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SCHEDULES

SCHEDULE 1

Section 1.

TABLE OF RATES OF DUTY ON WINE AND MADE-WINE

Commencement Information

I1 Schedule 1 deemed to have come into force at 6 p.m. on 16.3.1993: see s. 1(2)(4)

"PART I

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

Description of wine or made-wine	*Rates of duty per hectolitre*
	£
Wine or made-wine of a strength not exceeding 2 per cent.	13.23
Wine or made-wine of a strength exceeding 2 per cent. but not exceeding 3 per cent.	22.04
Wine or made-wine of a strength exceeding 3 per cent. but not exceeding 4 per cent.	30.86
Wine or made-wine of a strength exceeding 4 per cent. but not exceeding 5 per cent.	39.69
Wine or made-wine of a strength exceeding 5 per cent. but not exceeding 5.5 per cent.	48.50
Wine or made-wine of a strength exceeding 5.5 per cent. but not exceeding 15 per cent. and not being sparkling	132.26
Sparkling wine or sparkling made-wine of a strength exceeding 5.5 per cent. but not exceeding 15 per cent.	218.40
Wine or made-wine of a strength exceeding 15 per cent. but not exceeding 22 per cent.	220.43

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PART II

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

Description of wine or made-wine	*Rates of duty per litre of alcohol in the wine or made-wine*
	£
Wine or made-wine of a strength exceeding 22 per cent.	19.81”

[F1]SCHEDULE 2

Section 49.

. . . .

Textual Amendments

F1 Sch. 2 repealed (1.9.1994) by 1994 c. 23, ss. 100(2), 101(1), **Sch. 15**

[F2]SCHEDULE 3

Section 72.

. . . .

Textual Amendments

F2 Sch. 3 repealed (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by Income Tax (Earnings and Pensions) Act 2003 (c. 1), s. 723, **Sch. 8 Pt. 1** (with Sch. 7)

[F3]SCHEDULE 4

Section 73.

. . . .

Textual Amendments

F3 Sch. 4 repealed (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by Income Tax (Earnings and Pensions) Act 2003 (c. 1), s. 723, **Sch. 8 Pt. 1** (with Sch. 7)

[F4]SCHEDULE 5

Section 76.

. . . .

***Status:** Point in time view as at 01/10/2016.*
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Textual Amendments

F4 Sch. 5 repealed (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by Income Tax (Earnings and Pensions) Act 2003 (c. 1), s. 723, **Sch. 8 Pt. 1** (with Sch. 7)

SCHEDULE 6

Section 79.

TAXATION OF DISTRIBUTIONS: SUPPLEMENTAL PROVISIONS

The Taxes Act 1988

1 In each of sections 167(2A), [F5]. . ., [F6]. . . and 819(2) of the Taxes Act 1988 (definitions of excess liability), and in the definition of "excess liability" in paragraph 19(1) of Schedule 7 to that Act, for "were charged at the basic rate" there shall be substituted " by virtue of section 1(2)(aa) were charged at the basic rate, or (so far as applicable in accordance with section 207A) the lower rate, ".

Textual Amendments

F5 Words in Sch. 6 para. 1 repealed (3.5.1994 with effect in accordance with s. 81(6) of the amending Act) by 1994 c. 9, s. 258, **Sch. 26 Pt. V(2)** Note

F6 Words in Sch. 6 para. 1 repealed (1.5.1995 with effect for the year 1995-96 and subsequent years of assessment) by 1995 c. 4, s. 162, **Sch. 29 Pt. VIII(8)**

[F7]2 . . . .

Textual Amendments

F7 Sch. 6 para. 2 repealed (with effect in accordance with s. 883(1) of the amending Act) by Income Tax (Trading and Other Income) Act 2005 (c. 5), s. 883(1), **Sch. 3** (with Sch. 2)

[F8]3 . . . .

Textual Amendments

F8 Sch. 6 para. 3 repealed (31.7.1997 with effect in relation to distributions made on or after 6.4.1999) by 1997 c. 58, s. 52, **Sch. 8 Pt. II(9)** Note 3

[F9]4 . . . .

Textual Amendments

F9 Sch. 6 para. 4 repealed (3.5.1994 with effect in accordance with s. 111 and Sch. 14 of the amending Act) by 1994 c. 9, s. 258, **Sch. 26 Pt. V(13)** Note

[F10]5 . . . .

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Textual Amendments

F10 Sch. 6 para. 5 repealed (3.5.1994 with effect in accordance with s. 111 and Sch. 14 of the amending Act) by 1994 c. 9, s. 258, **Sch. 26 Pt. V(13)** Note

[F11]6 . . . .

Textual Amendments

F11 Sch. 6 para. 6 repealed (with effect in accordance with s. 883(1) of the amending Act) by Income Tax (Trading and Other Income) Act 2005 (c. 5), s. 883(1), **Sch. 3** (with Sch. 2)

[F12]7 . . . .

Textual Amendments

F12 Sch. 6 para. 7 repealed (with effect in accordance with s. 883(1) of the amending Act) by Income Tax (Trading and Other Income) Act 2005 (c. 5), s. 883(1), **Sch. 3** (with Sch. 2)

[F13]8 . . . .

Textual Amendments

F13 Sch. 6 para. 8 repealed (6.4.2007) by Income Tax Act 2007 (c. 3), s. 1034(1), **Sch. 3 Pt. 1** (with Sch. 2)

[F14]9 . . . .

Textual Amendments

F14 Sch. 6 para. 9 repealed (6.4.2007) by Income Tax Act 2007 (c. 3), s. 1034(1), **Sch. 3 Pt. 1** (with Sch. 2)

[F15F16]10 . . . .

Textual Amendments

F15 Sch. 6 para. 10 repealed (with effect in accordance with s. 381(1) of the amending Act) by Taxation (International and Other Provisions) Act 2010 (c. 8), s. 381(1), **Sch. 10 Pt. 13** (with Sch. 9 paras. 1-9, 22)

F16 Sch. 6 para. 10 repealed (31.1.2013) by Statute Law (Repeals) Act 2013 (c. 2), s. 3(2), **Sch. 1 Pt. 10** Group 1

[F17]11 . . . .

Textual Amendments

F17 Sch. 6 para. 11 repealed (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), **Sch. 3 Pt. 1** (with Sch. 2 Pts. 1, 2)

[F18]12 . . . .

Textual Amendments

F18 Sch. 6 para. 12 repealed (31.7.1998 with effect in accordance with Sch. 3 of the amending Act) by 1998 c. 36, s. 165, **Sch. 27 Pt. III(2)** Note

[F19]13 . . . .

Textual Amendments

F19 Sch. 6 para. 13 repealed (6.4.2007) by Income Tax Act 2007 (c. 3), s. 1034(1), **Sch. 3 Pt. 1** (with Sch. 2)

[F20]14 . . . .

Textual Amendments

F20 Sch. 6 para. 14 repealed (29.4.1996 and coming into force in accordance with s. 73 and Sch. 6 of the amending Act) by 1996 c. 8, s. 205, **Sch. 41 Pt. V(1)**

[F21]15 . . . .

Textual Amendments

F21 Sch. 6 para. 15 repealed (6.4.2007) by Income Tax Act 2007 (c. 3), s. 1034(1), **Sch. 3 Pt. 1** (with Sch. 2)

[F22]16 . . . .

Textual Amendments

F22 Sch. 6 para. 16 repealed (31.7.1998 with effect in accordance with Sch. 3 of the amending Act) by 1998 c. 36, s. 165, **Sch. 27 Pt. III(2)** Note

[F23]17 . . . .

Textual Amendments

F23 Sch. 6 para. 17 repealed (29.4.1996 with effect as mentioned in Note to Sch. 41 Pt. V(2) of amending Act) by 1996 c. 8, s. 205, **Sch. 41 Pt. V(2)** Note

[F24]18 . . . .

Textual Amendments

F24 Sch. 6 para. 18 repealed (29.4.1996 with effect in accordance with the provisions of Chapter II of Pt. IV of the amending Act) by 1996 c. 8, s. 205, **Sch. 41 Pt. V(3)**

[F25]19 . . . .

Textual Amendments

F25 Sch. 6 para. 19 repealed (19.3.1997 with effect in relation to, and to transfers under, any arrangement made on or after such day as may be appointed by order under Sch. 10 para. 7(1) of the amending Act) by 1997 c. 16, ss. 76, 113, Sch. 10 Pt. I para. 7(1), **Sch. 18 Pt. VI(10)** Note 1

The Finance Act 1989 (c. 26)

20 In each of sections 68(2)(c) and 71(4)(c) of the Finance Act 1989 [F26]. . . (which contain references to a rate equal to the sum of the basic rate and the additional rate), for the words from "a rate" to "additional rate" there shall be substituted " the rate applicable to trusts ".

Textual Amendments

F26 Words in Sch. 6 para. 20 repealed (29.4.1996 with effect in accordance with the provisions of Chapter II of Pt. IV of the amending Act) by 1996 c. 8, s. 205, **Sch. 41 Pt. V(3)**

The Finance Act 1990 (c. 29)

[F27]21 . . . .

Textual Amendments

F27 Sch. 6 para. 21 repealed (29.4.1996 with effect in accordance with the provisions of Chapter II of Pt. IV of the amending Act) by 1996 c. 8, s. 205, **Sch. 41 Pt. V(3)**

The Taxation of Chargeable Gains Act 1992 (c. 12)

[F28]22 . . . .

Textual Amendments

F28 Sch. 6 para. 22 repealed (27.7.1999 with effect for the year 1999-00 and subsequent years of assessment) by 1999 c. 16, s. 139, **Sch. 20 Pt. III(1)** Note

[F29]23 . . . .

Textual Amendments

F29 Sch. 6 para. 23 repealed (31.7.1998 with application for the year 1998-99 and subsequent years of assessment) by 1998 c. 36, ss. 120(2), 165, **Sch. 27 Pt. III(29)** Note

[F30]24 . . . .

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Textual Amendments

F30 Sch. 6 para. 24 repealed (1.5.1995 with effect for the year 1995-96 and subsequent years of assessment) by 1995 c. 4, s. 162, **Sch. 29 Pt. VIII(8)**, note

Commencement

25 (1) This Schedule, except the provisions to which sub-paragraphs (2) to (5) below apply, shall have effect for the year 1993-94 and subsequent years of assessment.

F31(2) . . . .

F32(3) . . . .

F32(4) . . . .

F33(5) . . . .

Textual Amendments

F31 Sch. 6 para. 25(2) repealed (3.5.1994 with effect in accordance with s. 111 and Sch. 14 of the amending Act) by 1994 c. 9, s. 258, **Sch. 26 Pt. V(13)** Note

F32 Sch. 6 para. 25(3)(4) repealed (19.3.1997 with effect in relation to, and to transfers under, any arrangement made on or after such day as may be appointed by order under Sch. 10 para. 7(1) of the amending Act) by 1997 c. 16, ss. 76, 113, Sch. 10 Pt. I para. 7(1), **Sch. 18 Pt. VI(10)** Note 1

F33 Sch. 6 para. 25(5) repealed (29.4.1996 with effect in accordance with the Note to Sch. 41 Pt. V(2) of the amending Act) by 1996 c. 8, s. 205, **Sch. 41 Pt. V(2)** Note

SCHEDULE 7

Section 87.

RELIEF ON RETIREMENT OR RE-INVESTMENT

PART I

RETIREMENT RELIEF ETC.

Extension of references to "family company"

1 (1) In sections 157 and 163 to 165 of the M3Taxation of Chargeable Gains Act 1992 and in paragraph 12(2) of Schedule 6 and paragraph 7(1) of Schedule 7 to that Act (which contain provisions relating to retirement relief and provisions which apply the definition of "family company" in Schedule 6 for other purposes), for the words "family company", wherever they occur, there shall be substituted " personal company ".

F34(2) . . . .

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Textual Amendments

F34 Sch. 7 para. 1(2) repealed (31.7.1998 with effect in relation to disposals in the year 2003-04 and subsequent years of assessment) by 1998 c. 36, s. 165, **Sch. 27 Pt. III(31)** Note

Marginal Citations

M3 1992 c. 12.

Extension of references to full-time working directors etc.

F35 2 . . . .

Textual Amendments

F35 Sch. 7 para. 2 repealed (31.7.1998 with effect in relation to disposals in the year 2003-04 and subsequent years of assessment) by 1998 c. 36, s. 165, **Sch. 27 Pt. III(31)** Note

PART II

ROLL-OVER RELIEF ON RE-INVESTMENT

3 After Chapter I of Part V of that Act there shall be inserted the following Chapter—

"CHAPTER IA

ROLL-OVER RELIEF ON RE-INVESTMENT

Relief on re-investment for individuals.

164A (1) Subject to the following provisions of this Chapter, roll-over relief under this section shall be available where—

(a) a chargeable gain would (apart from this section) accrue to any individual ("the re-investor") on any material disposal by him of shares in or other securities of any company ("the initial holding"); and

(b) that individual acquires a qualifying investment at any time in the qualifying period.

(2) Subject to section 164C, where roll-over relief under this section is available, the re-investor shall, on making a claim as respects the qualifying investment, be treated—

(a) as if the consideration for the disposal of the initial holding were reduced by whichever is the smallest of the following, that is to say—

(i) the amount of the chargeable gain which apart from this subsection would accrue on the disposal of the initial holding, so far as that amount has not already been held over by way of reductions under this subsection,

(ii) the actual amount or value of the consideration for the acquisition of the qualifying investment,

(iii) in the case of a qualifying investment acquired otherwise than by a transaction at arm's length, the market value of that investment at the time of its acquisition, and

(iv) the amount specified for the purposes of this subsection in the claim;

and

(b) as if the amount or value of the consideration for the acquisition of the qualifying investment were reduced by the amount of the reduction made under paragraph (a) above,

but neither paragraph (a) nor paragraph (b) above shall affect the treatment for the purposes of this Act of the other party to the transaction involving the initial holding or of the other party to the transaction involving the qualifying investment.

(3) Subject to subsections (5) and (6) below, the disposal of shares in or other securities of a company is a material disposal for the purposes of this section if the conditions specified in subsection (4) below are satisfied in relation to a period of one year ending with—

(a) the date of the disposal; or

(b) if the company ceased at any time in the permitted period before the disposal to be a trading company or the holding company of a trading group, that time.

(4) The conditions mentioned in subsection (3) above are satisfied in relation to any period if throughout that period-

(a) the company has been a trading company or the holding company of a trading group;

(b) the company has been an unquoted company;

(c) the company has been the re-investor's personal company; and

(d) the re-investor has been a full-time working officer or employee of the company or, if that company is a member of a group or commercial association of companies, of one or more companies which are members of the group or association.

(5) Where, throughout a period ending at the same time as the period mentioned in subsection (3) above and beginning at a time ("the time of partial retirement") when the re-investor ceased to be such a full-time working officer or employee as is mentioned in subsection (4)(d) above—

(a) the conditions specified in subsection (4)(a) to (c) above were satisfied in relation to any company,

(b) the re-investor was an officer or employee of that company or, as the case may be, of one or more members of the group or association in question, and

(c) in that capacity, the re-investor devoted at least 10 hours per week (averaged over the period) to the service of the company or companies in a technical or managerial capacity,

the disposal of shares in or other securities of that company is a material disposal for the purposes of this section if the conditions specified in

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subsection (4) above were satisfied in relation to the period of one year ending with the time of partial retirement.

(6) Where—

(a) any company has ceased to be an unquoted company, and

(b) in the case of that company, all the conditions specified in subsection (4) above were satisfied in relation to the period of one year ending with the time when the company so ceased,

this section shall have effect in relation to an initial holding acquired by the re-investor at a time when the company in question was an unquoted company as if the company continued to be an unquoted company after that time until the disposal of that holding and as if the period mentioned in subsection (3) above included all such time (if any) as falls after the company's ceasing to be an unquoted company and before what would, apart from this subsection, have been the beginning of that period.

(7) Any question for the purposes of subsection (6) above as to when the shares or other securities comprised in the initial holding were acquired shall be determined by assuming, in relation to any disposals of shares or other securities regarded as forming part of a single asset, that shares or other securities acquired later are disposed of before those acquired earlier.

(8) For the purposes of this section a person shall be regarded as acquiring a qualifying investment where he acquires any eligible shares in a qualifying company if—

(a) he holds 5 per cent. or more of the eligible shares in that company—

(i) at any time after making the acquisition and in the period of 3 years after the disposal of the initial holding, or

(ii) at such time after the end of that period as the Board may by notice allow;

(b) that company has not ceased to be a qualifying company between the acquisition of those shares and that time; and

(c) that company is neither the company in which the initial holding has subsisted nor a company that was a member of the same group of companies as that company at the time of the disposal of the initial holding or of the acquisition of the qualifying investment.

(9) For the purposes of this section the acquisition of a qualifying investment shall be taken to be in the qualifying period if, and only if, it takes place—

(a) at any time in the period beginning 12 months before and ending 3 years after the disposal of the initial holding, or

(b) at such time before the beginning of that period or after it ends as the Board may by notice allow.

(10) The provisions of this Act fixing the amount of the consideration deemed to be given for the acquisition or disposal of assets shall be applied before this section is applied; and, without prejudice to the generality of this subsection, section 42(5) shall apply in relation to an adjustment under this section of the consideration for the acquisition of any shares as it applies in relation to an adjustment under any enactment to secure that neither a gain nor a loss accrues on a disposal.

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(11) The provisions of this section for making any reduction shall apply before any provisions for calculating the amount of, or giving effect to, any relief under section 163 of 164, and references in this section to chargeable gains shall be construed accordingly.

(12) Without prejudice to section 52(4), where consideration is given for the acquisition or disposal of any assets some of which are shares or other securities to the acquisition or disposal of which a claim under this section relates and some of which are not, the consideration shall be apportioned in such manner as is just and reasonable.

Roll-over relief on re-investment by trustees.

164B(1) Subject to the following provisions of this section, section 164A shall apply, as it applies in such a case as is mentioned in subsection (1) of that section, where there is—

(a) a disposal by the trustees of a settlement of any shares in or other securities of a company which are part of the settled property; and

(b) such an acquisition by those trustees of eligible shares in a qualifying company as would for the purposes of that section be an acquisition of a qualifying investment at a time in the qualifying period,

but as if the disposal were a material disposal if, and only if, the conditions specified in subsection (2) below are satisfied in relation to the period of one year mentioned in section 164A(3).

(2) The conditions mentioned in subsection (1) above are satisfied in relation to any period if—

(a) the company has been a trading company or the holding company of a trading group throughout that period;

(b) the company has been an unquoted company throughout that period;

(c) throughout that period the company has been a personal company of a relevant beneficiary; and

(d) that relevant beneficiary has throughout that period been a full-time working officer or employee of the company or, if that company is a member of a group or commercial association of companies, of one or more companies which are members of the group or association.

(3) References in this section, in relation to the disposal of any shares or other securities by the trustees of any settlement, to a relevant beneficiary are references to any beneficiary who, under the settlement, has an interest in possession in the whole of the settled property or, as the case may be, in a part of it which consists of or includes the shares or securities, but excluding, for this purpose, an interest for a fixed term.

(4) If, in the case of a disposal by any trustees of any shares or other securities, there is, in addition to the beneficiary in relation to whom the requirements of subsection (2)(d) above are satisfied ("the qualifying beneficiary"), at least one other beneficiary who, at the relevant time, has an interest in possession in, the whole of the settled property or, as the case may be, in a part of it which consists of or includes the shares or securities—

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(a) only the relevant proportion of the gain which would accrue to the trustees on the disposal shall be taken into account for the purposes of section 164A(2)(a)(i); and

(b) no reduction under section 164A(2) shall be made in respect of the whole or any part of the balance of the gain.

(5) For the purposes of subsection (4) above the relevant proportion is the proportion which the interest specified in paragraph (a) below bears to the interests specified in paragraph (b) below, that is to say—

(a) the qualifying beneficiary's interest at the relevant time in the income of the part of the settled property comprising the shares or other securities in question; and

(b) the interests at that time in that income of all the beneficiaries (including the qualifying beneficiary) who at that time have interests in possession in that part.

(6) The reference in subsection (5) above to the qualifying beneficiary's interest is a reference to the interest by virtue of which he is the qualifying beneficiary and not to any other interest he may hold.

(7) Section 164A shall not apply by virtue of this section unless immediately after the acquisition mentioned in subsection (1)(b) above the qualifying beneficiary has an interest in possession in the whole of the settled property, or in the part of it in which the acquired shares are comprised, which is the same as or, as the case may be, is equivalent to the interest at the relevant time by virtue of which he is the qualifying beneficiary.

(8) In this section "the relevant time", in relation to a disposal of any shares or other securities, means the time of the disposal or if, by virtue of paragraph (b) of subsection (3) of section 164A, the period mentioned in that subsection is treated in relation to that disposal as ending at any earlier time, that earlier time.

Restriction applying to retirement relief and roll-over relief on re-investment.

164C(1) Subject to the following provisions of this section, in the case of any disposal of shares in or other securities of any company in relation to which a claim is made under section 164A—

(a) the gains which (apart from sections 163 to 164B) would on the disposal accrue to the individual or, as the case may be, the trustees shall be aggregated,

(b) the amount available in respect of the disposal for relief under sections 163 and 164 and for the making of deductions under section 164A(2) above shall be deemed to be confined to the appropriate proportion of the aggregated gains, and

(c) so much of the aggregated gains as exceeds the amount so available shall be disregarded for the purposes of sections 163 to 164B and, accordingly, shall constitute chargeable gains.

(2) Subject to subsection (4) below, in this section "the appropriate proportion", in relation to gains accruing on the disposal of shares in or other securities of a company that is not a holding company of a trading group, means the

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proportion which the amount specified in paragraph (a) below bears to the amount specified in paragraph (b) below, that is to say—

(a) that part of the value of the company's chargeable assets at the relevant time which is attributable to the value of the company's chargeable business assets; and

(b) the whole of the value of the company's chargeable assets at that time.

(3) Subject to subsection (4) below, in this section "the appropriate proportion", in relation to gains accruing on the disposal of shares in or other securities of a holding company of a trading group, means the proportion which the amount specified in paragraph (a) below bears to the amount specified in paragraph (b) below, that is to say—

(a) that part of the value of the trading group's chargeable assets at the relevant time which is attributable to the value of the trading group's chargeable business assets; and

(b) the whole of the value of the trading group's chargeable assets at that time.

(4) Where a company or trading group has no chargeable assets, "the appropriate proportion", in relation to the gains accruing on the disposal of shares in or other securities of that company or, as the case may be, of the holding company of that group, means the whole of those gains.

(5) Subject to subsection (6)(b) below, every asset of a company is for the purposes of this section a chargeable asset of that company except one, on the disposal of which by the company at the relevant time, no gain accruing to the company would be a chargeable gain.

(6) For the purposes of this section—

(a) any reference, in relation to a trading group, to the trading group's chargeable assets or chargeable business assets is a reference to the chargeable assets or, as the case may be, chargeable business assets of every member of the trading group; and

(b) a holding by one member of the trading group of the ordinary share capital of another member of the group is not a chargeable asset.

(7) Where the whole of the ordinary share capital of a 51 per cent. subsidiary of a holding company is not owned directly or indirectly by that company, then, for the purposes of this section, the value of the chargeable assets and of the chargeable business assets of that subsidiary shall be taken to be reduced according to the formula—

$$\frac{R}{T}$$

(8) In subsection (7) above—

A is the value falling to be reduced of the chargeable assets or chargeable business assets of the subsidiary;

B is the amount of the ordinary share capital of the subsidiary owned, directly or indirectly, by the holding company;

C is the whole of the ordinary share capital of the subsidiary;

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and section 838 of the Taxes Act (definition of expressions in relation to subsidiaries) shall apply for construing that subsection and this subsection.

(9) In this section "chargeable business asset", in relation to any company, means a chargeable asset (including goodwill but not including any shares or other securities or any assets held as investments) which is, or is an interest in, an asset used for the purposes of a trade, profession, vocation, office or employment carried on by—

(a) the individual concerned,

(b) any personal company of that individual,

(c) a member of a trading group of which the holding company is a personal company of that individual, or

(d) a partnership of which that individual is a member.

