



Finance Act 1976

1976 CHAPTER 40

PART III

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

CHAPTER I

GENERAL

24 Charge of income tax for 1976-77

Income tax for the year 1976-77 shall be charged at the basic rate of 35 per cent.; and

- (a) in respect of so much of an individual's total income as exceeds £5,000 at such higher rates as are specified in the Table below ; and
- (b) in respect of so much of the investment income included in an individual's total income as exceeds £1,000 at the additional rates of 10 per cent. for the first £1,000 of the excess and 15 per cent. for the remainder;

except that, in the case of an individual who shows that, at any time within that year, his age or that of his wife living with him was sixty-five years or more, income tax at the additional rate of 10 per cent. shall not be charged in respect of the first £500 of the excess mentioned in paragraph (b) above.

TABLE

<i>Part of excess over £5,000</i>	<i>Higher rate</i>
The first £500	40 per cent
The next £1,000	45 per cent
The next £1,000	50 per cent
The next £1,000	55 per cent

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<i>Part of excess over £5,000</i>	<i>Higher rate</i>
The next £1,500	60 per cent
The next £2,000	65 per cent
The next £3,000	70 per cent
The next £5,000	75 per cent
The remainder	83 per cent

25 Charge of corporation tax for financial year 1975

Corporation tax shall be charged for the financial year 1975 at the rate of 52 per cent.

26 Rate of advance corporation tax for financial year 1976

The rate of advance corporation tax for the financial year 1976 shall be thirty-five sixths.

27 Corporation tax: other rates and fractions

- (1) The fraction by which, under section 93(2) of the Finance Act 1972, chargeable gains are to be reduced before they are for the purposes of corporation tax included in the profits of an authorised unit trust or investment trust shall, as from 1st April 1975, be sixty-nine one-hundred-and-fourths (instead of the fraction specified in section 27(1) of the Finance (No. 2) Act 1975).
- (2) The small companies rate for the financial year 1975 shall be 42 per cent., and for that year the fraction mentioned in subsection (2) of section 95 of the Finance Act 1972 (marginal relief for small companies) shall be three-twentieths
- (3) For the financial year 1975 and subsequent financial years subsection (3) of the said section 95 shall have effect with the substitution for any reference to £25,000 of a reference to £30,000 and with the substitution for any reference to £40,000 of a reference to £50,000.
- (4) Where by virtue of subsection (3) above the said section 95 has effect with different relevant amounts in relation to different parts of the same accounting period, those parts shall be treated for the purposes of that section as if they were separate accounting periods, and the profits and income of the company for that period (as defined in that section) shall be apportioned between those parts.

28 Relief for interest: limit for 1976-77

In paragraph 5(1) of Schedule 1 to the Finance Act 1974 (limit on relief for interest on certain loans for purchase or improvement of land used as an only or main residence) the references to £25,000 shall have effect for the year 1976-77 as well as for the years 1974-75 and 1975-76.

29 Alteration of personal reliefs

- (1) In section 8 of the Taxes Act (personal reliefs)—
 - (a) in subsection (1)(a) (married) for " £955 " there shall be substituted " £1,085 " ;

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- (b) in subsections (1)(b) (single) and (2) (wife's earned income relief) for " £675 " there shall be substituted " £735 ";
 - (c) in subsections (1A) and (1B) (age allowance) for " £1,425 ", " £950 " and " £3,000 " there shall be substituted " £1,555 " , "£1,010" and "£3,250" respectively.
- (2) In the year 1976-77 only, the allowances set out in section 10(3) of the Taxes Act (children) shall be amended as follows—
- (a) in paragraph (a) (child over 16) for " £305 " there shall be substituted " £365 ";
 - (b) in paragraph (b) (child over 11 but not over 16) for " £275 " there shall be substituted " £335 ";
 - (c) in paragraph (c) (child not over 11) for " £240 " there shall be substituted " £300 ".
- (3) In section 10(5) of that Act (restriction of relief where child has income exceeding £115) for " £115 " there shall be substituted " £350 " and at the end of the proviso there shall be inserted the words " and that in the case of a child who—
- (a) is under the age of eighteen at the end of the year of assessment and is unmarried throughout that year; and
 - (b) either has no earned income or has earned income not exceeding £235,
- this subsection shall have effect with the substitution for the words " income exceeding £350 " of the words " investment income (that is to say, income other than earned income) exceeding £115 ".
- (4) In section 14(2) and (3) of that Act (additional relief for widows and others in respect of children) for " £280 " there shall be substituted " £350 ".
- (5) In section 14(2)(a) of that Act (relief available only for claimant entitled to relief under section 10 in respect of a child resident with him) after the words " resident with him " there shall be inserted the words " or would be so entitled apart from subsection (5) of that section ".

30 Retirement annuities

- (1) Sections 227 and 228 of the Taxes Act (which prescribe limits subject to which relief is available for premiums paid under approved retirement annuity contracts etc.) shall be amended as follows—
- (a) in subsections (1A) and (1C) of section 227 and subsections (1) and (4) of section 228 for "£1,500", wherever it occurs, there shall be substituted " £2,250 ";
 - (b) in subsections (1B) and (1C) of section 227 for " £500 ", wherever it occurs, there shall be substituted " £750 "; and
 - (c) in the Table in subsection (4) of section 228 for " £1,600 ", " £1,700 ", " £1,800 ", " £1,900 ", and " £2,000 " there shall be substituted respectively " £2,400 ", " £2,550 ", " £2,700 ", " £2,850 " and " £3,000 ".
- (2) In section 226(2)(b) and (10) and section 226A(1)(b) and (3)(b) (upper age limit in relation to approval of contracts etc.) for references to the age of 70 there shall be substituted references to the age of 75.
- (3) This section does not affect relief for any year of assessment before the year 1976-77.

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31 War widows

For the purposes of calculating taxable income, the first 50 per cent. of war widow's pension shall be exempt.

32 Child benefit

- (1) The Income Tax Acts shall have effect with the following amendments, being amendments which—
 - (a) apply to child benefit the provisions applying to family allowances; and
 - (b) make other changes in those provisions.
- (2) In section 8(2)(b) of the Taxes Act (wife's earned income relief) for the words " on account of an allowance under the Family Allowances Act 1965 or the Family Allowances Act (Northern Ireland) 1966 " there shall be substituted the words " of child benefit ".
- (3) In section 24 of that Act (reduction of reliefs on account of family allowances)—
 - (a) in subsection (1) for the words " on account of an allowance under the Family Allowances Act 1965 or the Family Allowances Act (Northern Ireland) 1966 " there shall be substituted the words " of child benefit in respect of one child " and for the words from " on account of two or more allowances " onwards there shall be substituted the words " of child benefit in respect of two or more children the appropriate reduction shall be made under the preceding provisions of this subsection in respect of the child benefit in respect of each child ";
 - (b) subsection (2) shall be omitted ;
 - (c) in subsection (3)(a) for the words " or child's special allowance" there shall be substituted the words " , child's special allowance or invalid care allowance ";
 - (d) after subsection (3) there shall be inserted—

“(3A) The said subsection (1) shall not apply to payments of child benefit in respect of a child in respect of which the individual to whom the payments are made is entitled to a guardian's allowance under the Social Security Act 1975 or the Social Security (Northern Ireland) Act 1975.”
- (4) In section 219(1)(b) of that Act (benefits chargeable to tax under Schedule E) for the words " on account of allowances under the Family Allowances Act 1965 or the Family Allowances Act (Northern Ireland) 1966" there shall be substituted the words " of child benefit ".
- (5) In section 530(2)(c) of that Act (meaning of " earned income ") for the words " family allowances " there shall be substituted the words " child benefit ".
- (6) In paragraph 1(b) of Schedule 4 to the Finance Act 1971 (separate taxation of wife's earnings) for the words " on account of an allowance under the Family Allowances Acts 1965 to 1969 or the Family Allowances Acts (Northern Ireland) 1966 to 1969 " there shall be substituted the words " of child benefit ".
- (7) Section 32 of the Finance (No. 2) Act 1975 (interim benefit for unmarried or separated parents with children) shall cease to have effect.
- (8) The provisions of subsections (2) to (7) above (other than subsection (3)(c)) do not affect the operation of any of the enactments there mentioned in relation to any

allowance or benefit payable in respect of a period before the appointed day for the purposes of the Child Benefit Act 1975 and the Child Benefit (Northern Ireland) Order 1975.

33 Certification of life insurance policies

- (1) Until such day as the Treasury may by order made by statutory instrument appoint, paragraph 1(1) of Schedule 2 to the Finance Act 1975 (which requires qualifying policies to be certified or to conform with a form certified by the Board) shall not apply to a policy issued in respect of an insurance made before 1st April 1976 which is varied on or after that date.
- (2) In relation to the variation before the day appointed under subsection (1) above of any such policy as is there mentioned paragraph 11(2) of Schedule 1 to the Taxes Act (which was amended by the said Schedule 2 so as to transfer the function of certification from the body issuing the policy to the Board) shall have effect as originally enacted and not as so amended.

