

SCHEDULES

SCHEDULE 20

SELF-ASSESSMENT: DISCRETIONS EXERCISABLE BY THE BOARD ETC.

The Taxes Act 1988

- 1 In section 24(2) of the Taxes Act 1988 (presumption as to sums being paid by way of premium unless the contrary is shown) for “is” there shall be substituted “can be”.
- 2 In section 38(4) of the Taxes Act 1988 (assumptions as to benefits and payments relating to leases) in the words after paragraph (b), for “is” there shall be substituted “can be”.
- 3 In section 65(4) of the Taxes Act 1988 (assessments under Cases IV and V of Schedule D: subsections (1) to (3) not to apply to a person who satisfies the Board that he is not domiciled in the United Kingdom etc.) for “on a claim made to the Board, satisfies the Board” there shall be substituted “makes a claim to the Board stating”.
- 4 In section 74(1)(j) of the Taxes Act 1988 (Case I or II of Schedule D: no deduction in respect of debts), in sub-paragraph (i) (deduction allowed for a bad debt proved to be such) the words “proved to be such” shall cease to have effect.
- 5 (1) In section 109A of the Taxes Act 1988 (relief for post-cessation expenditure) in subsection (4) (relief for debt taken into account in computing profits or gains and later released or proved to be bad), in the first sentence, for the words following “entitled” there shall be substituted “is released in whole or in part as part of a relevant arrangement or compromise (within the meaning of section 74), he shall be treated as making a payment to which this section applies of—
 - (a) an amount equal to the amount released, or
 - (b) if he was entitled to only part of the benefit of the debt, an amount equal to an appropriate proportion of that amount.”
- (2) After that subsection there shall be inserted—
 - “(4A) Where a trade, profession or vocation carried on by a person has been permanently discontinued and subsequently an unpaid debt which was taken into account in computing the profits and gains of that trade, profession or vocation and to the benefit of which he is entitled, proves to be bad, then if—
 - (a) in making a claim for a year of assessment under subsection (1) above he gives notice that the debt was bad in any part of that year, and
 - (b) he has not given such a notice in respect of that debt in the making of any other such claim,he shall be treated as making in that year a payment to which this section applies of an amount equal to the amount of the debt or, if he was entitled to only part of the benefit of the debt, to an appropriate proportion of that amount.

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If any sum is subsequently received by him in payment of a debt for which relief has been given by virtue of this subsection, the sum shall be treated as one to which section 103 applies; and no deduction shall be made under section 105 in respect of any sum.”

- 6 In section 132(1) of the Taxes Act 1988 (emoluments for period of absence treated as emoluments for duties performed in the UK except in so far as it is shown that but for that absence they would have been emoluments for duties performed outside the UK) for “it is shown that, but for that absence, they would” there shall be substituted “they would, but for that absence”.
- 7 In section 145(7) of the Taxes Act 1988 (living accommodation provided for employee deemed to be provided by reason of his employment for the purposes of section 145(1) unless it can be shown that it is a case falling within paragraph (a) or (b)) in paragraphs (a) and (b) the words “it can be shown that” shall cease to have effect.
- 8 In section 159 of the Taxes Act 1988 (pooled cars)—
- (a) in subsection (1) (which provides that the section is to apply to any car in the case of which the inspector is satisfied, whether on a claim under that section or otherwise, that it has been included in a car pool) for the words from “in the case” to “that it” there shall be substituted “which”; and
 - (b) subsections (4) to (6) (claims and appeals) shall cease to have effect.
- 9 In section 161 of the Taxes Act 1988 (exceptions from charge under section 160 on beneficial loans)—
- (a) in subsection (3) (exception for certain loans if it is shown that the interest rate is of a certain description) the words “it is shown that” shall cease to have effect; and
 - (b) in subsection (4) (exception for loan to employee’s relative from which employee shows that he derived no benefit) the words “shows that he” shall cease to have effect.
- 10 (1) In section 168 of the Taxes Act 1988 (interpretative provisions) in subsection (3) (exception from charge under Chapter II of Part V for any such payment or provision made by employer as can be shown to have been made in normal course of his domestic, family or personal relationships) for the words following “any such payment or provision” there shall be substituted “which is made by the employer, being an individual, in the normal course of his domestic, family or personal relationships”.
- (2) In subsection (6) of that section—
- (a) in paragraph (b) (exception from charge for car made available by employer where it can be shown that the car was made available in normal course of his domestic, family or personal relationships) for “it can be shown that the car was” there shall be substituted “the car is”; and
 - (b) in paragraph (d) (similar exception for vans) for “it can be shown that the van was” there shall be substituted “the van is”.
- 11 In section 186(10) of the Taxes Act 1988 (value of the proceeds of certain disposals)
- (a) for paragraph (b) there shall be substituted the following paragraph—
 - “(b) any other disposal falling within that subsection is not at arm’s length,”; and