(10) For the purposes of the application of this section to a case in which trustees dispose of any shares or other securities, the references in subsection (9) above to the individual concerned are references to the qualifying beneficiary.

(11) In this section "the relevant time" has the same meaning as in section 164B.

(12) This section shall be without prejudice to the provisions of paragraphs 7 to 11 of Schedule 6.

Relief carried forward into replacement shares.

164D(1) This section shall apply where a person has acquired any eligible shares in a qualifying company ("the acquired holding") for a consideration which is treated as reduced, under section 164A or the following provisions of this section, by any amount ("the held-over gain") .

(2) If—

(a) the person who acquired the acquired holding disposes of eligible shares in the company in question ("the acquired shares"),

(b) that person at any time in the relevant period acquires other eligible shares ("the replacement shares") in a qualifying company which is not a relevant company;

(c) the acquisition of the replacement shares would, in relation to the disposal of the acquired shares, be treated (were the disposal a material disposal) as an acquisition of a qualifying investment for the purposes of section 164A, and

(d) roll-over relief is not available under section 164A in relation to the acquisition of the replacement shares,

that person shall, on making a claim as respects the acquisition of the replacement shares, be treated in relation to that acquisition in accordance with subsection (3) below.

(3) Where a person falls to be treated in accordance with this subsection in relation to the acquisition of the replacement shares, he shall be treated—

(a) as if the consideration for the disposal of the acquired shares were reduced by whichever is the smallest of the following, that is to say—

(i) the amount of the held-over gain on the acquisition of the acquired holding, so far as that amount has not already been carried forward under this section from any disposal of eligible shares in the company in question or been charged on a disposal or under section 164F,

(ii) the actual amount or value of the consideration for the acquisition of the replacement shares,

(iii) in the case of replacement shares acquired otherwise than by a transaction at arm's length, the market value of the replacement shares at the time of their acquisition, and

(iv) the amount specified for the purposes of this subsection in the claim;

and

(b) as if the amount or value of the consideration for the acquisition of the replacement shares were reduced by the amount of the reduction made under paragraph (a) above,

but neither paragraph (a) nor paragraph (b) above shall affect the treatment for the purposes of this Act of the other party to the transaction involving the acquired shares or of the other party to the transaction involving the replacement shares.

(4) For the purposes of this section the whole or a part of any held-over gain on the acquisition of the acquired holding shall be treated—

(a) in accordance with subsection (5) below as charged on any disposal in relation to which the whole or any part of the held-over gain falls to be taken into account in determining the chargeable gain or allowable loss accruing on the disposal; and

(b) as charged under section 164F so far as it falls to be disregarded in accordance with subsection (11) of that section.

(5) In the case of any such disposal as is mentioned in subsection (4)(a) above, the amount of the held-over gain charged on that disposal—

(a) shall, except in the case of a part disposal, be so much of the amount taken into account as so mentioned as is not carried forward under this section from the disposal in question; and

(b) in the case of a part disposal, shall be calculated by multiplying the following, that is to say—

(i) so much of the amount of the held-over gain as is not carried forward under this section from the disposal in question and has not already been either charged on a previous disposal or carried forward under this section from a previous disposal; and

(ii) the fraction used in accordance with section 42(2) for determining, subject to any deductions in pursuance of this Chapter, the amount allowable as a deduction in the computation of the gain accruing on the disposal in question.

(6) Where section 58 applies to any disposal of the whole or any part of the acquired holding to any individual—

(a) that individual shall not be treated for the purposes of subsection (1) above as a person who has acquired eligible shares for a consideration which is treated as reduced under section 164A or this section; and

(b) the amount of the held-over gain which for the purposes of this section shall be treated as charged on the disposal shall be the amount that would have been charged on the disposal if it had been a disposal at market value.

(7) References in this section to an amount being carried forward from a disposal are references, in relation to the disposal of any shares, to the reduction by that amount, in accordance with subsection (3)(a) above, of the amount of the consideration for the disposal of those shares.

(8) Subsections (10) to (12) of section 164A shall apply in the case of any claim under this section as they apply in the case of a claim under that section.

(9) For the purposes of this section a company is a relevant company if it is—

(a) the company in which the acquired holding has subsisted or a company which was a member of the same group of companies as that company at the time of the disposal of the acquired holding or of the acquisition of the replacement shares;

(b) a company in relation to the disposal of any shares in which there has been a claim under this Chapter such that without that or an equivalent claim there would be no held-over gain in relation to the acquired holding; or

(c) a company which, at the time of the disposal or acquisition to which the claim relates, was a member of the same group of companies as a company falling within paragraph (b) above.

(10) In this section "the relevant period" means the period (not including any period before the acquisition of the acquired holding) which begins 12 months before and ends 3 years after the disposal of the acquired shares, together with any such further period after the disposal as the Board may by notice allow.

Application of Chapter in cases of an exchange of shares.

164E (1) Where—

(a) there is a transaction involving the issue of any shares in or debentures of any company in exchange for any shares in or debentures of another company ("the exchanged securities"),

(b) but for this section, section 127 would have effect in pursuance of section 135 for requiring the transaction to be treated for the purposes of this Act as one that does not involve a disposal of the exchanged securities,

(c) any person would be entitled, if the transaction were treated as involving such a disposal, to make a claim for relief under this Chapter by reference to that disposal and an acquisition of eligible shares in a qualifying company, and

(d) that person makes an election under this section for the transaction to be treated as involving the disposal of the exchanged securities and claims that relief,

this Chapter and the other provisions of this Act shall have effect as if section 127 did not apply in the case of that transaction and, accordingly, as if that transaction did involve such a disposal, together with an acquisition of the shares or debentures that are issued in exchange.

(2) An election under this section shall be made by notice given to the Board not more than 2 years after the end of, as the case may be—

(a) the qualifying period mentioned in section 164A; or

(b) the relevant period, within the meaning of section 164D;

and an election made under this section in connection with a claim for relief under section 164B shall be made jointly by the trustees of the settlement and the qualifying beneficiary.

(3) Where, in order to give effect (in pursuance of an election under this section) to subsection (1) above, it is necessary to make any adjustment by way of an assessment on any person, the assessment shall not be out of time if it is made within one year of the final determination of the claim for relief in connection with which the election is made.

(4) For the purposes of subsection (3) above a claim for relief shall not be deemed to be finally determined until the amount of the relief allowed by virtue of the claim can no longer be varied, whether on appeal or by the order of any court or otherwise.

Failure of conditions of relief.

164F(1) This section shall apply in any such case as is mentioned in section 164D(1), and references in this section to the acquired holding and the held-over gain shall be construed accordingly.

(2) Subject to the following provisions of this section, if at any time in the relevant period—

(a) the shares comprised in the acquired holding cease to be eligible shares,

(b) the company in which the acquired holding subsists ceases to be a qualifying company,

(c) the person who acquired the acquired holding becomes neither resident nor ordinarily resident in the United Kingdom, or

(d) any of the shares comprised in the acquired holding are included in the original shares (within the meaning of sections 127 to 130) in the case of any transaction with respect to which section 116 has effect,

a chargeable gain equal to the appropriate proportion of the held-over gain shall be treated as accruing to that person immediately before that time or, in a case falling within paragraph (d) above, immediately before the disposal assumed for the purposes of section 116(10)(a).

(3) For the purposes of this section the appropriate proportion of the held-over gain is so much, if any, of that gain as has not already been either—

(a) charged on any disposal or under this section; or

(b) carried forward under section 164D from any disposal;

or, in a case to which subsection (2) above applies by virtue of paragraph (d) of that subsection or in accordance with subsection (7) below, such part of

that proportion of that gain as is just and reasonable having regard to the extent to which the acquired holding comprises the original shares.

(4) Subject to subsection (5) below, subsections (4), (5) and (7) of section 164D shall apply for the purposes of this section as they apply for the purposes of that section.

(5) Where the acquired holding or any asset treated as comprised in a single asset with the whole or any part of that holding has been disposed of under section 58 by the individual who acquired that holding to another person ("the spouse")—

(a) the spouse shall not (subject to the following provisions of this subsection) be treated for the purposes of this section as a person who has acquired eligible shares for a consideration which is treated as reduced under section 164A or 164D;

(b) the disposal shall not be included in the disposals on which the whole or any part of the held-over gain may be treated as charged for the purposes of this section;

(c) disposals by the spouse, as well as disposals by that individual, shall be taken into account for the purposes of section 164D(4) and (5) above, as applied for the purpose of this section;

(d) any charge under subsection (2) above (other than one by virtue paragraph (c) of that subsection) shall be apportioned between that individual and the spouse according to the extent to which the appropriate proportion of the held-over gain would be charged on the disposal by each of them of their respective holdings (if any);

(e) paragraph (c) of that subsection shall have effect as if the reference in that paragraph to that individual included a reference to the spouse;

(f) a charge by virtue of that paragraph shall be imposed only on a person who becomes neither resident nor ordinarily resident in the United Kingdom; and

(g) the amount of the charge imposed on any person by virtue of that paragraph shall be that part of the charge on the appropriate proportion of the held-over gain which would be apportioned to that person in a case to which paragraph (d) above applies.

(6) Subject to subsection (7) below, where the qualifying company in which the acquired holding subsists ceases to be an unquoted company this section shall have effect as if the relevant period ended immediately before it so ceased.

(7) Where there is a transaction by virtue of which any shares in a company are to be regarded under section 127 as the same asset as the acquired holding or the whole or any part of an asset comprising that holding, this section shall not apply by virtue of subsection (2)(a) or (b) above except where—

(a) those shares are not, or cease to be, eligible shares in that company;

(b) neither that company nor (if different) the company in which the acquired holding subsisted —

(i) is or continues to be a qualifying company; or

(ii) would be or continue to be a qualifying company if it were an unquoted company;

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(c) the transaction is one by virtue of which the shares comprised in the acquired holding cease to be eligible shares in pursuance of section 164L; or

(d) there is a transaction by virtue of which any shares at any time comprised in the acquired holding would have so ceased in pursuance of that section.

(8) This section shall not apply by virtue of subsection (2)(a) or (b) above where the company in which the acquired holding subsists is wound up or dissolved without winding up and—

(a) it is shown that the winding up or dissolution is for bona fide commercial reasons and not part of a scheme or arrangement the main purpose of which, or one of the main purposes of which, is the avoidance of tax; and

(b) the company's net assets (if any) are distributed to its members or dealt with as bona vacantia before the end of the period of 3 years from the commencement of the winding up or, as the case may be, from the dissolution.

(9) This section shall not apply by virtue of subsection (2)(c) above in relation to any person if—

(a) the reason for his becoming neither resident nor ordinarily resident in the United Kingdom is that he works in an employment or office all the duties of which are performed outside the United Kingdom, and

(b) he again becomes resident or ordinarily resident in the United Kingdom within the period of 3 years from the time when he ceases to be so, without having meanwhile disposed of any eligible shares in the company in question;

and, accordingly, no assessment shall be made by virtue of subsection (2)(c) above before the end of that period in any case where the condition in paragraph (a) above is satisfied and the condition in paragraph (b) above may be satisfied.

(10) For the purposes of subsection (9) above a person shall be taken to have disposed of an asset if there has been such a disposal as would, if the person making the disposal had been resident in the United Kingdom, have been a disposal on which (within the meaning of section 164D) the whole or any part of the held-over gain would have been charged.

(11) Gains on disposals made after a chargeable gain has under this section been deemed to accrue in respect of the acquired holding to any person shall be computed as if so much of the held-over gain as is equal to the amount of the chargeable gain were to be disregarded.

(12) In this section "the relevant period" means (subject to subsection (6) above) the period of 3 years after the acquisition of the acquired holding.

Meaning of "qualifying company".

164G(1) Subject to section 164H, a company is a qualifying company for the purposes of this Chapter if it complies with this section.

(2) Subject to the following provisions of this section, a company complies with this section if it is—

(a) an unquoted company which exists wholly for the purpose of carrying on one or more qualifying trades or which so exists apart from purposes capable of having no significant effect (other than in relation to incidental matters) on the extent of the company's activities;

(b) an unquoted company whose business consists entirely in the holding of shares in or other securities of, or the making of loans to, one or more qualifying subsidiaries of the company; or

(c) an unquoted company whose business consists entirely in—

(i) the holding of such shares or securities, or the making of such loans; and

(ii) the carrying on of one or more qualifying trades.

(3) A company does not comply with this section if—

(a) it controls (whether on its own or together with any person connected with it) any company which is not a qualifying subsidiary or, without controlling it, has a 51 per cent. subsidiary which is not a qualifying subsidiary;

(b) it is under the control of another company (or of another company and a person connected with the other company) or, without being controlled by it, is a 51 per cent. subsidiary of another company; or

(c) arrangements are in existence by virtue of which the company could fall within paragraph (a) or (b) above;

and in this subsection "51 per cent. subsidiary" has the meaning given by section 838 of the Taxes Act.

(4) In this section "qualifying subsidiary", in relation to a company ("the holding company"), means any company which is a member of a group of companies of which the holding company is the principal company, and of which each of the members, or each of the members other than the holding company, is a company falling within subsection (5) below.

(5) A company falls within this subsection if—

(a) it is such a company as is mentioned in subsection (2)(a) above;

(b) it exists wholly for the purpose of holding and managing property used by the holding company or any of the holding company's other subsidiaries for the purposes of—

(i) research and development from which it is intended that a qualifying trade to be carried on by the holding company or any of those other subsidiaries will be derived, or

(ii) one or more qualifying trades so carried on;

(c) it would exist wholly for such a purpose apart from purposes capable of having no significant effect (other than in relation to incidental matters) on the extent of the company's activities; or

(d) it has no profits for the purposes of corporation tax and no part of its business consists in the making of investments.

(6) Without prejudice to the generality of subsection (2) above or to section 164F(8), a company ceases to comply with this section if—

(a) a resolution is passed, or an order is made, for the winding up of the company;

(b) in the case of a winding up otherwise than under the M4Insolvency Act 1986 or the M5Insolvency (Northern Ireland) Order 1989, any other act is done for the like purpose; or

(c) the company is dissolved without winding up.

Property companies etc. not to be qualifying companies.

164H(1) For the purposes of this Chapter a company is not a qualifying company at any time when the value of the interests in land held by the company is greater than half the value of the company's chargeable assets within the meaning of section 164C.

(2) For the purposes of this section the value of the interests in land held by a company at any time shall be arrived at by first aggregating the market value at that time of each of those interests and then deducting—

(a) the amount of any debts of the company which are secured on any of those interests (including any debt secured by a floating charge on property which comprises any of those interests);

(b) the amount of any unsecured debts of the company which do not fall due for payment before the end of the period of 12 months beginning with that time; and

(c) the amount paid up in respect of those shares of the company (if any) which carry a present or future preferential right to the company's assets on its winding up.

(3) In this section "interest in land" means any estate or interest in land, any right in or over land or affecting the use or disposition of land, and any right to obtain such an estate, interest or right from another which is conditional on that other's ability to grant the estate, interest or right in question, except that it does not include—

(a) the interest of a creditor (other than a creditor in respect of a rentcharge) whose debt is secured by way of a mortgage, an agreement for a mortgage or a charge of any kind over land; or

(b) in the case of land in Scotland, the interest of a creditor in a charge or security of any kind over land.

(4) For the purposes of this section, the value of an interest in any building or other land shall be adjusted by deducting the market value of any machinery or plant which is so installed or otherwise fixed in or to the building or other land as, in law, to become part of it.

(5) In arriving at the value of any interest in land for the purposes of this section—

(a) it shall be assumed that there is no source of mineral deposits in the land of a kind which it would be practicable to exploit by extracting them from underground otherwise than by means of opencast mining or quarrying; and

(b) any borehole on the land shall be disregarded if it was made in the course of oil exploration.

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(6) Where a company is a member of a partnership which holds any interest in land—

(a) that interest shall, for the purposes of this section, be treated as an interest in land held by the company; but

(b) its value at any time shall, for those purposes, be taken to be such fraction of its value (apart from this subsection) as is equal to the fraction of the assets of the partnership to which the company would be entitled if the partnership were dissolved at that time.

(7) Where a company is a member of a group of companies all the members of the group shall be treated as a single company for the purposes of this section; but any debt owed by, or liability of, one member of the group to another shall be disregarded for those purposes.

Qualifying trades.

164I(1) For the purposes of this Chapter—

(a) a trade is a qualifying trade if it complies with the requirements of this section; and

(b) the carrying on of any activities of research and development from which it is intended that a trade complying with those requirements will be derived shall be treated as the carrying on of a qualifying trade.

(2) Subject to the following provisions of this section, a trade complies with this section if neither that trade nor a substantial part of it consists in one or more of the following activities, that is to say—

(a) dealing in land, in commodities or futures or in shares, securities or other financial instruments;

(b) dealing in goods otherwise than in the course of an ordinary trade of wholesale or retail distribution;

(c) banking, insurance, money-lending, debt-factoring, hire-purchase financing or other financial activities;

(d) leasing (including letting ships on charter or other assets on hire) or receiving royalties or licence fees;

(e) providing legal or accountancy services;

(f) providing services or facilities for any such trade carried on by another person as—

(i) consists, to a substantial extent, in activities within any of paragraphs (a) to (e) above; and

(ii) is a trade in which a controlling interest is held by a person who also has a controlling interest in the trade carried on by the company providing the services or facilities;

(g) property development;

(h) farming;

but this subsection shall have effect in relation to a qualifying trade carried on by a member of a group of companies, as if the reference in paragraph (f) above to another person did not include a reference to the principal company of the group.

(3) For the purposes of subsection (2)(b) above—

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(a) a trade of wholesale distribution is one in which the goods are offered for sale and sold to persons for resale by them, or for processing and resale by them, to members of the general public for their use or consumption;

(b) a trade of retail distribution is one in which the goods are offered for sale and sold to members of the general public for their use or consumption; and

(c) a trade is not an ordinary trade of wholesale or retail distribution if—

(i) it consists, to a substantial extent, in dealing in goods of a kind which are collected or held as an investment, or of that activity and any other activity of a kind falling within subsection (2) above, taken together; and

(ii) a substantial proportion of those goods are held by the company for a period which is significantly longer than the period for which a vendor would reasonably be expected to hold them while endeavouring to dispose of them at their market value.

(4) In determining for the purposes of this Chapter whether a trade carried on by any person is an ordinary trade of wholesale or retail distribution, regard shall be had to the extent to which it has the following features, that is to say—

(a) the goods are bought by that person in quantities larger than those in which he sells them;

(b) the goods are bought and sold by that person in different markets;

(c) that person employs staff and incurs expenses in the trade in addition to the cost of the goods and, in the case of a trade carried on by a company, to any remuneration paid to any person connected with it;

(d) there are purchases or sales from or to persons who are connected with that person;

(e) purchases are matched with forward sales or vice versa;

(f) the goods are held by that person for longer than is normal for goods of the kind in question;

(g) the trade is carried on otherwise than at a place or places commonly used for wholesale or retail trade;

(h) that person does not take physical possession of the goods;

and for the purposes of this subsection the features specified in paragraphs (a) to (c) above shall be regarded as indications that the trade is such an ordinary trade and those in paragraphs (d) to (h) above shall be regarded as indications of the contrary.

(5) A trade shall not be treated as failing to comply with this section by reason only of its consisting, to a substantial extent, in receiving royalties or licence fees if—

(a) the company carrying on the trade is engaged in—

(i) the production of films; or

(ii) the production of films and the distribution of films produced by it within the period of 3 years before their distribution;

and

(b) all royalties and licence fees received by it are in respect of films produced by it within the preceding 3 years or sound recordings in relation to such films or other products arising from such films.

(6) A trade shall not be treated as failing to comply with this section by reason only of its consisting, to a substantial extent, in receiving royalties or licence fees if—

(a) the company carrying on the trade is engaged in research and development; and

(b) all royalties and licence fees received by it are attributable to research and development which it has carried out.

(7) A trade shall not be treated as failing to comply with this section by reason only of its consisting in letting ships, other than oil rigs or pleasure craft, on charter if—

(a) every ship let on charter by the company carrying on the trade is beneficially owned by the company;

(b) every ship beneficially owned by the company is registered in the United Kingdom;

(c) the company is solely responsible for arranging the marketing of the services of its ships; and

(d) the conditions mentioned in subsection (8) below are satisfied in relation to every letting of a ship on charter by the company;

but where any of the requirements mentioned in paragraphs (a) to (d) above are not satisfied in relation to any lettings, the trade shall not thereby be treated as failing to comply with this section if those lettings and any other activity of a kind falling within subsection (2) above do not, when taken together, amount to a substantial part of the trade.

(8) The conditions are that—

(a) the letting is for a period not exceeding 12 months and no provision is made at any time (whether in the charterparty or otherwise) for extending it beyond that period otherwise than at the option of the charterer;

(b) during the period of the letting there is no provision in force (whether by virtue of being contained in the charterparty or otherwise) for the grant of a new letting to end, otherwise than at the option of the charterer, more than 12 months after that provision is made;

(c) the letting is by way of a bargain made at arm's length between the company and a person who is not connected with it;

(d) under the terms of the charter the company is responsible as principal—

(i) for taking, throughout the period of the charter, management decisions in relation to the ship, other than those of a kind generally regarded by persons engaged in trade of the kind in question as matters of husbandry; and

(ii) for defraying all expenses in connection with the ship throughout that period, or substantially all such expenses, other than those directly incidental to a particular voyage or to the employment of the ship during that period;

and

(e) no arrangements exist by virtue of which a person other than the company may be appointed to be responsible for the matters mentioned in paragraph (d) above on behalf of the company;

but this subsection shall have effect, in relation to any letting between a company and another company which is a member of the same group of companies as that company, as if paragraph (c) were omitted.

(9) A trade shall not comply with this section unless it is conducted on a commercial basis and with a view to the realisation of profits.

Provisions supplementary to section 164I.

164J(1) For the purposes of section 164I, in the case of a trade carried on by a company, a person has a controlling interest in that trade if—

(a) he controls the company;

(b) the company is a close company and he or an associate of his is a director of the company and either—

(i) the beneficial owner of, or

(ii) able, directly or through the medium of other companies or by any other indirect means, to control,

more than 30 per cent. of the ordinary share capital of the company; or

(c) not less than half of the trade could in accordance with section 344(2) of the Taxes Act be regarded as belonging to him;

and, in any other case, a person has a controlling interest in a trade if he is entitled to not less than half of the assets used for, or of the income arising from, the trade.

(2) For the purposes of subsection (1) above, there shall be attributed to any person any rights or powers of any other person who is an associate of his.

(3) References in section 164I(2)(f) or subsection (1) above to a trade carried on by a person other than the company in question shall be construed as including references to any business, profession or vocation.

(4) In this section "director" shall be construed in accordance with section 417(5) of the Taxes Act.

Foreign residents.

164K(1) This Chapter shall not apply in relation to any person in respect of his acquisition of any eligible shares in a qualifying company if at the time when he acquires them he is neither resident nor ordinarily resident in the United Kingdom.

(2) This Chapter shall not apply in relation to any person in respect of his acquisition of any eligible shares in a qualifying company if—

(a) though resident or ordinarily resident in the United Kingdom at the time when he acquires them, he is regarded for the purposes of any double taxation relief arrangements as resident in a territory outside the United Kingdom; and

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(b) by virtue of the arrangements, he would not be liable in the United Kingdom to tax on a gain arising on a disposal of those shares immediately after their acquisition.

Anti-avoidance provisions.

164L(1) For the purposes of this Chapter an acquisition of shares in a qualifying company shall not be treated as an acquisition of eligible shares if the arrangements for the acquisition of those shares, or any arrangements made before their acquisition in relation to or in connection with the acquisition, include—

(a) arrangements with a view to the subsequent re-acquisition, exchange or other disposal of the shares;

(b) arrangements for or with a view to the cessation of the company's trade or the disposal of, or of a substantial amount of, its chargeable business assets; or

(c) arrangements for the return of the whole or any part of the value of his investment to the individual acquiring the shares.

