

SCHEDULES

SCHEDULE 12

Section 80.

BROADCASTING: TRANSFER OF UNDERTAKINGS OF INDEPENDENT BROADCASTING AUTHORITY AND CABLE AUTHORITY

Transfer of IBA's transmission activities to nominated company: corporation tax

- 1 (1) Subject to sub-paragraph (2), the following provisions shall apply for the purposes of the Corporation Tax Acts, namely—
- (a) the part of the trade carried on by the IBA which is transferred to the nominated company under the Broadcasting Act 1990 (“the principal Act”) shall be treated as having been, at the time when it began to be carried on by the IBA and at all times since that time, a separate trade carried on by that company;
 - (b) the trade carried on by that company after the transfer date shall be treated as the same trade as that which, by virtue of paragraph (a) above, it is treated as having carried on before that date;
 - (c) all property, rights and liabilities of the IBA which are transferred under the principal Act to that company shall be treated as having been, at the time when they became vested in the IBA and at all times since that time, property, rights and liabilities of that company; and
 - (d) anything done by the IBA in relation to any such property, rights and liabilities as are mentioned in paragraph (c) above shall be deemed to have been done by that company.
- (2) There shall be apportioned between the IBA and the nominated company—
- (a) the unallowed tax losses of the IBA, and
 - (b) any expenditure which they have incurred before the transfer date and by reference to which capital allowances may be made,
- in such manner as is just and reasonable having regard—
- (i) to the extent to which such losses and expenditure are attributable to the part of the trade carried on by them which is transferred to that company under the principal Act, and
 - (ii) as respects the apportionment of such expenditure, to the division of their assets between the relevant transferees which is effected under that Act.
- (3) In this paragraph—
- “the IBA’s final accounting period” means the last complete accounting period of the IBA ending before the transfer date;
 - “unallowed tax losses” means losses, allowances or amounts which, as at the end of the IBA’s final accounting period, are tax losses within the meaning given by section 400(2) of the Taxes Act 1988, excluding losses which are allowable capital losses within the meaning of paragraph 6 below.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 1990, SCHEDULE 12. (See end of Document for details)

- (4) This paragraph shall have effect in relation to accounting periods beginning after the IBA’s final accounting period.

Transfer of IBA’s assets to Commission and Radio Authority: chargeable gains

- 2 (1) For the purposes of the [^{F1}108 of the Taxation of Chargeable Gains Act 1992] the transfer under the principal Act of any asset from the IBA to the Commission or the Radio Authority shall be deemed to be for a consideration such that no gain or loss accrues to the IBA; and Schedule [^{F2}] to that Act (assets held on 6th April 1965) shall have effect in relation to an asset so transferred as if the acquisition or provision of it by the IBA had been the acquisition or provision of it by the Commission or (as the case may be) by the Authority.

^{F2}(2)

- (3) Where the benefit of any debt in relation to which the IBA are, for the purposes of section [^{F1}251 of the 1992] Act (debts), the original creditor is transferred under the principal Act to the Commission or the Radio Authority, the Commission or (as the case may be) the Radio Authority shall be treated for those purposes as the original creditor in relation to the debt in place of the IBA.

Textual Amendments

- F1** Words in [Sch. 12 para. 2\(1\)\(3\)](#) substituted (6.3.1992 with effect as mentioned in s. 289 (1)(2) of the substituting Act) by [Taxation of Chargeable Gains Act 1992 \(c. 12\), s. 290, Sch. 10 para. 22\(5\)\(a\)](#) (with ss. 60, 101(1), 201(3)).
- F2** [Sch. 12 para. 2\(2\)](#) repealed (6.3.1992 with effect as mentioned in s. 289 (1)(2) of the repealing Act) by [Taxation of Chargeable Gains Act 1992 \(c. 12\), s. 290, Sch.12](#) (with ss. 60, 101(1), 201(3), Sch. 11 paras. 22, 26(2), 27).

Disposal by IBA of DBS assets to DBS programme contractor: chargeable gains

- 3 (1) For the purposes of the 1979 Act the disposal under the principal Act of any relevant asset by the IBA to a DBS programme contractor shall be deemed to be for a consideration such that no gain or loss accrues to the IBA.
- (2) In this paragraph—
- (a) “relevant asset” means any equipment or other asset (of whatever description) which has been used or held by the IBA in connection with the transmission of DBS services; and
- (b) “DBS programme contractor” and “DBS service” have the meaning given by section 37(3) of the ^{M1}Cable and Broadcasting Act 1984.

Marginal Citations

- M1** [1984 c. 46.](#)

Changes to legislation: There are currently no known outstanding effects for the Finance Act 1990, SCHEDULE 12. (See end of Document for details)

Transfer of Cable Authority's assets to Commission: chargeable gains

- 4 For the purposes of the [^{F3}1992] Act the transfer by the principal Act of any asset from the Cable Authority the Commission shall be deemed to be for a consideration such that no gain or loss accrues to that Authority.

Textual Amendments

- F3** Words in *Sch. 12 paras. 4-6* substituted (6.3.1992 with effect as mentioned in s. 289 (1)(2) of the substituting Act) by *Taxation of Chargeable Gains Act 1992 (c. 12), s. 290, Sch. 10 para. 22(5)(b)* (with ss. 60, 101(1), 201(3)).

Transfer of shares from Commission to Channel 4 company: chargeable gains

- 5 (1) For the purposes of the [^{F4}1992] Act the transfer by the principal Act of shares in the Channel 4 company from the Commission to the Channel Four Television Corporation shall be deemed to be for a consideration such that no gain or loss accrues to the Commission.
- (2) In sub-paragraph (1) “the Channel 4 company” means the body corporate referred to in section 12(2) of the ^{M2}Broadcasting Act 1981.

