



# Finance Act 1978

## 1978 CHAPTER 42

### PART III

#### INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

### CHAPTER I

#### GENERAL

#### 13 Charge of income tax for 1978-79

Income tax for the year 1978-79 shall be charged at the basic rate of 33 per cent.; and—

- (a) in respect of so much of an individual's total income as does not exceed £750 at the rate of 25 per cent.;
- (b) in respect of so much of an individual's total income as exceeds £8,000 at such higher rates as are specified in the Table below; and
- (c) in respect of so much of the investment income included in an individual's total income as exceeds £1,700 at the additional rates of 10 per cent. for the first £550 of the excess and 15 per cent. for the remainder;

except that in the case of an individual who shows that, at any time within that year, his age or that of his wife living with him was sixty-five years or more, paragraph (c) above shall have effect with the substitution for the references to £1,700 and £550 of references to £2,500 and £500 respectively.

TABLE

<i>Part of excess over £8,000</i>	<i>Higher rate</i>
The first £1,000	40 per cent.
The next £1,000	45 per cent.
The next £1,000	50 per cent.

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<i>Part of excess over £8,000</i>	<i>Higher rate</i>
The next £1,500	55 per cent.
The next £1,500	60 per cent.
The next £2,000	65 per cent.
The next £2,500	70 per cent.
The next £5,500	75 per cent.
The remainder	83 per cent.

#### 14 Lower rate income tax

- (1) In paragraph (a) of subsection (1) of section 32 of the Finance Act 1971 (income tax charged at basic and other rates) for the words " income not falling within paragraph (b) below " there shall be substituted the words " income not falling within paragraph (aa) or (b) below and after that paragraph there shall be inserted—

“(aa) in respect of so much of an individual's total income as does not exceed such amount as Parliament may determine, at such lower rate or rates as Parliament may determine ; and”.

- (2) After subsection (1) of that section there shall be inserted—

“(1A) In the case of a husband whose total income includes relevant earned income of his wife—

- (a) the income chargeable in accordance with paragraph (aa) of subsection (1) of this section shall be—

(i) so much of his total income, other than relevant earned income of his wife, as does not exceed the amount referred to in that paragraph; and

(ii) so much of the relevant earned income of his wife as does not exceed that amount; and

- (b) if there are two or more such rates as are referred to in that paragraph, those rates shall be applied separately to the income mentioned in sub-paragraph (i) and the income mentioned in sub-paragraph (ii) above, and any provision charging income tax in accordance with that paragraph shall have effect accordingly.

(1B) For the purposes of subsection (1A) of this section earned income of the wife has the same meaning as for the purposes of subsection (2) of section 8 of the Taxes Act and relevant earned income of the wife means so much of her earned income as exceeds the relief available in respect of it under that subsection.

(1C) Where income tax at the basic rate has been borne on income chargeable at a lower rate any necessary repayment of tax shall be made on the making of a claim.

(1D) Except where the context otherwise requires, references in the Income Tax Acts to a rate or rates lower or higher than the basic rate are references to any such rate or rates as are mentioned in paragraph (aa) or (b) of subsection (1) of this section respectively.”

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- (3) The enactments mentioned in Schedule 2 to this Act shall have effect with the amendments there specified, being amendments consequential on the provisions of this section.

#### **15 Charge of corporation tax for financial year 1977**

Corporation tax shall be charged for the financial year 1977 at the rate of 52 per cent.

#### **16 Rate of advance corporation tax for financial year 1978**

The rate of advance corporation tax for the financial year 1978 shall be thirty-three sixty-sevenths.

#### **17 Corporation tax: other rates and fractions**

- (1) The fraction by which, under section 93(2) of the Finance Act 1972, chargeable gains are to be reduced before they are for the purposes of corporation tax included in the profits of an authorised unit trust or investment trust shall, as from 1st April 1977, be twenty-one twenty-sixths instead of the fraction specified in section 27(1) of the Finance Act 1976.
- (2) The small companies rate for the financial year 1977 shall be 42 per cent., and for that year the fraction mentioned in subsection (2) of section 95 of the said Act of 1972 (marginal relief for small companies) shall be one-seventh.
- (3) For the financial year 1977 and subsequent financial years subsection (3) of the said section 95 shall have effect with the substitution for any reference to £40,000 of a reference to £50,000 and with the substitution for any reference to £65,000 of a reference to £85,000.
- (4) Where by virtue of subsection (3) above the said section 95 has effect with different relevant amounts in relation to different parts of the same accounting period, those parts shall be treated for the purposes of that section as if they were separate accounting periods, and the profits and income of the company for that period (as defined in that section) shall be apportioned between those parts.

#### **18 Relief for interest: limit for 1978-79**

In paragraph 5(1) of Schedule 1 to the Finance Act 1974 (limit on relief for interest on certain loans for the purchase or improvement of land) the references to £25,000 shall have effect for the year 1978-79 as well as for previous years of assessment.

