is—

(a) the issuing company; or

(b) an associated company of the issuing company;

but this subsection is subject to the following provisions of this section.

(2) Subsection (1) above does not prevent subsection (3AA) of section 209 above from applying in relation to a security if—

(a) the issuing company is a bank or securities house;

(b) the security is issued by the issuing company in the ordinary course of its business; and

(c) the security reflects dividends or other distributions in respect of, or fluctuations in the value of, shares in companies falling within paragraph (a) or (b) of subsection (1) above by reason only that the security reflects fluctuations in a qualifying index.

(3) In subsection (2)(c) above "qualifying index" means an index whose underlying subject matter includes both—

(a) shares in one or more companies falling within paragraph (a) or (b) of subsection (1) above, and

(b) shares in one or more companies falling within neither of those paragraphs,

and which is an index such that the shares falling within paragraph (b) above represent a significant proportion of the market value of the underlying subject matter of the index.

(4) In this section—

"bank" has the meaning given by section 840A;

"securities house" means any person—

(a) who is authorised for the purposes of the Financial Services and Markets Act 2000; and

(b) whose business consists wholly or mainly of dealing in financial instruments as principal;

and in paragraph (b) above "financial instrument" has the meaning given by section 349(5) and (6).

(5) For the purposes of this section a company is an "associated company" of another at any time if at that time one has control of the other or both are under the control of the same person or persons.

(6) For the purposes of subsection (5) above, "control", in relation to a company, means the power of a person to secure—

(a) by means of the holding of shares or the possession of voting power in or in relation to the company or any other company, or

(b) by virtue of any powers conferred by the articles of association or other document regulating the company or any other company,

that the affairs of the company are conducted in accordance with his wishes.

(7) There shall be left out of account for the purposes of subsection (6) above—

(a) any shares held by a company, and

(b) any voting power or other powers arising from shares held by a company,

if a profit on a sale of the shares would be treated as a trading receipt of a trade carried on by the company and the shares are not, within the meaning of Chapter 1 of Part 12, assets of an insurance company's long-term insurance fund (see section 431(2)).

209B Section 209(3AA): hedging arrangements

(1) Subsection (3AA) of section 209 does not at any time apply in relation to a security issued by a company (the "issuing company") if at that time, or any earlier time on or after 17th April 2002, there are or have been any hedging arrangements that relate to some or all of the company's liabilities under the security.

(2) Subsection (1) above does not prevent subsection (3AA) of section 209 from applying in relation to a security at any time if—

(a) conditions 1 to 4 below are satisfied in relation to any such hedging arrangements at that time; and

(b) at all earlier times on or after 17th April 2002 when there have been hedging arrangements that relate to some or all of the company's liabilities under the security, conditions 1 to 4 below were satisfied in relation to those hedging arrangements.

(3) Where subsection (3AA) of section 209 at any time ceases to apply in relation to a security by virtue of this section, subsection (2)(d) of that section shall have effect in relation to the security as from that time as it would have had effect if subsection (3AA) had never applied in relation to the security.

(4) Condition 1 is that the hedging arrangements do not constitute, include, or form part of, any scheme or arrangement the purpose or one of the main purposes of which is the avoidance of tax or stamp duty.

(5) Condition 2 is that the hedging arrangements are such that, where for the purposes of corporation tax a deduction in respect of the security falls to be made at any time by the issuing company, then at that time, or within a reasonable time before or after it, any amounts intended under the hedging arrangements to offset some or all of that deduction arise—

(a) to the issuing company; or

(b) to a company which is a member of the same group of companies as the issuing company.

(6) Condition 3 is that the whole of every amount arising as mentioned in subsection (5) above is brought into charge to corporation tax—

(a) by a company falling within paragraph (a) or (b) of that subsection, or

(b) by two or more companies, taken together, each of which falls within paragraph (a) or (b) of that subsection.

(7) Condition 4 is that for the purposes of corporation tax any deductions in respect of expenses of establishing or administering the hedging arrangements are reasonable, in proportion to the amounts required to be brought into charge to corporation tax by subsection (6) above.

(8) For the purposes of this section "hedging arrangements", in relation to a security, means any scheme or arrangement for the purpose, or for purposes which include the purpose, of securing that an amount of income or gain accrues, or is received or receivable, whether directly or indirectly, which is intended to offset some or all of the amounts which fall to be brought into account, in accordance with generally accepted accounting practice, in respect of amounts accruing or falling to be paid in accordance with the terms of the security.