34 Relief on life policies etc.

For the year 1979-80 and subsequent years of assessment sections 19 to 21 of the Taxes Act and the other enactments mentioned in Schedule 4 to this Act shall have effect subject to the provisions of that Schedule.

35 Loan annuity contracts by the elderly

Paragraph 16(1) and (2) of Schedule 2 to the Finance Act 1975 (charge in connection with contract for life annuity where money is lent to the annuitant etc.) shall not apply in relation to a contract if and to the extent that interest on the sum lent is eligible for relief under section 75 of the Finance Act 1972 by virtue of paragraph 24 of Schedule 1 to the Finance Act 1974 (loan to elderly person for purchase of life annuity).

36 Husband and wife: income tax

- (1) The Income Tax Acts shall have effect with the following amendments, being amendments which—
 - (a) in general preclude a wife's income from aggregation with her husband's until the beginning of the year of assessment following their marriage ; and
 - (b) make other changes in provisions applying to husbands and wives.
- (2) In section 37(1) of the Taxes Act (aggregation of wife's income with husband's) for the words " so far as it is income for a year of assessment or part of a year of assessment during which she is a married woman living with her husband " there shall be substituted the words " so far as it is income for—
 - (a) a year of assessment; or
 - (b) any part of a year of assessment, being a part beginning; with 6th April, during which she is a married woman living with her husband ".
- (3) In section 38(1) of that Act (options for separate assessment) after the words " any year of assessment" there shall be inserted the words " for which his income would include any of hers " and the proviso shall be omitted.
- (4) In section 14 of that Act—

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- (a) in subsection (2) for the words " Subject to subsection (3) below " there shall be substituted the words " Subject to subsections (3) and (4) below "; and
 - (b) after subsection (3) there shall be inserted—
 - “(4) A person to whom this section applies by virtue of subsection (1)(a) above shall not be entitled to relief under this section for a year of assessment during any part of which that person is married and living with his or her spouse unless the child in connection with which the relief is claimed is resident with that person during a part of the year in which that person is not married and living with his or her spouse.”
- (5) In section 19 of that Act (life insurance relief)—
- (a) in subsection (2)(b) for the word " wife " there shall be substituted the word " spouse "; and
 - (b) in subsection (7) after the word " Where " there shall be inserted the words " in any year of assessment for which her husband's income includes or, if there were any, would include any of hers ".
- (6) After section 21(1) of that Act (life insurance premium relief not to exceed one-sixth of a person's total income) there shall be inserted—
- “(1A) In relation to a year of assessment in which a woman is married and living with her husband but for which his income does not or, if there were any, would not include any of hers, subsection (1) above shall apply to each of them as if the maximum there specified were increased by an amount equal to the difference between—
 - (a) one-sixth of the other's total income; and
 - (b) the premiums or other sums in respect of which relief is given to the other.”
- (7) Where during any part of a year of assessment a husband and wife are living together but his income for that year does not or, if there were any, would not include any of hers, then, if either of them—
- (a) would, if he or she had sufficient income for that year, be entitled to have any amount deducted from or set off against it under a provision to which this subsection applies; and
 - (b) makes a claim in that behalf,
- that amount or, as the case may be, so much of it as cannot be deducted from or set off against his or her own income for that year shall instead be deducted from and set off against the income for that year of the other spouse.
- (8) Subsection (7) above applies—
- (a) in the case of the husband, to any provision of Chapter II of Part I of the Taxes Act (personal reliefs) and section 75 of the Finance Act 1972 (relief for payment of interest);
 - (b) in the case of the wife, to—
 - (i) any provision of that Chapter except sections 8(1)(b) and (1A)(b), 12, 13 and 14; and
 - (ii) the said section 75 so far as applicable to interest paid in the part of the year of assessment mentioned in subsection (7) above.
- (9) For the purposes of section 168 of the Taxes Act and section 71 of the Capital Allowances Act 1968 (set-off of losses and capital allowances against general

income), section 37(1)(b) of the Taxes Act shall have effect as if the words " being a part beginning with 6th April " were omitted.

- (10) In section 23(2) and (4) of the Finance Act 1971 (election for separate taxation of wife's earnings to be made or revoked within six months after the end of the year of assessment) for the words "six months after" there shall be substituted the words " twelve months after ".

37 Relief for increase in stock values

Schedule 5 to this Act shall have effect for affording relief for increases in the value of trading stock and work in progress in any period of account.

38 Restriction of relief for payments of interest

- (1) Relief shall not be given to any person under any provision of the Tax Acts in respect of any payment of interest if a scheme has been effected or arrangements have been made (whether before or after the time when the payment is made) such that the sole or main benefit that might be expected to accrue to that person from the transaction under which the interest is paid was the obtaining of a reduction in tax liability by means of such relief as aforesaid.
- (2) In this section " relief " means relief by way of deduction in computing profits or gains or deduction or set off against income or total profits.
- (3) Where the relief is claimed by virtue of section 259(6) of the Taxes Act (group relief) any question under this section as to what benefit might be expected to accrue from the transaction in question shall be determined by reference to the claimant company and the surrendering company taken together.
- (4) This section applies—
- (a) where the payment is after 8th June 1976 ; and
 - (b) as respects relief—
 - (i) under section 248 or 259(6) of the Taxes Act in relation to the total profits for an accounting period beginning after that date or for any part falling after that date of an accounting period beginning earlier; or
 - (ii) under section 75 of the Finance Act 1972 in relation to income for the part of the year 1976-77 falling after that date,where the payment is on or before that date.
- (5) For the purposes of subsection (4)(b) above—
- (a) the total profits for part of an accounting period shall be so much of the total profits for the whole period (reduced by any relief otherwise than in respect of the payment or payments in question) as is apportioned to that part;
 - (b) the income for part of a year of assessment shall be so much of the income for the whole year (reduced by any relief otherwise than as aforesaid and otherwise than under Chapter II of Part I of the Taxes Act) as is apportioned to that part;
- and any apportionment for the purposes of this subsection shall be made on a time basis.

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39 Capital allowances: writing-down allowances

- (1) Notwithstanding section 40 of the Finance Act 1971 and section 68(1) of the Finance Act 1972 (which exclude from the system of capital allowances introduced in 1971 expenditure incurred before 27th October 1970 and certain expenditure incurred later), the expenditure to which subsection (4)(a) of section 44 of the said Act of 1971 applies in the case of a person's first new chargeable period shall include the amount still unallowed, at the beginning of that period or its basis period, of any eligible expenditure incurred by him on the provision for the purposes of his trade of machinery or plant which then—
- (a) belongs to him ; and
 - (b) is or has been used for those purposes; and
 - (c) has not permanently ceased to be so used ;
- and elsewhere in the said section 44 references to capital expenditure shall include references to such eligible expenditure as aforesaid.
- (2) In the case of such eligible expenditure as is mentioned in subsection (1) above no allowances or charges shall be made under Chapter II of Part I of the Capital Allowances Act 1968 for any new chargeable period; and in the case of other expenditure section 20(1) of that Act (normal method of calculating writing-down allowances) shall have effect for any such period with the substitution for the words " a percentage " of the words " 25 per cent. " .
- (3) In this section "eligible expenditure" means, subject to subsection (4) below, expenditure in respect of which an allowance or allowances have been (or, if claimed, could have been) made under the said Chapter II; and in subsection (1) above the reference to the amount of any such expenditure still unallowed shall be construed in accordance with section 41 in that Chapter.
- (4) The following is not eligible expenditure—
- (a) expenditure on the provision of a new ship within the meaning of section 31 of the said Act of 1968 ;
 - (b) expenditure in respect of which an allowance or allowances have been (or, if claimed, could have been) made by virtue of or in accordance with the following provisions of the said Act of 1968—
 - (i) section 18(5) or 28 (assets used partly for trade and partly for other purposes);
 - (ii) section 18(6) or 29 (subsidies for wear and tear);
 - (iii) section 32 (cars); or
 - (iv) section 42 or 43 (lessors or lessees);
 - (c) expenditure in respect of which an allowance or allowances have been made in accordance with section 21 of the said Act of 1968 (alternative method of calculating writing-down allowances);
 - (d) expenditure incurred by a person under a contract which provides that he shall or may become the owner of the machinery or plant on the performance of the contract and which has not been performed before the beginning of his first new chargeable period or its basis period;
 - (e) expenditure to which the person by whom it was incurred elects that subsection (1) above shall not apply.

- (5) Any election under subsection (4)(e) above shall be made by notice in writing to the inspector given within two years from the end of the first new chargeable period of the person concerned.
- (6) In this section " new chargeable period " means—
- (a) where the chargeable period is a company's accounting period, an accounting period ending after 5th April 1976;
 - (b) where the chargeable period is a year of assessment, a year of assessment the basis period for which ends after that date.
- (7) This section shall be construed as if contained in Chapter I of Part III of the said Act of 1971.