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- (b) in paragraph (c) for “that sub-paragraph” there shall be substituted “that subsection”.
- 12 In section 231(3A) of the Taxes Act 1988 (restriction of tax credit where certain arrangements made by close investment-holding companies)—
- (a) in the words preceding paragraph (a), the words “it appears to the inspector that” shall cease to have effect; and
- (b) in the words following paragraph (b), for “appears to the inspector to be” there shall be substituted “is”.
- 13 In section 257 of the Taxes Act 1988 (personal allowance)—
- (a) in subsection (2) (claimant entitled to deduction if he proves that he is 65 or over), and
- (b) in subsection (3) (claimant entitled to deduction if he proves that he is 75 or over),
- the words “proves that he” shall cease to have effect.
- 14 (1) Section 257A of the Taxes Act 1988 (married couple’s allowance) shall be amended in accordance with the following provisions of this paragraph.
- (2) In subsection (1) (claimant entitled to reduction if he proves that he is a married man whose wife is living with him) for the words from the beginning to “he is” there shall be substituted “If the claimant is, for the whole or any part of the year of assessment,”.
- (3) In—
- (a) subsection (2) (claimant entitled to reduction if he proves that he is a married man whose wife is living with him and that either of them is 65 or over), and
- (b) subsection (3) (similar provision on proof that claimant or wife is 75 or over),
- for the words from the beginning to “and that” there shall be substituted “If the claimant is, for the whole or any part of the year of assessment, a married man whose wife is living with him, and”.
- 15 In section 257E(1) of the Taxes Act 1988 (claimant entitled to relief if his wife lives with him and he proves that for the year 1989-90 he was entitled as described in paragraph (a) or (b))—
- (a) the words “he proves” shall cease to have effect; and
- (b) the word “that”, in the first and third places where it occurs in each of paragraphs (a) and (b), shall cease to have effect.
- 16 (1) Section 257F of the Taxes Act 1988 (transitional relief: effect of preceding sections where claimant who does not live with his wife proves that paragraphs (a) to (c) apply) shall be amended in accordance with the following provisions of this paragraph.
- (2) The words “the claimant proves” shall cease to have effect.
- (3) In paragraph (a)—
- (a) for “that he” there shall be substituted “the claimant”; and
- (b) the word “that” in the second place where it occurs shall cease to have effect.
- (4) In paragraph (b) the word “that” in the first place where it occurs shall cease to have effect.
- (5) In paragraph (c) the word “that” in the first and third places where it occurs shall cease to have effect.

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- 17 (1) Section 259 of the Taxes Act 1988 (additional relief in respect of children) shall be amended in accordance with the following provisions of this paragraph.
- (2) In subsection (2) (claimant entitled to reduction if he proves that a qualifying child is resident with him) for the words from “if the claimant” to “he shall be entitled” there shall be substituted “if—
- (a) the claimant is a person to whom this section applies, and
 - (b) a qualifying child is resident with him for the whole or a part of a year of assessment,
- the claimant shall be entitled”.
- (3) In subsection (6) (circumstances in which the reference in subsection (5) to a child receiving full-time instruction includes a child undergoing training for a trade, profession or vocation) the second paragraph (inspector’s power to require particulars of training) shall cease to have effect.
- 18 In section 261A(1) of the Taxes Act 1988 (person who proves that a qualifying child is resident with him in the year in which he and his wife separate is entitled to relief) for “who proves that a qualifying child is resident with him” there shall be substituted “with whom a qualifying child is resident”.
- 19 In section 265(1) of the Taxes Act 1988 (claimant entitled to blind person’s allowance if he proves that he is a registered blind person) the words “proves that he” shall cease to have effect.
- 20 In section 274(4) of the Taxes Act 1988 (effect of war insurance premiums on the limit on relief under section 266 or 273) in the second paragraph (definition of war insurance premiums: to include any part of any premium paid in respect of a life insurance policy which appears to the inspector to be attributable to risks arising from war or war service abroad) for “appears to the inspector to be” there shall be substituted “is”.
- 21 In section 278(2) of the Taxes Act 1988 (bar on relief for non-residents not to apply to an individual who satisfies the Board that he or she is a Commonwealth citizen etc) the words “satisfies the Board that he or she” shall cease to have effect.
- 22 In section 306(2) of the Taxes Act 1988 (claim for relief in respect of eligible shares must be accompanied by a certificate issued by the company) for the words from the beginning to “accompanied by” there shall be substituted “No claim for relief in respect of eligible shares in a company may be made unless the person making the claim has received from the company”.
- 23 In section 311(4) of the Taxes Act 1988 (application of section 306(2) to claims in respect of shares issued to the managers of an approved fund) for the words from “as if it required” to “accompanied by” there shall be substituted—
- “(a) as if it required the certificate referred to in that section to be issued by the company to the managers; and
 - (b) as if it provided that no claim for relief may be made unless the person making the claim has received from the managers”.
- 24 In section 381(4) of the Taxes Act 1988 (no relief unless it is shown that trade was on a commercial basis) the words “it is shown that” shall cease to have effect.
- 25 (1) In section 384 of the Taxes Act 1988 (restrictions on right of set-off) in subsection (1) (no relief unless it is shown that trade was on a commercial basis and with a view to the realisation of profits) the words “it is shown that” shall cease to have effect.