#### **19 Alteration of personal reliefs**

- (1) In section 8 of the Taxes Act (personal reliefs)—
- (a) in subsection (1)(a) (married) for "£1,455" there shall be substituted " £1,535 ";
  - (b) in subsection (1)(b) (single) and (2) (wife's earned income relief) for " £945 " there shall be substituted " £985 ";
  - (c) in subsection (1A) (age allowance) for " £1,975 " and "£1,250" there shall be substituted " £2,075 " and "£1,300 " respectively;

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- (d) in subsection (1B) (income limit for age allowance) for " £3,500 " there shall be substituted " £4,000 ".
- (2) In section 12 of that Act (allowance for female housekeeper)—
  - (a) the word " female", wherever it occurs, shall be omitted;
  - (b) in subsection (1)(ii) after the word " above " there shall be inserted the words " or the relative is a man who has claimed and been allowed that higher relief ".
- (3) In section 13(a) of that Act (allowance where claimant's mother or other female relative takes charge of his brother or sister)—
  - (a) for the words " either his mother, being a widow or a person living apart from her husband, or some other female relative " there shall be substituted the words " a relative ";
  - (b) the words " mother or other " shall be omitted.
- (4) In section 14(2) and (3) of that Act (additional relief for widows and others in respect of children) for "£510" there shall be substituted " £550 ".
- (5) In section 17 of that Act (allowance for services of daughter) for the word " daughter " there shall be substituted the words " son or daughter " and the like amendment shall be made in sections 18(5) and 39(1)(d) of that Act (which contain references to the allowance under section 17).
- (6) In section 18 of that Act (relief for blind persons)—
  - (a) in subsection (1)(a) and (b) for the words "throughout the year a registered blind person " there shall be substituted the words " a registered blind person for the whole or part of the year ";
  - (b) in subsection (2)(b) for the words " throughout the year both he and his wife were registered blind persons " there shall be substituted the words " he was a registered blind person for the whole or part of the year and his wife was also a registered blind person for the whole or part of the year ";
  - (c) subsections (3) and (4) shall be omitted.

## 20 Child tax allowances and benefits in respect of children

- (1) Except in the case of a child to whom section 25 or 26 of the Finance Act 1977 applies, the appropriate amount to be deducted from the claimant's total income under subsection (1) of section 10 of the Taxes Act (children) for the year 1978-79 shall, instead of being determined in accordance with subsection (3) of that section, be determined in accordance with subsection (2) below.
- (2) The appropriate amount for the child shall vary according to the age of the child at the commencement of the year of assessment, and, subject to subsection (5) of the said section 10—
  - (a) for a child shown by the claimant to have been then over the age of sixteen, shall be £165;
  - (b) for a child not so shown, but shown by the claimant to have been then over the age of eleven, shall be £135;
  - (c) in any other case, shall be £100.
- (3) For the year 1978-79 and subsequent years of assessment subsection (5) of the said section 10 shall have effect with the substitution for " £350 " (in both places) and " £235 " of " £500 " and " £385 " respectively.

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- (4) Section 23(3) of the said Act of 1977 (£52 of certain benefits in respect of children to be exempt from income tax for the year 1977-78) shall have effect also in relation to the year 1978-79 but with the substitution for " £52 " of " £80 ".
- (5) Section 25 of the said Act of 1977 (tax allowances in the year 1977-78 for children living abroad) shall have effect also in relation to years of assessment after that year.

## **21 Maintenance payments**

In section 15(1) of the Finance Act 1974 (the first £1,500 of any amounts paid as maintenance payments not to be investment income) the words " the first £1,500 of " shall be omitted.

## **22 Tax repayments to wives**

- (1) Where in any year of assessment tax has been deducted under section 204 of the Taxes Act (pay as you earn) from the earned income of a wife and, apart from this section, a repayment of tax for that year would fall to be made to her husband in consequence of an assessment under Schedule E, so much of the repayment as is attributable to the tax so deducted shall be made to her and not to him.
- (2) The amount of a repayment attributable to tax deducted as mentioned in subsection (1) above is the excess (if any) of the total net tax so deducted in the year of assessment over the tax chargeable on the wife's relevant earned income included in her husband's total income for that year after allowing—
  - (a) any relief for that year under section 19 of the Taxes Act in respect of any payment made by her of the kind mentioned in paragraph 14A of Schedule 4 to the Finance Act 1976 (retirement benefits schemes); and
  - (b) any relief for that year to which her husband is entitled under any other provision of the Income Tax Acts to the extent to which it cannot be allowed because his income, exclusive of her earned income, is insufficient;but that amount shall not exceed the aggregate of the amounts repayable for that year in respect of the total net tax deducted in that year under the said section 204 from the income of the wife and the income of her husband.
- (3) Where in consequence of an assessment under Schedule E any amount is repayable under this section to the wife of the person on whom the assessment is made the inspector shall notify both of them of his determination of that amount and, subject to subsection (4) below, an appeal shall lie against the determination as if it were a decision on a claim.
- (4) Any appeal under subsection (3) above shall be to the General Commissioners for the division in which the spouses reside or, if they reside in different divisions, for the division in which one of them resides, as the Board may direct, or if neither resides in Great Britain to the Special Commissioners; and on any such appeal by one of the spouses the other shall have the same rights as an appellant, including any right to require the statement of a case for the opinion of the court.
- (5) Where in a case to which this section applies the amount repaid to a wife or her husband exceeds the amount properly due to that person the excess shall be recoverable from that person as if it were unpaid tax.
- (6) The Board may make regulations—