40 Capital allowances: disposal value

- (1) After subsection (6) of section 44 of the Finance Act 1971 (calculation of disposal value for purposes of writing-down allowances and balancing adjustments) there shall be inserted—
- “(7) Where the person mentioned in the proviso to subsection (6) above has acquired the machinery or plant as a result of a transaction which was, or of a series of transactions each of which was, between connected persons within the meaning of section 533 of the Taxes Act, that proviso shall have effect as if it referred to the capital expenditure on the provision of the machinery or plant incurred by whichever party to that transaction, or to any of those transactions, incurred the greatest such expenditure.”
- (2) Section 68(2) of the Finance Act 1972 (which is superseded by this section) shall cease to have effect.
- (3) This section does not affect any case in which the event by reason of which the disposal value of the machinery or plant falls to be taken into account is before 16th April 1976.

41 Capital allowances: restriction of set-off against general income

- (1) Relief shall not be given to an individual under section 168 of the Taxes Act (set-off against general income) by reference to a first-year allowance made to him in respect of expenditure incurred on the provision of machinery or plant for leasing in the course of a trade if—
- (a) at the time when the expenditure was incurred the trade was carried on by him in partnership with a company (with or without other partners); or
 - (b) a scheme has been effected or arrangements have been made (whether before or after that time) with a view to the trade being carried on by him as aforesaid.
- (2) Relief shall not be given to an individual under the said section 168 by reference to a first-year allowance if—
- (a) the allowance is made in connection with—
 - (i) a trade which at the time when the expenditure was incurred was carried on by him in partnership or which has subsequently been carried on by him in partnership or transferred to a person who was connected with him within the meaning of section 533 of the Taxes Act; or

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- (ii) an asset which after that time has been transferred by him to a person who was connected with him as aforesaid or, at a price lower than that which it would have fetched if sold in the open market, to any other person ; and
 - (b) a scheme has been effected or arrangements have been made (whether before or after that time) such that the sole or main benefit that might be expected to accrue to the individual from the transaction under which the expenditure was incurred was the obtaining of a reduction in tax liability by means of such relief as aforesaid.
- (3) Where relief has been given in a case to which subsection (1) or (2) above applies it shall be withdrawn by the making of an assessment under Case VI of Schedule D.
 - (4) For the purposes of subsection (1) above letting a ship on charter shall be regarded as leasing it if, apart from this provision, it would not be so regarded.
 - (5) In this section " first-year allowance " means a first-year allowance under Chapter I of Part III of the Finance Act 1971, "trade" includes any activity in connection with which a first-year allowance can be given and any expression defined in section 50 of the said Act of 1971 has the meaning given in that section.
 - (6) This section applies to relief under the proviso to section 71(1) of the Capital Allowances Act 1968 as it applies to relief under the said section 168.
 - (7) Subsections (1) and (2) above apply where the expenditure in respect of which the allowance is made to the individual in question was incurred by him after the commencement date and otherwise than under a contract entered into by him on or before that date ; and " the commencement date " is, in relation to subsection (1), 15th December 1975 and, in relation to subsection (2), 6th April 1976.

42 Capital allowances: subsidies and contributions

- (1) After subsection (1) of section 85 of the Capital Allowances Act 1968 (allowances in respect of contributions to capital expenditure) there shall be inserted—
 - “(1A) Subsection (1) above shall not apply where the person making the contribution and the person receiving it are connected persons within the meaning of section 533 of the principal Act.”.
- (2) This section applies in relation to contributions made after 8th July 1976.

43 Capital allowances: motor cars

- (1) In paragraphs 10 to 12 of Schedule 8 to the Finance Act 1971 (special capital allowances rules for motor cars) for any reference to £4,000 or £1,000 there shall be substituted a reference to £5,000 or £1,250 respectively.
- (2) This section applies in relation to expenditure incurred after 6th April 1976 ; and section 50(4) of the said Act of 1971 applies for the purposes of this subsection.

44 Close companies: loans to participators

- (1) In relation to any claim made after the passing of this Act under subsection (5) of section 286 of the Taxes Act (relief where loan to participator is repaid) that subsection

shall have effect with the substitution for the words " year of assessment " of the words " financial year " .

(2) After section 287 of that Act there shall be inserted—

“287A Extension of s. 286 to loans by controlled companies.

- (1) Subject to subsection (4) below, where a company which is controlled by a close company makes a loan which, apart from this section does not give rise to a charge under subsection (1) of section 286 above, that section shall apply as if the loan had been made by the close company.
- (2) Subject to subsection (4) below, where a company which is not controlled by a close company makes a loan which, apart from this section does not give rise to a charge under subsection (1) of section 286 above, and a close company subsequently acquires control of it, that section shall apply as if the loan had been made by the close company immediately after the time when it acquired control.
- (3) Where two or more close companies together control the company that makes or has made the loan, subsections (1) and (2) above shall have effect—
 - (a) as if each of them controlled that company ; and
 - (b) as if the loan had been made by each of those close companies ;but the loan shall be apportioned between those close companies in such proportion as may be appropriate having regard to the nature and amount of their respective interests in the company that makes or has made the loan.
- (4) Subsections (1) and (2) above do not apply if it is shown that no person has made any arrangements (otherwise than in the ordinary course of a business carried on by him) as a result of which there is a connection—
 - (a) between the making of the loan and the acquisition of control; or
 - (b) between the making of the loan and the provision by the close company of funds for the company making the loan ;and the close company shall be regarded as providing funds as aforesaid if it directly or indirectly makes any payment or transfers any property to, or releases or satisfies (in whole or in part) a liability of, the company making the loan.
- (5) Where, by virtue of this section, section 286 above has effect as if a loan made by one company had been made by another any question under that section or section 287 above whether—
 - (a) the company making the loan did so otherwise than in the ordinary course of a business carried on by it which includes the lending of money ;
 - (b) the loan or any part of it has been repaid to the company;
 - (c) the company has released or written off the whole or part of the debt in respect of the loan,shall be determined by reference to the company that made the loan.
- (6) This section shall be construed as one with section 286 above, and in this section " loan" includes advance, and references to a company making a loan include references to cases in which the company is, or if it were a close

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company would be, regarded as making a loan by virtue of subsection (2) of that section.

- (3) In paragraph 19(5) of Schedule 16 to the Finance Act 1972 (information powers) for the words " sections 286 and 287 of the Taxes Act " there shall be substituted the words " sections 286, 287 and 287A of the Taxes Act".
- (4) Subsection (2) above has effect as respects loans made or debts incurred or assigned after 15th April 1976.

45 Close companies: notice of liability

In paragraph 6(2) of Schedule 16 to the Finance Act 1972 (which requires a notice of liability to be served on a close company if a participator does not pay the tax assessed in respect of a sum apportioned to him) for the words " shall be served" there shall be substituted the words " may be served " and for the words " shall thereupon be payable by the company " there shall be substituted the words " shall be payable by the company upon service of the notice ".

46 Effect of advance corporation tax on preference dividends etc.

- (1) In paragraph 18(1) of Schedule 23 to the Finance Act 1972 (dividends etc., at gross rate or of gross amount; transitional provisions on introduction of advance corporation tax), the reference to " the rate of advance corporation tax in force on that date " is to the rate in force on 6th April 1973.

This subsection shall be deemed always to have had effect.

- (2) Where in the case of shares not carrying cumulative rights, a company, relying on the alternative view of paragraph 18, has reduced any dividend to which the paragraph applies below what it would have been according to the original view, the deficiency may be made up by means of supplementary dividend payable to shareholders registered on a given date ; and—
- (a) this has effect notwithstanding any restriction, of whatsoever nature, on the company's power to pay dividends, except that which requires dividends to be paid only out of profits and reserves;
 - (b) the date mentioned above is either the date of declaration of the supplementary dividend or such other date (but not earlier than two months before the due date for its payment) as may be appointed by the company.
- (3) In the case of shares carrying cumulative rights, the obligation arising from this section to make good any underpayment of dividend made in reliance on the alternative view shall be carried forward to subsequent periods of account in the same way as with any other underpayment.
- (4) In the case of shares carrying both non-cumulative and cumulative rights, subsections (2) and (3) above apply respectively according as dividend is payable by reference to the one category of rights or the other.
- (5) Subject to subsections (3) and (4) above, this section does not invalidate anything done with reliance in good faith either on the original or on the alternative view of paragraph 18; nor does it give rise to any liability or increased liability on any person for acting, or omitting to act, in a particular way where he did so with reliance in good faith on the one or on the other view.

(6) In this section—

- (a) " dividend " includes any other distribution ;
 - (b) " share" includes stock, and any other interest of a member in a company, and any securities within the meaning of Part X of the Taxes Act; and
 - (c) " paragraph 18 " means paragraph 18 of Schedule 23 to the Finance Act 1972 ;
- and for the purposes of subsections (2) to (5) the original view of paragraph 18 is that it has, and always had, the meaning given to it by subsection (1) above, and the alternative view is that the rate of advance corporation tax referred to in the paragraph is the rate in force from time to time.