(9) Any reference in this section to two companies being members of the same group of companies is a reference to their being members of the same group of companies for the purposes of Chapter 4 of Part 10 of this Act (group relief).".

(3) This section has effect in relation to interest and other distributions out of assets of a company in respect of securities of the company where the interest is paid, or the distribution is made, on or after 17th April 2002.

103 References to accounting practice and periods of account

(1) In section 832(1) of the Taxes Act 1988 (interpretation of the Tax Acts), at the appropriate places insert—

""generally accepted accounting practice" has the meaning given by section 836A;";

""for accounting purposes" means for the purposes of accounts drawn up in accordance with generally accepted accounting practice;";

and

""period of account"—

(a) in relation to a person, means any period for which the person draws up accounts, and

(b) in relation to a trade, profession, vocation or other business means any period for which accounts of the business are drawn up;".

(2) After section 836 of that Act insert—

"836A Generally accepted accounting practice

(1) In the Tax Acts, unless the context otherwise requires, "generally accepted accounting practice"—

(a) means generally accepted accounting practice with respect to accounts of UK companies that are intended to give a true and fair view, and

(b) has the same meaning in relation to—

(i) individuals,

(ii) entities other than companies, and

(iii) companies that are not UK companies,

as it has in relation to UK companies.

(2) In subsection (1) "UK companies" means companies incorporated or formed under the law of a part of the United Kingdom.".

(3) In section 288(1) of the Taxation of Chargeable Gains Act 1992 (interpretation), at the appropriate place insert—

""period of account" has the meaning given by section 832(1) of the Taxes Act;".

(4) In the following provisions for "normal accounting practice" or "normal accountancy practice", wherever occurring, substitute " generally accepted accounting practice "

(a) in the Taxes Act 1988, sections 43A(1), 297(5B), 494AA(2), 798B(1) and 837A(2), and in Schedule 28B, paragraph 4(6B);

(b) in the Finance Act 1993 (c. 34), sections 93(2), 150(6)(c) and (11)(c), 154(11)(c), (12)(d), (13)(b), (13A)(d) and (13B)(d), 155(7), (11)(d) and (12)(b), 156(2)(e) and (4)(b) and 159(1)(b);

(c) in the Finance Act 1994 (c. 9), section 156(3)(a) and (4)(a);

(d) in the Finance Act 1996 (c. 8), sections 84(2)(b) and 85(2)(a), in Schedule 9, paragraph 14(1) and (2) and in Schedule 10, paragraph 1(3)(a) and (4);

(e) in the Finance Act 1997 (c. 16), in Schedule 12, paragraphs 1(1)(c) and (2)(a), 3(1) and (2), 4(5), 6(1)(a), 15(1)(c) and (2), 22, 28(5) and 30(1);

(f) in the Finance Act 2000 (c. 17), in Schedule 14, paragraph 22(4), in Schedule 15, paragraph 29(4), in Schedule 20, paragraphs 6(1), 10(1)(b) and (2)(b)(ii) and 25(1), and in Schedule 23, paragraphs 2(1), 3(1) and (3) and 5;

(g) in the Capital Allowances Act 2001 (c. 2), sections 179(1)(f), 219(1) and 437;

(h) in the Finance Act 2001 (c. 9), in Schedule 22, paragraphs 10(1)(b) and (2)(b)(ii).

(5) In section 42(1) of the Finance Act 1998 (c. 36) (computation of profits of trade, profession or vocation), for "on an accounting basis which gives a true and fair view" substitute " in accordance with generally accepted accounting practice ".

(6) The amendments made by subsections (1) to (3) above have effect for the purposes of provisions of this Act using the expressions mentioned (including provisions inserted by amendment in other enactments) whenever those provisions are expressed to have effect or to come, or to have come, into force.

This is without prejudice to the general effect of those amendments.

104 Discounted securities etc

(1) Schedule 13 to the Finance Act 1996 (discounted securities: income tax provisions) is amended as follows.

(2) After paragraph 3 (meaning of "relevant discounted security") insert—

3A “**Issue price etc of securities issued in accordance with qualifying earn-out right**

(1) This paragraph applies where a security is issued to a person in accordance with the terms of a qualifying earn-out right.

(2) In any such case the issue price of the security shall be taken for the purposes of this Schedule to be the sum of—

(a) the market value, immediately before the issue of the security, of the right to be issued with the security in accordance with the terms of the qualifying earn-out right, and

(b) any amount payable for the issue of the security in accordance with those terms,

and any reference in this Schedule to the amount paid by the person in respect of his acquisition of the security shall be taken as a reference to that sum.