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- (a) modifying subsection (2) above in relation to such cases as may be specified in the regulations ;
  - (b) modifying section 47 of the Finance (No. 2) Act 1975 (repayment supplement) in relation to cases in which a repayment falls to be made under this section;
- and any such regulations shall be made by statutory instrument subject to annulment in pursuance of a resolution of the House of Commons.
- (7) This section does not apply to any repayment for a year of assessment—
- (a) for which the husband is chargeable to income tax at a rate or rates higher than the basic rate ; or
  - (b) for which any earned income of the wife has been assessed otherwise than under Schedule E.
- (8) For the purposes of this section earned income of a wife has the same meaning as for the purposes of subsection (2) of section 8 of the Taxes Act and relevant earned income of a wife means so much of her earned income as exceeds the relief available in respect of it under that subsection.
- (9) References in this section to the total net tax deducted in any year under section 204 of the Taxes Act are references to the total income tax deducted during that year by virtue of regulations made under that section less any income tax repaid by virtue of any such regulations.
- (10) This section applies to any repayment made after the passing of this Act.

### **23 Benefits in kind: threshold from 1979-80**

- (1) In section 69(1)(b) and (3)(a) of the Finance Act 1976 (definition of director's or higher-paid employment for purposes of tax on benefits in kind) for " £7,500 " there shall be substituted " £8,500 ".
- (2) This section applies for the year 1979-80 and subsequent years of assessment.

### **24 Payments for loss of employment etc.**

- (1) In section 188(3) of the Taxes Act and paragraph 3 of Schedule 8 to that Act (tax on excess over £5,000 of payments for loss of employment etc.) for " £5,000 ", wherever it occurs, there shall be substituted " £10,000 ".
- (2) In paragraph 4 of the said Schedule 8 (lump sum received or receivable under superannuation scheme or fund to be deducted in calculating relief) the existing provisions shall become sub-paragraph (1) and at the end there shall be inserted—
  - “(2) In sub-paragraph (1)(c) above the reference to a lump sum receivable by the holder includes a reference to a lump sum that would be receivable by him if he had exercised or refrained from exercising (with any necessary consent) any option or other right conferred on him by the rules of the scheme or fund.”
- (3) Subsection (1) above has effect in relation to any payment which by virtue of section 187(4) of the Taxes Act is treated as income received on or after 6th April 1978 ; and where under the proviso to section 188(3) of that Act the sum there mentioned falls to be deducted from one or more payments treated as income received

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before, and one or more payments treated as income received on or after, that date only £5,000 of that sum shall be deducted from the first-mentioned payment or payments.

- (4) Subsection (2) above has effect in relation to any payment which by virtue of the said section 187(4) is treated as income received on or after 17th May 1978.

## **25 Life policies etc.**

The enactments mentioned in Schedule 3 to this Act (which relate to relief in respect of premiums payable under life policies etc.) shall have effect subject to the amendments made by that Schedule.

## **26 Retirement annuities**

- (1) The Board may, if they think fit, and subject to any conditions they think proper to impose, approve an annuity contract under section 226 of the Taxes Act (approval of retirement annuity contracts) notwithstanding that the contract provides that the individual by whom it is made may require a sum representing the value of his accrued rights thereunder to be paid by the person with whom it is made to such other person as he may specify, that sum to be applied as the premium or other consideration under an annuity contract made between the individual and that other person and approved by the Board under that section.
- (2) References in subsection (1) above to the individual by whom the contract is made include references to any widow, widower or dependant having accrued rights under the contract.
- (3) Where in pursuance of any such provision as is mentioned in subsection (1) above of an annuity contract approved under section 226 of the Taxes Act, or of a corresponding provision of a contract approved under section 226A(1)(a) of that Act (contracts for dependants), a sum representing the value of accrued rights under one contract ("the original contract") is paid by way of premium or other consideration under another contract ("the substituted contract"), any annuity payable under the substituted contract shall be treated as earned income of the annuitant to the same extent that an annuity payable under the original contract would have been so treated.
- (4) In section 230(7) of the Taxes Act (purchased life annuities, other than retirement annuities), there shall be added at the end of paragraph (b) the words " to any annuity payable under a substituted contract within the meaning of section 26(3) of the Finance Act 1978, or ".
- (5) In section 323(4) of the Taxes Act (pension business), for the words from ", being a contract" onwards in paragraph (a) there shall be substituted the words " (being a contract approved by the Board under that section), or any substituted contract within the meaning of section 26(3) of the Finance Act 1978 ".