Textual Amendments

- F4** Words in *Sch. 12 paras. 4, 5, 6* substituted (6.3.1992 as mentioned in s. 289 (1)(2) of the substituting Act) by *Taxation of Chargeable Gains Act 1992 (c. 12), s. 290, Sch. 10 para. 22(5)(b)* (with ss. 60, 101(1), 201(3)).

Marginal Citations

- M2** 1981 c. 68.

Apportionment of unallowed capital losses between relevant transferees

- 6 (1) The unallowed capital losses of the IBA shall be apportioned between the relevant transferees in such manner as is just and reasonable having regard to the purposes, or principal purposes, for which the relevant assets were respectively used or held by the IBA and the activities which are to be carried on by those transferees respectively as from the transfer date.
- (2) Any unallowed capital losses of the IBA which are apportioned to one of the relevant transferees under sub-paragraph (1) shall be treated as allowable capital losses accruing to that transferee on the disposal of an asset on the transfer date.
- (3) In this paragraph—
- “allowable capital losses” means losses which are allowable for the purposes of the [^{F5}1992] Act;
- “relevant assets”, in relation to unallowed capital losses of the IBA, means the assets on whose disposal by the IBA those losses accrued;
- “unallowed capital losses”, in relation to the IBA, means allowable capital losses which have accrued to the IBA before the transfer date, in so far as they have not been allowed as deductions from chargeable gains.

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Textual Amendments

- F5** Words in [Sch. 12 paras. 4, 5, 6](#) substituted (6.3.1992 as mentioned in s. 289 (1)(2) of the substituting Act) by [Taxation of Chargeable Gains Act 1992 \(c. 12\), s. 290, Sch. 10 para. 22\(5\)\(b\)](#) (with [ss. 60, 101\(1\), 201\(3\)](#)).

Roll-over relief in connection with nominated company

- 7 Where the IBA have before the transfer date disposed of (or of their interest in) any assets used, throughout the period of ownership, wholly or partly for the purposes of the part of their trade transferred to the nominated company under the principal Act, sections [^{F6}152 to 156 of the 1992] Act (roll-over relief on replacement of business assets) shall have effect in relation to that disposal as if the IBA and the nominated company were the same person.

Textual Amendments

- F6** Words in [Sch. 12 paras. 7](#) substituted (6.3.1992 as mentioned in s. 289 (1)(2) of the substituting Act) by [Taxation of Chargeable Gains Act 1992 \(c. 12\), s. 290, Sch. 10 para. 22\(5\)\(c\)](#) (with [ss. 60, 101\(1\), 201\(3\)](#)).

Disputes as to apportionments etc.

- 8 (1) This paragraph applies where any apportionment or other matter arising under the foregoing provisions of this Schedule appears to be material as respects the liability to tax (for whatever period) of two or more relevant transferees.
- (2) Any question which arises as to the manner in which the apportionment is to be made or the matter is to be dealt with shall be determined, for the purposes of the tax of both or all of the relevant transferees concerned—
- (a) in a case where the same body of General Commissioners have jurisdiction with respect to both or all of those transferees, by those Commissioners, unless those transferees agree that it shall be determined by the Special Commissioners;
 - (b) in a case where different bodies of Commissioners have jurisdiction with respect to those transferees, by such of those bodies as the Board may direct, unless those transferees agree that it shall be determined by the Special Commissioners; and
 - (c) in any other case, by the Special Commissioners.
- (3) The Commissioners by whom the question falls to be determined shall make the determination in like manner as if it were an appeal except that both or all of the relevant transferees concerned shall be entitled to appear and be heard by the Commissioners or to make representations to them in writing.

Securities of nominated company

- 9 (1) Any share issued by the nominated company to the Secretary of State in pursuance of the principal Act shall be treated for the purposes of the Corporation Tax Acts as if it had been issued wholly in consideration of a subscription paid to that company of an amount equal to the nominal value of the share.

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- (2) Any debenture issued by the nominated company to the Secretary of State in pursuance of the principal Act shall be treated for the purposes of the Corporation Tax Acts as if it had been issued—
- (a) wholly in consideration of a loan made to that company of an amount equal to the principal sum payable under the debenture; and
 - (b) wholly and exclusively for the purposes of the trade carried on by that company.

Interpretation

- 10 (1) In this Schedule—

[^{F7} “the 1992 Act” means the Taxation of Chargeable Gains Act 1992]
“the Commission” means the Independent Television Commission;
“the IBA” means the Independent Broadcasting Authority;
“the nominated company” and “the transfer date” have the same meaning as in the provisions of the principal Act relating to the transfer of the undertakings of the IBA and the Cable Authority;
“the principal Act” means the Broadcasting Act 1990;
“the relevant transferees” means the Commission, the Radio Authority and the nominated company.

- (2) References in this Schedule to things transferred under the principal Act are references to things transferred in accordance with a scheme made under that Act.

Textual Amendments

- F7** Definition in Sch. 12 para. 10 substituted (6.3.1992 with effect as mentioned in s. 289 (1)(2) of the substituting Act) by [Taxation of Chargeable Gains Act 1992 \(c. 12\)](#), s. 290, [Sch. 10 para. 22\(5\)\(d\)](#) (with ss. 60, 101(1), 201(3)).

Changes to legislation:

There are currently no known outstanding effects for the Finance Act 1990, SCHEDULE 12.