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- (2) For subsection (9) of that section (conclusive evidence that a trade was carried on with a view to the realisation of profits) there shall be substituted—
- “(9) Where at any time a trade is carried on so as to afford a reasonable expectation of profit, it shall be treated for the purposes of subsection (1) above as being carried on at that time with a view to the realisation of profits.”
- 26 In section 393A of the Taxes Act 1988 (losses: set-off against profits of the same or an earlier accounting period)—
- (a) in subsection (3)(b) (no relief unless trade was on commercial basis and with a view to the realisation of gain) for “it is shown that for” there shall be substituted “for”; and
- (b) in subsection (4), for paragraph (a) (conclusive evidence that a trade was carried on with a view to the realisation of gain) there shall be substituted—
- “(a) where at any time a trade is carried on so as to afford a reasonable expectation of gain, it shall be treated as being carried on at that time with a view to the realisation of gain; and”.
- 27 In section 397(3) of the Taxes Act 1988 (farming and market gardening: relief not to be restricted in certain cases)—
- (a) for “, if it is shown by the claimant” there shall be substituted “in any case”; and
- (b) for the word “that”, at the beginning of each of paragraphs (a) and (b), there shall be substituted “where”.
- 28 (1) Section 488 of the Taxes Act 1988 (co-operative housing associations) shall be amended in accordance with the following provisions of this paragraph.
- (2) For subsection (9) (which provides for a claim to be made to the inspector within two years and excludes the operation of section 42 of the Taxes Management Act 1970) there shall be substituted—
- “(9) A claim under this section may be made at any time not later than two years after the end of the year of assessment or accounting period to which, or to a part of which, it relates.”
- (3) In subsection (10) (no claim under the section to have effect unless it is proved that the conditions there specified are complied with) for the words from “no claim” to “it is proved that” there shall be substituted “no claim shall be made under this section unless”.
- (4) For subsection (11) (power of Board to direct that a claim shall have effect if they are satisfied that the conditions in subsection (10) are substantially complied with, and power to revoke the direction on subsequent information) there shall be substituted—
- “(11) A housing association may make a claim under this section notwithstanding anything in subsection (10) above, if the association reasonably considers that the requirements of that subsection are substantially complied with.
- (11A) If as a result of an enquiry—
- (a) under section 11AB of the Management Act into a return, or an amendment of a return, in which a claim under this section by a housing association is included, or