## **27 Relief for individuals carrying on trade etc. partly abroad**

- (1) The provisions of this section and Part I of Schedule 4 to this Act shall have effect for affording relief from tax for the year 1978-79 and subsequent years of assessment to an individual who in a year of assessment—
- (a) is resident in the United Kingdom; and
  - (b) is carrying on a trade, profession or vocation in respect of which he is within the charge to income tax under Case I or Case II of Schedule D; and

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- (c) is absent from the United Kingdom on at least thirty qualifying days; and in that Schedule and the following provisions of this section any reference to a trade includes a reference to a profession or vocation and any reference to Case I of Schedule D includes a reference to Case II of that Schedule.
- (2) For the purposes of subsection (1) above and Part I of Schedule 4 to this Act, a qualifying day, in relation to an individual carrying on a trade, is a day of absence from the United Kingdom—
- (a) which he devotes substantially to the activities of the trade; or
  - (b) which is one of at least seven consecutive days on which he is absent from the United Kingdom for the purposes of the trade and which (taken as a whole) he devotes substantially to the activities of the trade; or
  - (c) on which he is travelling wholly and exclusively for the purposes of the trade.
- (3) If an individual carries on more than one trade and a day of absence from the United Kingdom would be a qualifying day in relation to his carrying on two or more of those trades taken together, but not in relation to his carrying on any particular trade, it shall be treated as a qualifying day for the purposes specified in subsection (2) above.
- (4) In relation to an individual who carries on a trade as a member of a partnership to which section 153 of the Taxes Act applies (partnerships controlled abroad), a day shall not be treated as a qualifying day in relation to any trade or trades carried on by the partnership unless it would be so treated if references in paragraphs (a) to (c) of subsection (2) above to the trade carried on by the individual were restricted to the trading operations of the partnership within the United Kingdom.
- (5) An individual shall not be entitled to relief under this section in respect of absence on qualifying days in a year of assessment unless a claim for the relief is made before the expiry of the period of two years beginning at the end of that year of assessment.
- (6) For the purposes of this section an individual shall not be regarded as absent from the United Kingdom on any day unless he is absent at the end of it; nor shall an individual be regarded as absent from the United Kingdom at any time when he is on board a vessel or aircraft engaged on—
- (a) a voyage or journey beginning and ending in the United Kingdom (but exclusive of any part of it which begins or ends outside the United Kingdom); or
  - (b) any part beginning and ending in the United Kingdom of a voyage or journey which begins or ends outside the United Kingdom.
- (7) For the purposes of this section, any area designated under section 1(7) of the Continental Shelf Act 1964 shall be treated as part of the United Kingdom.
- (8) In consequence of the provisions of this section and of Part I of Schedule 4 to this Act, the amendments in Part II of that Schedule shall have effect.

## **28 Farming and market gardening: relief for fluctuating profits**

- (1) Subject to the provisions of this section, a person who is or has been carrying on a trade of farming or market gardening in the United Kingdom may claim that subsection (2) or (3) below shall have effect in relation to his profits from that trade for any two consecutive years of assessment if his profits for either year do not exceed such part of his profits for the other year as is there specified.



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- (2) If the claimant's profits for either year do not exceed seven-tenths of his profits for the other year or are nil, his profits for each year shall be adjusted so as to be equal to one-half of his profits for the two years taken together or, as the case may be, for the year for which there are profits.
- (3) If the claimant's profits for either year exceed seven-tenths but are less than three-quarters of his profits for the other year, his profits for each year shall be adjusted by adding to the profits that are lower and deducting from those that are higher an amount equal to three times the difference between them less three-quarters of those that are higher.
- (4) No claim shall be made under this section—
  - (a) in respect of any year of assessment before a year in respect of which a claim has already been made under this section; or
  - (b) in respect of a year of assessment in which the trade is (or by virtue of section 154(1) of the Taxes Act is treated as) set up and commenced or permanently discontinued.
- (5) Any adjustment under this section shall have effect for all the purposes of the Income Tax Acts (including any further application of this section where the second of any two years of assessment is the first of a subsequent pair) except that—
  - (a) subsection (2) above shall not prevent a person obtaining relief under those Acts for a loss sustained by him in any year of assessment;
  - (b) any adjustment under this section shall be disregarded for the purposes of section 118(1)(b) of the Taxes Act (adjustment of assessments on discontinuance of trade) and of computing relevant income for the purposes of Schedule 5 to the Finance Act 1976 (stock relief); and
  - (c) where, after a claim has been made under this section in respect of the profits for any two years of assessment the profits for both or either of those years are adjusted for any other reason, this section shall have effect as if the claim had not been made but without prejudice to the making of a further claim in respect of those profits as so adjusted.
- (6) This section applies to the profits of a trade carried on by a person in partnership as it applies to the profits of a sole trader except that—
  - (a) the profits to which the claim relates shall be those chargeable in accordance with section 152 of the Taxes Act; and
  - (b) any claim in respect of those profits shall be made jointly by all the partners who are individuals;