(2) If, after any eligible shares in a qualifying company have been acquired by any individual, the whole or any part of the value of that individual's investment is returned to him, those shares shall be treated for the purposes of this Chapter as ceasing to be eligible shares.

(3) For the purposes of this section there shall be treated as being a return of the whole or a part of the value of the investment of an individual who is to acquire or has acquired any shares in a company if the company—

(a) repays, redeems or repurchases any of its share capital or other securities which belong to that individual or makes any payment to him for giving up his right to any of the company's share capital or any security on its cancellation or extinguishment;

(b) repays any debt owed to that individual, other than a debt which was incurred by the company—

(i) on or after the acquisition of the shares; and

(ii) otherwise than in consideration of the extinguishment of a debt incurred before the acquisition of the shares;

(c) makes to that individual any payment for giving up his right to any debt on its extinguishment;

(d) releases or waives any liability of that individual to the company or discharges, or undertakes to discharge, any liability of his to a third person;

(e) provides a benefit or facility for that individual;

(f) disposes of an asset to that individual for no consideration or for a consideration which is or the value of which is less than the market value of the asset;

(g) acquires an asset from that individual for a consideration which is or the value of which is more than the market value of the asset; or

(h) makes any payment to that individual other than a qualifying payment.

(4) For the purposes of this section there shall also be treated as being a return of the whole or a part of the value of the investment of an individual who is to acquire or has acquired any shares in a company if—

(a) there is a loan made by any person to that individual; and

(b) the loan is one which would not have been made, or would not have been made on the same terms, if that individual had not acquired those shares or had not been proposing to do so.

(5) For the purposes of this section a company shall be treated as having released or waived a liability if the liability is not discharged within 12 months of the time when it ought to have been discharged.

(6) References in this section to a debt or liability do not, in relation to a company, include references to any debt or liability which would be discharged by the making by that company of a qualifying payment, and references to a benefit or facility do not include references to any benefit or facility provided in circumstances such that, if a payment had been made of an amount equal to its value, that payment would be a qualifying payment.

(7) References in this section to the making by any person of a loan to an individual include references—

(a) to the giving by that person of any credit to that individual; and

(b) to the assignment or assignation to that person of any debt due from that individual.

(8) In this section "qualifying payment" means—

(a) the payment by any company of such remuneration for service as an officer or employee of that company as may be reasonable in relation to the duties of that office or employment;

(b) any payment or reimbursement by any company of travelling or other expenses wholly, exclusively and necessarily incurred by the individual to whom the payment is made in the performance of duties as an officer or employee of that company;

(c) the payment by any company of any interest which represents no more than a reasonable commercial return on money lent to that company;

(d) the payment by any company of any dividend or other distribution which does not exceed a normal return on any investment in shares in or other securities of that company;

(e) any payment for the supply of goods which does not exceed their market value;

(f) the payment by any company, as rent for any property occupied by the company, of an amount not exceeding a reasonable and commercial rent for the property;

(g) any reasonable and necessary remuneration which—

(i) is paid by any company for services rendered to that company in the course of a trade or profession; and

(ii) is taken into account in computing the profits or gains of the trade or profession under Case I or II of Schedule D or would be so taken into account if it fell in a period on the

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basis of which those profits or gains are assessed under that Schedule;

(h) a payment in discharge of an ordinary trade debt.

(9) In this section—

(a) any reference to a payment or disposal to an individual includes a reference to a payment or disposal made to him indirectly or to his order or for his benefit; and

(b) any reference to an individual includes a reference to an associate of his and any reference to a company includes a reference to a person connected with the company.

(10) This section shall have effect in relation to the acquisition of shares by the trustees of a settlement as if references to the individual acquiring the shares were references to those trustees or the individual who is the qualifying beneficiary by reference to whom this Chapter has or, as the case may be, would have effect in relation to that acquisition.

(11) In this section—

"arrangements" includes any scheme, agreement or understanding, whether or not legally enforceable;

"chargeable business assets" has the same meaning as in section 164C; and

"ordinary trade debt" means any debt for goods or services supplied in the ordinary course of a trade or business where any credit given does not exceed six months and is not longer than that normally given to customers of the person carrying on the trade or business.

Exclusion of double relief.

164M Where a person acquires any shares in a company those shares shall not be eligible shares or, as the case may be, shall cease to be eligible shares if that person or any person connected with him has made or makes a claim for relief in relation to those shares under Chapter III of Part VII of the Taxes Act (business expansion scheme).

Interpretation of Chapter IA.

164N (1) In this Chapter—

"associate" has the meaning given in subsections (3) and (4) of section 417 of the Taxes Act, except that in those subsections, as applied for the purposes of this Chapter, "relative" shall not include a brother or sister;

"eligible shares" means (subject to sections 164L and 164M) any ordinary shares in a company which do not carry—

(a) any present or future preferential rights to dividends or to that company's assets on its winding up; or

(b) any present or future preferential right to be redeemed;

"farming" has the same meaning as in the Taxes Act;

"film" means an original master negative of a film, an original master film disc or an original master film tape;

"oil exploration" means searching for oil (within the meaning of Chapter V of Part XII of the Taxes Act);

"oil rig" means any ship which is an offshore installation for the purposes of the [M6]Mineral Workings (Offshore Installations) Act 1971;

"ordinary share capital" has the meaning given by section 832(1) of the Taxes Act;

"ordinary shares" means shares forming part of a company's ordinary share capital;

"pleasure craft" means any ship of a kind primarily used for sport or recreation;

"property development" means the development of land, by a company which has, or at any time has had, an interest in the land (within the meaning of section 164H), with the sole or main object of realising a gain from disposing of the land when developed;

"research and development" means any activity which is intended to result in a patentable invention (within the meaning of the [M7]Patents Act 1977) or in a computer program;

"sound recording" in relation to a film, means its sound track, original master audio disc or original master audio tape; and

"unquoted company" means a company none of the shares in or other securities of which are quoted on any recognised stock exchange or are dealt in on the Unlisted Securities Market.

(2) Section 170 shall apply for the interpretation of sections 164G and 164I as it applies for the interpretation of sections 171 to 181.

(3) Subject to subsection (2) above, paragraph 1 of Schedule 6 shall have effect for the purposes of this Chapter as it has effect for the purposes of sections 163 and 164 and that Schedule.

(4) References in this Chapter to the reduction of an amount include references to its reduction to nil."

Marginal Citations

M4 1986 c. 45.
M5 S.I. 1989/2405 (N.I. 19).
M6 1971 c. 61.
M7 1977 c. 37.

SCHEDULE 8

Section 88.

RESTRICTION ON SET-OFF OF PRE-ENTRY LOSSES

The following is the Schedule to be inserted after Schedule 7 to the [M8]Taxation of Chargeable Gains Act 1992.

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"SCHEDULE 7A

Section 177A.

RESTRICTION ON SET-OFF OF PRE-ENTRY LOSSES

Application and construction of Schedule

1 (1) This Schedule shall have effect, in the case of a company which is or has been a member of a group of companies ("the relevant group"), in relation to any pre-entry losses of that company.

(2) In this Schedule "pre-entry loss", in relation to any company, means—

(a) any allowable loss that accrued to that company at a time before it became a member of the relevant group; or

(b) the pre-entry proportion of any allowable loss accruing to that company on the disposal of any pre-entry asset;

and for the purposes of this Schedule the pre-entry proportion of any loss shall be calculated in accordance with paragraphs 2 to 5 below.

(3) In this Schedule "pre-entry asset", in relation to any disposal, means (subject to sub-paragraph (4) below) any asset which was held, at the time immediately before it became a member of the relevant group, by any company (whether or not the one which makes the disposal) which is or has at any time been a member of that group.

(4) Subject to paragraph 3 below, an asset is not a pre-entry asset if—

(a) the company which held the asset at the time it became a member of the relevant group is not the company which makes the disposal; and

(b) since that time that asset has been disposed of otherwise than by a disposal to which section 171 applies;

but (without prejudice to sub-paragraph (8) below) where, on a disposal to which section 171 does not apply, any asset would cease to be a pre-entry asset by virtue of this sub-paragraph but the company making the disposal retains any interest in or over the asset in question, that interest shall be a pre-entry asset for the purposes of this Schedule.

(5) References in this Schedule, in relation to a pre-entry asset, to the relevant time are references to the time when the company by reference to which that asset is a pre-entry asset became a member of the relevant group; and for the purposes of this Schedule—

(a) where a company has become a member of the relevant group on more than one occasion, an asset is a pre-entry asset by reference to that company if it would be a pre-entry asset by reference to that company in respect of any one of those occasions; but

(b) references in the following provisions of this Schedule to the time when a company became a member of the relevant group, in relation to assets held on more than one such occasion as is mentioned in paragraph (a) above, are references to the later or latest of those occasions.

(6) Subject to so much of sub-paragraph (6) of paragraph 9 below as requires groups of companies to be treated as separate groups for the purposes of that paragraph, if—

(a) the principal company of a group of companies ("the first group") has at any time become a member of another group ("the second group") so that the two groups are treated as the same by virtue of subsection (10) of section 170, and

(b) the second group, together in pursuance of that subsection with the first group, is the relevant group,

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then, except where sub-paragraph (7) below applies, the members of the first group shall be treated for the purposes of this Schedule as having become members of the relevant group at that time, and not by virtue of that subsection at the times when they became members of the first group.

(7) This sub-paragraph applies where—

(a) the persons who immediately before the time when the principal company of the first group became a member of the second group owned the shares comprised in the issued share capital of the principal company of the first group are the same as the persons who, immediately after that time, owned the shares comprised in the issued share capital of the principal company of the relevant group; and

(b) the company which is the principal company of the relevant group immediately after that time—

(i) was not the principal company of any group immediately before that time; and

(ii) immediately after that time had assets consisting entirely, or almost entirely, of shares comprised in the issued share capital of the principal company of the first group.

(8) For the purposes of this Schedule, but subject to paragraph 3 below—

(a) an asset acquired or held by a company at any time and an asset held at a later time by that company, or by any company which is or has been a member of the same group of companies as that company, shall be treated as the same asset if the value of the second asset is derived in whole or in part from the first asset; and

(b) if—

(i) any asset is treated (whether by virtue of paragraph (a) above or otherwise) as the same as an asset held by a company at a later time, and

(ii) the first asset would have been a pre-entry asset in relation to that company,

the second asset shall also be treated as a pre-entry asset in relation to that company;

and paragraph (a) above shall apply, in particular, where the second asset is a freehold and the first asset is a leasehold the lessee of which acquires the reversion.

(9) In determining for the purposes of this Schedule whether any allowable loss accruing to a company under section 116(10)(b) is a loss that accrued before the company became a member of the relevant group, any loss so accruing shall be deemed to have accrued at the time of the relevant transaction within the meaning of section 116(2).

(10) In determining for the purposes of this Schedule whether any allowable loss accruing to a company on a disposal under section 212 is a loss that accrued before the company became a member of the relevant group, the provisions of section 213 shall be disregarded.

Pre-entry proportion of losses on pre-entry assets

2 (1) Subject to paragraphs 3 to 5 below, the pre-entry proportion of an allowable loss accruing on the disposal of a pre-entry asset shall be whatever would be the allowable loss accruing on that disposal if that loss were the sum of the amounts determined, for every item of relevant allowable expenditure, according to the following formula—

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(2) In sub-paragraph (1) above, in relation to any disposal of a pre-entry asset—

A is the total amount of the allowable loss;

B is the sum of the amount of the item of relevant allowable expenditure for which an amount falls to be determined under this paragraph and the indexed rise in that item;

C is the sum of the total amount of all the relevant allowable expenditure and the indexed rises in each of the items comprised in that expenditure;

D is the length of the period beginning with the relevant pre-entry date and ending with the relevant time or, if that date is after that time, nil; and

E is the length of the period beginning with the relevant pre-entry date and ending with the day of the disposal.

(3) In sub-paragraph (2) above "the relevant pre-entry date", in relation to any item of relevant allowable expenditure, means whichever is the later of—

(a) the date on which that item of expenditure is, or (on the assumption applying by virtue of sub-paragraphs (4) and (5) below) would be, treated for the purposes of section 54 as having been incurred; and

(b) 1st April 1982.

(4) Where any asset ("the second asset") is treated by virtue of section 127 as the same as another asset ("the first asset") previously held by any company, this paragraph and (so far as applicable) paragraph 3 below shall have effect, except in relation to the calculation of any indexed rise—

(a) as if any item of relevant allowable expenditure consisting in consideration given for the acquisition of the second asset had been incurred at the same time as the expenditure consisting in the consideration for the acquisition of the first asset; and

(b) where there is more than one such time as if that item were incurred at those different times in the same proportions as the consideration for the acquisition of the first asset.

(5) Without prejudice to sub-paragraph (4) above, this paragraph shall have effect in relation to any asset which—

(a) was held by a company at the time when it became a member of the relevant group, and

(b) is treated as having been acquired by that company for such a consideration as secured that on the disposal in pursuance of which it was acquired neither a gain nor a loss accrued,

as if that company and every person who acquired that asset or the equivalent asset at a material time had been the same person and, accordingly, as if the asset had been acquired by that company when it or the equivalent asset was acquired by the first of those persons to have acquired it at a material time and the time at which any expenditure had been incurred were to be determined accordingly.

(6) In sub-paragraph (5) above, the reference, in relation to any asset, to a material time is a reference to any time which—

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(a) is before the occasion on which the company in question is treated as having acquired the asset for such a consideration as is mentioned in that sub-paragraph; and

(b) is or is after the last occasion before that occasion on which any person acquired that asset or the equivalent asset otherwise than by virtue of an acquisition which—

(i) is treated as an acquisition for such a consideration; or

(ii) is the acquisition by virtue of which any asset is treated as the equivalent asset;

and this paragraph shall have effect in relation to any asset to which that sub-paragraph applies without regard to the provisions of section 56(2).

(7) In sub-paragraphs (5) and (6) above, the reference in relation to the acquisition of any asset by any company, to the equivalent asset is a reference to any asset which (whether by virtue of paragraph 1(8) above or otherwise) would be treated in relation to that company as the same as the asset in question.

(8) The preceding provisions of this paragraph and (so far as applicable) paragraph 3 below shall have effect where—

(a) a loss accrues to any company under section 116(10)(b), and

(b) the old asset consists in or is treated for the purposes of that paragraph as including pre-entry assets,

as if the disposal on which the loss accrues were that disposal of the old asset which is assumed to have been made for the purposes of the calculation required by section 116(10)(a).

(9) In this paragraph—

"indexed rise" shall be construed in accordance with section 54 and, where the formula set out in sub-paragraph (1) above is applied for the purposes of paragraph 3 below, without regard to section 110; and

"relevant allowable expenditure", in relation to any allowable loss, means the expenditure which falls by virtue of section 38(1)(a) or (b) to be taken into account in the computation of that loss.

Disposals of pooled assets

3 (1) This paragraph shall apply (subject to paragraphs 4 and 5 below) where any assets acquired by any company fall to be treated with other assets as indistinguishable parts of the same asset ("a pooled asset") and the whole or any part of that asset is referable to pre-entry assets.

(2) For the purposes of this Schedule, where a pooled asset has at any time contained a pre-entry asset—

(a) the pooled asset shall be treated, until all the pre-entry assets included in that asset have (on the assumptions for which this paragraph provides) been disposed of, as incorporating a part which is referable to pre-entry assets; and

(b) the size of that part shall be determined in accordance with the following provisions of this paragraph.

(3) Where there is a disposal of any part of a pooled asset and the proportion of the asset which is disposed of does not exceed the proportion of that asset which is represented by any part of it which is not, at the time of the disposal, referable to pre-entry assets,

that disposal shall be deemed for the purposes of this Schedule to be confined to assets which are not pre-entry assets so that—

(a) except where paragraph 4(2) below applies, no part of any loss accruing on that disposal shall be deemed to be a pre-entry loss, and

(b) the part of the pooled asset which after the disposal is to be treated as referable to pre-entry assets shall be correspondingly increased.

(4) Where there is a disposal of any part of a pooled asset and the proportion of the asset which is disposed of does exceed the proportion of that asset mentioned in sub-paragraph (3) above, that disposal shall be deemed for the purposes of this Schedule to relate to pre-entry assets only so far as required for the purposes of the excess, so that—

(a) any loss accruing on that disposal shall be deemed for the purposes of this Schedule to be an allowable loss on the disposal of a pre-entry asset;

(b) the pre-entry proportion of that loss shall be deemed (except where paragraph 4(3) below applies) to be the amount (so far as it does not exceed the amount of the loss actually accruing) which would have been the pre-entry proportion under paragraph 2 above of any loss accruing on the disposal of the excess if the excess were a separate asset; and

(c) the pooled asset shall be treated after the disposal as referable entirely to pre-entry assets.

(5) Where there is a disposal of the whole of a pooled asset or of any part of a pooled asset which, at the time of the disposal, is referable entirely to pre-entry assets, paragraphs (a) and (b) of sub-paragraph (4) above shall apply to the disposal of the asset or the part as they apply in relation to the assumed disposal of the excess mentioned in that sub-paragraph but, in the case of the disposal of the whole of a pooled asset only a part of which is referable to pre-entry assets, as if the reference in paragraph (b) of that sub-paragraph to the excess were a reference to that part.

(6) For the purpose of determining, under sub-paragraph (4) or (5) above, what would have been the pre-entry proportion of any loss accruing on the disposal of any assets as a separate asset it shall be assumed that none of the assets treated as comprised in that asset has ever been comprised in a pooled asset with any assets other than those which are taken to constitute that separate asset for the purposes of the determination.

(7) The assets which are comprised in any asset which is treated for any of the purposes of this paragraph as a separate asset shall be identified on the following assumptions, that is to say—

(a) that assets are disposed of in the order of the dates which for the purposes of paragraph 2 above are the relevant pre-entry dates in relation to the consideration for their acquisition;

(b) subject to that, that assets with earlier relevant times are disposed of before those with later relevant times;

(c) that disposals made when a company was not a member of the relevant group are made in accordance with the preceding provisions of this paragraph, as they have effect in relation to the group of companies of which the company was a member at the time of the disposal or, as the case may be, of which it had most recently been a member before that time; and

(d) subject to paragraphs (a) to (c) above, that a company disposes of assets in the order in which it acquired them.

(8) Where in the case of any asset there is more than one date which is the relevant pre-entry date in relation to the consideration for its acquisition, the date taken into account

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for the purposes of sub-paragraph (7)(a) above shall be the date which is the earlier or earliest of those dates if any date which is the relevant pre-entry date in relation to the acquisition of an option to acquire that asset is disregarded.

(9) In applying the formula set out in paragraph 2(1) above in relation to the disposal of an asset which is treated for any of the purposes of this paragraph as comprised in a separate asset—

(a) the amount or value of any consideration for the acquisition or disposal of that asset; and

(b) the incidental costs of the acquisition or disposal of that asset,

shall be determined (to the exclusion of any apportionment under section 129 or 130) by apportioning any consideration or costs relating to both that asset and other assets acquired or disposed of at the same time according to the proportion that is borne by that asset to all the assets to which the consideration or costs related.

(10) Where—

(a) any asset ("the latest asset") falls (whether by virtue of paragraph 1(8) above or otherwise) to be treated as acquired at the same time as another asset ("the original asset") which was acquired before the latest asset, and

(b) the latest asset is either comprised in a pooled asset a part of which is referable to pre-entry assets or is or includes an asset which is to be treated as so comprised,

sub-paragraph (7) above shall apply not only in relation to the latest asset as if it were the original asset but also, in the first place, for identifying the asset which is to be treated as the original asset for the purposes of this paragraph.

(11) Sub-paragraphs (3)(b) and (4)(c) above shall have effect in relation to any disposal without prejudice to the effect of any subsequent acquisition of assets falling to be treated as part of a pooled asset on the determination of whether, and to what extent, any part of that pooled asset is to be treated as referable to pre-entry assets.

Rule to prevent pre-entry losses on pooled assets being treated as post-entry losses

4 (1) This paragraph shall apply if—

(a) there is a disposal of any part of a pooled asset which for the purposes of paragraph 3 above is treated as incorporating a part which is referable to pre-entry assets;

(b) the assets disposed of are or include assets ("the post-entry element of the disposal") which for the purposes of that paragraph are treated as having been incorporated in the part of the pooled asset which is not referable to pre-entry assets;

(c) an allowable loss ("the actual loss") accrues on the disposal; and

(d) the amount which in computing the allowable loss is allowed as a deduction of relevant allowable expenditure ("the expenditure actually allowed") exceeds the relevant allowable expenditure attributable to the post-entry element of the disposal.

(2) Subject to sub-paragraph (6) below, where the post-entry element of the disposal comprises all of the assets disposed of—

(a) the actual loss shall be treated for the purposes of this Schedule as a loss accruing on the disposal of a pre-entry asset; and

(b) the pre-entry proportion of that loss shall be treated as being the amount (so far as it does not exceed the amount of the actual loss) by which the expenditure

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actually allowed exceeds the relevant allowable expenditure attributable to the post-entry element of the disposal.

(3) Subject to sub-paragraph (6) below, where—

(a) the actual loss is treated by virtue of paragraph 3 above as a loss accruing on the disposal of a pre-entry asset, and

(b) the expenditure actually allowed exceeds the actual cost of the assets to which the disposal is treated as relating,

the pre-entry proportion of the loss shall be treated as being the amount which (so far as it does not exceed the amount of the actual loss) is equal to the sum of that excess and what would, apart from this paragraph and paragraph 5 below, be the pre-entry proportion of the loss accruing on the disposal.

(4) For the purposes of sub-paragraph (3) above the actual cost of the assets to which the disposal is treated as relating shall be taken to be the sum of—

(a) the relevant allowable expenditure attributable to the post-entry element of the disposal; and

(b) the amount which, in computing the pre-entry proportion of the loss in accordance with paragraph 3(4)(b) and (6) above, would be treated for the purposes of C in the formula in paragraph 2(1) above as the total amount allowable as a deduction of relevant allowable expenditure in respect of such of the assets disposed of as are treated as having been incorporated in the part of the pooled asset which is referable to pre-entry assets.

(5) Without prejudice to sub-paragraph (6) below, where sub-paragraph (2) or (3) above applies for the purpose of determining the pre-entry proportion of any loss, no election shall be capable of being made under paragraph 5 below for the purpose of enabling a different amount to be taken as the pre-entry proportion of that loss.

(6) Where—

(a) the pre-entry proportion of the loss accruing to any company on the disposal of any part of a pooled asset falls to be determined under sub-paragraph (2) or (3) above,

(b) the amount determined under that sub-paragraph exceeds the amount determined under sub-paragraph (7) below ("the alternative pre-entry loss"), and

(c) the company makes an election for the purposes of this sub-paragraph,

the pre-entry proportion of the loss determined under sub-paragraph (2) or (3) above shall be reduced to the amount of the alternative pre-entry loss.

(7) For the purposes of sub-paragraph (6) above the alternative pre-entry loss is whatever apart from this paragraph would have been the pre-entry proportion of the loss on the disposal in question, if for the purposes of this Schedule the identification of the assets disposed of were to be made disregarding the part of the pooled asset which was not referable to pre-entry assets, except to the extent (if any) by which the part referable to pre-entry assets fell short of what was disposed of.

(8) An election for the purposes of sub-paragraph (6) above with respect to any loss shall be made by the company to which the loss accrued by notice to the inspector given within—

(a) the period of two years beginning with the end of the accounting period of that company in which the disposal is made on which the loss accrues; or

(b) such longer period as the Board may by notice allow;

and paragraph 5 below may be taken into account under sub-paragraph (7) above in determining the amount of the alternative pre-entry loss as if an election had been made under that paragraph but shall be so taken into account only if the election for the purposes of sub-paragraph (6) above contains an election corresponding to the election that, apart from this paragraph, might have been made under that paragraph.