47 Relief for levies on insurance companies

For the purposes of section 304 of the Taxes Act as applied by section 305 of that Act (expenses of management of insurance companies), any sums paid by a company, whether before or after the passing of this Act, under a long term business levy imposed by virtue of the Policyholders Protection Act 1975 shall be treated as part of its expenses of management.

48 Friendly societies

(1) In section 332 of the Taxes Act (registered friendly societies) after subsection (9) there shall be inserted—

“(10) Where at any time a registered friendly society ceases by virtue of section 84 of the Friendly Societies Act 1974 (conversion into company) to be registered under that Act, any part of its life or endowment business consisting of business which—

- (a) relates to contracts made before that time; and
- (b) immediately before that time was tax exempt life or endowment business,

shall thereafter continue to be tax exempt life or endowment business for the purposes of this Chapter.

(11) Where a registered friendly society—

- (a) at any time ceases by virtue of section 84 of the said Act of 1974 to be registered under that Act; and
- (b) immediately before that time was exempt from income tax or corporation tax on profits arising from any business carried on by it other than life or endowment business,

the company into which the society is converted shall be so exempt on its profits arising from any part of that business which relates to contracts made before that time so long as there is no increase in the scale of benefits which it undertakes to provide in the course of carrying on that part of its business.

(12) For the purposes of the Corporation Tax Acts any part of a company's business—

- (a) which continues to be tax exempt life or endowment business by virtue of subsection (10) above ; or
- (b) in respect of the profits from which the company is exempt by virtue of subsection (11) above,

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shall be treated as a separate business from any other business carried on by the company.”

- (2) In the definition of " tax exempt life or endowment business " in section 337(3) of the Taxes Act for the words " subject to section 332(6) to (9)" there shall be substituted the words " subject to section 332(6) to (10) ".
- (3) The amendment of section 337(5)(b) of the Taxes Act made by paragraph 23(b) of Schedule 9 of the Friendly Societies Act 1974 shall extend to Northern Ireland.

49 New double taxation arrangements with Ireland

- (1) If in the year 1976 Her Majesty by Order in Council under section 497 of the Taxes Act declares, with respect to arrangements made between Her Government in the United Kingdom and the Government of the Republic of Ireland with a view to affording relief from double taxation, that it is expedient that those arrangements should have effect, then the following provisions of this section (going to the implementation of those arrangements or required in consequence of them) shall come into force with the Order (or, in the case of the Order in Council having come into force before this Act is passed, shall be deemed to have done so).
- (2) The following enactments (giving effect to, or consequent on, arrangements made between the two countries in the years up to 1975) are hereby repealed, that is to say—
 - (a) in the Taxes Act—
 - section 315(7) and (8) (Republic of Ireland included with United Kingdom for purposes of provisions about foreign life assurance funds),
 - section 473(2) (exception of Irish residents from certain United Kingdom measures about transactions in securities),
 - in section 498(1), the proviso (excluding unilateral relief in the case of Irish tax),
 - section 513 and, in Schedule 12 (which by virtue of the section saves the effect of the former Agreements up to and including that of 1960 and provides for their implementation), Parts I and II and paragraphs 1, 3(1) and (2), 4 and 5 of Part III;
 - (b) in the Finance Act 1973, section 42 and Schedule 17 (implementation of 1973 Agreement); and
 - (c) in the Finance (No. 2) Act 1975, section 65 and Schedule 11 (implementation of 1975 Agreement).
- (3) In Part III of Schedule 12 to the Taxes Act (provisions already operating so as to give effect to double taxation arrangements with Ireland), paragraphs 2, 3(3) and 6 continue in force by virtue of this section and not, as previously, by virtue of section 513 of that Act.
- (4) In Part III of Schedule 12 to the Taxes Act (provisions in force before 1976 for giving effect to double taxation arrangements with Ireland and continued by this section), the following is added at the end of paragraph 2—
 - “(3) In charging any income which is excluded from sub-paragraph (1) above by sub-paragraph (2)(a), the same deductions shall be made, and there shall be the same limitation on reliefs, as under section 23(3) and (4) of the Finance Act 1974 (method of charging income from trade, etc. carried on abroad)

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in the case of income computed by virtue of that section in accordance with the rules applicable to Cases I and II of Schedule D.”.

- (5) In section 75 of the Finance Act 1972 (relief for payment of interest) the following is substituted for subsection (6)—

“(6) This section has effect as if references to the United Kingdom included references to the Republic of Ireland.”.

- (6) In section 22(1) of the Finance Act 1974 (foreign pensions etc.) the reference to a pension which would have fallen under section 122(2)(c) of the Taxes Act (remittance basis) includes any which would have so fallen but for paragraph 2 of Part III of Schedule 12 to the Taxes Act.

- (7) The repeals in subsection (2) above, and the amendments made by subsections (4) to (6), take effect from 6th April 1976, subject however to so much of the new Agreement as retains any former Agreement in force for years of assessment ending on or before 5th April 1977.

- (8) In this section "the new Agreement" means any Convention between the Governments of the United Kingdom and the Republic of Ireland relating to avoidance of double taxation and entering into force in the year 1976; and the " former Agreements " are those set out in Part I of Schedule 12 to the Taxes Act, Schedule 17 to the Finance Act 1973 and Schedule 11 to the Finance (No. 2) Act 1975.

50 Other provisions relating to double taxation

- (1) In the case of a person not resident in the United Kingdom who carries on in the United Kingdom a banking business, an insurance business or a business consisting wholly or partly in dealing in securities, receipts of interest or dividend which have been treated as tax-exempt under double taxation arrangements are not to be excluded from trading income or profits of the business so as to give rise to losses to be set off (under section 177 or 312 of the Taxes Act) against income or profits arising on or after 15th April 1976.

In this subsection " double taxation arrangements" means arrangements having effect by virtue of section 497 of the Taxes Act; and " securities " includes stocks and shares.

- (2) In section 497 of the Taxes Act, in subsection (3) (foreign tax treated as paid though not payable)—
- (a) the words (in the second paragraph of the subsection) from " to any relief" onwards shall become paragraph (a); and
- (b) after that paragraph there shall be added—

“and

- (b) to any relief provided under and in accordance with the arrangements, where the latter expressly contemplate that the relief is to fall within this subsection”.

- (3) In section 506 of the Taxes Act (computation of underlying tax on foreign company profits), the following shall be inserted after subsection (1)—

“(1A) Where under the foreign tax law the dividend has been increased for tax purposes by an amount to be set off against the recipient's own tax under that law or, to the extent that it exceeds his own tax thereunder, paid to him,

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then from the amount of the underlying tax to be taken into account under subsection (1) above there is to be subtracted the amount of that increase.

This subsection has effect as from 1st April 1976.”

51 Capital gains: small disposals

- (1) In section 57(1) and (2) of the Finance Act 1971 (small disposals) for "£500" there shall be substituted " £1,000 ".
- (2) This section applies for the year 1975-76 and subsequent years of assessment.

52 Capital gains: husband and wife

- (1) The enactments relating to capital gains tax shall have effect with the following amendments, being amendments corresponding to or consequential on the amendments made by section 36 above.
- (2) In section 21(4) of the Finance Act 1965 (capital gains chargeable on income tax basis) after the words "a married woman who in the year of assessment is a married woman living with her husband " there shall be inserted the words " and whose income for, or for any part of, that year is included in his by virtue of section 37(1) of the Income and Corporation Taxes Act 1970 ".
- (3) In paragraph 3(1) of Schedule 10 to that Act (married woman's chargeable gains to be assessed on her husband) for the words " in a year of assessment, or part of a year of assessment, during which she is a married woman living with her husband " there shall be substituted the words " in—
 - (a) a year of assessment; or
 - (b) any part of a year of assessment, being a part beginning with 6th April, during which she is a married woman living with her husband ".
- (4) After section 57(3) of the Finance Act 1971 (small disposals) there shall be inserted—

“(3A) Subsection (3) above applies only to disposals made in a year of assessment for which, by virtue of section 37(1) of the Income and Corporation Taxes Act 1970, the husband's income includes or, if there were any, would include, any of the wife's.”