and where during the years of assessment to which the claim relates there is a change in the persons engaged in carrying on the trade but a notice is given under section 154(2) of the Taxes Act the claim shall be made jointly by all the persons who are individuals and have been engaged in carrying on the trade at any time during those years.

Where a person who is required by this subsection to join in making a claim has died, this subsection shall have effect as if it required his personal representatives to join in making the claim.

- (7) In this section references to profits from a trade for a year of assessment are references to the profits or gains from that trade which are chargeable to income tax for that year before—
  - (a) any deduction for losses sustained in any year of assessment;

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- (b) any deduction or addition for capital allowances or charges (not being allowances or charges given or made by deduction or addition in the computation of profits or gains);
  - (c) any deduction or addition for any relief or charge under Schedule 5 to the Finance Act 1976.
- (8) Any claim under this section shall be made by notice in writing given to the inspector not later than two years after the end of the second of the years of assessment to which the claim relates but any such further claim as is mentioned in subsection (5)(c) above shall not be out of time if made before the end of the year of assessment following that in which the adjustment is made.
- (9) Where a person makes a claim under this section in respect of any year of assessment, any claim by him for relief for that year under any other provision of the Income Tax Acts—
- (a) shall not be out of time if made before the end of the period in which the claim under this section is required to be made ; and
  - (b) if already made, may be revoked or amended before the end of that period;
- but no claim shall by virtue of this subsection be made, revoked or amended after the determination of the claim under this section.
- (10) There shall be made all such alterations of assessments or repayments of tax (whether in respect of such profits as are mentioned in subsection (1) above or of other income of the person concerned) as may be required in consequence of any adjustment under this section.
- (11) Nothing in this section shall be construed as applying to profits chargeable to corporation tax.
- (12) This section applies where the first of the two years mentioned in subsection (1) above is the year 1977-78 or a subsequent year of assessment.

## **29 Divers and diving supervisors**

- (1) Where the duties of an employment which are performed by a person in the United Kingdom or a designated area consist wholly or mainly—
- (a) of taking part, as a diver, in diving operations concerned with the exploration or exploitation of the seabed, its subsoil and their natural resources; or
  - (b) of acting, in relation to any such operations, as a diving supervisor,
- the Income Tax Acts shall have effect as if the performance by that person of those duties constituted the carrying on by him of a trade within Case I of Schedule D; and accordingly Schedule E shall not apply to the emoluments from the employment so far as attributable to his performance of those duties.
- (2) In this section " designated area " means any area designated under section 1(7) of the Continental Shelf Act 1964.
- (3) Finance Act 1973 (information about emoluments paid or payable in respect of duties performed in connection with exploration or exploitation activities) for the words " emoluments paid or payable in respect of duties " there shall be substituted the words " emoluments or other payments paid or payable in respect of duties or services ".
- (4) This section applies for the year 1978-79 and subsequent years of assessment; and where the duties of a person's employment fall within subsection (1) above at the

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beginning of that year this section shall apply as if the trade mentioned in that subsection had been set up and commenced by him at the beginning of that year.