(9) For the purposes of this paragraph the relevant allowable expenditure attributable to the post-entry element of the disposal shall be the amount which, in computing any allowable loss accruing on a disposal of that element as a separate asset, would have been allowed as a deduction of relevant allowable expenditure if none of the assets comprised in that element had ever been comprised in a pooled asset with any assets other than those which are taken to constitute that separate asset for the purposes of this sub-paragraph.

(10) For the purpose of identifying the assets which are to be treated for the purposes of sub-paragraph (9) above as comprised in the post-entry element of the disposal, a company shall be taken to dispose of assets in the order in which it acquired them.

(11) Paragraph 3(9) above shall apply for the purposes of sub-paragraph (9) above as it applies for the purposes of the application as mentioned in paragraph 3(9) above of the formula so mentioned; and paragraph 3(10) above shall apply for the purposes of this paragraph in relation to sub-paragraph (10) above as it applies for the purposes of paragraph 3 above in relation to sub-paragraph (7) of that paragraph.

(12) In this paragraph references to an amount allowed as a deduction of relevant allowable expenditure are references to the amount falling to be so allowed in accordance with section 38(1)(a) and (b) and (so far as applicable) section 42, together with the indexed rises in the items comprised in that expenditure or, as the case may be, in the appropriate portions of those items.

(13) In sub-paragraph (12) above "indexed rise" has the same meaning as it has by virtue of paragraph 2(9) above in relation to the application for the purposes of paragraph 3 above of the formula set out in paragraph 2(1) above.

(14) Nothing in this paragraph shall affect the operation of the rules contained in paragraph 3 above for determining, for any purposes other than those of sub-paragraph (7) above, how much of any pooled asset at any time consists of a part which is referable to pre-entry assets.

Alternative calculation by reference to market value

5 (1) Subject to paragraph 4(5) above and the following provisions of this paragraph, if—

(a) an allowable loss accrues on the disposal by any company of any pre-entry asset; and

(b) that company makes an election for the purposes of this paragraph in relation to that loss,

the pre-entry proportion of that loss (instead of being the amount determined under the preceding provisions of this Schedule) shall be whichever is the smaller of the amounts mentioned in sub-paragraph (2) below.

(2) Those amounts are—

(a) the amount of any loss which would have accrued if that asset had been disposed of at the relevant time at its market value at that time; and

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(b) the amount of the loss accruing on the disposal mentioned in sub-paragraph (1)(a) above.

(3) Where no loss would have accrued on the disposal assumed for the purposes of sub-paragraph (2)(a) above, the loss accruing on the disposal mentioned in sub-paragraph (1)(a) above shall be deemed not to have a pre-entry proportion.

(4) Sub-paragraph (5) below shall apply where—

(a) an election is made for the purposes of this paragraph in relation to any loss accruing on the disposal ("the real disposal") of the whole or any part of a pooled asset; and

(b) the case is one in which (but for the election) paragraph 3 above would apply for determining the pre-entry proportion of a loss accruing on the real disposal.

(5) In a case falling within sub-paragraph (4) above, this paragraph shall have effect as if the amount specified in sub-paragraph (2)(a) above were to be calculated—

(a) on the basis that the disposal which is assumed to have taken place was a disposal of all the assets falling within sub-paragraph (6) below; and

(b) by apportioning any loss that would have accrued on that disposal between—

(i) such of the assets falling within paragraph (6) below as are assets to which the real disposal is treated as relating, and

(ii) the remainder of the assets so falling,

according to the proportions of any pooled asset whose disposal is assumed which would have been, respectively, represented by assets mentioned in sub-paragraph (i) above and by assets mentioned in sub-paragraph (ii) above,

and where assets falling within sub-paragraph (6) below have different relevant times there shall be assumed to have been a different disposal at each of those times.

(6) Assets fall within this sub-paragraph if—

(a) immediately before the time which is the relevant time in relation to those assets, they were comprised in a pooled asset which consisted of or included assets which fall to be treated for the purposes of paragraph 3 above as—

(i) comprised in the part of the pooled asset referable to pre-entry assets; and

(ii) disposed of on the real disposal;

(b) they were also comprised in such a pooled asset immediately after that time; and

(c) the pooled asset in which they were so comprised immediately after that time was held by a member of the relevant group.

(7) Where—

(a) an election is made under paragraph 4(6) above requiring the determination by reference to this paragraph of the alternative pre-entry loss accruing on the disposal of any assets comprised in a pooled asset, and

(b) in pursuance of that election any amount of the loss that would have accrued on an assumed disposal is apportioned in accordance with sub-paragraph (5) above to assets ("the relevant assets") which—

(i) are treated for the purposes of that determination as assets to which the disposal related, but

(ii) otherwise continue after the disposal to be treated as incorporated in the part of that pooled asset which is referable to pre-entry assets,

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then, on any further application of this paragraph for the purpose of determining the pre-entry proportion of the loss accruing on a subsequent disposal of assets comprised in that pooled asset, that amount (without being apportioned elsewhere) shall be deducted from so much of the loss accruing on the same assumed disposal as, apart from the deduction, would be apportioned to the relevant assets on that further application of this paragraph.

(8) An election under this paragraph with respect to any loss shall be made by the company in question by notice to the inspector given within—

(a) the period of two years beginning with the end of the accounting period of that company in which the disposal is made on which the loss accrues; or

(b) such longer period as the Board may by notice allow.

Restrictions on the deduction of pre-entry losses

6 (1) In the calculation of the amount to be included in respect of chargeable gains in any company's total profits for any accounting period—

(a) if in that period there is any chargeable gain from which the whole or any part of any pre-entry loss accruing in that period is deductible in accordance with paragraph 7 below, the loss or, as the case may be, that part of it shall be deducted from that gain;

(b) if, after all such deductions as may be made under paragraph (a) above have been made, there is in that period any chargeable gain from which the whole or any part of any pre-entry loss carried forward from a previous accounting period is deductible in accordance with paragraph 7 below, the loss or, as the case may be, that part of it shall be deducted from that gain;

(c) the total chargeable gains (if any) remaining after the making of all such deductions as may be made under paragraph (a) or (b) above shall be subject to deductions in accordance with section 8(1) in respect of any allowable losses that are not pre-entry losses; and

(d) any pre-entry loss which has not been the subject of a deduction under paragraph (a) or (b) above (as well as any other losses falling to be carried forward under section 8(1)) shall be carried forward to the following accounting period of that company.

(2) Subject to sub-paragraph (1) above, any question as to which or what part of any pre-entry loss has been deducted from any particular chargeable gain shall be decided—

(a) where it falls to be decided in respect of the setting of losses against gains in any accounting period ending before 16th March 1993 as if—

(i) pre-entry losses accruing in any such period had been set against chargeable gains before any other allowable losses accruing in that period were set against those gains;

(ii) pre-entry losses carried forward to any such period had been set against chargeable gains before any other allowable losses carried forward to that period were set against those gains; and

(iii) subject to sub-paragraphs (i) and (ii) above, the pre-entry losses carried forward to any accounting period ending on or after 16th March 1993 were identified with such losses as may be determined in accordance with such elections as may be made by the company to which they accrued;

and

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(b) in any other case, in accordance with such elections as may be made by the company to which the loss accrued;

and any question as to which or what part of any pre-entry loss has been carried forward from one accounting period to another shall be decided accordingly.

(3) An election by any company under this paragraph shall be made by notice to the inspector given—

(a) in the case of an election under sub-paragraph (2)(a)(iii) above, before the end of the period of two years beginning with the end of the accounting period of that company which was current on 16th March 1993; and

(b) in the case of an election under sub-paragraph (2)(b) above, before the end of the period of two years beginning with the end of the accounting period of that company in which the gain in question accrued.

(4) For the purposes of this Schedule where any matter falls to be determined under this paragraph by reference to an election but no election is made, it shall be assumed, so far as consistent with any elections that have been made—

(a) that losses are set against gains in the order in which the losses accrued; and

(b) that the gains against which they are set are also determined according to the order in which they accrued with losses being set against earlier gains before they are set against later ones.

Gains from which pre-entry losses are to be deductible

7 (1) A pre-entry loss that accrued to a company before it became a member of the relevant group shall be deductible from a chargeable gain accruing to that company if the gain is one accruing—

(a) on a disposal made by that company before the date on which it became a member of the relevant group ("the entry date");

(b) on the disposal of an asset which was held by that company immediately before the entry date; or

(c) on the disposal of any asset which—

(i) was acquired by that company on or after the entry date from a person who was not a member of the relevant group at the time of the acquisition; and

(ii) since its acquisition from that person has not been used or held for any purposes other than those of a trade which was being carried on by that company at the time immediately before the entry date and which continued to be carried on by that company until the disposal.

(2) The pre-entry proportion of an allowable loss accruing to any company on the disposal of a pre-entry asset shall be deductible from a chargeable gain accruing to that company if—

(a) the gain is one accruing on a disposal made, before the date on which it became a member of the relevant group, by that company and that company is the one ("the initial company") by reference to which the asset on the disposal of which the loss accrues is a pre-entry asset;

(b) the pre-entry asset and the asset on the disposal of which the gain accrues were each held by the same company at a time immediately before it became a member of the relevant group; or

(c) the gain is one accruing on the disposal of an asset which—

(i) was acquired by the initial company (whether before or after it became a member of the relevant group) from a person who, at the time of the acquisition, was not a member of that group; and

(ii) since its acquisition from that person has not been used or held for any purposes other than those of a trade which was being carried on, immediately before it became a member of the relevant group, by the initial company and which continued to be carried on by the initial company until the disposal.

(3) Where two or more companies become members of the relevant group at the same time and those companies were all members of the same group of companies immediately before they became members of the relevant group, then, without prejudice to paragraph 9 below—

(a) an asset shall be treated for the purposes of sub-paragraph (1)(b) above as held, immediately before it became a member of the relevant group, by the company to which the pre-entry loss in question accrued if that company is one of those companies and the asset was in fact so held by another of those companies;

(b) two or more assets shall be treated for the purposes of sub-paragraph (2)(b) above as assets held by the same company immediately before it became a member of the relevant group wherever they would be so treated if all those companies were treated as a single company; and

(c) the acquisition of an asset shall be treated for the purposes of sub-paragraphs (1)(c) and (2)(c) above as an acquisition by the company to which the pre-entry loss in question accrued if that company is one of those companies and the assset was in fact acquired (whether before or after they became members of the relevant group) by another of those companies.

(4) Paragraph 1(4) above shall apply for determining for the purposes of this paragraph whether an asset on the disposal of which a chargeable gain accrues was held at the time when a company became a member of the relevant group as it applies for determining whether that asset is a pre-entry asset in relation to that group by reference to that company.

(5) Subject to sub-paragraph (6) below, where a gain accrues on the disposal of the whole or any part of—

(a) any asset treated as a single asset but comprising assets only some of which were held at the time mentioned in paragraph (b) of sub-paragraph (1) or (2) above, or

(b) an asset which is treated as held at that time by virtue of a provision requiring an asset which was not held at that time to be treated as the same as an asset which was so held,

a pre-entry loss shall be deductible by virtue of paragraph (b) of sub-paragraph (1) or (2) above from the amount of that gain to the extent only of such proportion of that gain as is attributable to assets held at that time or, as the case may be, represents the gain that would have accrued on the asset so held.

(6) Where—

(a) a chargeable gain accrues by virtue of subsection (10) of section 116 on the disposal of a qualifying corporate bond,

(b) that bond was not held as required by paragraph (b) of sub-paragraph (1) or (2) above at the time mentioned in that paragraph, and

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(c) the whole or any part of the asset which is the old asset for the purposes of that section was so held,

the question whether that gain is one accruing on the disposal of an asset the whole or any part of which was held by a particular company at that time shall be determined for the purposes of this paragraph as if the bond were deemed to have been so held to the same extent as the old asset.

Change of a company's nature

8 (1) If—

(a) within any period of three years, a company becomes a member of a group of companies and there is (either earlier or later in that period, or at the same time) a major change in the nature or conduct of a trade carried on by that company, or

(b) at any time after the scale of the activities in a trade carried on by a company has become small or negligible, and before any considerable revival of the trade, that company becomes a member of a group of companies,

the trade carried on before that change, or which has become small or negligible, shall be disregarded for the purposes of paragraph 7(1)(c) and (2)(c) above in relation to any time before the company became a member of the group in question.

(2) In sub-paragraph (1) above the reference to a major change in the nature or conduct of a trade includes a reference to—

(a) a major change in the type of property dealt in, or services or facilities provided, in the trade; or

(b) a major change in customers, markets or outlets of the trade;

and this paragraph shall apply even if the change is the result of a gradual process which began outside the period of three years mentioned in sub-paragraph (1)(a) above.

(3) Where the operation of this paragraph depends on circumstances or events at a time after the company becomes a member of any group of companies (but not more than three years after), an assessment to give effect to this paragraph shall not be out of time if made within six years from that time or the latest such time.

Identification of "the relevant group" and application of Schedule to every connected group

9 (1) This paragraph shall apply where there is more than one group of companies which would be the relevant group in relation to any company.

(2) Where any loss has accrued on the disposal by any company of any asset, this Schedule shall not apply by reference to any group of companies in relation to any loss accruing on that disposal unless—

(a) that group is a group in relation to which that loss is a pre-entry loss by virtue of paragraph 1(2)(a) above or, if there is more than one such group, the one of which that company most recently became a member;

(b) that group, in a case where there is no group falling within paragraph (a) above, is either—

(i) the group of which that company is a member at the time of the disposal, or

(ii) if it is not a member of a group of companies at that time, the group of which that company was last a member before that time;

(c) that group, in a case where there is a group falling within paragraph (a) above, is a group of which that company was a member at any time in the accounting period of that company in which it became a member of the group falling within that paragraph;

(d) that group is a group the principal company of which is or has been, or has been under the control of—

(i) the company by which the disposal is made, or

(ii) another company which is or has been a member of a group by reference to which this Schedule applies in relation to the loss in question by virtue of paragraph (a), (b) or (c) above;

or

(e) that group is a group of which either—

(i) the principal company of a group by reference to which this Schedule so applies, or

(ii) a company which has had that principal company under its control,

is or has been a member;

and sub-paragraphs (3) to (5) below shall apply in the case of any loss accruing on the disposal of any asset where, by virtue of this sub-paragraph, there are two or more groups ("connected groups") by reference to which this Schedule applies.

(3) This Schedule shall apply separately in relation to each of the connected groups (so far as they are not groups in relation to which the loss is a pre-entry loss by virtue of paragraph 1(2)(a) above) for the purpose of—

(a) determining whether the loss on the disposal of any asset is a loss on the disposal of a pre-entry asset; and

(b) calculating the pre-entry proportion of that loss.

(4) Subject to sub-paragraph (5) below, paragraph 6 above shall have effect—

(a) as if the pre-entry proportion of any loss accruing on the disposal of an asset which is a pre-entry asset in the case of more than one of the connected groups were the largest pre-entry proportion of that loss calculated in accordance with sub-paragraph (3) above; and

(b) so that, where the loss accruing on the disposal of any asset is a pre-entry loss by virtue of paragraph 1(2)(a) above in the case of any of the connected groups, that loss shall be the pre-entry loss for the purposes of paragraph 6 above, and not any amount which is the pre-entry proportion of that loss in relation to any of the other groups.

(5) Where, on the separate application of this Schedule in the case of each of the groups by reference to which this Schedule applies, there is, in the case of the disposal of any asset, a pre-entry loss by reference to each of two or more of the connected groups, no amount in respect of the loss accruing on the disposal shall be deductible under paragraph 7 above from any chargeable gain if any of the connected groups is a group in the case of which, on separate applications of that paragraph in relation to each group, the amount deductible from that gain in respect of that loss is nil.

(6) Notwithstanding that the principal company of one group ("the first group") has become a member of another ("the second group"), those two groups shall not by virtue of section 170(10) be treated for the purposes of this paragraph as the same group if the principal company of the first group was under the control, immediately before it became a member of the second group, of a company which at that time was already a member of the second group.

(7) Where, in the case of the disposal of any asset—

(a) two or more groups which but for sub-paragraph (6) above would be treated as the same group are treated as separate groups by virtue of that sub-paragraph; and

(b) one of those groups is a group of which either—

(i) the principal company of a group by reference to which this Schedule applies by virtue of sub-paragraph (2)(a), (b) or (c) above in relation to any loss accruing on the disposal, or

(ii) a company which has had that principal company under its control,

is or has been a member,

this paragraph shall have effect as if that principal company had been a member of each of the groups mentioned in paragraph (a) above.

Appropriations to stock in trade

10 Where, but for an election under subsection (3) of section 161, there would be deemed to have been a disposal at any time by any company of any asset—

(a) the amount by which the market value of the asset may be treated as increased in pursuance of that election shall not include the amount of any pre-entry loss that would have accrued on that disposal; and

(b) this Schedule shall have effect as if the pre-entry loss of the last mentioned amount had accrued to that company at that time.

Continuity provisions

11 (1) This paragraph applies where provision has been made by or under any enactment ("the transfer legislation") for the transfer of property, rights and liabilities to any person from—

(a) a body established by or under any enactment for the purpose, in the exercise of statutory functions, of carrying on any undertaking or industrial or other activity in the public sector or of exercising any other statutory functions;

(b) a subsidiary of such a body; or

(c) a company wholly owned by the Crown.

(2) A loss shall not be a pre-entry loss for the purposes of this Schedule in relation to any company to whom a transfer has been made by or under the transfer legislation if that loss—

(a) accrued to the person from whom the transfer has been made; and

(b) falls to be treated, in accordance with any enactment made in relation to transfers by or under that legislation, as a loss accruing to that company.

(3) For the purposes of this Schedule where a company became a member of the relevant group by virtue of the transfer by or under the transfer legislation of any shares in or other securities of that company or any other company—

(a) a loss that accrued to that company before it so became a member of that group shall not be a pre-entry loss in relation to that group; and

(b) no asset held by that company when it so became a member of that group shall by virtue of that fact be a pre-entry asset.

(4) For the purposes of this paragraph a company shall be regarded as wholly owned by the Crown if it is—

(a) a company limited by shares in which there are no issued shares held otherwise than by, or by a nominee of, the Treasury, a Minister of the Crown, a Northern Ireland department or another company wholly owned by the Crown; or

(b) a company limited by guarantee of which no person other than the Treasury, a Minister of the Crown or a Northern Ireland department, or a nominee of the Treasury, a Minister of the Crown or a Northern Ireland department, is a member.

(5) In this paragraph—

"enactment" includes any provision of any Northern Ireland legislation, within the meaning of section 24 of the [M9]Interpretation Act 1978; and

"statutory functions" means functions under any enactment, under any subordinate legislation, within the meaning of the Interpretation Act 1978, or under any statutory rules, within the meaning of the [M10]Statutory Rules (Northern Ireland) Order 1979.

Companies changing groups on certain transfers of shares etc.

12 For the purposes of this Schedule, and without prejudice to paragraph 11 above, where—

(a) a company which is a member of a group of companies becomes at any time a member of another group of companies as the result of a disposal of shares in or other securities of that company or any other company; and

(b) that disposal is one on which, by virtue of any enactment specified in section 35(3)(d), neither a gain nor a loss would accrue,

this Schedule shall have effect in relation to the losses that accrued to that company before that time and the assets held by that company at that time as if any time when it was a member of the first group were included in the period during which it is treated as having been a member of the second group."

Marginal Citations

M8 1992 c. 12.

M9 1978 c. 30.

M10 S.I. 1979/1573 (N.I. 13).

[F36]SCHEDULE 9

Section 97.

. . . .

Textual Amendments

F36 Sch. 9 repealed (with effect in accordance with reg. 1 of the amending S.I.) by The Overseas Life Insurance Companies Regulations 2006 (S.I. 2006/3271), reg. 1, **Sch. Pt. 1**

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[F37]SCHEDULE 10

Section 101.

OVERSEAS LIFE INSURANCE COMPANIES: AMENDMENT OF FINANCE ACT 1989

Textual Amendments

F37 Sch. 10 repealed (with effect in accordance with reg. 1 of the amending S.I.) by The Overseas Life Insurance Companies Regulations 2006 (S.I. 2006/3271), reg. 1, **Sch. Pt. 1**

. . . .

[F38]SCHEDULE 11

Section 102.

. . . .

Textual Amendments

F38 Sch. 11 repealed (with effect in accordance with reg. 1 of the amending S.I.) by The Overseas Life Insurance Companies Regulations 2006 (S.I. 2006/3271), reg. 1, **Sch. Pt. 1**

[F39]SCHEDULE 12

Section 114.

. . . .

Textual Amendments

F39 Sch. 12 repealed (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, s., 580, Sch. 4

[F40]SCHEDULE 13

Section 115.

. . . .

Textual Amendments

F40 Sch. 13 repealed (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, s. 580, **Sch. 4**

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SCHEDULE 14

Section 120.

PAY AND FILE: MISCELLANEOUS AMENDMENTS

Failure to give notice of liability for corporation tax

F41 1 . . . .

Textual Amendments

F41 Sch. 14 para. 1 repealed (31.7.1998 with effect in relation to accounting periods ending on or after the self-assessment appointed day within the meaning of s. 117 of the amending Act) by 1998 c. 36, s. 165, **Sch. 27 Pt. III(28)** Note

Further claims etc. where assessment made

F42 2 . . . .

Textual Amendments

F42 Sch. 14 para. 2 repealed (31.7.1998 with effect in relation to accounting periods ending on or after the self-assessment appointed day within the meaning of s. 117 of the amending Act) by 1998 c. 36, s. 165, **Sch. 27 Pt. III(28)** Note

Interest on overdue corporation tax: transitional cases

3 (1) Section 86 of that Act of 1970 (interest on overdue tax) shall be amended as follows.

(2) In subsection (3)(b), for "subject to subsection (3A)" there shall be substituted " subject to subsections (3A) and (4A) ".

(3) In subsection (3A), at the beginning there shall be inserted " Subject to subsection (4A) below, ".

(4) After subsection (4) there shall be inserted the following subsections—

"(4A) For the purposes of this section where—

(a) a notice served under section 11 above at any time after the appointed day for the purposes of section 82 of the M13 Finance (No. 2) Act 1987 (amendment of section 11 for the purposes of pay and file) is to be taken as requiring a company to make a return for any accounting period ending on or before the day appointed for the purposes of section 10 of the principal Act; and

(b) the tax charged by any assessment to corporation tax for that accounting period does not become due and payable until after the date nine months from the end of that accounting period,

the reckonable date, in relation to tax charged for that accounting period by that assessment, is the date mentioned in paragraph (b) above (instead of the date which would otherwise be determined under subsection (3) or (3A) above).

(4B) The Board may at their discretion mitigate (whether before or after judgment) any interest due under this section in a case where the reckonable date is determined under subsection (4A) above and may stay or compound any proceedings for the recovery thereof.”

Marginal Citations

M13 1987 c. 51.

Interest on overdue corporation tax: pay and file cases

4 F43(1) . . . .

(2) For subsection (6) of that section there shall be substituted the following subsections—

“(6) In any case where—

(a) on a claim under section 393A(1) of the principal Act, the whole or any part of a loss incurred in an accounting period (“the later period”) has been set off for the purposes of corporation tax against profits of a preceding accounting period (“the earlier period”);

(b) the earlier period does not fall wholly within the period of twelve months immediately preceding the later period; and

(c) if the claim had not been made, there would be an amount or, as the case may be, an additional amount of corporation tax for the earlier period which would carry interest in accordance with this section,

then, for the purposes of the determination at any time of whether any interest is payable under this section or of the amount of interest so payable, the amount mentioned in paragraph (c) above shall be taken to be an amount of unpaid corporation tax for the earlier period except so far as concerns interest for any time after the date on which any corporation tax for the later period became (or, as the case may be, would have become) due and payable as mentioned in subsection (1) above.