53 Capital gains: compensation stock

- (1) This section has effect where gilt-edged securities are exchanged for shares in pursuance of any enactment (including an enactment passed after this Act) which provides for the compulsory acquisition of any shares and the issue of gilt-edged securities instead.
- (2) The exchange shall not constitute a conversion of securities within paragraph 5 of Schedule 7 to the Finance Act 1965 (which has the effect that compensation securities are treated as the same asset as the original shares) and accordingly the gilt-edged securities shall not be treated as having been acquired on any date earlier than that on which they were issued or for any consideration other than the value of the shares as determined for the purposes of the exchange.
- (3) The exchange shall be treated as not involving any disposal of the shares by the person from whom they were compulsorily acquired but—

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- (a) there shall be calculated the gain or loss that would have accrued to him if he had then disposed of the shares for a consideration equal to the value mentioned in subsection (2) above: and
 - (b) on a subsequent disposal of the whole or part of the gilt-edged securities by the person to whom they were issued—
 - (i) there shall be deemed to accrue to him (in addition to any gain or loss that actually accrues) the whole or a corresponding part of the gain or loss mentioned in paragraph (a) above ; and
 - (ii) if the disposal is within section 41 of the Finance Act 1969 (exemption for gilt-edged securities) that section shall have effect only in relation to any gain or loss that actually accrues and not in relation to any gain or loss that is deemed to accrue as aforesaid.
- (4) Where a person to whom gilt-edged securities of any kind were issued as mentioned in subsection (1) above disposes of securities of that kind, the securities of which he disposes—
- (a) shall, so far as possible, be identified with any securities of that kind which he has acquired otherwise than as mentioned in subsection (1) above within the twelve months preceding the disposal; and
 - (b) so far as they cannot be identified as aforesaid, shall be identified (without regard to paragraphs 6, 7(3) and 8 of Schedule 10 to the Finance Act 1971) with securities which were issued to him as mentioned in that subsection, taking those issued earlier before those issued later.
- (5) Subsection (3)(b) above shall not apply to any disposal falling within the provisions of—
- (a) section 24(7) of the Finance Act 1965 (disposals by personal representatives to legatees); or
 - (b) paragraph 20(1) of Schedule 7 to that Act (disposals between husband and wife); or
 - (c) section 273(1) of the Taxes Act (disposals within a group of companies);
- but a person who has acquired the securities on a disposal falling within those provisions (and without there having been a previous disposal not falling within those provisions or a devolution on death) shall be treated for the purposes of subsections (3)(b) and (4) above as if the securities had been issued to him.
- (6) Where the gilt-edged securities to be exchanged for any shares are not issued until after the date on which the shares are compulsorily acquired but on that date a right to the securities is granted, this section shall have effect as if the exchange had taken place on that date, as if references to the issue of the securities and the person to whom they were issued were references to the grant of the right and the person to whom it was granted and references to the disposal of the securities included references to disposals of the rights.
- (7) In this section—
- " gilt-edged securities " means specified securities within the meaning of section 41 of the Finance Act 1969;
 - " shares " includes securities within the meaning of paragraph 5 of Schedule 7 to the Finance Act 1965.
- (8) This section has effect where the compulsory acquisition is after 6th April 1976.

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54 Capital gains: compulsory acquisition of aircraft and shipbuilding shares

- (1) This section has effect where, in pursuance of any enactment to which this subsection applies, gilt-edged securities are exchanged for shares in a company and, immediately before the exchange, those shares are owned by another company—
 - (a) which is a member of the same group of companies as the first-mentioned company; or
 - (b) which is a member of a consortium by which the first-mentioned company is owned.
- (2) Subsection (1) above applies to any enactment providing for the compulsory acquisition of shares in companies engaged in manufacturing aircraft or guided weapons or in shipbuilding or allied industries.
- (3) In any case in which this section has effect the company owning the shares immediately before the exchange may by notice in writing given to the inspector within four years after the exchange, elect—
 - (a) that section 53(3) above shall not apply to the exchange ; and
 - (b) that section 33 of the Finance Act 1965 (replacement of business assets) shall have effect in relation to the disposal on the occasion of the exchange as if the shares were assets falling within the classes listed in that section and had, throughout the period of ownership, been used and used only for the purposes of a trade carried on by that company.
- (4) For the purposes of this section—
 - (a) two companies shall be deemed to be members of a group of companies if one is the 75 per cent. subsidiary of the other or both are 75 per cent. subsidiaries of a third company ;
 - (b) a company is owned by a consortium if all of the ordinary share capital of that company is directly and beneficially owned between them by five or fewer companies, and those companies are called the members of the consortium.
- (5) Subsections (6) and (7) of section 53 above shall apply in relation to this section as they apply in relation to that section.

55 Capital gains: maintenance funds for historic buildings

- (1) This section applies where after 2nd May 1976 a person disposes of an asset to trustees in circumstances such that the disposal is a transfer of value which by virtue of section 84 below is an exempt transfer.
- (2) The person making the disposal and the person acquiring the asset on the disposal shall be treated for all the purposes of Part III of the Finance Act 1965 (capital gains tax) as if the asset was acquired from the one making the disposal for a consideration of such an amount as would secure that on the disposal neither a gain nor a loss would accrue to the one making the disposal.

56 Capital gains: disposals on trust for benefit of employees

- (1) Where a close company within the meaning of section 90 below or an individual disposes of an asset to trustees in circumstances such that the disposal is a disposition which by virtue of that section is not a transfer of value for the purposes of capital

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transfer tax, Part III of the Finance Act 1965 (capital gains tax) shall have effect in relation to the disposal in accordance with subsections (2) and (3) below.

- (2) Section 22(4) of that Act (consideration deemed to be equal to market value) shall not apply to the disposal; and if the disposal is by way of gift or is for a consideration not exceeding the sums allowable as a deduction under paragraph 4 of Schedule 6 to that Act—
 - (a) the disposal, and the acquisition by the trustees, shall be treated for the purposes of Part III (but not for the purposes of section 57 of the Finance Act 1971) as being made for such consideration as to secure that neither a gain nor a loss accrues on the disposal; and
 - (b) where the trustees dispose of the asset, its acquisition by the company or individual shall be treated as its acquisition by the trustees.
- (3) Where the disposal is by a close company, paragraph 18(1) of Schedule 7 to the said Act of 1965 (assets disposed of for less than market value) shall apply to the disposal as if for the reference to market value there were substituted a reference to market value or the sums allowable as a deduction under paragraph 4 of Schedule 6 to that Act, whichever is the less.
- (4) Subject to subsection (5) below, Part III of the said Act of 1965 shall also have effect in accordance with subsection (2) above in relation to any disposal made after 6th April 1976 by a company other than such a close company as aforesaid if—
 - (a) the disposal is made to trustees otherwise than under a bargain made at arm's length ; and
 - (b) the property disposed of is to be held by them on trusts of the description specified in paragraph 17(1) of Schedule 5 to the Finance Act 1975 (that is to say, those in relation to which the said section 90 has effect) and the persons for whose benefit the trusts permit the property to be applied include all or most of either—
 - (i) the persons employed by or holding office with the company; or
 - (ii) the persons employed by or holding office with the company or any one or more subsidiaries of the company.
- (5) Subsection (4) above does not apply if the trusts permit any of the property to be applied at any time (whether during any such period as is referred to in the said paragraph 17(1) or later) for the benefit of—
 - (a) a person who is a participator in the company (" the donor company "); or
 - (b) any other person who is a participator in any other company that has made a disposal of property to be held on the same trusts as the property disposed of by the donor company, being a disposal in relation to which the said Part III has had effect in accordance with subsection (2) above ; or
 - (c) any other person who has been a participator in the donor company or any such company as is mentioned in paragraph (b) above at any time after, or during the ten years before, the disposal made by that company ; or
 - (d) any person who is connected with a person within paragraph (a), (b) or (c) above.
- (6) The participators in a company who are referred to in subsection (5) above do not include any participator who on a winding-up of the company would not be entitled to 5 per cent. or more of its assets; and in determining whether the trusts permit property to be applied as mentioned in that subsection, no account shall be taken of any power to make a payment which is the income of any person for any of the purposes of income

tax, or would be the income for any of those purposes of a person not resident in the United Kingdom if he were so resident.

- (7) In subsection (4) above " subsidiary " has the same meaning as in the Companies Act 1948 and in subsections (5) and (6) above " participator " has the meaning given in section 303(1) of the Taxes Act, except that it does not include a loan creditor.

57 Investigatory powers

- (1) For section 20 of the Taxes Management Act 1970 (power to call for documents relating to business profits and tax liability thereon) there shall be substituted the sections 20, 20A, 20B, 20C and 20D set out in Schedule 6 to this Act.
- (2) In section 118(1) of that Act (interpretation), in the definition of " tax ", after the words " those taxes " there are inserted the words " except that in sections 20, 20A, 20B, 20C and 20D it does not include development land tax ".

58 Recovery of tax in sheriff court

- (1) Section 67(1) of the Taxes Management Act 1970 (recovery of tax in sheriff court) shall be amended as follows—
- (a) for the words " does not exceed £250 " there shall be substituted the words " does not exceed the sum for the time being specified in section 35(1)(a) of the Sheriff Courts (Scotland) Act 1971 ";
 - (b) the words " or in the sheriff's small debt court, whichever is appropriate " shall be omitted.
- (2) This section shall come into force on 1st September 1976.

59 Post-war credits

After section 131(3) of the Finance Act 1972 (power of Treasury to make order fixing time-limit for applications for repayment of post-war credits) there shall be inserted—

- “(3A) An order under subsection (3) above may make different provision for different cases or classes of case and may provide that no amount shall be ascertained, recorded or notified under section 7 of the Finance Act 1941 after any such time as may be specified in the order.”