### **30 Further relief for losses in early years of trade**

- (1) Where an individual carrying on a trade sustains a loss in the trade in—
  - (a) the year of assessment in which it is first carried on by him; or
  - (b) any of the next three years of assessment,he may, by notice in writing given within two years after the year of assessment in which the loss is sustained, make a claim for relief under this section.
- (2) Subject to the provisions of this section, relief shall be given from income tax on an amount of the claimant's income equal to the amount of the loss, being income for the three years of assessment last preceding that in which the loss is sustained, taking income for an earlier year before income for a later year.
- (3) Relief shall not be given for the same loss or the same portion of a loss both under this section and under any other provision of the Income Tax Acts.
- (4) Relief shall not be given under this section in respect of a loss sustained in any period unless it is shown that the trade was carried on throughout that period on a commercial basis and in such a way that profits in the trade (or, where the carrying on of the trade forms part of a larger undertaking, in the undertaking as a whole) could reasonably be expected to be realised in that period or within a reasonable time thereafter.
- (5) Relief shall not be given under this section in respect of a loss sustained by an individual in a trade if—
  - (a) at the time when it is first carried on by him he is married to and living with another individual who has previously carried on the trade ; and
  - (b) the loss is sustained in a year of assessment later than the third year of assessment after that in which the trade was first carried on by the other individual.
- (6) For the purposes of this section an individual carries on a trade whether he does so solely or in partnership; and (except as respects the computation of profits or gains and losses) an individual continues to carry on the same trade notwithstanding a change in the persons engaged in carrying it on if he is engaged in carrying it on immediately before and immediately after the change.
- (7) Subject to subsections (8) and (9) below, the following enactments (which contain ancillary provisions relating to relief under section 168 of the Taxes Act) shall have effect as if references to that section included references to this section—
  - (a) sections 168(3), (4), (5) and (7), 169 (other than subsection (10)) and 474(1) of the Taxes Act;
  - (b) section 23(2) of the Finance Act 1974 ;
  - (c) paragraph 3(1) of Schedule 2 to the Social Security Act 1975;
  - (d) section 13(2) of the Oil Taxation Act 1975 ;
  - (e) sections 36(9) and 41 of, and paragraph 6 of Schedule 5 to, the Finance Act 1976.
- (8) In its application by virtue of subsection (7) above, section 169 of the Taxes Act shall have effect with the following modifications—

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- (a) in subsection (3) for the words from " are those for the year of assessment" onwards there shall be substituted the words " are those for the year of loss, relief shall not be given by reference to those allowances in respect of an amount greater than the amount non-effective in that year ";
  - (b) in subsection (6) for the words " in the case of allowances for the following year, in taxing the trade for that following year" there shall be substituted the words " in the case of allowances for any later year, in taxing the trade for that later year ";
  - (c) in subsection (8) for the words " the year for which the claim is made" there shall be substituted the words " the year of loss ".
- (9) In its application by virtue of subsection (7) above paragraph 6 of Schedule 5 to the Finance Act 1976 shall have effect with the following modifications—
- (a) in sub-paragraph (4) for the words from " is that for the year of assessment" onwards there shall be substituted the words " is that for the year of loss, effect shall not be given to that relief in respect of an amount greater than the amount unused in that year ";
  - (b) in sub-paragraph (7) for the words " the year for which the claim is made "there shall be substituted the words " the year of loss ".
- (10) This section applies, with the necessary modifications, in relation to a profession or vocation as it applies in relation to a trade.
- (11) This section applies where the year in which the loss is sustained is the year 1978-79 or a later year of assessment.

### **31 Dealings in commodity futures: withdrawal of loss relief**

- (1) Relief shall not be given to any person under section 168 or 177(2) of the Taxes Act or section 30 above (set-off of trading losses against general income) in respect of a loss sustained in a trade of dealing in commodity futures if—
- (a) the loss was sustained in a trade carried on in partnership and that person or one or more of the other partners was a company; and
  - (b) a scheme has been effected or arrangements have been made (whether by the partnership agreement or otherwise) such that the sole or main benefit that might be expected to accrue to that person from his interest in the partnership was the obtaining of a reduction in tax liability by means of such relief as aforesaid.
- (2) Where relief has been given in a case to which this section applies it shall be withdrawn by the making of an assessment under Case VI of Schedule D.
- (3) This section applies whether the loss was sustained before or after the passing of this Act but not where the scheme was effected or the arrangements were made wholly before 6th April 1976.

### **32 Sale of land with right to repurchase: restriction of relief**

- (1) Sections 83 and 134 of the Taxes Act (which give a person relief from tax where he has paid a premium or certain other sums in respect of land) shall have effect with the following amendments, being amendments excluding from the relief cases falling within section 82 of that Act (under which the sum paid is the purchase price of land bought on terms providing for its reconveyance).

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- (2) In section 83—
- (a) in subsection (1)(a) for "81 or 82" there shall be substituted " or 81 ";
  - (b) in subsections (1), (2) and (3) the words "estate or interest" (wherever they occur) shall be omitted;
  - (c) subsections (4)(b)(iii) and (6) shall be omitted.
- (3) In section 134—
- (a) in subsection (1)(a) for "81 or 82" there shall be substituted " or 81 ";
  - (b) subsection (1)(iii), together with the word " and" immediately preceding it, shall be omitted;
  - (c) in subsection (2) the words " estate or interest" shall be omitted;
  - (d) subsection (7) shall be omitted and in subsections (1) and (2) for " (7) " there shall be substituted " (6) ".
- (4) Subsection (2) above applies where the amount chargeable on the superior interest has become or would have become chargeable to tax under section 82 after 2nd December 1976; and subsection (3) above applies where the amount chargeable has become or would have become chargeable to tax under that section after that date.