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- (b) under paragraph 5 of Schedule 1A to that Act into a claim under this section by a housing association, or an amendment of such a claim, an amendment is made to the association’s self-assessment or, as the case may be, to the claim, the liability of all persons concerned to tax for all relevant years or accounting periods may also be adjusted by the making of assessments or otherwise.”
- (5) For subsection (12) (particulars required to be included in a claim may include an authority granted by the members for the use of information in their tax returns for determining the claim) there shall be substituted—
- “(12) A housing association making a claim under this section may be required under or by virtue of section 11(1) of, or paragraph 2(5) of Schedule 1A to, the Management Act to deliver an authority, granted by all members of the association, for any relevant information contained in any return made by a member under the provisions of the Income Tax Acts to be used by an officer of the Board in such manner as he may think fit in connection with any enquiry under section 11AB of, or paragraph 5 of Schedule 1A to, the Management Act, so far as relating to the association’s claim under this section.”
- 29 (1) Section 489 of the Taxes Act 1988 (self-build societies) shall be amended in accordance with the following provisions of this paragraph.
- (2) For subsection (7) (which excludes the operation of section 42 of the Taxes Management Act 1970 but provides for a claim to be made to the inspector within two years) there shall be substituted—
- “(7) A claim under this section may be made at any time not later than two years after the end of the year of assessment or accounting period to which, or to a part of which, it relates.”
- (3) In subsection (8) (no claim under the section to have effect unless it is proved that the conditions there specified are complied with) for the words from “no claim” to “it is proved that” there shall be substituted “no claim shall be made under this section unless”.
- (4) For subsection (9) (power of Board to direct that a claim shall have effect if they are satisfied that the conditions in subsection (8) are substantially complied with, and power to revoke the direction on subsequent information) there shall be substituted—
- “(9) A self-build society may make a claim under this section notwithstanding anything in subsection (8) above, if the society reasonably considers that the requirements of that subsection are substantially complied with.
- (9A) If as a result of an enquiry—
- (a) under section 11AB of the Management Act into a return, or an amendment of a return, in which a claim under this section by a self-build society is included, or
- (b) under paragraph 5 of Schedule 1A to that Act into a claim under this section by a self-build society or an amendment of such a claim, an amendment is made to the society’s self-assessment or, as the case may be, to the claim, the society’s liability to tax for all relevant years or accounting periods may also be adjusted by the making of assessments or otherwise.”

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- 30 In section 503(6) of the Taxes Act 1988 (apportionments where a letting relates only in part to holiday accommodation) for “appear to the inspector, or on appeal the Commissioners, to be” there shall be substituted “are”.
- 31 In section 570(2) of the Taxes Act 1988 (schemes for rationalizing industry: treatment of certain payments made under such schemes)—
- (a) the words “on a claim it is shown in accordance with the provisions of Part II of Schedule 21 that” shall cease to have effect;
 - (b) after “the Tax Acts” there shall be inserted “and a claim is made to that effect,”;
 - (c) for “that Schedule”, where those words first occur, there shall be substituted “Schedule 21”; and
 - (d) at the end there shall be added—

“and paragraph 6 of that Schedule applies for the purposes of this subsection as it applies for the purposes of that Schedule.”
- 32 In section 582(2)(b) of the Taxes Act 1988 (cases where retention of funding bonds is impracticable)—
- (a) the words “the Board are satisfied that” shall cease to have effect; and
 - (b) in sub-paragraph (i), for the words from the beginning to “them” there shall be substituted—

“(i) any such person shall be relieved from the obligation to retain bonds and account for income tax under that paragraph, on his furnishing to the Board”.
- 33 (1) Section 584 of the Taxes Act 1988 (relief for unremittable overseas income) shall be amended in accordance with the following provisions of this paragraph.
- (2) For subsections (2) and (3) (the account to be taken of overseas income which the Board are satisfied is unremittable) there shall be substituted—
- “(2) Subject to subsection (2A) below, where a person so chargeable makes a claim under this subsection in relation to any overseas income—
- (a) which is unremittable; and
 - (b) to which subsection (1)(a) above will continue to apply notwithstanding any reasonable endeavours on his part,
- then, in the first instance, account shall not be taken of that income, and tax shall be assessed, or, in the case of corporation tax, assessable, and shall be charged on all persons concerned and for all periods accordingly.
- (2A) If on any date paragraph (a) or (b) of subsection (2) above ceases to apply to any part of any overseas income in relation to which a claim has been made under that subsection—
- (a) that part of the income shall be treated as income arising on that date, and
 - (b) account shall be taken of it, and of any tax payable in respect of it under the law of the territory where it arises, according to their value at that date.”
- (3) In subsection (4) (company chargeable to corporation tax in respect of source of income that it has ceased to possess) for “a company becomes chargeable to corporation tax in respect of income from any source by virtue of subsections (2)

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and (3)” there shall be substituted “a person becomes chargeable to income tax or corporation tax in respect of income from any source by virtue of subsection (2) or (2A)”.