CHAPTER II

BENEFITS DERIVED BY COMPANY DIRECTORS AND OTHERS FROM THEIR EMPLOYMENT

60 Payments by way of expenses

- (1) Subject to the provisions of this Chapter, where in any year a person is employed in director's or higher-paid employment and by reason of his employment there are paid to him in respect of expenses any sums which, apart from this section, are not chargeable to tax as his income, those sums are to be treated as emoluments of the employment and accordingly chargeable to income tax under Schedule E.

- (2) Subsection (1) above is without prejudice to any claim for deductions under section 189, 192 or 194(3) of the Taxes Act (relief for necessary expenses, etc.).
- (3) The reference in that subsection to sums paid in respect of expenses includes any sums put at the employee's disposal by reason of his employment and paid away by him.
- (4) This section has effect for the year 1977-78 and subsequent years.

61 General provision charging benefits

- (1) Where in any year a person is employed in director's or higher-paid employment and—
 - (a) by reason of his employment there is provided for him, or for others being members of his family or household, any benefit to which this section applies; and
 - (b) the cost of providing the benefit is not (apart from this section) chargeable to tax as his income,there is to be treated as emoluments of the employment, and accordingly chargeable to income tax under Schedule E, an amount equal to whatever is the cash equivalent of the benefit.
- (2) The benefits to which this section applies are living or other accommodation, entertainment, domestic or other services, and other benefits and facilities of whatsoever nature (whether or not similar to any of those mentioned above in this subsection), excluding however those taxable under sections 64 to 68 below in this Chapter, and subject to the exceptions provided for by the next following section.
- (3) For the purposes of this section and sections 62 and 63 below, the persons providing a benefit are those at whose cost the provision is made.
- (4) This section has effect for the year 1977-78 and for subsequent years.

62 Exceptions from general charge

- (1) Without prejudice to its generality, section 61 above applies where by reason of the person's employment a car is made available (without any transfer of the property in it) either to himself or to others being members of his family or household, and it is made available for his or their private use, but applies only where in the relevant year either—
 - (a) the car is not used for the employee's business travel; or
 - (b) its use for such travel is insubstantial compared with the private use that is made of it.
- (2) That section applies to benefits in connection with a car made available as mentioned in subsection (1) above, but only for a year in which either paragraph (a) or paragraph (b) of that subsection is the case; and, for a year in which neither paragraph is the case, the section applies only to benefits in connection with the provision of a driver for the car.
- (3) Section 61 above does not apply where the benefit consists in provision for the employee, in premises occupied by the employer or others providing it, of accommodation, supplies or services used by the employee solely in performing the duties of his employment.

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- (4) That section does not apply where the benefit consists in the provision of living accommodation and—
- (a) the person providing it is the employee's employer, and it is provided in part of premises occupied by him; and
 - (b) the employee is required by the terms of his employment to reside in the accommodation provided, and it is necessary for him to reside on the premises for the proper performance of his duties.
- (5) But subsection (4) above does not operate where the accommodation is provided by a company and either—
- (a) the employee is a director of that company ; or
 - (b) he is a director of another company over which it has control, or which has control over it, or which is under the control of a person who also has control over the company first mentioned.
- (6) Section 61 above does not apply to a benefit consisting in the provision by the employee's employer for the employee himself, or for the spouse, children or dependants of the employee, of any pension, annuity, lump sum, gratuity or other like benefit to be given on the employee's death or retirement.
- (7) Section 61 does not apply to a benefit consisting in the provision by the employee's employer of meals in any canteen in which meals are provided for the staff generally.

63 Cash equivalent of benefits charged under s. 61

- (1) The cash equivalent of any benefit chargeable to tax under section 61 above is an amount equal to the cost of the benefit, less so much (if any) of it as is made good by the employee to those providing the benefit.
- (2) Subject to the following subsections, the cost of a benefit is the amount of any expense incurred in or in connection with its provision, and (here and in those subsections) includes a proper proportion of any expense relating partly to the benefit and partly to other matters.
- (3) Where the benefit consists in the transfer of an asset by any person, and since that person acquired or produced the asset it has been used or has depreciated, the cost of the benefit is deemed to be the market value of the asset at the time of transfer.
- (4) Where the benefit consists in an asset being placed at the employee's disposal, or at the disposal of others being members of his family or household, for his or their use (without any transfer of the property in the asset), or of its being used wholly or partly for his or their purposes, then the cost of the benefit in any year is deemed to be—
- (a) the annual value of the use of the asset, ascertained under subsection (5) below, plus
 - (b) the total of any expense incurred in or in connection with the provision of the benefit (excluding however the expense of acquiring or producing it incurred by the person to whom the asset belongs).
- (5) The annual value of the use of the asset, for the purposes of subsection (4) above—
- (a) in the case of land, is its annual value determined in accordance with section 531 of the Taxes Act; and

- (b) in the case of a car to which section 62(1)(a) or (b) applies in that year, is 20 per cent. of its original market value or 10 per cent. if at the end of the year its age exceeds 4 years ; and
 - (c) in any other case is 10 per cent. of its market value at the time when it was first applied (by those providing the benefit in question) in the provision of any benefit for a person, or for members of his family or household, by reason of his employment.
- (6) But where there is payable, by those providing the benefit, any sum by way of rent or hire-charge for the asset, the following applies—
- (a) if the annual amount of the rent or hire-charge is equal to, or greater than, the annual value of the use of the asset as ascertained under subsection (5) above, that amount is to be substituted for the annual value in subsection (4)(a); and
 - (b) if that amount is less than the annual value as so ascertained, the amount is to be left out of account under paragraph (b) of that subsection as expense incurred in or in connection with the provision of the benefit.
- (7) Where the benefit consists in the provision of accommodation for the employee, or members of his family or household, in premises in whose case there is an amount to be treated under section 185(1) of the Taxes Act as his emoluments, then any expense incurred in or in connection with the provision of the benefit is to be treated as reduced by that amount; and if the amount is greater than the total of that expense, the benefit is to be disregarded for the purposes of any charge to income tax under section 61 above.
- (8) From the cash equivalent there are deductible in each case under section 189, 192, or 194(3) of the Taxes Act (necessary expenses etc.) such amounts (if any) as would have been so deductible if the cost of the benefit had been incurred by the employee out of his emoluments.

64 Cars available for private use

- (1) Where in any year in the case of a person employed in director's or higher-paid employment, a car is made available (without any transfer of the property in it) either to himself or to others being members of his family or household, and—
- (a) it is so made available by reason of his employment and it is in that year available for his or their private use; and
 - (b) the benefit of the car is not (apart from this section) chargeable to tax as the employee's income,
- there is to be treated as emoluments of the employment, and accordingly chargeable to income tax under Schedule E, an amount equal to whatever is the cash equivalent of that benefit in that year.
- (2) Subject to the provisions of this section, the cash equivalent of that benefit is to be ascertained—
- (a) from Tables A and B in Part I of Schedule 7 to this Act, in the case of cars with an original market value up to £6,000 ; and
 - (b) from Table C in that Part of that Schedule in the case of cars with an original market value more than that amount,
- the equivalent in each case being shown in the second or third column of the applicable Table by reference to the age of the car at the end of the relevant year of assessment.
- (3) This section has effect for the year 1977-78 and subsequent years.

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- (4) The Treasury may by order taking effect from the beginning of any year beginning after it is made (but not of any year earlier than 1978-79)—
- (a) increase (or further increase) the money sum specified in subsection (2)(a) above ;
 - (b) with or without such an increase, substitute for any of the three Tables a different Table of cash equivalents.

Orders under this subsection shall be made by statutory instrument subject to annulment in pursuance of a resolution of the House of Commons; and any such order may revoke a previous order thereunder.

- (5) Part II of Schedule 7 to this Act has effect—
- (a) with respect to the application of the Tables in Part I; and
 - (b) for reduction of the cash equivalent under this section in cases where the car has not been available for the whole of the relevant year, or the use of it has been preponderantly business use, or the employee makes any payment for the use of it.

65 Pooled cars

- (1) This section applies to any car in whose case the inspector is satisfied (whether on a claim under this section or otherwise) that it has for any year been included in a car pool for the use of the employees of one or more employers.
- (2) A car is to be treated as having been so included for a year if—
 - (a) in that year it was made available to, and actually used by, more than one of those employees and, in the case of each of them, it was made available to him by reason of his employment but it was not in that year ordinarily used by any one of them to the exclusion of the others ; and
 - (b) in the case of each of them any private use of the car made by him in that year was merely incidental to his other use of it in the year ; and
 - (c) it was in that year not normally kept overnight on or in the vicinity of any residential premises where any of the employees was residing, except while being kept overnight on premises occupied by the person making the car available to them.
- (3) Where this section applies to a car, then for the year in question the car is to be treated under sections 61 and 64 of this Act as not having been available for the private use of any of the employees.
- (4) A claim under this section in respect of a car for any year may be made by any one of the employees mentioned in subsection (2)(a) above (they being referred to below in this section as " the employees concerned") or by the employer on behalf of all of them.
- (5) On an appeal against the decision of the inspector on a claim under this section all the employees concerned may take part in the proceedings, and the determination of the body of Commissioners or county court appealed to shall be binding on all those employees, whether or not they have taken part in the proceedings.
- (6) Where an appeal against the decision of the inspector on a claim under this section has been determined, no appeal against the inspector's decision on any other such claim in respect of the same car and the same year shall be entertained.