### **33 Deduction rate for sub-contractors in the construction industry**

Section 69(4) of the Finance (No. 2) Act 1975 (which requires deductions to be made from payments to certain subcontractors in the construction industry) shall have effect in relation to payments made on or after 6th November 1978 with the substitution for the words " 34 per cent. " of the words " 33 per cent. ".

### **34 Exemption for community land transactions**

- (1) In computing the profits or losses for corporation tax purposes of—
- (a) an authority within the meaning of section 1 of the Community Land Act 1975 other than a local authority;
  - (b) a joint board established under section 2 of that Act; or
  - (c) a body corporate established under section 50 of that Act,
- the items included and the transactions recorded in any accounts or records kept by the authority, joint board or body corporate under section 43 of that Act shall be disregarded.
- (2) This section shall be deemed to have come into force on 6th April 1976.

### **35 Close companies: relevant income**

- (1) In paragraph 9(3) of Schedule 16 to the Finance Act 1972 (apportionment of income of close companies: relevant maximum and minimum amounts for calculating relevant income of trading company) for " £15,000" and " £5,000 ", in both places, there shall be substituted respectively " £75,000 " and " £25,000 ".
- (2) In paragraph 9(4) of that Schedule (associated company to be disregarded for purposes of paragraph 9(3)) for the words " which has not carried on any trade or business at any time in that accounting period " there shall be substituted the words " which was not a trading company, or has not carried on any trade, at any time in that accounting period ".

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- (3) In paragraph 10(3)(b) of that Schedule (calculation of distributable investment income) for " £500 " there shall be substituted " £1,000 ".
- (4) This section has effect for any accounting period ending after 26th October 1977.

### **36 Close companies: acquisition of trades**

- (1) Part II of Schedule 16 to the Finance Act 1972 (provisions for determining relevant income etc. of close companies) shall have effect subject to the amendments in Schedule 5 to this Act, being amendments to allow account to be taken, in certain cases, of (the requirements of a company for the acquisition of a trade or of an interest in a trading company or in a company which is a member of a trading group.
- (2) The amendments in Schedule 5 to this Act have effect with respect to accounting periods ending on or after 11th April 1978, irrespective of whether the acquisition takes place before or after that date.

### **37 Capital allowances: long leases**

- (1) Subject to the provisions of this section, where expenditure has been incurred on the construction of a building or structure and a long lease of that building or structure is granted out of an interest therein which is, within the meaning of Chapter I of Part I of the Capital Allowances Act 1968, the relevant interest in relation to that expenditure, that Chapter shall, if the lessor and lessee so elect, have effect as if—
  - (a) the grant of the lease were a sale of the relevant interest by the lessor to the lessee at the time when the lease takes effect;
  - (b) any capital sum paid by the lessee in consideration for the grant of the lease were the purchase price on the sale; and
  - (c) the interest out of which the lease is granted had at that time ceased to be, and the interest granted by the lease had at that time become, the relevant interest in relation to that expenditure.
- (2) Any election under this section shall have effect in relation to all the expenditure in relation to which the interest out of which the lease is granted is the relevant interest and which relates to the building or structure or (if more than one) the buildings or structures which are the subject of the lease.
- (3) Any election under this section shall be by notice in writing to the inspector given within two years after the date on which the lease takes effect; and all such adjustments shall be made, whether by discharge or repayment of tax or by further assessments, as may be required for giving effect to the election.
- (4) In this section " long lease " means a lease the duration of which (ascertained according to section 84(1), (2) and (3) of the Taxes Act) exceeds fifty years; and any question whether a lease is a long lease shall be determined without regard to section 13(3) of the said Act of 1968 (options for renewal).
- (5) Section 11(3) of the said Act of 1968 (under which the creation of a lease does not affect the continuance of a relevant interest) shall have effect subject to subsection (1) (c) above.
- (6) This section does not apply where—

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- (a) the lessor and lessee are connected with each other within the terms of section 533 of the Taxes Act; or
- (b) it appears that the sole or main benefit which may be expected to accrue to the lessor from the grant of the lease and the making of an election is the obtaining of a balancing allowance under section 3 of the said Act of 1968;

but paragraph (a) above shall not prevent the application of this section where the lessor is a body discharging statutory functions and the lessee a company of which it has control.

- (7) The Tax Acts shall have effect as if this section were contained in Chapter I of Part I of the said Act of 1968.
- (8) This section applies where the time when the lease takes effect is on or after 15th February 1978.