(7) Where, in a case falling within subsection (6)(a) and (b) above—

(a) there is in the earlier period, as a result of the claim under section 393A(1) of the principal Act, an amount of surplus advance corporation tax, as defined in subsection (3) of section 239 of that Act; and

(b) pursuant to a claim under the said subsection (3), the whole or any part of that amount is to be treated for the purposes of the said section 239 as discharging liability for an amount of corporation tax for an accounting period before the earlier period,

the claim under the said subsection (3) shall be disregarded for the purposes of subsection (6) above but subsection (4) above shall have effect in relation to that claim as if the reference in the words after paragraph (c) to the later period within the meaning of subsection (4) above were a reference to the period which, in relation to the claim under the said section 393A(1), would be the later period for the purposes of subsection (6) above.”

Textual Amendments

F43 Sch. 14 para. 4(1) repealed (31.7.1998 with effect in accordance with Sch. 3 of the amending Act) by 1998 c. 36, s. 165, **Sch. 27 Pt. III(2)** Note

Effect on interest of reliefs

5 In section 91(1B) of that Act of 1970 (subsection (1A) subject to section 87A(4)), after "section 87A(4)" there shall be inserted " (6) and (7) ".

Failure to make return for corporation tax

F44 6 . . . .

Textual Amendments

F44 Sch. 14 para. 6 repealed (31.7.1998 with effect in relation to accounting periods ending on or after the self-assessment appointed day within the meaning of s. 117 of the amending Act) by 1998 c. 36, s. 165, **Sch. 27 Pt. III(28)** Note

Things to be done by companies

7 In section 108(1) of that Act of 1970 (which includes provision requiring companies to act for the purposes of the Taxes Acts through their proper officers), after "proper officer of the company" there shall be inserted " or, except where a liquidator has been appointed for the company, through such other person as may for the time being have the express, implied or apparent authority of the company to act on its behalf for the purpose ".

Relief under section 393 of the Taxes Act 1988

8 (1) In relation to any case in which by virtue of section 99 of the M14 Finance Act 1990 losses may be set off under subsection (1) of section 393 or of section 396 of the Taxes Act 1988 without the making of a claim, the Taxes Act 1988 shall have effect with the following amendments.

F45 (2) . . . .

F46 (3) . . . .

(4) In section 398 (transactions in deposits), for the words from "he may" onwards there shall be substituted " the amount of his loss may be set off in pursuance of a claim under section 392 or, as the case may be, against which the amount of his loss may be set off under section 396 ".

F47 (5) . . . .

Textual Amendments

F45 Sch. 14 para. 8(2) repealed (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), **Sch. 3 Pt. 1** (with Sch. 2)

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F46 Sch. 14 para. 8(3) repealed (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), **Sch. 3 Pt. 1** (with Sch. 2)

F47 Sch. 14 para. 8(5) repealed (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), **Sch. 3 Pt. 1** (with Sch. 2)

Marginal Citations

M14 1990 c. 29.

[F48]9 . . . .

Textual Amendments

F48 Sch. 14 para. 9 repealed (19.7.2007) by Finance Act 2007 (c. 11), **Sch. 27 Pt. 2(8)**

Interest on tax overpaid

10 [F49](1) . . . .

(2) In subsection (7A) of that section, for "any increase in the amount of that repayment" there shall be substituted " so much of the amount of that repayment as falls to be made ".

[F49](3) . . . .

(4) In subsection (7B) of that section, for "any increase in the amount of that payment" there shall be substituted " so much of the amount of that payment as falls to be made ".

[F49](5) . . . .

[F49](6) . . . .

Textual Amendments

F49 Sch. 14 para. 10(1)(3)(5)(6) repealed (31.7.1998 with effect in accordance with Sch. 3 of the amending Act) by 1998 c. 36, s. 165, **Sch. 27 Pt. III(2)** Note

Surrender of refunds

[F50]11 . . . .

Textual Amendments

F50 Sch. 14 para. 11 repealed (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), **Sch. 3 Pt. 1** (with Sch. 2)

[F51]SCHEDULE 15

Section 134.

. . . .

Status: *Point in time view as at 01/10/2016.*
Changes to legislation: *Finance Act 1993 is up to date with all changes known to be in force on or before 16 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Textual Amendments

F51 Sch. 15 repealed (24.7.2002 with effect as mentioned in s. 79(3) of the amending Act) by 2002 c. 23, ss. 79(1)(b), 141, **Sch. 40 Pt. 3(10)** Note 2 (with Sch. 23 paras. 25, 26)

F61SCHEDULE 16

Section 165.

. . . .

Textual Amendments

F61 Sch. 16 repealed (24.7.2002 with effect as mentioned in s. 79(3) of the amending Act) by 2002 c. 23, ss. 79(1)(b), 141, **Sch. 40 Pt. 3(10)** Note 2 (with Sch. 23 paras. 25, 26)

F62SCHEDULE 17

Section 169.

. . . .

Textual Amendments

F62 Sch. 17 repealed (24.7.2002 with effect as mentioned in s. 79(3) of the amending Act) by 2002 c. 23 ss. 79(1)(b), 141, Sch. 40 Pt. 3(10) Note 2 (with Sch. 23 paras. 25, 26)

SCHEDULE 18

Section 170.

Exchange gains and losses: amendments

Taxes Management Act 1970 (c. 9)

1 In section 87A of the Taxes Management Act 1970 (interest on overdue tax for accounting periods ending after appointed day) the following subsection shall be inserted after subsection (4)—

"(4A) In a case where—

(a) there is for an accounting period of a company ("the later period") a relievable amount within the meaning of section 131 of the Finance Act 1993 (non-trading exchange gains and losses),

(b) as a result of a claim under subsection (5) or (6) of that section the whole or part of the relievable amount for the later period is set off against the exchange profits (as defined in subsection (10) of that section) of an earlier accounting period ("the earlier period"), and

(c) disregarding the effect of subsection (5) or (6) (as the case may be) of that section, an amount of corporation tax for the earlier period would carry interest in accordance with this section,

then, in determining the amount of interest payable under this section on corporation tax unpaid for the earlier period, no account shall be taken of any reduction in the amount of that tax resulting from the claim under subsection (5) or (6) of that section except so far as concerns interest for any time after the date on which any corporation tax for the later period became due and payable, as mentioned in subsection (1) above."

Income and Corporation Taxes Act 1988 (c. 1)

F72 2 . . . .

Textual Amendments

F72 Sch. 18 para. 2 repealed (24.7.2002 with effect as mentioned in s. 79(3) of the amending Act) by 2002 c. 23, ss. 79(1)(b), 141, **Sch. 40 Pt. 3(10)** Note 2 (with Sch. 23 paras. 25, 26)

F73 3 . . . .

Textual Amendments

F73 Sch. 18 para. 3 repealed (29.4.1996 coming into force in accordance with the provisions of Chapter II of Part IV of the amending Act) by 1996 c. 8, s. 205, **Sch. 41 Pt. V(3)**

4 In section 407 of the Taxes Act 1988 (relationship between group relief and other relief) in subsection (2) at the end of paragraph (b) there shall be inserted " and ", and after that paragraph there shall be inserted—

"(c) relief under section 131(7) of the Finance Act 1993 in respect of the whole or part of a relievable amount for an accounting period after the accounting period the profits of which are being computed;

and the reference in paragraph (c) above to a relievable amount shall be construed in accordance with section 131 of the Finance Act 1993. "

5 In section 826 of the Taxes Act 1988 (interest on tax overpaid) the following subsection shall be inserted after subsection (7B)—

"(7C) In a case where—

(a) there is for an accounting period of a company ("the later period") a relievable amount within the meaning of section 131 of the Finance Act 1993 (non-trading exchange gains and losses),

(b) as a result of a claim under subsection (5) or (6) of that section the whole or part of the relievable amount for the later period is set off against the exchange profits (as defined in subsection (10) of that section) of an earlier accounting period ("the earlier period"), and

(c) a repayment falls to be made of corporation tax for the earlier period,

then, in determining the amount of interest (if any) payable under this section on the repayment of corporation tax for the earlier period, no account shall be taken of any increase in the amount of the repayment resulting from the claim

under subsection (5) or (6) (as the case may be) of that section except so far as concerns interest for any time after the date on which any corporation tax for the later period became (or, as the case may be, would have become) due and payable, as mentioned in subsection (2) above."

F74 6 . . . .

Textual Amendments

F74 Sch. 18 para. 6 repealed (31.1.2013) by Statute Law (Repeals) Act 2013 (c. 2), s. 3(2), **Sch. 1 Pt. 10** Group 1

Finance Act 1989 (c. 26)

F75 7 . . . .

Textual Amendments

F75 Sch. 18 para. 7 repealed (29.4.1996 coming into force in accordance with the provisions of Chapter II of Part IV of the amending Act) by 1996 c. 8, s. 205, **Sch. 41 Pt. V(3)**

F76 SCHEDULE 19

Section 173.

. . . .

Textual Amendments

F76 Sch. 19 repealed (20.7.2005 for specified purposes, 6.4.2006 in so far as not already in force) by Finance (No. 2) Act 2005 (c. 22), s. 45(1)(8)(9), **Sch. 11 Pt. 2(11)**; S.I. 2005/3337, art. 3

SCHEDULE 20

Section 175.

Lloyd's underwriters: special reserve funds

Modifications etc. (not altering text)

C2 Sch. 20 excluded (1.12.1997 with effect with respect to accounting periods of Lloyd's Scottish limited partnerships ending on or after that date) by S.I. 1997/2681, **reg. 7(1)**

Status: *Point in time view as at 01/10/2016.*
Changes to legislation: *Finance Act 1993 is up to date with all changes known to be in force on or before 16 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

PART I

REQUIREMENTS FOR AND TAX CONSEQUENCES OF NEW-STYLE FUNDS

Preliminary

1 (1) In this Part of this Schedule—

"the arrangements" means the arrangements mentioned in section 175(1) of this Act;

"cash call" means a request for funds which, in pursuance of a contract made in accordance with the rules and practices of Lloyd's, is made to a member by the agent of a syndicate of which he is a member;

"overall premium limit", in relation to a member and an underwriting year, means the maximum amount which, under the rules of Lloyd's, the member may accept by way of premiums in that year;

[[F77]"payment", unless the contrary intention appears, means a payment in money;**]**

"stop-loss payment" means a payment of insurance money under a stop-loss insurance or a payment out of the High Level Stop Loss Fund;

"syndicate profit", in relation to a member and an underwriting year, means the amount by which the aggregate of his profits exceeds the aggregate of his losses for the year, and "syndicate loss" shall be construed accordingly.

(2) For the purposes of the definitions of "syndicate profit" and "syndicate loss" in sub-paragraph (1) above—

(a) any reference to profits or losses of a member is a reference to profits or losses which, in the accounts of the syndicates of which he is a member, are shown as arising to him, [F78]. . .

(b) any payments under paragraph 3(1), 4(1), (2), (3) or (6), 5(1), (4) or (7) or 6(2) below shall be disregarded.

[[F79](c) where the accounts of a syndicate remain open beyond the end of the underwriting year which is the closing year for that syndicate, profits or losses shown in the accounts of the syndicate as arising to a member in any subsequent underwriting year shall be profits or losses of the member for the last underwriting year but one preceding that subsequent underwriting year.**]**

Textual Amendments

F77 Definition in Sch. 20 para. 1(1) inserted (3.5.1994 with effect for the underwriting year 1992 and subsequent years of assessment) by 1994 c. 9, s. 228, **Sch. 21 para. 12(1)(3)**

F78 Word in Sch. 20 para. 1(2) omitted (9.3.1995 with effect for the year 1992-93 and subsequent years of assessment) by virtue of S.I. 1995/353, **regs. 1**, 3(2)

F79 Sch. 20 para. 1(2)(c) added (9.3.1995 with effect for the year 1992-93 and subsequent years of assessment) by S.I. 1995/353, **regs. 1**, 3(3)

Modifications etc. (not altering text)

C3 Sch. 20 paras. 1, 3-6, 8 modified (9.3.1995 with effect for the year 1994-95 and subsequent years of assessment) by S.I. 1995/353, **reg. 7(1)(3)(a)**

Status: Point in time view as at 01/10/2016.
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General requirements

2 (1) The arrangements must provide—

(a) for the setting up, in relation to any member, of a special reserve fund vested in one or more trustees who have control over it, and

(b) for the appointment of an authorised fund manager (who may be the trustees or one of the trustees) to invest the capital of the fund and to vary the investments;

and in this sub-paragraph "authorised" means authorised under the rules of Lloyd's.

[F80(2) The arrangements must be such as to secure that—

(a) any income arising to the trustee or trustees of the special reserve fund shall be added to the capital of the fund and held on the same trusts as the fund; and

(b) except as required or permitted by this Schedule, no payments shall be made into or out of the special reserve fund.]

Textual Amendments

F80 Sch. 20 para. 2(2) substituted for Sch. 20 para. 2(2)(3) (retrospective to 27.7.1993) by 1995 c. 4, **s. 143**

Payments into fund out of syndicate profits

3 (1) The arrangements must be such as to secure that, if the member has made a syndicate profit for an underwriting year, he has the right to make, into his special reserve fund, payments the amount of which is not in the aggregate greater than whichever of the following is the less, namely—

(a) 50 per cent. of that profit; and

(b) the amount (if any) by which 50 per cent. of the member's overall premium limit for the closing year exceeds the value of the fund as at the end of that year.

(2) Any payments which a member is entitled to make by virtue of sub-paragraph (1) above must be made before the end of such period as may be prescribed.

(3) Where the member did not accept premiums in the closing year, the reference in sub-paragraph (1)(b) above to the member's overall premium limit for that year shall be construed as a reference to that limit for the latest underwriting year in which he did so.

Modifications etc. (not altering text)

C4 Sch. 20 paras. 1, 3-6, 8 modified (9.3.1995 with effect for the year 1994-95 and subsequent years of assessment) by S.I. 1995/353, **reg. 7(1)(3)(a)**

Payments out of fund to cover cash calls

4 (1) The arrangements must be such as to secure that, if a cash call is made on the member in respect of an underwriting year, there shall be made into a [F81premium] trust fund of his, out of his special reserve fund, payments the amount of which is equal in the aggregate to the amount of the call, or the amount of his special reserve fund, whichever is the less.

[[F82](1A) References in sub–paragraph (1) above to a cash call include references to a cash call made in respect of an underwriting year determined by paragraph 1(2)(c) above ("the relevant cash call") if and to the extent that the aggregate amount of the relevant cash call and any previous cash calls made on the member in respect of the syndicate concerned exceeds the net amount of losses arising to the member from that syndicate which have been declared before the date of the relevant cash call after deducting the amount of profits arising to him from that syndicate which have been so declared.**]**

(2) Where the aggregate amount of any payments made under sub-paragraph (1) above in respect of any year is found to exceed the amount of the member's syndicate loss for the year, there shall be made into his special reserve fund, out of a **[**[F81]premium**]** trust fund or ancillary trust fund of his, payments the amount of which is equal in the aggregate to the amount of the excess.

(3) Where a stop-loss payment is made to the member in respect of his syndicate loss for any year, so much of the stop-loss payment as does not exceed the requisite amount shall be paid into his special reserve fund.

(4) In sub-paragraph (3) above "the requisite amount" means so much of the amount (if any) given by sub-paragraph (5) below as does not exceed the aggregate amount mentioned in paragraph (b) of that sub-paragraph.

(5) The amount given by this sub-paragraph is the amount by which—

(a) the amount of the stop-loss payment, and

(b) the aggregate amount of the payments under sub-paragraph (1) above as reduced by the aggregate amount of any payments under sub-paragraph (2) above,

exceeds in the aggregate the amount of the member's syndicate loss.

(6) Where the whole or any part of a stop-loss payment made to a member is repaid, there shall be made to the member or his personal representatives or assigns, out of his special reserve fund, payments the amount of which is equal in the aggregate to the amount (if any) to which sub-paragraph (7) below applies or the amount of his special reserve fund, whichever is the less.

(7) This sub-paragraph applies to any amount which—

(a) has been paid into the member's special reserve fund under sub-paragraph (2) or (3) above, but

(b) would not have been so paid but for the stop-loss payment or (as the case may be) the part repaid.

(8) Any payments required by sub-paragraph (1), (2), (3) or (6) above shall be made before the end of such period as may be prescribed.

Textual Amendments

F81 Word in Sch. 20 para. 4(1)(2) substituted (1.12.2001) by S.I. 2001/3629, **arts. 1(2)**, 82(g)(i)

F82 Sch. 20 para. 4(1A) inserted (9.3.1995 with effect for the year 1992-93 and subsequent years of assessment) by S.I. 1995/353, **regs. 1**, 4(2)

Modifications etc. (not altering text)

C5 Sch. 20 paras. 1, 3-6, 8 modified (9.3.1995 with effect for the year 1994-95 and subsequent years of assessment) by S.I. 1995/353, **reg. 7(1)(3)(a)**

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Payments out of fund to cover syndicate losses

5 (1) The arrangements must be such as to secure that, if the member has sustained a syndicate loss for an underwriting year, there shall be made into a [F83premium] trust fund of his, out of his special reserve fund, payments the amount of which is equal in the aggregate to the net amount of the loss or the amount of his special reserve fund, whichever is the less.

(2) Sub-paragraphs (3) and (4) below apply where a stop-loss payment is made to the member in respect of his syndicate loss for any year.

(3) If any payments are subsequently made for the year under sub-paragraph (1) above, the aggregate amount of those payments shall be determined as if the net amount of the syndicate loss were reduced by the amount of the stop-loss payment.

(4) If any payments have previously been made for the year under sub-paragraph (1) above, so much of the stop-loss payment as does not exceed the requisite amount shall be paid into his special reserve fund.

(5) In sub-paragraph (4) above "the requisite amount" means so much of the amount (if any) given by sub-paragraph (6) below as does not exceed the amount mentioned in paragraph (b) of that sub-paragraph.

(6) The amount given by this sub-paragraph is the amount by which—

(a) the amount of the stop-loss payment, and

(b) the aggregate amount of the payments made under sub-paragraph (1) above,

exceeds in the aggregate the net amount of the member's syndicate loss.

(7) Where the whole or any part of a stop-loss payment made to a member is repaid, there shall be made to the member or his personal representatives or assigns, out of his special reserve fund, payments the amount of which is equal in the aggregate to the aggregate of the amounts (if any) to which sub-paragraphs (8) and (9) below apply or the amount of his special reserve fund, whichever is the less.

(8) This sub-paragraph applies to any amount which—

(a) has not been paid out of the member's special reserve fund under sub-paragraph (1) above, but

(b) would have been so paid but for the stop-loss payment or (as the case may be) the part repaid.

(9) This sub-paragraph applies to any amount which—

(a) has been paid into the member's special reserve fund under sub-paragraph (4) above, but

(b) would not have been so paid but for the stop-loss payment or (as the case may be) the part repaid.

(10) Any payments required by sub-paragraph (1), (4) or (7) above shall be made before the end of such period as may be prescribed.

(11) In this paragraph "net amount", in relation to a member's syndicate loss for any year, means the amount of the loss as reduced by the amount of any payments made under paragraph 4(1) above for the year.

Textual Amendments

F83 Word in Sch. 20 para. 5(1) substituted (1.12.2001) by S.I. 2001/3629, **arts. 1(2)**, 82(g)(ii)

Modifications etc. (not altering text)

C6 Sch. 20 paras. 1, 3-6, 8 modified (9.3.1995 with effect for the year 1994-95 and subsequent years of assessment) by S.I. 1995/353, **reg. 7(1)(3)(a)**

Valuation and payments out of fund of excess amounts

6 (1) The arrangements must be such as to secure that the fund manager of a member's special reserve fund—

(a) shall determine in the prescribed manner the value of the fund as at the end of the year 1994 and each subsequent underwriting year; and

(b) shall report the value so determined to the member;

and the report shall also state such other matters as may be prescribed.

(2) If the value **[**[F84](determined under sub-paragraph (1) above) of the fund as at the end**]** of any underwriting year exceeds 50 per cent. of—

[[F85](a) the higher of—

(i) the member's overall premium limit for that year, and

(ii) his overall premium limit for the immediately preceding year; or**]**

(b) where he did not accept premiums in **[**[F86]either of those years**]**, his overall premium limit for the last underwriting year in which he did so,

there shall be made to the member or his personal representatives or assigns, out of his special reserve fund, payments the amount of which is equal in the aggregate to the excess.

(3) The payments required by sub-paragraph (2) above shall be made before the end of such period as may be prescribed.

Textual Amendments

F84 Words in Sch. 20 para. 6(2) substituted (31.12.1999) by S.I. 1999/3308, **reg. 3(a)**

F85 Sch. 20 para. 6(2)(a) substituted (31.12.1999) by S.I. 1999/3308, **reg. 3(b)**

F86 Words in Sch. 20 para. 6(2)(b) substituted (31.12.1999) by S.I. 1999/3308, **reg. 3(c)**

Modifications etc. (not altering text)

C7 Sch. 20 paras. 1, 3-6, 8 modified (9.3.1995 with effect for the year 1994-95 and subsequent years of assessment) by S.I. 1995/353, **reg. 7(1)(3)(a)**

Payments out of fund on cessation

7 (1) The arrangements must provide that, on the member ceasing to carry on his underwriting business, whether by reason of death or otherwise, the amount of his special reserve fund, so far as not required for giving effect to the requirements of paragraph 4 or 5 above, shall be paid over to the member or his personal representatives or assigns.

(2) For the purposes of sub-paragraph (1) above, a payment of an amount shall be in money or [F87in assets forming part of the fund] or both, as the member or his personal representatives or assigns may direct.

Textual Amendments

F87 Words in Sch. 20 para. 7(2) substituted (3.5.1994 with effect for the year 1992-93 and subsequent years of assessment) by 1994 c. 9, s. 228, **Sch. 21 para. 12(2)(3)**

Entitlement of member for tax purposes

[F88 8 (1) Subject to sub-paragraph (2) [F89and paragraph 11(2)-(4)]below, a member shall be treated for the purposes of the Income Tax Acts and the Gains Tax Acts as absolutely entitled as against the trustees to the assets forming part of his special reserve fund.

(2) Where an asset is disposed of by a member to the trustees of his special reserve fund, nothing in sub-paragraph (1) above shall affect the operation of the Gains Tax Acts in relation to that disposal.]

Textual Amendments

F88 Sch. 20 para. 8 substituted (3.5.1994 with effect for the year 1994-95 and subsequent years of assessment) by 1994 c. 9, s. 228, **Sch. 21 para. 13**

F89 Words in Sch. 20 para. 8 inserted (31.12.1999 with effect for the year 2000-01 and subsequent years of assessment and in relation to payments and transfers of assets made on or after 1.1.2000) by S.I. 1999/3308, **regs. 1**, 4

Tax exemption for profits arising from assets of fund

9 (1) Profits or losses arising from assets forming part of a special reserve fund shall be excluded for the purposes of income tax under the Income Tax Acts, and for the purposes of capital gains tax under the Gains Tax Acts.

(2) Where for any underwriting year income tax has been deducted from any profits arising from assets forming part of a special reserve fund, the fund manager may, at any time after the end of that year, claim repayment of that tax.

F90(3) . . . .

Textual Amendments

F90 Sch. 20 para. 9(3) repealed (31.7.1997 with effect in relation to distributions made on or after 6.5.1999) by 1997 c. 58, ss. 34, 52, Sch. 4 Pt. II para. 30(1)(a)(2), **Sch. 8 Pt. II(10)** Note

Tax consequences of payments into and out of fund

[F91 10 (1) In computing for the purposes of income tax the profits of a member's underwriting business for any year of assessment, the aggregate amount of any payments which, in respect of the [F92relevant] underwriting year, are made into his special reserve fund under paragraph 3(1) above shall be deducted as an expense.

***Status:** Point in time view as at 01/10/2016.*
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(2) In computing for the purposes of income tax the profits of a member's underwriting business for any year of assessment—

(a) the aggregate amount of any payments which, in respect of the **[**F92relevant**]** underwriting year, are made out of his special reserve fund under paragraph 4(1) or 5(1) above shall be treated as a trading receipt; and

(b) the aggregate amount of any payments which, in respect of that year, are made into that fund under paragraph 4(2) or (3) or 5(4) above shall be deducted as an expense.