66 Beneficial loan arrangements

- (1) Where in the case of a person employed in director's or higher-paid employment there is outstanding for the whole or part of a year a loan (whether to the employee himself or a relative of his) of which the benefit is obtained by reason of his employment and—
 - (a) no interest is paid on the loan for that year ; or
 - (b) the amount of interest paid on it for the year is less than interest at the official rate,
there is to be treated as emoluments of the employment, and accordingly chargeable to income tax under Schedule E, an amount equal to whatever is the cash equivalent of the benefit of the loan for that year.
- (2) There is no charge to tax under subsection (1) if the cash equivalent does not exceed £50 or (for a year in which there are two or more loans outstanding) the total of all the cash equivalents does not exceed that amount.
- (3) Where in the case of a person employed in director's or higher-paid employment there is in any year released or written off the whole or part of a loan (whether to the employee himself or a relative of his, and whether or not such a loan as is mentioned in subsection the benefit of which was obtained by reason of his employment, then, subject to subsection (5) below, there is to be treated as emoluments of the employment, and accordingly chargeable to income tax under Schedule E, an amount equal to that which is released or written off.
- (4) If the employee shows that he derived no benefit from a loan made to a relative of his, subsections (1) and (3) shall not apply to that loan.
- (5) Subsection (3) does not apply where the amount released or written off is chargeable to income tax as income of the employee apart from this section, except—
 - (a) where it is chargeable only by virtue of section 187 of the Taxes Act (payments on retirement or removal from employment); or
 - (b) to the extent that the amount exceeds the sums previously falling to be treated as the employee's income under section 451 of the Taxes Act (sums paid to settlor otherwise than as income).
- (6) Where there was outstanding at any time when a person was in director's or higher-paid employment the whole or part of a loan to him (or to a relative of his) the benefit of which was obtained by reason of his employment, and that director's or higher-paid employment has terminated, whether on the employee ceasing to be employed or ceasing to be employed in director's or higher-paid employment, subsection (3) applies as if it had not terminated.
- (7) But on the employee's death—
 - (a) a loan within subsection (1) ceases to be outstanding for the purposes of the operation of that subsection; and
 - (b) no charge arises under subsection (3) by reference to any release or writing-off which takes effect on or after the death.
- (8) Part I of Schedule 8 to this Act has effect as to what is meant by the benefit of a loan obtained by reason of a person's employment; the cash equivalent of the benefit is to be ascertained in accordance with Part II of that Schedule; and Part III of that Schedule has effect for excluding from the operation of subsection (1) of this section loans on which interest is eligible for relief under section 75 of the Finance Act 1972.
- (9) In this section, section 67 below and Schedule 8—

Status: This is the original version (as it was originally enacted).

- (a) " loan " includes any form of credit;
 - (b) references to a loan include references to any other loan applied directly or indirectly towards the replacement of the first-mentioned loan ;
 - (c) references to making a loan include arranging, guaranteeing or in any way facilitating a loan (related expressions being construed accordingly); and
 - (d) references to the official rate of interest are to the rate prescribed from time to time by the Treasury by order in a statutory instrument subject to annulment in pursuance of a resolution of the House of Commons.
- (10) For the purposes of this section, a person is a relative of another person if he or she is—
- (a) the spouse of that other ; or
 - (b) a parent or remoter forebear, child or remoter issue, or brother or sister of that other or of the spouse of that other; or
 - (c) the spouse of a person falling within paragraph (b) above.
- (11) This section applies to loans whether made before or after this Act is passed ; and—
- (a) subsection (1) has effect for the year 1978-79 and subsequent years; but for that year and 1979-80 the cash equivalent under that subsection instead of being the amount arrived at by applying Part II of Schedule 8 is that amount reduced by half ; and
 - (b) subsection (3) has effect for the year 1976-77 and subsequent years, except that it does not apply to benefits received in pursuance of arrangements made at any time with a view to protecting the holder of shares acquired before 6th April 1976 from a fall in their market value.

67 Employee shareholdings

- (1) Subsections (2) to (6) of this section apply where after 6th April 1976—
- (a) a person employed or about to be employed in director's or higher-paid employment (" the employee "), or a person connected with him, acquires shares in a company (whether the employing company or not); and
 - (b) the shares are acquired at an under-value in pursuance of a right or opportunity available by reason of the employment.
- (2) " At an under-value " means the shares being acquired either without payment for them at the time or being acquired for an amount then paid which is less than the market value of fully paid up shares of that class (in either case with or without obligation to make payment or further payment at some later time).
- (3) In the circumstances specified above, section 66(1) of this Act, with Schedule 8, applies as if the employee had the benefit of an interest-free loan obtained by reason of his employment; and this is " the notional loan " referred to in the following subsections.
- (4) The amount initially outstanding of the notional loan is so much of the under-value on acquisition (that is, the market value referred to in subsection (2) less any payment then made for the shares) as is not chargeable to tax as an emolument of the employee; and—
- (a) the loan remains outstanding until terminated under subsection (5) below; and
 - (b) payments or further payments made for the shares after the initial acquisition go to reduce the amount outstanding of the notional loan.

- (5) The notional loan terminates on the occurrence of any of the following events—
- (a) the whole amount of it outstanding is made good by means of payments or further payments made for the shares; or
 - (b) the case being one in which the shares were not at the time of acquisition fully paid up, any outstanding or contingent obligation to pay for them is released, transferred or adjusted so as no longer to bind the employee or any person connected with him ; or
 - (c) the shares are so disposed of by surrender or otherwise that neither he nor any such person any longer has a beneficial interest in the shares ; or
 - (d) the employee dies.
- (6) If the notional loan terminates as mentioned in subsection (5)(b) or (c) above, there is then for the year in which the event in question occurs the same charge to income tax on the employee, under section 66(3) of this Act, as if an amount equal to the then outstanding amount of the notional loan had been released or written off from a loan within that section.
- (7) Where after 6th April 1976 shares are acquired, whether or not at an under-value but otherwise as mentioned in subsection (1) above, and—
- (a) the shares are subsequently disposed of by surrender or otherwise so that neither the employee nor any person connected with him any longer has a beneficial interest in them; and
 - (b) the disposal is for a consideration which exceeds the then market value of the shares,
- then for the year in which the disposal is effected the amount of the excess is treated as emoluments of the employee's employment and accordingly chargeable to income tax under Schedule E.
- (8) If at the time of the event giving rise to a charge by virtue of subsection (6) or (7) above the person who is " the employee " under this section by reference to his employment in director's or higher-paid employment mentioned in subsection (1)(a) has ceased to be employed in that employment, subsections (6) and (7) apply as if he had not so ceased.
- (9) But no charge arises under subsection (7) by reference to any disposal effected after the death of the employee, whether by his personal representatives or otherwise.
- (10) This section applies in relation to acquisition and disposal of an interest in shares less than full beneficial ownership (including an interest in the proceeds of sale of part of the shares but not including a share option) as it applies in relation to the acquisition and disposal of shares, and in those cases—
- (a) for references to the shares acquired substitute references to the interest in shares acquired ;
 - (b) for the reference to the market value of the shares acquired substitute a reference to the proportion corresponding to the size of the interest of the market value of the shares in which the interest subsists ;
 - (c) for the reference to shares of the same class as those acquired substitute references to shares of the same class as those in which the interest subsists ; and
 - (d) for the reference to the market value of fully paid up shares of that class substitute a reference to the proportion of that value corresponding to the size of the interest.

- (11) In this section—
- (a) " shares " includes stock and also includes securities as defined in section 237(5) of the Taxes Act;
 - (b) " acquisition ", in relation to shares, includes receipt by way of allotment or assignment, or otherwise howsoever;
 - (c) any reference to payment for shares includes giving any consideration in money or money's worth or making any subscription, whether in pursuance of a legal liability or not;
 - (d) " market value " has the same meaning as, for the purposes of Part III of the Finance Act 1965, it has by virtue of section 44 of that Act;
- and section 533 of the Taxes Act (connected persons) applies for the purposes of this section.
- (12) In respect of any shares or interest in shares this section only operates to include an amount in emoluments so far as any amount corresponding to it, and representing the same benefit, does not otherwise fall to be so included under the Tax Acts.
- (13) Where an amount is chargeable to tax by virtue of subsection (6) above in respect of shares or an interest in shares, then—
- (a) on a disposal of the shares or interest, where that is the event giving rise to the charge ; or
 - (b) in any other case on the first disposal of the shares or interest after the event, paragraph 4(1)(a) of Schedule 6 to the Finance Act 1965 (expenditure allowable in computation of chargeable gains) applies as if a sum equal to the amount chargeable had formed part of the consideration given by the person making the disposal for his acquisition of the shares or interest.
- (14) This section has effect for the year 1976-77 and subsequent years.