- (4) In subsection (5) (where payment made by ECGD in respect of income, conditions in subsection (2) treated as not satisfied) for the words following “treated as income” there shall be substituted “to which paragraphs (a) and (b) of subsection (2) above do not apply (and accordingly cannot cease to apply)”.
- (5) For subsection (6) (delivery of notices under subsection (2) and making of assessments required by such notices) there shall be substituted—
- “(6) A claim under subsection (2) above—
- (a) for the purposes of income tax, shall be made on or before the first anniversary of the 31st January next following the year of assessment in which the income arises;
- (b) for the purposes of corporation tax, shall be made no later than two years after the end of the accounting period in which the income arises.”
- (6) In subsection (7) (charge to tax on executors and administrators) after “(2)” there shall be inserted “or (2A)”.
- (7) In subsection (8) (how to determine the amount of unremittable overseas income) for “(3)” there shall be substituted “(2A)”.
- 34 In section 585(1) of the Taxes Act 1988 (relief for delayed remittances: claim may be made on showing that the conditions in paragraphs (a) to (c) are satisfied) for the words from “by making a claim” to “that is to say” there shall be substituted “, if the relevant conditions are satisfied, by making a claim require that the following provisions of this section shall apply; and for this purpose the relevant conditions are—”.
- 35 In section 717(9) of the Taxes Act 1988 (which provides for section 713 to have effect for certain cases with the substitution of a new provision for subsections (3) to (6)) in the substituted subsection, for “an inspector decides is just and reasonable; and the jurisdiction of the General Commissioners or the Special Commissioners on any appeal shall include jurisdiction to review such a decision of the inspector” there shall be substituted “is just and reasonable”.
- 36 In section 731(3) of the Taxes Act 1988 (cases of purchase and sale of securities where sections 732 to 734 do not apply)—
- (a) in paragraph (b) (it is shown to the satisfaction of the Board that certain conditions are satisfied in relation to the purchase and sale) for the words from “it is shown” to “and that” there shall be substituted “the purchase and sale were each effected at the current market price, and”; and
- (b) the words following paragraph (b) (appeals) shall cease to have effect.
- 37 In section 769(2)(d) of the Taxes Act 1988 (acquisitions of shares on death and certain gifts of shares to be left out of account in applying the rules in subsection (1) for ascertaining change in ownership of company)—
- (a) for “and, if it is shown that the gift” there shall be substituted “, and any gift of shares which”; and
- (b) the words “any gift of shares” shall cease to have effect.

- 38 (1) Section 812 of the Taxes Act 1988 (withdrawal of right to tax credit of certain non-resident companies connected with unitary states) shall be amended in accordance with the following provisions of this paragraph.
- (2) In subsection (4), paragraph (a) (one of the conditions for the withdrawal of the right to tax credit treated as being satisfied unless, on making a claim under section 213(3), the claimant proves otherwise to the satisfaction of the Board) shall cease to have effect.
- (3) In subsection (7) (power to substitute one of two sets of provisions for subsections (3) and (4)) for the words following “there shall be substituted” there shall be substituted “either the following subsection—
- “(3) A company shall be treated as having a qualifying presence in a unitary state if it is liable in such a state to a tax charged on its income or profits by whatever name called for any period ending after the relevant date for which that state charges tax.”;
- or the following subsections—
- “(3) A company shall be treated as having a qualifying presence in a unitary state if it has its principal place of business in such a state at any time after the relevant date.
- (4) For the purposes of subsection (3) above the principal place of business of a company shall include both the place where central management and control of the company is exercised and the place where the immediate day-to-day management of the company as a whole is exercised.”.”
- 39 In section 815A of the Taxes Act 1988 (transfer of a non-UK trade) for subsections (2) to (4) there shall be substituted—
- “(2) Where gains accruing to company A on the transfer would have been chargeable to tax under the law of the relevant member State but for the Mergers Directive, this Part, including any arrangements having effect by virtue of section 788, shall apply as if the amount of tax, calculated on the required basis, which would have been payable under that law in respect of the gains so accruing but for that Directive, were tax payable under that law.”
- 40 In Schedule 6 to the Taxes Act 1988 (taxation of directors and others in respect of cars) in sub-paragraphs (1) and (2) of paragraph 2 (reduction for use of car for business travel) for “it is shown to the inspector’s satisfaction that the employee was required by the nature of his employment to use, and did use” there shall be substituted “the employee is required by the nature of his employment to use and does use”.
- 41 In Schedule 7 to the Taxes Act 1988 (taxation of benefit from loans obtained by reason of employment) in paragraph 1(5) (benefit of loan not obtained by reason of employment if made by an individual and shown to have been made in normal course of his domestic, family or personal relationships) the words “and shown to have been made” shall cease to have effect.
- 42 In Schedule 12 to the Taxes Act 1988 (foreign earnings) in paragraph 2(2) (emoluments in respect of which deduction under section 193(1) allowed not to exceed such proportion as is shown to be reasonable) the words “shown to be” shall cease to have effect.

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- 43 In Schedule 21 to the Taxes Act 1988 (tax relief in connection with schemes for rationalizing industry and other redundancy schemes), paragraph 3 (no relief in respect of payments under schemes unless certain amounts are shown) shall cease to have effect.