(3) In computing for the purposes of income tax the profits of a member's underwriting business for any year of assessment, the aggregate amount of any payments which, as a result of the repayment of stop-loss payments in the **[**F92relevant**]** underwriting year, are made out of his special reserve fund under paragraph 4(6) or 5(7) above shall be treated as a trading receipt.

(4) In computing for the purposes of income tax the profits of a member's underwriting business for any year of assessment, the aggregate amount of any payments which, in respect of the **[**F92relevant**]** underwriting year's closing year, are made out of his special reserve fund under paragraph 6(2) above **[**F93(including where they are also made under paragraph 7(1) above)**]**shall be treated as a trading receipt.

[F94(5) In this paragraph "the relevant underwriting year", in relation to a year of assessment, means the underwriting year next but two before its corresponding underwriting year.**]]**

Textual Amendments

F91 Sch. 20 para. 10 omitted (3.5.1994) (*temp.* for the years 1994-95, 1995-96 and 1996-97) by virtue of 1994 c. 9, s. 228, **Sch. 21 para. 14(3)**

F92 Words in Sch. 20 para. 10(1)-(4) substituted (3.5.1994 but without effect for the years 1994-95, 1995-96 and 1996-97) by 1994 c. 9, s. 228, **Sch. 21 para. 14(1)(3)**

F93 Words in Sch. 20 para. 10(4) substituted (31.12.1999 with effect for the year 2000-01 and subsequent years of assessment and in relation to payments and transfers of assets made on or after 1.1.2000) by S.I. 1999/3308, **reg. 5**

F94 Sch. 20 para. 10(5) inserted (3.5.1994 but without effect for the years 1994-95, 1995-96 and 1996-97) by 1994 c. 9, s. 228, **Sch. 21 para. 14(2)(3)**

Modifications etc. (not altering text)

C8 Sch. 20 paras. 10 modified (9.3.1995 with effect for the year 1997-98 and subsequent years of assessment) by S.I. 1995/353, **reg. 7(1)(3)(b)**

Tax consequences of cessation

11 (1) This paragraph applies where a member ceases to carry on his underwriting business,whether by reason of death or otherwise.

F95(2) In computing for the purposes of income tax the profits of the member's underwriting business for **[**F96the relevant year of assessment**]**, any payment under paragraph 7(1) above **[**F97(except where they are also made under paragraph 6(2) above)**]**which is made to him or his personal representatives or assigns out of his special reserve fund shall be treated—

(a) [F98subject to sub-paragraph (2A) below,] as made immediately after the end of [F96the relevant underwriting year]; and

(b) as being a [F99single] trading receipt of an amount equal to that mentioned in sub-paragraph (3) below.

[F100(2A) Where the member ceases to carry on his underwriting business by reason of his death, any payment falling within sub-paragraph (2) above shall be treated, for the purposes of sections 59C and 86 of the Management Act F101, as if made immediately after the commencement of his final year of assessment.]

(3) The amount referred to in sub-paragraph (2) above is the value of the fund, as determined under paragraph 6(1) above for [F102the penultimate underwriting year] and—

(a) as reduced by the aggregate amount of any payments under paragraph 4(1) or (6) or 5(1) or (7) above made after the end of that year;

(b) as increased by the aggregate amount of any payments under paragraph [F1033(1),]4(2) or (3) or 5(4) above so made; F104. . .

(c) as increased by the amount of any tax repayment F105. . . under paragraph 9(2) F105. . . above after the end of that year.

[F106(d) as increased by an amount equal to any profits, and reduced by an amount equal to any losses, arising to the trustees from assets after the end of that year (excluding any gains or losses on assets whose transfer is treated as an acquisition by sub-paragraph (4)(a) or (b) below); and

(e) as increased by the aggregate amount of any payments made—

(i) by the trustees to the member or his personal representatives or assigns,

(ii) out of his special reserve fund under paragraph 7(1) above (except where they are also made under paragraph 6(2) above), or otherwise than out of his special reserve fund, and

(iii) before the end of that year,

and for this purpose the amount of any payment which is made by way of the transfer of an asset shall be taken to be the market value of the asset at the date of the transfer and "market value" shall be construed in accordance with section 272 of the Taxation of Chargeable Gains Act 1992 F107.]

(4) Where an asset is transferred to the member or his personal representatives or assigns under paragraph 7(1) above [F108or otherwise than out of his special reserve fund], the transfer shall be treated, for the purposes of the Gains Tax Acts [F109—

(a) in a case where the asset was held by the trustees at the end of the penultimate underwriting year, as an acquisition of the asset by the member or his personal representatives or assigns at the end of that year for a consideration equal to its market value at that time;

(b) in a case where the asset was acquired by the trustees after the end of the penultimate underwriting year, as an acquisition of the asset by the member or his personal representatives or assigns, at the date on which, and for the consideration for which, the asset was acquired by the trustees; and

(c) in a case where the asset was both acquired by the trustees and transferred by them to the member or his personal representatives or assigns before the end of the penultimate underwriting year, as an acquisition of the asset by the member

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or his personal representatives or assigns at the date of the transfer and for a consideration equal to its market value at that time.]

[F110(5) In this paragraph, subject to the provisions of any regulations made by the Board—

"the penultimate underwriting year" means the underwriting year [F111corresponding to the year of assessment immediately preceding the member's final year of assessment;]

[F112"the relevant underwriting year" means—

(a) where a member dies before the occurrence of any of the events specified in sub–paragraph (6) below, the underwriting year immediately preceding that corresponding to the relevant year of assessment; and

(b) in any other case, the underwriting year corresponding to the year of assessment immediately preceding the member's final year of assessment.]

"the relevant year of assessment" means—

(a) [F113where a member dies before the occurrence of any of the events specified in sub-paragraph (6) below, the year of assessment at the end of which he is treated, by virtue of section 179A(2) of this Act F114, as having died;]

(b) in any other case, his final year of assessment.]

[F115(6) For the purposes of the definitions of "the relevant underwriting year" and "the relevant year of assessment" in sub–paragraph (5) above the events specified before the occurrence of which a member dies are the following—

(a) the member's deposit at Lloyd's is paid over to him or his assigns, or to a person other than the member or his assigns;

(b) the member or another person is released from any arrangement entered into by the member or that person in order to satisfy the requirement on the part of the member to provide a deposit at Lloyd's;

(c) the last open year of account of any syndicate of which he was a member is closed.

(7) For the purposes of sub–paragraph (6)(c) above, the last open year of account of any syndicate of which a person was a member shall be regarded as having closed either—

(a) when the member is treated under the rules or practice of Lloyd's as having been discharged of all his liabilities in relation to that syndicate, whether by the syndicate closing its accounts or by the member or his personal representatives or assigns entering into a quota share contract, or

(b) in a case where the member entered, or his personal representatives or assigns have entered, into a quota share contract before the end of the closing year of the syndicate, at the end of the underwriting year in which the contract was made.]

Textual Amendments

F95 By S.I. 1999/3308, **reg. 6(2)(a)**, it is provided that for the words "any payment which is" there shall be substituted (31.12.1999 with effect for the year 2000-01 and subsequent years of assessment and in relation to payments and transfers of assets made on or after 1.1.2000) the words "the aggregate of any payments which are"

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F96 Words in Sch. 20 para. 11(2) substituted (3.5.1994 with effect for the year 1994-95 and subsequent years of assessment) by 1994 c. 9, s. 228, **Sch. 21 para. 15(1)**

F97 Words in Sch. 20 para. 11(2) inserted (31.12.1999 with effect for the year 2000-01 and subsequent years of assessment and in relation to payments and transfers of assets made on or after 1.1.2000) by S.I. 1999/3308, **reg. 6(2)(b)**

F98 Words in Sch. 20 para. 11(2)(a) inserted (31.12.1999 with effect for the year 2000-01 and subsequent years of assessment and in relation to payments and transfers of assets made on or after 1.1.2000) by S.I. 1999/3308, **reg. 6(2)(c)**

F99 Word in Sch. 20 para. 11(2)(b) inserted (31.12.1999 with effect for the year 2000-01 and subsequent years of assessment and in relation to payments and transfers of assets made on or after 1.1.2000) by S.I. 1999/3308, **reg. 6(2)(d)**

F100 Sch. 20 para. 11(2A) inserted (31.12.1999 with effect for the year 2000-01 and subsequent years of assessment and in relation to payments and transfers of assets made on or after 1.1.2000) by S.I. 1999/3308, **reg. 6(3)**

F101 1970 c.9; section 59C was inserted by section 194 of the Finance Act 1994, and amended by section 109(1) of the Finance Act 1995. Section 86 was substituted by section 110(1) of the Finance Act 1995.

F102 Words in Sch. 20 para. 11(3) substituted (3.5.1994 with effect for the year 1994-95 and subsequent years of assessment) by 1994 c. 9, s. 228, **Sch. 21 para. 15(2)**

F103 Words in Sch. 20 para. 11(3)(b) inserted (31.12.1999 with effect for the year 2000-01 and subsequent years of assessment and in relation to payments and transfers of assets made on or after 1.1.2000) by S.I. 1999/3308, **reg. 6(4)(a)**

F104 Word in Sch. 20 para. 11(3) omitted (31.12.1999 with effect for the year 2000-01 and subsequent years of assessment and in relation to payments and transfers of assets made on or after 1.1.2000) by virtue of S.I. 1999/3308, **reg. 6(4)(b)**

F105 Words in Sch. 20 para. 11(3)(c) repealed (31.7.1997 with effect in relation to distributions made on or after 6.5.1999) by 1997 c. 58, ss. 34, 52, Sch. 4 Pt. II para. 30(1)(b)(2), **Sch. 8 Pt. II(10)** Note

F106 Sch. 20 para. 11(3)(d)(e) added (31.12.1999 with effect for the year 2000-01 and subsequent years of assessment and in relation to payments and transfers of assets made on or after 1.1.2000) by S.I. 1999/3308, **reg. 6(4)(d)(e)**

F107 1992 c.12; section 272 was amended by paragraph 12 of Schedule 38 to the Finance Act 1996 (c.8).

F108 Words in Sch. 20 para. 11(4) inserted (31.12.1999 with effect for the year 2000-01 and subsequent years of assessment and in relation to payments and transfers of assets made on or after 1.1.2000) by S.I. 1999/3308, **reg. 6(5)(a)**

F109 Words in Sch. 20 para. 11(4) substituted (31.12.1999 with effect for the year 2000-01 and subsequent years of assessment and in relation to payments and transfers of assets made on or after 1.1.2000) by S.I. 1999/3308, **reg. 6(5)(b)**

F110 Sch. 20 para. 11(5) substituted (3.5.1994 with effect for the year 1994-95 and subsequent years of assessment) by 1994 c. 9, s. 228, **Sch. 21 para. 15(3)**

F111 Words in Sch. 20 para. 11(5) substituted (9.3.1995 with effect for the year 1994-95 and subsequent years of assessment) by S.I. 1995/353, **reg. 8(2)(6)**

F112 Definition in Sch. 20 para. 11(5) substituted (9.3.1995 with effect for the year 1994-95 and subsequent years of assessment) by S.I. 1995/353, **reg. 8(3)(6)**

F113 Words in Sch. 20 para. 11(5) substituted (9.3.1995 with effect for the year 1994-95 and subsequent years of assessment) by S.I. 1995/353, **reg. 8(4)(6)**

F114 Section 179A of the Finance Act 1993 was inserted by paragraph 6(2) of Schedule 21 to the Finance Act 1994.

F115 Sch. 20 para. 11(6)-(7) added (9.3.1995 with effect for the year 1994-95 and subsequent years of assessment) by S.I. 1995/353, **reg. 8(5)(6)**

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PART II

WINDING UP OF OLD-STYLE FUNDS

Preliminary

12 (1) In this Part of this Schedule—

"new-style fund" means a special reserve fund set up under the arrangements mentioned in section 175(1) of this Act;

"old-style fund" means a special reserve fund set up under the arrangements mentioned in section 452(1) of the Taxes Act 1988;

"the relevant period", in relation to an old-style fund, means the period of three months beginning with the closing date.

(2) For the purposes of sub-paragraph (1) above, the closing date for an old-style fund shall be the earliest date on which each of the following has occurred as respects the year 1991-92 and earlier years of assessments, namely—

(a) the time for making any payments into the fund under section 452(5) of the Taxes Act 1988 has expired, or the member has given notice to the inspector that he will not be making any (or any further) such payments; and

(b) any payments required by section 453(1) of that Act to be made out of the fund have been so made.

Winding up of old-style funds

13 (1) A member may, at any time before the end of the relevant period, direct that so much of the capital of any old-style fund of his as represents sums paid into it under section 452(5) of the Taxes Act 1988 shall be transferred, at the end of that period, into his new-style fund; [F116]. . .

(2) Where an amount of capital is transferred into a member's new-style fund under sub-paragraph (1) above, there shall be paid into that fund by the Board an amount equal to the amount of tax which, if the amount transferred were a net amount corresponding to a gross amount from which income tax had been duly deducted at the basic rate for the year 1992-93, would have been so deducted.

(3) If a member does not give a direction under sub-paragraph (1) above in relation to any old-style fund of his, so much of the capital of that fund as represents sums paid into it under section 452(5) of the Taxes Act 1988 shall be paid over, at the end of the relevant period, to the member or his personal representatives or assigns.

(4) In either event, the remaining capital of any old-style fund of a member shall be paid over, at the end of the relevant period, to the member or his personal representatives or assigns.

(5) For the purposes of sub-paragraphs (1) and (3) above, any payments made out of an old-style fund under section 453(1) of the Taxes Act 1988 shall be treated as having been met, so far as possible, out of payments made into the fund under section 452(5) of that Act.

[[F117](6) A transfer or payment under this paragraph of an amount of capital shall be in money or in assets forming part of the fund or both, as the member may direct.**]**

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Textual Amendments

F116 Words in Sch. 20 para. 13(1) repealed (3.5.1994 with effect for the year 1992-93 and subsequent years of assessment) by 1994 c. 9, ss. 228, 258, Sch. 21 para. 16(1)(3), **Sch. 26 Pt. V(25)** Note 6

F117 Sch. 20 para. 13(6) inserted (3.5.1994 with effect for the year 1992-93 and subsequent years of assessment) by 1994 c. 9, s. 228, **Sch. 21 para. 16(2)(3)**

Tax consequences of winding up

14 (1) Where an asset is transferred into a member's new-style fund under paragraph 13(1) above, the transfer shall be treated, for the purposes of the Gains Tax Acts, to be a disposal of the asset by the member for a consideration equal to its market value.

(2) Sub-paragraph (3) below applies where an amount is paid over to the member or his personal representatives or assigns under paragraph 13(3) above.

(3) In computing for the purposes of income tax the profits of the member's underwriting business for the year 1992-93, it shall be assumed—

(a) that the amount paid were a net amount corresponding to a gross amount from which income tax had been duly deducted at the basic rate for that year; and

(b) that the corresponding gross amount were a trading receipt for that year.

[F118SCHEDULE 20A

Section 179B

[F119[F120LLOYD'S UNDERWRITERS:] CONVERSION TO UNDERWRITING THROUGH PARTNERSHIP OR COMPANY]

Textual Amendments

F118 Sch. 20A inserted (22.7.2004) by Finance Act 2004 (c. 12), **Sch. 25 para. 3**

F119 Sch. 20A heading substituted (19.12.2014) by The Lloyd's Underwriters (Conversion of Partnerships to Underwriting through Successor Companies) (Tax) Regulations 2014 (S.I. 2014/3133), regs. 1, **5(7)**

F120 Words in Sch. 20A heading inserted (16.6.2016) by The Lloyds Underwriters (Roll-over Relief on Disposal of Assets of Ancillary Trust Fund) (Tax) Regulations 2016 (S.I. 2016/597), regs. 1(1), **9**

PART 1

CONVERSION TO UNDERWRITING THROUGH SUCCESSOR COMPANIES

Introduction

1 (1) This Part of this Schedule applies if the following conditions are satisfied.

(2) Condition 1 is that—

(a) a member gives notice of his resignation from membership of Lloyd's in accordance with the rules or practice of Lloyd's,

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(b) in accordance with such rules or practice, the member does not undertake any new insurance business at Lloyd's after the end of the member's last underwriting year, and

(c) the member does not withdraw that notice.

(3) Condition 2 is that all of the member's outstanding syndicate capacity is disposed of by the member under a conversion arrangement to a successor company ("the syndicate capacity disposal") with effect from the beginning of the underwriting year next following the member's last underwriting year.

(4) Condition 3 is that, immediately before the syndicate capacity disposal,—

(a) the member controls the successor company, and

(b) more than 50% of the ordinary share capital of the successor company is beneficially owned by the member.

(5) Condition 4 is that the syndicate capacity disposal is made in consideration solely of the issue to the member of shares in the successor company.

(6) Condition 5 is that the successor company starts to carry on its underwriting business in the underwriting year [F121]... next following the member's last underwriting year.

(7) In this paragraph "the member's last underwriting year", in relation to a member who gives notice of his resignation from membership of Lloyd's, means the underwriting year during which, or at the end of which, he ceases to be an underwriting member and becomes a non-underwriting member in accordance with the rules or practice of Lloyd's.

(8) In this paragraph "outstanding syndicate capacity", in relation to a member, means the syndicate capacity of the member other than any which—

(a) the member disposes of to a person other than a successor member at or before the end of the member's last underwriting year, or

(b) ceases to exist with effect from the end of that year.

Textual Amendments

F121 Words in Sch. 20A para. 1(6) omitted (16.6.2016) by virtue of The Lloyds Underwriters (Roll-over Relief on Disposal of Assets of Ancillary Trust Fund) (Tax) Regulations 2016 (S.I. 2016/597), regs. 1(1), **3**

Income tax: carry forward of loss relief following conversion

2 (1) This paragraph applies if—

(a) the member's total income for a year of assessment includes any income derived by the member from the successor company (whether by way of dividends on the shares issued to the member or otherwise), and

(b) throughout the period beginning with the time of the syndicate capacity disposal and ending with the end of that year of assessment,—

(i) the member controls the successor company, and

(ii) more than 50% of the ordinary share capital of the successor company is beneficially owned by the member.

(2) **[**[F122]Section 83 of ITA 2007**]** shall apply as if the income so derived were profits on which the member was assessed under **[**[F123]Part 2 of the Income Tax (Trading and

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Other Income) Act 2005**]** in respect of the member's underwriting business for that year.

F124(3) . . . .

F124(4) . . . .

Textual Amendments

F122 Words in Sch. 20A para. 2(2) substituted (6.4.2007) by Income Tax Act 2007 (c. 3), s. 1034(1), **Sch. 1 para. 361(2)(a)** (with Sch. 2)

F123 Words in Sch. 20A para. 2(2) substituted (with effect in accordance with s. 883(1) of the amending Act) by Income Tax (Trading and Other Income) Act 2005 (c. 5), s. 883(1), **Sch. 1 para. 466(2)** (with Sch. 2)

F124 Sch. 20A para. 2(3)(4) repealed (6.4.2007) by Income Tax Act 2007 (c. 3), s. 1034(1), Sch. 1 para. 361(2)(b), **Sch. 3 Pt. 1** (with Sch. 2)

Capital gains tax: roll-over relief on disposal of syndicate capacity

3 (1) This paragraph applies if—

(a) the aggregate of any chargeable gains accruing to the member on the syndicate capacity disposal exceeds the aggregate of any allowable losses accruing to him on that disposal, and

(b) the member makes a claim under this paragraph to an officer of the Board.

(2) The amount of the excess mentioned in sub-paragraph (1)(a) above ("the amount of the syndicate capacity gain") shall for the purposes of capital gains tax be reduced by the amount of the rolled-over gain.

(3) For the purpose of computing any chargeable gain accruing to the member on a disposal by him of any issued share or any asset directly or indirectly derived from any issued share—

(a) the amount of the rolled-over gain shall be apportioned between the issued shares as a whole, and

(b) the sums allowable as a deduction under section 38(1)(a) of the Gains Tax Act shall be reduced by the amount apportioned to the issued share under paragraph (a) above; but, in the case of a derived asset, the reduction shall be by an appropriate proportion of that amount;

and if the issued shares are not all of the same class, the apportionment between the shares under paragraph (a) above shall be in accordance with their market values at the time they were acquired by the member.

(4) In this paragraph "the amount of the rolled-over gain" means the lesser of—

(a) the amount of the syndicate capacity gain, and

(b) the aggregate amount of any sums which would be allowable as a deduction under section 38(1)(a) of the Gains Tax Act if the issued shares were disposed of as a whole by the member in circumstances giving rise to a chargeable gain.

(5) In this paragraph the "issued shares" means the shares in the successor company issued to the member in consideration for the syndicate capacity disposal.

Capital gains tax: roll-over relief on disposal of assets of ancillary trust fund

4 (1) This paragraph applies if—

(a) at the time of, or after, the syndicate capacity disposal, assets forming some or all of the member's ancillary trust fund are—

(i) withdrawn from the fund, and

(ii) without unreasonable delay, disposed of by him to the successor company (the "ATF disposal"),

(b) the aggregate of any chargeable gains accruing to the member on the ATF disposal exceeds the aggregate of any allowable losses accruing to him on that disposal,

(c) throughout the period beginning with the time of the syndicate capacity disposal and ending with the time of the ATF disposal,—

(i) the member controls the successor company, and

(ii) more than 50% of the ordinary share capital of the successor company is beneficially owned by the member,

(d) the ATF disposal is made in consideration solely of the issue to the member of shares (the "issued shares") in the successor company, and

(e) the member makes a claim under this paragraph to an officer of the Board.

(2) But this paragraph does not apply if—

(a) the member could have made a claim under paragraph 3 above, and

(b) at the time the member makes a claim under this paragraph, no claim under paragraph 3 above is or has been made by him.

(3) The amount of the excess mentioned in sub-paragraph (1)(b) above ("the amount of the ATF assets gain") shall for the purposes of capital gains tax be reduced by the amount of the rolled-over gain.

(4) For the purpose of computing any chargeable gain accruing to the member on a disposal by him of any issued share or any asset directly or indirectly derived from any issued share—

(a) the amount of the rolled-over gain shall be apportioned between the issued shares as a whole, and

(b) the sums allowable as a deduction under section 38(1)(a) of the Gains Tax Act shall be reduced by the amount apportioned to the issued share under paragraph (a) above; but, in the case of a derived asset, the reduction shall be by an appropriate proportion of that amount;

and if the issued shares are not all of the same class, the apportionment between the shares under paragraph (a) above shall be in accordance with their market values at the time they were acquired by the member.

(5) In this paragraph "the amount of the rolled-over gain" means the lesser of—

(a) subject to sub-paragraph (6) below, the amount of the ATF assets gain, and

(b) the aggregate amount of any sums which would be allowable as a deduction under section 38(1)(a) of the Gains Tax Act if the issued shares were disposed of as a whole by the member in circumstances giving rise to a chargeable gain.

(6) If the market value, immediately before the ATF disposal, of the assets disposed of under that disposal exceeds **[**[F125]120% of**]** the amount of the ATF assets required, the

amount of the ATF assets gain shall for the purposes of sub-paragraph (5)(a) above be reduced by multiplying it by—

$$\frac{R}{T}$$

where—

R is the amount of the ATF assets required, and

T is the market value, immediately before the ATF disposal, of the assets disposed of under that disposal.

(7) In sub-paragraph (6) above "the amount of the ATF assets required" means the [F126appropriate percentage of the amount of security required to be provided by the successor company in respect of its underwriting business in the underwriting year in which the ATF disposal is made.]

[F127(7A) In sub-paragraph (7) above "the appropriate percentage" means the percentage that equates to the percentage of the ordinary share capital of the successor company that is beneficially owned by the member immediately before the ATF disposal.]

(8) This paragraph applies only on the first occasion on or after 6th April 2004 on which the member makes an ATF disposal.

(9) If a claim made by the member under paragraph 3 above is revoked, this paragraph shall apply as if the claim had never been made.