(3) For the purposes of this paragraph a “qualifying earn-out right” is so much of any right conferred on a person as—

(a) constitutes the whole or any part of the consideration for the transfer by him of shares in or debentures of a company or for the transfer of the whole or part of a business or interest in a business carried on by him or by him and others in partnership;

(b) consists in either a right to be issued with securities of another company or a right which is capable of being discharged in accordance with its terms by the issue of such securities; and

(c) is such that the value of the consideration mentioned in paragraph (a) above is unascertainable at the time when the right is conferred.”.

(3) After paragraph 9 (other transactions deemed to be at market value) insert—

9A “**Securities issued to connected person etc at price in excess of market value: transfer to connected person**

(1) Where a relevant discounted security is transferred by a person (“the relevant person”) to a person connected with him and—

(a) the occasion of the relevant person’s acquisition of the security was its issue to him,

(b) the relevant person was, at the time of issue, connected with the issuer or the conditions in sub-paragraph (2) below are satisfied, and

(c) the amount paid by the relevant person in respect of his acquisition of the security exceeds the market value of the security at the time of issue,

the relevant person shall be taken for the purposes of this Schedule not to sustain a loss from the discount on the relevant discounted security.

(2) The conditions mentioned in sub-paragraph (1)(b) above are that—

(a) the security is a security issued by a close company;

(b) at the time of issue, the relevant person was not connected with the company;

(c) securities of the same kind as that issued to him were also issued to other persons; and

(d) he and some or all of those other persons, taken together, controlled the company.

(3) In sub-paragraph (2)(d) above, "control" shall be construed in accordance with section 416 of the Taxes Act 1988.

(4) For the purposes of this section, section 414 of the Taxes Act 1988 (meaning of "close company" in the Tax Acts) shall have effect with the omission of subsection (1)(a) (exclusion of companies not resident in the United Kingdom).

(5) Section 839 of the Taxes Act 1988 (connected persons) shall apply for the purposes of this paragraph.".

(4) Schedule 13 to the Finance Act 1996 (c. 8) shall have effect, and be deemed always to have had effect, with the amendment made by subsection (2).

(5) The amendment made by subsection (3) has effect in relation to transfers on and after 26th March 2002.

105 Financial trading stock

(1) In section 100 of the Taxes Act 1988 (valuation of trading stock at discontinuance of trade) in subsection (1B), omit paragraph (a) (which relates to stock consisting of certain debts and is superseded by Chapter 2 of Part 4 of the Finance Act 1996 (c. 8) (loan relationships)).

(2) In Schedule 12 to the Finance Act 1988 (c. 39) (building societies: change of status)—

(a) in paragraph 1 (which provides that paragraphs 2 to 7 apply where there is a transfer of the whole of a building society's business to a successor company in accordance with section 97 etc of the Building Societies Act 1986 (c. 53)) for "2" substitute " 3 "; and

(b) omit paragraph 2 (which relates to gilt-edged securities and other financial trading stock and is superseded by Chapter 2 of Part 4 of the Finance Act 1996).

106 Valuation of trading stock on transfer of trade

(1) In section 100 of the Taxes Act 1988 (valuation of trading stock at discontinuance of trade), after subsection (2) insert—

"(3) Where trading stock falling to be valued under paragraph (a) of subsection (1) above is sold or transferred together with other assets, so much of the amount realised on the sale or, as the case may be, of the value of the consideration given for the transfer as on a just and reasonable apportionment is properly attributable to each asset shall be treated for the purposes of this section as the amount realised on the sale or, as the case may be, the value of the consideration given for the transfer, of that asset.".

(2) Subsection (1) applies where the sale or transfer in question takes place after the passing of this Act.

107 Banks etc in compulsory liquidation

(1) Schedule 12 to the Finance (No. 2) Act 1992 (c. 48) is amended is follows.

(2) In paragraph 3 (taxation of certain receipts under Case VI of Schedule D) omit paragraph (c) of sub-paragraph (3) (which has become unnecessary because no interest or dividends any longer fall within it).

(3) At the end of paragraph 3, insert—

> "(5) This paragraph and paragraph 4 below have effect for the purposes of corporation tax notwithstanding anything in section 80(5) of the Finance Act 1996 (matters to be brought into account in the case of loan relationships only under Chapter 2 of Part 4 of that Act).".