68 Medical insurance

- (1) Where in the case of a person employed in any employment (whether or not director's or higher-paid)—
- (a) expense is incurred by his employer or others in or in connection with the provision for him, and for others being members of his family or household, of insurance against the cost of medical treatment; and
 - (b) that provision is made by reason of his employment and, apart from this Chapter, the expense would not be chargeable to tax as his income,
- there is to be treated as emoluments of the employment, and accordingly chargeable to tax under Schedule E, an amount equal to that of the expenditure (disregarding so much of it, if any, as is made good by him to those incurring it).
- (2) Where the provision is made for a group or class to which the employees or the others in question belong, then the amount to be taken into account under subsection (1) above in respect of him is such proportion of the total expenses for all the members of the group or class as is just and reasonable.
- (3) This section does not apply to expense incurred wholly in or in connection with the provision for the employee of insurance against the cost of medical treatment outside the United Kingdom, the need for which arises while the employee is outside the United Kingdom for the purpose of performing the duties of his employment.

- (4) For the purposes of this section, medical treatment includes all forms of treatment for, and all procedures for diagnosing, any physical or mental ailment, infirmity or defect; and the cost of medical treatment includes the cost of being an in-patient, whether or not in a private room, for the purpose of medical treatment.
- (5) This section has effect for the year 1976-77 and subsequent years.

69 Employments subject to ss. 60 to 67

- (1) In this Chapter " director's or higher-paid employment " means—
 - (a) employment as a director of a company (but excluding, if he does not have a material interest in the company, employment as a full-time working director); or
 - (b) employment with emoluments at the rate of £5,000 a year or more.
- (2) For this purpose emoluments are to be calculated—
 - (a) on the basis that they include all such amounts as come into charge under this Chapter in the case of those in director's or higher-paid employment or under section 68, or under section 36 or 37 of the Finance (No. 2) Act 1975 (cash or other vouchers); and
 - (b) without any deduction under section 189, 192 or 194(3) of the Taxes Act (necessary expenses of employment, etc.).
- (3) But where a person is employed in two or more employments by the same employer, and the total of the emoluments of those employments (applying this section) is at the rate of £5,000 a year or more, all the employments are to be treated as director's or higher-paid.
- (4) All employees of a partnership or body over which an individual or another partnership or body has control are to be treated for the purposes of this section (but not for any other purpose) as if the employment were an employment by the individual or by that other partnership or body, as the case may be.

70 Notice of nil liability under this Chapter

- (1) If a person furnishes to the inspector a statement of the cases and circumstances in which payments of a particular character are made, or benefits or facilities of a particular kind are provided, for any employees (whether his own or those of anyone else), and the inspector is satisfied that no additional tax is payable under this Chapter by reference to the payments, benefits or facilities mentioned in the statement, the inspector shall notify the person accordingly; and then nothing in this Chapter applies to those payments, or to the provision of those benefits or facilities, or otherwise for imposing any additional charge to income tax.
- (2) The inspector may, if in his opinion there is reason to do so, by notice in writing served on the person to whom notification under subsection (1) above was given, revoke the notification, either as from the date of its making or as from such later date as may be specified in the notice under this subsection; and then all such income tax becomes chargeable, and all such returns are to be made by that person and by the employees in question, as would have been chargeable or would have had to be made in the first instance if the notification under subsection (1) had never been given or, as the case may be, it had ceased to have effect on the specified date.

71 Cash vouchers

- (1) Section 37 of the Finance (No. 2) Act 1975 (taxation of cash vouchers for year 1976-77 and subsequent years of assessment) shall not have effect for the year 1976-77 and accordingly—
- (a) in subsection (6) of that section the words " and subsection (6) " shall be omitted ; and
 - (b) after that subsection there shall be inserted—

“(7) This section has effect for the year 1977-78 and subsequent years of assessment.”
- (2) In subsection (5) of that section for the words from " income tax " onwards there shall be substituted the words " income tax in respect of all payments made in exchange for vouchers issued under the scheme to be deducted in accordance with regulations under section 204 of the Taxes Act ".

72 Interpretation of this Chapter; supplementary

- (1) The following provisions of this section apply for the interpretation of expressions used in sections 60 to 71 above, and Schedules 7 and 8.
- (2) "Employment" means an office or employment whose emoluments fall to be assessed under Schedule E; and related expressions are to be construed accordingly.
- (3) For the purposes of this Chapter, all sums paid to an employee by his employer in respect of expenses, and all such provision as is mentioned in this Chapter which is made for an employee, or for members of his family or household, by his employer, are deemed to be paid to or made for him or them by reason of his employment.

But this does not apply to any such payment or provision made by the employer, being an individual, as can be shown to have been made in the normal course of his domestic, family or personal relationships.

- (4) References to members of a person's family or household are to his spouse, his sons and daughters and their spouses, his parents and his servants, dependants and guests.
- (5) As respects cars, the following definitions apply—
- (a) " car" means any mechanically propelled road vehicle except—
 - (i) a vehicle of a construction primarily suited for the conveyance of goods or burden of any description,
 - (ii) a vehicle of a type not commonly used as a private vehicle and unsuitable to be so used,
 - (iii) a motor cycle as defined in section 190(4) of the Road Traffic Act 1972, and
 - (iv) an invalid carriage as defined in section 190(5) of that Act;
 - (b) the age of a car at any time is the interval between the date of its first registration and that time ;
 - (c) " business travel" means travelling which a person is necessarily obliged to do in the performance of the duties of his employment;
 - (d) the date of a car's first registration is the date on which it was first registered—
 - (i) in Great Britain, under the Vehicles (Excise) Act 1971 or corresponding earlier legislation, or

- (ii) elsewhere, under the corresponding legislation of any country or territory ;
 - (e) the original market value of a car is the inclusive price which it might reasonably have been expected to fetch if sold in the United Kingdom singly in a retail sale in the open market immediately before the date of its first registration (" inclusive price " meaning the price inclusive of customs or excise duty, of any tax chargeable as if it were a duty of customs, and of car tax); and
 - (f) "private use", in relation to a car made available to any person, or to others being members of his family or household, means any use otherwise than for his business travel.
- (6) For the purposes of this Chapter—
- (a) a car made available in any year to an employee, or to others being members of his family or household, by reason of his employment is deemed to be available in that year for his or their private use unless the terms on which the car is made available prohibits such use and no such use is made of the car in that year;
 - (b) a car made available to an employee, or to others being members of his family or household, by his employer is deemed to be made available to him or them by reason of his employment (unless the employer is an individual and it can be shown that the car was made so available in the normal course of his domestic, family or personal relationships).
- (7) For the purposes of section 63, the market value of an asset at any time is the price which it might reasonably have been expected to fetch on a sale in the open market at that time.
- (8) " Director " means—
- (a) in relation to a company whose affairs are managed by a board of directors or similar body, a member of that board or similar body ;
 - (b) in relation to a company whose affairs are managed by a single director or similar person, that director or person; and
 - (c) in relation to a company whose affairs are managed by the members themselves, a member of the company,
- and includes any person in accordance with whose directions or instructions the directors of the company (defined as above) are accustomed to act.
- But a person is not under this subsection to be deemed a person in accordance with whose directions or instructions the directors of the company are accustomed to act by reason only that the directors act on advice given by him in a professional capacity.
- (9) "Full-time working director" means a director who is required to devote substantially the whole of his time to the service of the company in a managerial or technical capacity.
- (10) A person shall be treated as having a material interest in a company—
- (a) if he, either on his own or with any one or more of his associates, or if any associate of his with or without such other associates, is the beneficial owner of, or able, directly or through the medium of other companies or by any other indirect means, to control, more than 5 per cent. of the ordinary share capital of the company, or

Status: This is the original version (as it was originally enacted).

- (b) if, in the case of a close company, on an amount equal to the whole distributable income of the company falling to be apportioned under Chapter III of Part XI of the Taxes Act for the purpose of computing total income, more than 5 per cent. of that amount could be apportioned to him together with his associates (if any), or to any associate of his, or any such associates taken together.

In this subsection "associate" has the same meaning as in section 303(3) of the Taxes Act, except that for this purpose "relative" in that subsection has the same meaning as in this Chapter.

- (11) "Control", in relation to a body corporate or partnership, has the meaning given to it by section 534 of the Taxes Act; and the definition of "control" in that section applies (with the necessary modifications) in relation to an unincorporated association as it applies in relation to a body corporate.
- (12) "Year" means year of assessment (except where the expression is used with reference to the age of a car).
- (13) The enactments specified in Schedule 9 to this Act shall be amended as there specified (which are amendments consequential on the replacement by this Chapter of Chapter II of Part VIII of the Taxes Act and other provisions); Part I of that Schedule substitutes a new section for section 15 of the Taxes Management Act 1970, and contains consequential amendments; Part II contains other amendments.