Textual Amendments

F125 Words in Sch. 20A para. 4(6) inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by The Lloyds Underwriters (Roll-over Relief on Disposal of Assets of Ancillary Trust Fund) (Tax) Regulations 2016 (S.I. 2016/597), regs. 1(1), **4(a)**

F126 Words in Sch. 20A para. 4(7) substituted (with effect in accordance with reg. 1(2) of the amending S.I.) by The Lloyds Underwriters (Roll-over Relief on Disposal of Assets of Ancillary Trust Fund) (Tax) Regulations 2016 (S.I. 2016/597), regs. 1(1), **4(b)**

F127 Sch. 20A para. 4(7A) inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by The Lloyds Underwriters (Roll-over Relief on Disposal of Assets of Ancillary Trust Fund) (Tax) Regulations 2016 (S.I. 2016/597), regs. 1(1), **4(c)**

Interpretation of this Part of this Schedule

5 (1) In this Part of this Schedule—

"control" shall be construed in accordance with [F128sections 450 and 451 of the Corporation Tax Act 2010];

"ordinary share capital" has the meaning given by [F129 section 989 of ITA 2007];

"successor company" means a corporate member (within the meaning of Chapter 5 of Part 4 of the Finance Act 1994) which is a successor member;

F130 . . . .

F130 . . . .

"the syndicate capacity disposal" has the meaning given by paragraph 1(3) above;

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"underwriting business", in relation to a successor company, has the same meaning as in Chapter 5 of Part 4 of the Finance Act 1994.

(2) For the purposes of this Part of this Schedule, shares comprised in any letter of allotment or similar instrument shall be treated as issued unless—

(a) the right to the shares conferred by it remains provisional until accepted, and

(b) there has been no acceptance.

(3) Paragraphs 3 and 4 above (and paragraph 1 above so far as relating to those paragraphs) are to be construed as one with the Gains Tax Act.

Textual Amendments

F128 Words in Sch. 20A para. 5(1) substituted (with effect in accordance with s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), s. 1184(1), **Sch. 1 para. 279** (with Sch. 2)

F129 Words in Sch. 20A para. 5(1) substituted (6.4.2007) by Income Tax Act 2007 (c. 3), s. 1034(1), **Sch. 1 para. 361(3)** (with Sch. 2)

F130 Words in Sch. 20A para. 5(1) omitted (16.6.2016) by virtue of The Lloyds Underwriters (Roll-over Relief on Disposal of Assets of Ancillary Trust Fund) (Tax) Regulations 2016 (S.I. 2016/597), regs. 1(1), **5**

[F131 PART 1A

CONVERSION OF PARTNERSHIPS TO UNDERWRITING THROUGH SUCCESSOR COMPANIES

Textual Amendments

F131 Sch. 20A Pt. 1A inserted (19.12.2014) by The Lloyd's Underwriters (Conversion of Partnerships to Underwriting through Successor Companies) (Tax) Regulations 2014 (S.I. 2014/3133), regs. 1, **5(2)**

Introduction

5A. (1) This Part of this Schedule applies if the following conditions are satisfied.

(2) Condition 1 is that—

(a) a Lloyd's partnership gives notice of its resignation from membership of Lloyd's in accordance with the rules or practice of Lloyd's,

(b) in accordance with the rules or practice, the partnership does not undertake any new insurance business at Lloyd's after the end of the partnership's last underwriting year, and

(c) the partnership does not withdraw that notice.

(3) Condition 2 is that all of the partnership's outstanding syndicate capacity is disposed of by the partnership under a conversion arrangement to a successor company (the "syndicate capacity disposal") with effect from the beginning of the underwriting year next following the partnership's last underwriting year.

(4) Condition 3 is that, immediately before the syndicate capacity disposal,—

(a) the converting partners together control the successor company, and

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(b) the ordinary share capital of the successor company is beneficially owned by the converting partners in the same, or as nearly as may be the same, proportions as those in which pursuant to the partnership agreement the converting partners are at that time treated as having interests in the partnership's syndicate capacity.

(5) For the purposes of sub-paragraph (4)(b), ignore any interest of a person other than a converting partner in the partnership's syndicate capacity.

(6) Condition 4 is that the syndicate capacity disposal is made in consideration solely of the issue to the converting partners of shares in the successor company.

(7) Condition 5 is that the successor company starts to carry on its underwriting business in the underwriting year [F132]... next following the partnership's last underwriting year.

(8) In this paragraph "the partnership's last underwriting year", in relation to a partnership which gives notice of its resignation from Lloyd's, means the underwriting year during which, or at the end of which, the partnership ceases to be an underwriting member and becomes a non-underwriting member in accordance with the rules or practice of Lloyd's.

(9) In this paragraph "outstanding syndicate capacity", in relation to a partnership, means the syndicate capacity of the partnership other than any which—

(a) the partnership disposes of to a person other than a successor member at or before the end of the partnership's last underwriting year, or

(b) ceases to exist with effect from the end of that year.

Textual Amendments

F132 Words in Sch. 20A para. 5A(7) omitted (16.6.2016) by virtue of The Lloyds Underwriters (Roll-over Relief on Disposal of Assets of Ancillary Trust Fund) (Tax) Regulations 2016 (S.I. 2016/597), regs. 1(1), **6**

Capital gains tax: roll-over relief on disposal of syndicate capacity

5B. (1) This paragraph applies if—

(a) the aggregate of any chargeable gains accruing to a converting partner on the syndicate capacity disposal exceeds the aggregate of any allowable losses accruing to the partner on that disposal, and

(b) the partner makes a claim under this paragraph to an officer of Revenue and Customs.

(2) The amount of the excess mentioned in sub-paragraph (1)(a) above ("the amount of the syndicate capacity gain") shall for the purposes of capital gains tax be reduced by the amount of the rolled-over gain.

(3) For the purpose of computing any chargeable gain accruing to the partner on a disposal by the partner of any issued share or any asset directly or indirectly derived from any issued share—

(a) the amount of the rolled-over gain shall be apportioned between the issued shares as a whole, and

(b) the sums allowable as a deduction under section 38(1)(a) of the Gains Tax Act shall be reduced by the amount apportioned to the issued share under

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paragraph (a) above; but, in the case of a derived asset, the reduction shall be by an appropriate proportion of that amount;

and if the issued shares are not all of the same class, the apportionment between the shares under paragraph (a) above shall be in accordance with their market values at the time they were acquired by the partner.

(4) In this paragraph "the amount of the rolled-over gain" means the lesser of—

(a) the amount of the syndicate capacity gain, and

(b) the aggregate of any sums which would be allowable as a deduction under section 38(1)(a) of the Gains Tax Act if the issued shares were disposed of as a whole by the partner in circumstances giving rise to a chargeable gain.

(5) In this paragraph the "issued shares" means the shares in the successor company issued to the partner in consideration for the syndicate capacity disposal.

Capital gains tax: roll-over relief on disposal of assets of ancillary trust fund

5C. (1) This paragraph applies if—

(a) at the time of, or after, the syndicate capacity disposal, assets forming some or all of the ancillary trust fund of the Lloyd's partnership or of a converting partner are—

(i) withdrawn from the fund, and

(ii) without unreasonable delay, disposed of by the partnership or partner to the successor company (the "ATF disposal"),

(b) the aggregate of any chargeable gains accruing to a converting partner (the "relevant partner") on the ATF disposal exceeds the aggregate of any allowable losses available to the relevant partner on that disposal,

(c) throughout the period beginning with the time of the syndicate capacity disposal and ending with the time of the ATF disposal—

(i) the converting partners together control the successor company, and

(ii) the proportion of the successor company's ordinary share capital beneficially owned by the relevant partner is more than 50% of the proportion of that share capital that was beneficially owned by the relevant partner at the time of the syndicate capacity disposal,

(d) the consideration received by the relevant partner on the ATF disposal consists solely of the issue to the relevant partner of shares (the "issued shares") in the successor company, and

(e) the relevant partner makes a claim under this paragraph to an officer of Revenue and Customs.

(2) But this paragraph does not apply if—

(a) the relevant partner could have made a claim under paragraph 5B above, and

(b) at the time the relevant partner makes a claim under this paragraph, no claim under paragraph 5B above is or has been made by the relevant partner.

(3) The amount of the excess mentioned in sub-paragraph (1)(b) above ("the amount of the ATF assets gain") shall for the purposes of capital gains tax be reduced by the amount of the rolled-over gain.

(4) For the purpose of computing any chargeable gain accruing to the relevant partner on a disposal by the relevant partner of any issued share or any asset directly or indirectly derived from any issued share—

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(a) the amount of the rolled-over gain shall be apportioned between the issued shares as a whole, and

(b) the sums allowable as a deduction under section 38(1)(a) of the Gains Tax Act are reduced by the amount apportioned to the issued share under paragraph (a) above; but, in the case of a derived asset, the reduction shall be by an appropriate proportion of that amount;

and if the issued shares are not all of the same class, the apportionment between the shares under paragraph (a) above shall be in accordance with their market values at the time they were acquired by the relevant partner.

(5) In this paragraph "the amount of the rolled-over gain" means the lesser of—

(a) subject to sub-paragraph (6), the amount of the ATF assets gain, and

(b) the aggregate amount of any sums which would be allowable as a deduction under section 38(1)(a) of the Gains Tax Act if the issued shares were disposed of as a whole by the relevant partner in circumstances giving rise to a chargeable gain.

(6) If the market value, immediately before the ATF disposal, of the assets disposed of under that disposal exceeds **[**[F133]120% of**]** the amount of the ATF assets required, the amount of the ATF assets gain shall for the purposes of sub-paragraph (5)(a) be reduced by multiplying it by—

RT

where—

R is the amount of the ATF assets required, and

T is the market value, immediately before the ATF disposal, of the assets disposed of under that disposal.

(7) In sub-paragraph (6) above "the amount of the ATF assets required" means the **[**[F134]appropriate percentage of the amount of security required to be provided by the successor company in respect of its underwriting business in the underwriting year in which the ATF disposal is made.**]**

[[F135](7A) In sub-paragraph (7) above "the appropriate percentage" means the percentage that equates to the percentage of the ordinary share capital of the successor company that is beneficially owned by the relevant partner immediately before the ATF disposal.**]**

(8) This paragraph applies—

(a) in relation to assets forming some or all of the Lloyd's partnership's ancillary trust fund, only on the first occasion on or after 19th December 2014 on which the partnership makes an ATF disposal, and

(b) in relation to assets forming some or all of a converting partner's ancillary trust fund, only on the first occasion on or after 19th December 2014 on which the partner makes an ATF disposal.

(9) If a claim made under paragraph 5B is revoked, this paragraph applies as if the claim had never been made.

***Status:** Point in time view as at 01/10/2016.*
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Textual Amendments

F133 Words in Sch. 20A para. 5C(6) inserted (with effect in accordance with reg. 1(3) of the amending S.I.) by The Lloyds Underwriters (Roll-over Relief on Disposal of Assets of Ancillary Trust Fund) (Tax) Regulations 2016 (S.I. 2016/597), regs. 1(1), **7(a)**

F134 Words in Sch. 20A para. 5C(7) substituted (with effect in accordance with reg. 1(3) of the amending S.I.) by The Lloyds Underwriters (Roll-over Relief on Disposal of Assets of Ancillary Trust Fund) (Tax) Regulations 2016 (S.I. 2016/597), regs. 1(1), **7(b)**

F135 Sch. 20A para. 5C(7A) inserted (with effect in accordance with reg. 1(3) of the amending S.I.) by The Lloyds Underwriters (Roll-over Relief on Disposal of Assets of Ancillary Trust Fund) (Tax) Regulations 2016 (S.I. 2016/597), regs. 1(1), **7(c)**

Interpretation of this Part of this Schedule

5D. (1) In this Part of this Schedule—

"ancillary trust fund"—

(a) in relation to a Lloyd's partnership, does not include a premium trust fund but, subject to that, means any trust fund required or authorised by the rules of Lloyd's, or required by a member's agent, and

(b) in relation to a converting partner, means any trust fund required or authorised by the rules of Lloyd's in connection with being a partner in, or member of, the partnership, or required by a member's agent in that connection;

"control" is to be construed in accordance with sections 450 and 451 of the Corporation Tax Act 2010;

"converting partner", in relation to a syndicate capacity disposal by a Lloyd's partnership,—

(a) means any person who, immediately before the disposal, is a partner in, or member of, the partnership and pursuant to the partnership agreement is treated at that time as having an interest in the partnership's syndicate capacity, but

(b) does not include any partner or member whose resignation from the partnership takes effect on the day of the disposal;

"ordinary share capital" has the meaning given by section 989 of ITA 2007;

F136 . . . .

"successor company" means a corporate member (within the meaning of Chapter 5 of Part 4 of the Finance Act 1994) which is a successor member;

F136 . . . .

"syndicate capacity disposal" has the meaning given by paragraph 5A(3);

"underwriting business"—

(a) in relation to a Lloyd's partnership, means the partnership's underwriting business as a member of Lloyd's, and

(b) in relation to a successor company, has the same meaning as in Chapter 5 of Part 4 of the Finance Act 1994.

(2) For the purposes of this Part of this Schedule, shares comprised in any letter of allotment or similar instrument shall be treated as issued unless—

(a) the right to the shares conferred by it remains provisional until accepted, and

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(b) there has been no acceptance.

(3) Paragraphs 5B and 5C above (and paragraph 5A above so far as relating to those paragraphs) are to be construed as one with the Gains Tax Act.]

Textual Amendments

F136 Words in Sch. 20A para. 5D(1) omitted (16.6.2016) by virtue of The Lloyds Underwriters (Roll-over Relief on Disposal of Assets of Ancillary Trust Fund) (Tax) Regulations 2016 (S.I. 2016/597), regs. 1(1), **8**

Part 2

Conversion to underwriting through successor partnerships

Introduction

6 (1) This Part of this Schedule applies if the following conditions are satisfied.

(2) Condition 1 is that—

(a) a member gives notice of his resignation from membership of Lloyd's in accordance with the rules or practice of Lloyd's,

(b) in accordance with such rules or practice, the member does not undertake any new insurance business at Lloyd's after the end of the member's last underwriting year, and

(c) the member does not withdraw that notice.

(3) Condition 2 is that all of the member's outstanding syndicate capacity is disposed of by the member under a conversion arrangement to a successor partnership ("the syndicate capacity disposal") with effect from the beginning of the underwriting year next following the member's last underwriting year.

(4) Condition 3 is that the member is the only person who disposes of syndicate capacity under a conversion arrangement to the successor partnership.

(5) Condition 4 is that the successor partnership starts to carry on its underwriting business in the underwriting year next following the member's last underwriting year.

(6) In this paragraph "the member's last underwriting year", in relation to a member who gives notice of his resignation from membership of Lloyd's, means the underwriting year during which, or at the end of which, he ceases to be an underwriting member and becomes a non-underwriting member in accordance with the rules or practice of Lloyd's.

(7) In this paragraph "outstanding syndicate capacity", in relation to a member, means the syndicate capacity of the member other than any which—

(a) the member disposes of to a person other than a successor member at or before the end of the member's last underwriting year, or

(b) ceases to exist with effect from the end of that year.

Income tax: carry forward of loss relief following conversion

7 (1) This paragraph applies if—

(a) the member's total income for a year of assessment includes profits of the successor partnership's underwriting business, and

(b) throughout the period beginning with the time of the syndicate capacity disposal and ending with the end of that year of assessment, the member is beneficially entitled to more than 50% of the profits of that business.

(2) [F137 Section 83 of ITA 2007] (carry-forward of trading losses against subsequent profits) shall have effect, in its application in relation to the losses of the old underwriting business, as if the profits of the successor partnership's underwriting business to which the member is beneficially entitled for that year were profits on which the member was assessed under [F138 Part 2 of the Income Tax (Trading and Other Income) Act 2005] in respect of the old underwriting business for that year.

(3) In sub-paragraph (2) above "the old underwriting business" means the member's underwriting business carried on otherwise than through the successor partnership.

Textual Amendments

F137 Words in Sch. 20A para. 7(2) substituted (6.4.2007) by Income Tax Act 2007 (c. 3), s. 1034(1), **Sch. 1 para. 361(4)** (with Sch. 2)

F138 Words in Sch. 20A para. 7(2) substituted (6.4.2005) by Income Tax (Trading and Other Income) Act 2005 (c. 5), s. 883(1), **Sch. 1 para. 466(3)** (with Sch. 2)

Interpretation of this Part of this Schedule

8 In this Part of this Schedule—

[F139 " successor partnership" means—

(a) a limited partnership formed under the law of Scotland which is a successor member, or

(b) a limited liability partnership formed under the law of any part of the United Kingdom which is a successor member.]

"the syndicate capacity disposal" has the meaning given by paragraph 6(3) above.

Textual Amendments

F139 Words in Sch. 20A para. 8 substituted (14.2.2006) by The Lloyds Underwriters (Conversion to Limited Liability Underwriting) (Tax) Regulations 2006 (S.I. 2006/112), regs. 1, **2**

PART 3

SUPPLEMENTARY PROVISIONS

Withdrawal of resignation notice

9 (1) This paragraph applies if a member—

***Status:** Point in time view as at 01/10/2016.*
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(a) makes a claim for relief under or by virtue of [F140Part 1 or 2 of] this Schedule, and

(b) subsequently withdraws the notice of his resignation from membership of Lloyd's.

(2) The member must give written notice of such withdrawal to an officer of the Board.

(3) Such a notice must be given no later than six months from the date of the withdrawal of the notice of resignation.

(4) All such adjustments shall be made, whether by discharge or repayment of tax, the making of assessments or otherwise, as are required as a result of the withdrawal of the notice of resignation (notwithstanding any limitation on the time within which any adjustment may be made).

(5) If a member fails, fraudulently or negligently, to comply with sub-paragraphs (2) and (3) above, section 95 of the Taxes Management Act 1970 shall apply to him as if he had fraudulently or negligently made an incorrect return, statement or declaration in connection with the claim for relief made by him under or by virtue of this Schedule.

(6) In this paragraph "tax" means income tax, capital gains tax or inheritance tax.

Textual Amendments

F140 Words in Sch. 20A para. 9(1)(a) inserted (19.12.2014) by The Lloyd's Underwriters (Conversion of Partnerships to Underwriting through Successor Companies) (Tax) Regulations 2014 (S.I. 2014/3133), regs. 1, **5(3)**

[F141 9A. (1) This paragraph applies if—

(a) a person makes a claim for relief under or by virtue of Part 1A of this Schedule, and

(b) the Lloyd's partnership in respect of which the claim is made withdraws the notice of its resignation from Lloyd's.

(2) The person must give written notice of such withdrawal to an officer of Revenue and Customs.

(3) Such a notice must be given no later than 6 months from the date on which the person first became aware of the withdrawal of the notice of resignation.

(4) Unless the person proves otherwise, it shall be assumed that the person became aware of the withdrawal of the notice on the day on which it was withdrawn.

(5) All such adjustments shall be made, whether by discharge or repayment of tax, the making of assessments or otherwise, as are required as a result of the withdrawal of the notice of resignation (notwithstanding any limitation on the time within which any adjustment may be made).

(6) If a person fails, carelessly or deliberately, to comply with sub-paragraph (2) or (3) above, Schedule 24 to the Finance Act 2007 shall apply as if—

(a) the person had given HMRC a document of a kind listed in the Table in paragraph 1 of that Schedule, and

(b) the document contained an inaccuracy which was careless or deliberate on the person's part and amounted to an understatement of a liability to tax

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equivalent to the amount of the adjustments required by sub-paragraph (5) to be made.

(7) In this paragraph "tax" means income tax, capital gains tax or inheritance tax.**]**

Textual Amendments

F141 Sch. 20A para. 9A inserted (19.12.2014) by The Lloyd's Underwriters (Conversion of Partnerships to Underwriting through Successor Companies) (Tax) Regulations 2014 (S.I. 2014/3133), regs. 1, **5(4)**

Interpretation of this Schedule

10 In this Schedule—

"conversion arrangement" means a conversion arrangement made under the rules or practice of Lloyd's;

"successor member" has the meaning given by the rules or practice of Lloyd's;

[[F142]"syndicate capacity", in relation to a member or Lloyd's partnership, means an asset comprising the rights of the member or partnership under a syndicate in which the member or partnership participates.**]**

Textual Amendments

F142 Words in Sch. 20A para. 10 substituted (19.12.2014) by The Lloyd's Underwriters (Conversion of Partnerships to Underwriting through Successor Companies) (Tax) Regulations 2014 (S.I. 2014/3133), regs. 1, **5(5)**

Application of this Schedule

11 (1) Paragraphs 2 and 3 above (and the other provisions of this Schedule so far as relating to those paragraphs) have effect in relation to syndicate capacity disposals (within the meaning of Part 1 of this Schedule) made on or after 6th April 2004.

(2) Paragraph 4 above (and the other provisions of this Schedule so far as relating to that paragraph) have effect in relation to ATF disposals (within the meaning of that paragraph) made on or after 6th April 2004 (even if the syndicate capacity disposal mentioned in that paragraph was made before that date).

[[F143](2A) Paragraph 5B above (and the other provisions of this Schedule so far as relating to that paragraph) have effect in relation to syndicate capacity disposals (within the meaning of Part 1A of this Schedule) made on or after 19th December 2014.

(2B) Paragraph 5C above (and the other provisions of this Schedule so far as relating to that paragraph) have effect in relation to ATF disposals (within the meaning of that paragraph) made on or after 19th December 2014 (even if the syndicate capacity disposal was made before that date).**]**

(3) Paragraph 7 above (and the other provisions of this Schedule so far as relating to that paragraph) have effect in relation to syndicate capacity disposals (within the meaning of Part 2 of this Schedule) made on or after 6th April 2004.**]**

***Status:** Point in time view as at 01/10/2016.*
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Textual Amendments

F143 Sch. 20A para. 11(2A)(2B) inserted (19.12.2014) by The Lloyd's Underwriters (Conversion of Partnerships to Underwriting through Successor Companies) (Tax) Regulations 2014 (S.I. 2014/3133), regs. 1, **5(6)**

[F144[F145SCHEDULE 20B]

PRT: ELECTIONS FOR OIL FIELDS TO BECOME NON-TAXABLE

Textual Amendments

F144 Sch. 20A inserted (21.7.2008) by Finance Act 2008 (c. 9), s. 107(6), **Sch. 33 para. 1**

F145 Sch. 20B: Sch. 20A renumbered as Sch. 20B (21.7.2009) by Finance Act 2009 (c. 10), **Sch. 45 para. 3(1)**

Election by responsible person

1 (1) The responsible person for a taxable field may make an election that the field is to be non-taxable.

(2) An election is irrevocable.

(3) The responsible person may not make an election unless each person who is a participator at the time the election is made agrees to the election being made.

(4) If the responsible person makes an election, the Commissioners may assume that each participator agrees to the election being made (unless it appears to the Commissioners that a participator does not agree).

Decision by Commissioners

2 (1) If an election is made, the Commissioners must decide whether or not the field is no longer taxable.

(2) For the purposes of this paragraph, the field is no longer taxable if it appears to the Commissioners that one or other of the following conditions is met in relation to each future chargeable period.

(3) Condition A is that no assessable profit will accrue to any participator in the field in that period.

(4) Condition B is that the assessable profit accruing to each participator in the field in that period will be equal to, or smaller than, the cash equivalent of that participator's share of the oil allowance for the field in that period.

(5) The responsible person must give the Commissioners such information as the Commissioners may reasonably require in connection with their making a decision under sub-paragraph (1).

Status: Point in time view as at 01/10/2016.
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(6) The Commissioners may make such assumptions as they think appropriate for the purposes of making a decision under this paragraph (including assumptions about what, if any, participators there will be in the field in future chargeable periods).

(7) In this paragraph—

"assessable profit" means assessable profit before any reduction under section 7 of OTA 1975 (relief for allowable losses);

"future chargeable period", in relation to a decision by the Commissioners under this paragraph, means a chargeable period that falls at any time after the chargeable period in which the Commissioners make that decision.

3 (1) The Commissioners must give the responsible person notice of their decision under paragraph 2(1).

(2) Within one month of being given notice by the Commissioners of their decision, the responsible person must give copies of the notice to each person who is a participator, or a former participator, at the time the Commissioners' notice is given.