(4) In paragraph 4 (relief from tax) omit sub-paragraph (3) (which provides for deductions from sums excluded from paragraph 3(2) by paragraph 3(3)(c)).

(5) The amendments made by this section have effect in relation to accounting periods beginning on or after 1st October 2002.

108 Manufactured dividends and interest

(1) Schedule 23A to the Taxes Act 1988 (manufactured dividends and interest) is amended as follows.

(2) In paragraph 2A (manufactured dividends on UK equities: deductibility of manufactured payment in case of manufacturer) at the end of sub-paragraph (1) (amount paid to be deductible against total income) insert " , subject to sub-paragraph (1A) below ".

(3) After that sub-paragraph insert—

> "(1A) An amount shall be allowable under sub-paragraph (1) above as a deduction against total income only to the extent that—
>
> (a) the dividend manufacturer receives the dividend on the equities which is represented by the manufactured dividend, or receives a payment which is representative of that dividend, and is chargeable to income tax on the dividend or other payment so received;
>
> (b) the dividend manufacturer is treated under section 730A (repos) as receiving a payment of interest in respect of the equities and is chargeable to income tax on that payment; or
>
> (c) a chargeable gain accrues to the dividend manufacturer as a result of a transaction whose nature is such as to give rise to the payment of a manufactured dividend by him,
>
> but the amount allowable by virtue of paragraph (c) above is limited to so much of the chargeable gain as does not exceed the manufactured dividend paid as a result of the transaction.
>
> (1B) Where an amount is allowable under sub-paragraph (1) above by reference to the whole or any part of—
>
> (a) a dividend or other payment falling within paragraph (a) of sub-paragraph (1A) above,
>
> (b) a payment of interest which a person is treated as receiving, as mentioned in paragraph (b) of that sub-paragraph, or

(c) a chargeable gain falling within paragraph (c) of that sub-paragraph,

(the "utilised portion" of the dividend, other payment or chargeable gain) no other amount shall be allowable under sub-paragraph (1) above by reference to all or any of the utilised portion of the dividend, other payment or chargeable gain.".

(4) In paragraph 3 (manufactured interest on UK securities) in sub-paragraph (2) (tax treatment of interest manufacturer) in paragraph (c) (amount allowable as a deduction) at the end add ", but only to the extent that—

(i) it would be so allowable if it were interest, or

(ii) so far as not falling within sub-paragraph (i) above, it falls within sub-paragraph (2A) below".

(5) After that sub-paragraph insert—

"(2A) An amount of manufactured interest falls within this sub-paragraph if and to the extent that the interest manufacturer—

(a) receives the periodical payment of interest on the securities which is represented by the manufactured interest, or receives a payment which is representative of that periodical payment of interest, and is chargeable to income tax on the periodical payment or representative payment so received;

(b) is treated under section 713(2)(a) or (3)(b) (accrued income scheme) as entitled to a sum in respect of a transfer of the securities and is chargeable to income tax on that sum; or

(c) is treated under section 730A (repos) as receiving a payment of interest in respect of the securities and is chargeable to income tax on that payment.

(2B) Where an amount is allowable under sub-paragraph (2)(c) above by reference to the whole or any part of—

(a) a periodical payment of interest, or a payment representative of such a payment, falling within paragraph (a) of sub-paragraph (2A) above,

(b) a sum falling within paragraph (b) of that sub-paragraph, or

(c) a payment of interest which a person is treated as receiving, as mentioned in paragraph (c) of that sub-paragraph,

(the "utilised portion" of the interest, sum or other payment) no other amount shall be allowable under sub-paragraph (2)(c) above by reference to all or any of the utilised portion of the interest, sum or other payment.".

(6) The amendments made by subsections (2) and (3) have effect in relation to manufactured dividends paid on or after 17th April 2002.

(7) The amendments made by subsections (4) and (5) have effect in relation to manufactured interest paid on or after 17th April 2002.

109 Venture capital trusts

(1) Schedule 33 to this Act has effect.

(2) In that Schedule—

Part 1 enables regulations to make provision for cases where a venture capital trust is being wound up, Part 2 enables regulations to make provision for cases where there is a merger of two or more venture capital trusts,

Part 3 enables regulations to make provision about the time allowed for venture capital trusts to invest money raised from issues (other than initial issues) of ordinary share capital, and

Part 4 contains supplementary provisions.

Status:
Point in time view as at 24/07/2002.

Changes to legislation:
There are currently no known outstanding effects for the Finance Act 2002, Chapter 2.