(3) But the responsible person is not required to give notice to any person to whom it would be impracticable to give notice.

When election has effect

4 (1) An election does not have effect unless the Commissioners decide under paragraph 2(1) that the field is no longer taxable.

(2) In such a case, the election has effect from the start of the first chargeable period to begin after the Commissioners give notice under paragraph 3.

(3) The election then continues to have effect indefinitely (unless cancelled in accordance with paragraph 6).

No unrelievable field losses from field

5 For as long as the election has effect, no allowable loss that accrues from the oil field is an allowable unrelievable field loss for the purposes of petroleum revenue tax.

Cancellation of election by Commissioners

6 (1) The Commissioners may cancel an election if, within 3 years of their giving notice under paragraph 3, it appears to them that—

(a) information that the responsible person gave the Commissioners in connection with the election was inaccurate or incomplete at the time it was given, and

(b) if the information had not been inaccurate or incomplete, the Commissioners would not have made the decision that they made under paragraph 2.

(2) For the purposes of sub-paragraph (1) it does not matter whether or not the Commissioners required the information to be given.

7 (1) If the Commissioners cancel an election, they must give notice of the cancellation—

(a) to the person who made the election, or

(b) if it is impracticable to give notice to that person, to a person who is a participator at the time the election is cancelled, or

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(c) if it is impracticable to give notice to any such person, to a person who is a former participator at the time the election is cancelled;

but the Commissioners are not required to give notice to a person falling within paragraph (c) if it would be impracticable to give notice to any such person.

(2) Within one month of being given notice by the Commissioners under sub-paragraph (1), the person must give copies of the notice to each person who is a participator, or a former participator, at the time the Commissioners' notice is given.

(3) But that person is not required to give notice to any person to whom it would be impracticable to give notice.

Effect of cancellation

8 (1) If the Commissioners cancel an election under paragraph 6, the election is to be treated as though it had never had effect.

(2) But that does not make a person liable for anything that the person did, or did not do, in consequence of the election having effect before its cancellation.

(3) If the Commissioners cancel an election, the enactments relating to petroleum revenue tax apply to the oil field subject to sub-paragraphs (4) to (7).

(4) The Commissioners may specify the periods within which PRT returns for the relevant chargeable periods must be delivered.

(5) If the Commissioners specify the period within which a PRT return must be delivered, the provisions of OTA 1975 set out in sub-paragraph (6) apply to the specified period as if it were a period for the delivery of a PRT return that has been extended under paragraph 2 or 5 of Schedule 2 to OTA 1975.

(6) The provisions of OTA 1975 referred to in sub-paragraph (5) are—

(a) paragraph 12A of Schedule 2, and

(b) paragraph 2(7) and (8) of Schedule 5 (including those provisions as applied to Schedule 6 to OTA 1975 by paragraph 2 of Schedule 6).

(7) For the purposes of paragraph 4 of Schedule 2 to OTA 1975, the "initial period" is the period of thirty days beginning with the date on which the Commissioners give notice in accordance with paragraph 6 of this Schedule.

(8) The Commissioners may by regulations make transitional provision (including provision modifying enactments) applicable to cases where elections are made and subsequently cancelled under this Schedule.

(9) Regulations under sub-paragraph (8)—

(a) are to be made by statutory instrument, and

(b) are subject to annulment in pursuance of a resolution of the House of Commons.

(10) In this paragraph—

"PRT return" means a return under paragraph 2 or 5 of Schedule 2 to OTA 1975;

"relevant chargeable periods", in relation to a cancelled election, means the series of consecutive chargeable periods that—

Status: *Point in time view as at 01/10/2016.*
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(a) begins with the chargeable period from the start of which the election had effect, and

(b) ends with the chargeable period during which the election is cancelled.

Appeals

9 (1) The responsible person may appeal against a decision of the Commissioners under paragraph 2(1).

(2) Any such appeal must be made within 3 months of the Commissioners giving notice under paragraph 3 of their decision to the responsible person.

10 (1) A person who is a participator, or a former participator, at the time the Commissioners cancel an election under paragraph 6 may appeal against the cancellation.

(2) Any such appeal must be made within 3 months of the Commissioners giving notice under paragraph 7 of the cancellation (whether or not the notice was given to the person making the appeal).

11 (1) Any appeal under paragraph 9 or 10 must be made to the Commissioners—

(a) by notice in writing, or

(b) in any other form authorised by direction of the Commissioners.

F146(2) . . . .

F147(3) **[** The provisions of paragraphs 14A to 14I of Schedule 2 to OTA 1975 shall apply in relation to an appeal under paragraphs 9 or 10 above as they apply in relation to an appeal against an assessment or determination made under that Act, subject to any necessary modifications.**]**

Textual Amendments

F146 Sch. 20A para. 11(2) omitted (1.4.2009) by virtue of The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 1(2), **Sch. 1 para. 194(2)**

F147 Sch. 20A para. 11(3) inserted (1.4.2009) by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 1(2), **Sch. 1 para. 194(3)**

Interpretation

12 (1) In this Schedule—

"Commissioners" means the Commissioners for Her Majesty's Revenue and Customs F148...;

"election" means an election in writing, or in any other form authorised by direction of the Commissioners, made to the Commissioners;

"former participator", in relation to a particular time, means a person who—

(a) is not a participator in the chargeable period which includes that time, but

(b) was a participator in any earlier chargeable period;

"OTA 1975" means the Oil Taxation Act 1975;

"participator", in relation to a particular time, means a person who is a participator in the chargeable period which includes that time.

Status: Point in time view as at 01/10/2016.
Changes to legislation: Finance Act 1993 is up to date with all changes known to be in force on or before 16 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

(2) Expressions used in this Schedule and in Part 1 of OTA 1975 have the same meaning in this Schedule as in that Part of OTA 1975.]

Textual Amendments

F148 Words in Sch. 20A para. 12 omitted (1.4.2009) by virtue of The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 1(2), **Sch. 1 para. 194(4)**

F149 SCHEDULE 21

Section 187.

. . . .

Textual Amendments

F149 Sch. 21 omitted (1.4.2010) by virtue of The Finance Act 2009, Section 96 and Schedule 48 (Appointed Day, Savings and Consequential Amendments) Order 2009 (S.I. 2009/3054), art. 1, **Sch. para. 5(b)**

SCHEDULE 22

Section 210.

Trading Funds

Introduction

1 The M20 Government Trading Funds Act 1973 shall be amended as follows.

Marginal Citations

M20 1973 c. 63.

Reserves

2 (1) The following section shall be inserted after section 2—

"2AA Initial reserves.

(1) An order providing for any assets and liabilities to be appropriated as assets and liabilities of a trading fund may make—

(a) provision for any part of the amount by which the values of the assets exceed the amounts of the liabilities to be treated as reserves in the accounts of the trading fund, and

(b) provision about the maintenance of such reserves.

(2) For the purposes of subsection (1) above "reserves" means reserves whether general, capital or otherwise; and an order may provide for different kinds of reserves.

Status: *Point in time view as at 01/10/2016.*
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(3) Nothing in subsection (1) above shall prejudice the operation of section 4(2) of this Act in relation to a trading fund; and nothing in section 4(2) of this Act shall prejudice the operation of subsection (1) above in relation to a trading fund.

(4) This section applies in relation to an order made after the day on which the Finance Act 1993 was passed."

(2) In section 2(3) (originating debt where fund established) in paragraph (b) after "capital" there shall be inserted " or any amount treated by virtue of the order as reserves or (where the order provides for both public dividend capital and reserves) the aggregate of those amounts ".

(3) In section 2(4) (addition to originating debt where additional assets and liabilities appropriated to fund) in paragraph (b) after "capital" there shall be inserted " for any amount treated by virtue of the order as reserves or (where the order provides for both public dividend capital and reserves) the aggregate of those amounts ".

Public dividend capital etc.

3 In section 2A (public dividend capital) the following subsection shall be inserted after subsection (2) (limited power of Minister to issue public dividend capital to fund)—

"(2A) If the responsible Minister considers it appropriate to do so, he may with Treasury concurrence issue out of money provided by Parliament an amount to the fund as public dividend capital; and this subsection shall have effect instead of subsection (2) above after the day on which the Finance Act 1993 was passed."

Maximum borrowing etc.

4 (1) The following section shall be inserted after section 2B—

"**2C Maximum borrowing etc.**

(1) Where an order made after the day on which the Finance Act 1993 was passed establishes a trading fund, the order shall provide that the aggregate of the following shall not exceed the maximum specified in the order—

(a) the total outstanding at any given time in respect of amounts issued to the fund under section 2B of this Act (other than as originating debt), and

(b) the total at that time constituting public dividend capital issued to the fund under section 2A(2A) of this Act;

and that maximum (or that maximum as varied by a subsequent order) shall be observed accordingly.

(2) Where an order made on or before the day on which the Finance Act 1993 was passed establishes a trading fund, and the order specifies the maximum amount that may be issued to the fund under section 2B of this Act, the order shall be taken to provide that the aggregate of the following shall not exceed that maximum—

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(a) the total outstanding at any given time in respect of amounts issued to the fund under section 2B of this Act (other than as originating debt), and

(b) the total at that time constituting public dividend capital issued to the fund under section 2A(2A) of this Act;

and that maximum (or that maximum as varied by a subsequent order) shall be observed accordingly.

(3) The sum of the maxima in force in respect of all trading funds at any time shall not exceed £2,000 million.

(4) The Treasury may by order made by statutory instrument increase or further increase the limit in subsection (3) above by any amount, not exceeding £1,000 million, specified in the order but not so as to make the limit exceed £4,000 million.

(5) No order under subsection (4) above shall be made unless a draft of a statutory instrument containing it has been laid before the House of Commons and approved by a resolution of that House."

(2) In section 2B (borrowing by funds) subsections (6) to (9) (which are superseded by the new section 2C) shall be omitted.

SCHEDULE 23

Section 213.

REPEALS

PART I

EXCISE DUTIES

Commencement Information

I2 Sch. 23 Pt. I partly in force; Sch. 23 Pt. I partly in force at Royal Assent, Sch. 23 Pt. I(7) in force at 1.2.1994 see S.I. 1993/2842, art. 3(3), otherwise in force in accordance with ss. 4, 11(5), 12(8).

(1) BEER DUTY

Chapter	Short title	Extent of repeal
1979 c. 4.	The Alcoholic Liquor Duties Act 1979.	In section 42, in subsection (2) paragraph (a) and in paragraph (b) the words "or removal to the Isle of Man", and in subsections (3) and (4) the word "remove," in each place where it occurs. Section 43. Section 45(1)(b).

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		Section 51.
1979 c. 58.	The Isle of Man Act 1979.	In Schedule 1, paragraph 30.
1991 c. 31.	The Finance Act 1991.	In Schedule 2, paragraph 10.

These repeals have effect in accordance with section 4 of this Act

(2) BLENDING OF ALCOHOLIC LIQUORS

Chapter	**Short title**	**Extent of repeal**
1979 c. 4.	The Alcoholic Liquor Duties Act 1979.	In section 55, paragraph (e) of subsection (5) and the word "and" immediately preceding that paragraph, and subsection (5A).

These repeals have effect in accordance with section 5 of this Act.

(3) MIXING OF WINE AND SPIRITS

Chapter	**Short title**	**Extent of repeal**
1979 c. 4.	The Alcoholic Liquor Duties Act 1979.	Section 58(2).

This repeal has effect in accordance with section 6 of this Act.

(4) HYDROCARBON OIL DUTY: FUEL SUBSTITUTES

Chapter	**Short title**	**Extent of repeal**
1979 c. 5.	The Hydrocarbon Oil Duties Act 1979.	Section 4. Section 7. Section 16. Section 19(6). In section 20AA(1)(a), the words "petrol substitute, spirits used for making power methylated spirits". Section 21(1)(b). In section 27(1), the definitions of "petrol substitute" and "power methylated spirits". Part II of Schedule 3.
1979 c. 8.	The Excise Duties (Surcharges or Rebates) Act 1979.	In section 1(1)(a), the words "(other than power methylated spirits)".
1986 c. 41.	The Finance Act 1986.	In paragraph 4 of Schedule 5, "13".

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The power in section 11(5) of this Act applies to these repeals as it applies to that section.

(5) HYDROCARBON OIL DUTY: FUEL MEASUREMENT

Chapter	Short title	Extent of repeal
1979 c. 5.	The Hydrocarbon Oil Duties Act 1979.	Section 2(5). In section 15(1), the words “shown to the satisfaction of the Commissioners to have been”.

The power in section 12(8) of this Act applies to these repeals as it applies to that section.

(6) VEHICLES EXCISE DUTY

Chapter	Short title	Extent of repeal
1985 c. 54.	The Finance Act 1985.	In Schedule 2, paragraph 6.
1988 c. 39.	The Finance Act 1988.	Section 4(2).
1989 c. 26.	The Finance Act 1989.	Section 6(6).
1990 c. 29.	The Finance Act 1990.	Section 5(7).
1991 c. 31.	The Finance Act 1991.	Section 4(4).
1992 c. 20.	The Finance Act 1992.	Section 4(3) and (4).

These repeals have effect in relation to licences taken out after 16th March 1993.

(7) REPEALS CONNECTED WITH LOTTERY DUTY

Chapter	Short title	Extent of repeal
1979 c. 2.	The Customs and Excise Management Act 1979.	In section 1(1), in the definition of “the revenue trade provisions of the customs and excise Acts”, the word “and” at the end of paragraph (b) and, in the definition of “revenue trader”, the word “or” at the end of paragraph (a)(i).
1981 c. 63.	The Betting and Gaming Duties Act 1981.	Section 6(4).
1986 c. 41.	The Finance Act 1986.	In Schedule 4, paragraph 2(2).

These repeals come into force in accordance with section 41 of this Act.

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PART II

VALUE ADDED TAX

(1) FUEL AND POWER

Chapter	Short title	Extent of repeal
1983 c. 55.	The Value Added Tax Act 1983.	In Schedule 5, Group 7.

This repeal comes into force in accordance with section 42 of this Act.

(2) FUEL SCALES

Chapter	Short title	Extent of repeal
1986 c. 41.	The Finance Act 1986.	In Schedule 6— (a) in paragraph 2(1) and (2), the words “Subject to paragraph 3 below,”, in each place where they occur; and (b) paragraph 3 and the Table B set out after that paragraph.

These repeals have effect in relation to any case where the prescribed accounting period begins after 5th April 1993.

(3) ACQUISITIONS

Chapter	Short title	Extent of repeal
1983 c. 55.	The Value Added Tax Act 1983.	In section 5(9), in the words after paragraph (b), the words from “a supply of goods” to “below or there is”. Section 32B. In section 48(1), in the definition of “taxable person”, the words “(subject to section 32B(3) above)”.
1992 c. 48.	The Finance (No. 2) Act 1992.	In paragraph 6(2) of Schedule 3, paragraph (b) and the word “and” immediately preceding it.

These repeals come into force in accordance with section 44(4) of this Act.

(4) PENALTIES

Chapter	Short title	Extent of repeal

Status: *Point in time view as at 01/10/2016.*
Changes to legislation: *Finance Act 1993 is up to date with all changes known to be in force on or before 16 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

1985 c. 54.	The Finance Act 1985.	Section 13(4). Section 19(2)(b).

The repeal of section 13(4) of the Finance Act 1985 has effect in accordance with paragraph 3(3) of Schedule 2 to this Act and the repeal of section 19(2)(b) of that Act has effect in accordance with paragraph 5(3) of that Schedule.

(5) REPEALS CONNECTED WITH ABOLITION OF CAR TAX

Chapter	Short title	Extent of repeal
1983 c. 55.	The Value Added Tax Act 1983.	In Schedule 4, in paragraph 3A(1) the words "or with car tax" and the word "tax" in the second place where it occurs. In Schedule 4A, in paragraph 2(1) the words "or with car tax" and the word "tax" in the second place where it occurs. In Schedule 7, in paragraph 2(3B) the words "or of a chargeable vehicle within the meaning of the Car Tax Act 1983" and the words "or of such a vehicle".

PART III

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

(1) TEMPORARY RELIEF FOR INTEREST PAYMENTS

Chapter	Short title	Extent of repeal
1988 c. 1.	The Income and Corporation Taxes Act 1988.	Section 354(5) and (6). Section 356D(9). Section 357(4). Section 371. In paragraph 10(1) and (2) of Schedule 7, the words "354(5) and (6)", in each place.

These repeals come into force in accordance with section 57 of this Act.

(2) CHARITIES

Chapter	Short title	Extent of repeal
1990 c. 29.	The Finance Act 1990.	Section 24.

Status: *Point in time view as at 01/10/2016.*
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1992 c. 48.	The Finance (No. 2) Act 1992.	Section 26.

1 The repeal of section 24 of the Finance Act 1990 has effect for the year 1993-94 and subsequent years of assessment.

(3) CAR BENEFITS

Chapter	Short title	Extent of repeal
1988 c. 1.	The Income and Corporation Taxes Act 1988.	Section 157(4) and (5).

These repeals have effect for the year 1994-95 and subsequent years of assessment.

(4) CAR FUEL

Chapter	Short title	Extent of repeal
1988 c. 1.	The Income and Corporation Taxes Act 1988.	In section 158(5), the words “or 3”.

This repeal has effect for the year 1993-94.

(5) HEAVIER COMMERCIAL VEHICLES (CONSEQUENTIAL REPEAL)

Chapter	Short title	Extent of repeal
1988 c. 1.	The Income and Corporation Taxes Act 1988.	In section 159A(8)(a), the word “but” at the end of sub-paragraph (i).

This repeal has effect for the year 1993-94 and subsequent years of assessment.

(6) TAXATION OF DISTRIBUTIONS

Chapter	Short title	Extent of repeal
1988 c. 1.	The Income and Corporation Taxes Act 1988.	In section 233(1)(c), the words “as income which is not chargeable at the lower rate and”.
1992 c. 12.	The Taxation of Chargeable Gains Act 1992.	In section 5(2)(a), the words “(liability to income tax at the additional rate)”.
1992 c. 48.	The Finance (No. 2) Act 1992.	In section 19, in subsection (3), the words “233(2)” and, in subsection (4), the words “233(1)(c)”.

Status: Point in time view as at 01/10/2016.
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These repeals have effect for the year 1993-94 and subsequent years of assessment.

(7) RETIREMENT RELIEF ETC.

Chapter	Short title	Extent of repeal
1992 c. 12.	The Taxation of Chargeable Gains Act 1992.	In paragraph 1 of Schedule 6, in sub-paragraph (2), the definitions of "family company", "family" and "relative", and sub-paragraphs (3) and (4).

These repeals come into force in accordance with section 87(2) of this Act.

(8) INSURANCE COMPANIES

Chapter	Short title	Extent of repeal
1988 c. 1.	The Income and Corporation Taxes Act 1988.	Section 432A(10).
1992 c. 12.	The Taxation of Chargeable Gains Act 1992.	In section 212— (a) in subsection (2), the words from "and in relation to" onwards; (b) subsections (3), (4), (6) and (8). Section 213(9). Section 214(3) to (5).

The repeal of section 212(8) of the Taxation of Chargeable Gains Act 1992 has effect, in accordance with section 91(1) of this Act, in relation to the accounting periods mentioned in section 212(8), and the other repeals have effect in relation to accounting periods beginning on or after 1st January 1993.

(9) OVERSEAS LIFE INSURANCE COMPANIES

Chapter	Short title	Extent of repeal
1970 c. 9.	The Taxes Management Act 1970.	In section 31(3), the word "445".
1988 c. 1.	The Income and Corporation Taxes Act 1988.	In section 11(3), the words "Subject to section 447,". Section 445. Section 446(1). Section 447(1), (2) and (4). Section 448. Section 449. Section 724(5) to (8). In section 811(2), paragraph (c) and the word

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		"and" immediately preceding it. In Schedule 19AB, paragraph 1(9).
1991 c. 31.	The Finance Act 1991.	In Schedule 7, paragraph 7(1)(a), (2), (4) and (5).

These repeals have effect in accordance with section 103 of this Act.

(10) INDEXATION

Chapter	Short title	Extent of repeal
1988 c. 1.	The Income and Corporation Taxes Act 1988.	Section 1(5). Section 257C(2).
1990 c. 29.	The Finance Act 1990.	Section 17(2).

These repeals have effect in accordance with section 107 of this Act.

(11) PAY AND FILE

Chapter	Short title	Extent of repeal
1988 c. 1.	The Income and Corporation Taxes Act 1988.	In section 343(3), the word "claim", in the second place where it occurs. In section 395, in the words after paragraph (c) of subsection (1) and in subsection (4), the words "to claim relief". In section 400(2)(a), the words "or, if a claim had been made under that subsection, would be".
1991 c. 31.	The Finance Act 1991.	In Schedule 15, paragraphs 2 and 9.

The repeals in the Income and Corporation Taxes Act 1988 and the repeal of paragraph 9 of Schedule 15 to the Finance Act 1991 have effect in relation to accounting periods ending after the day appointed for the purposes of section 10 of the Income and Corporation Taxes Act 1988.

(12) LLOYD'S UNDERWRITERS ETC.

Chapter	Short title	Extent of repeal
1988 c. 1.	The Income and Corporation Taxes Act 1988.	Sections 450 to 457. Section 710(14). In section 711(8), the words "or section 725(9)" and the

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		words "or straddling", in both places where they occur. Section 720(3). In section 721, subsections (5) and (6). Section 725. In Schedule 4, paragraph 18. Schedule 19A.
1989 c. 26.	The Finance Act 1989.	In section 43, subsections (6) and (7). In section 92, subsections (4) to (7). In Schedule 11, paragraph 10.
1990 c. 29.	The Finance Act 1990.	In Schedule 10, paragraph 18.
1992 c. 12.	The Taxation of Chargeable Gains Act 1992.	Sections 206 to 209.
1993 c. 34.	The Finance Act 1993.	In section 183, subsections (4) to (8).

1 The repeal of section 450(6) of the Income and Corporation Taxes Act 1988 has effect in relation to acquisitions or disposals made, or treated as made, after 31st December 1993.

2 The following repeals, namely—

have effect for the year 1994 and subsequent underwriting years.

3 The repeals in section 43 of the Finance Act 1989 have effect in relation to periods of account ending on or after 30th June 1993.

4 The following repeals, namely—

have effect for the year of assessment 1994-95 and subsequent years of assessment.

5 The other repeals have effect for the year 1992-93 and subsequent years of assessment.

PART IV

OIL TAXATION

Chapter	Short title	Extent of repeal
1975 c. 22.	The Oil Taxation Act 1975.	In Schedule 2, in the Table in paragraph 1, in the modification relating to section 98 of the Taxes Management Act 1970, the words "or to paragraph 7 of this Schedule"; and paragraph 7.

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PART V

INHERITANCE TAX

Chapter	Short title	Extent of repeal
1984 c. 51.	The Inheritance Tax Act 1984.	In section 267(4), the words "but without regard to any dwelling-house available in the United Kingdom for his use".

This repeal has effect in accordance with section 208 of this Act.

PART VI

STATUTORY EFFECT OF RESOLUTIONS ETC.

Chapter	Short title	Extent of repeal
1968 c. 2.	The Provisional Collection of Taxes Act 1968.	In section 1, in subsection (1) the words "car tax"[F150].... In section 5(1), paragraph (c) and the word "or" immediately preceding it.
1988 c. 1.	The Income and Corporation Taxes Act 1988.	In section 8, subsections (4) to (6).

Textual Amendments

F150 Words in Sch. 23 Pt. VI repealed (31.1.2013) by Statute Law (Repeals) Act 2013 (c. 2), s. 3(2), **Sch. 1 Pt. 10** Group 1

The repeals in the Provisional Collection of Taxes Act 1968 have effect in accordance with section 205 of this Act.

PART VII

TRADING FUNDS

Chapter	Short title	Extent of repeal
1973 c. 63.	The Government Trading Funds Act 1973.	In section 2B, subsections (6) to (9).

Status:
Point in time view as at 01/10/2016.

Changes to legislation:
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