### **38 Capital allowances: hotels**

- (1) Chapter I of Part I of the Capital Allowances Act 1968 shall apply in relation to a qualifying hotel as if it were an industrial building or structure; but the provisions of that Chapter shall have effect in relation to any such hotel with the modifications specified in Schedule 6 to this Act.
- (2) A qualifying hotel is a hotel the accommodation in which is in a building or buildings of a permanent nature and which complies with the following requirements—
  - (a) that it is open for at least four months in the season; and
  - (b) that during the time when it is open in the season—
    - (i) it has at least ten letting bedrooms;
    - (ii) the sleeping accommodation offered at the hotel consists wholly or mainly of letting bedrooms; and
    - (iii) the services provided for guests normally include the provision of breakfast and an evening meal, the making of beds and the cleaning of rooms.
- (3) In subsection (2) above " the season " means April, May, June, July, August, September and October; and for the purposes of that subsection a letting bedroom is a private bedroom available for letting to the public generally and not normally in the same occupation for more than one month.
- (4) Subject to subsection (5) below, any question whether a hotel complies with the requirements in subsection (2)(a) and (b) above at any time in a person's chargeable period or its basis period shall be determined—
  - (a) if the hotel has been in use for the purposes of the trade carried on by that person or by such a lessee as is mentioned in section 1(3) of the said Act of 1968 throughout the twelve months ending with the last day of that chargeable period or its basis period, by reference to those twelve months;
  - (b) if the hotel was first used as aforesaid on a date after the beginning of those twelve months, by reference to the twelve months beginning with that date;but a hotel shall not by virtue of this subsection be treated as complying with those requirements at any time in a chargeable period or its basis period after it has ceased altogether to be used.
- (5) Where, during the twelve months mentioned in paragraph (a) of subsection (4) above, a hotel had fewer than ten letting-bedrooms until a date which was too late for it to

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qualify by reference to those twelve months, it may instead qualify under paragraph (b) of that subsection by reference to the twelve months beginning with that date as if it had then first been used.

- (6) For the purposes of this section—
- (a) there shall be treated as included in a qualifying hotel any building (whether or not on the same site as any other part of the hotel) which is provided by the person carrying on the hotel for the welfare of workers employed in the hotel and is in use for that purpose; and
  - (b) where a qualifying hotel is carried on by an individual, whether alone or in partnership, there shall be treated as excluded from the hotel any accommodation which, during the time when the hotel is open in the season, is normally used as a dwelling by that person or by any member of his family or household.
- (7) The Tax Acts shall have effect as if this section and Schedule 6 to this Act were contained in Chapter I of Part I of the said Act of 1968.
- (8) This section applies in relation to expenditure incurred after 11th April 1978; and expenditure shall not be treated for the purposes of this subsection as having been incurred after the date on which it was in fact incurred by reason only of section 1(6) or 5(1) of the said Act of 1968.

### **39 Capital allowances: agricultural and forestry buildings and works**

- (1) In subsection (1) of section 68 of the Capital Allowances Act 1968 (writing-down allowances for agricultural and forestry buildings and works) for the words from "writing-down allowances shall be made to him" onwards there shall be substituted the words "there shall be made to him—
- (a) for the chargeable period related to the incurring of that expenditure, an initial allowance of an amount equal to one-fifth of that expenditure; and
  - (b) during a writing-down period of eight years beginning with that period, writing-down allowances of an aggregate amount equal to four-fifths of that expenditure."
- (2) After subsection (3) of that section there shall be inserted—
- “(3A) A person in making a claim by virtue of this section as it applies for income tax purposes in respect of the chargeable period mentioned in paragraph (a) of subsection (1) above may require the initial allowance to be reduced to a specified amount, and a company may by notice in writing given to the inspector not later than two years after the end of that period disclaim the initial allowance or require it to be so reduced; and
- (a) where the initial allowance is not claimed or, in the case of a company, is disclaimed, the period and amount mentioned in paragraph (b) of that subsection shall be ten years and the whole amount of the expenditure; and
  - (b) where the initial allowance is reduced, that period and amount shall be a fraction of the period of ten years and of the whole amount of the expenditure equal to the fraction of the whole amount of the expenditure that remains after deducting the part covered by the initial allowance.”



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- (3) In subsection (4) of that section for the words " an allowance " there shall be substituted the words " a writing-down allowance " .
- (4) In section 74 of the said Act of 1968 after subsection (5) there shall be inserted—
  - “(6) All such assessments and adjustments of assessments shall be made as are necessary to give effect to any notice given by a company under section 68(3A) of this Act.”
- (5) This section applies in relation to expenditure incurred after 11th April 1978.

#### **40 Capital allowances: sports grounds**

- (1) If a person carrying on a trade has since the passing of the Safety of Sports Grounds Act 1975 incurred expenditure in respect of a sports stadium used for the purposes of the trade, then, if—
  - (a) at the time when the expenditure was incurred the stadium was of the description specified in subsection (1) of section 1 of that Act but no designation order under that section had come into operation in respect of the stadium ; and
  - (b) the expenditure was incurred in taking steps which the local authority for the area in which the stadium is situated certify would have fallen within subsection (1)(a) or (b) of section 49 of the Finance (No. 2) Act 1975 (relief for safety expenditure at a designated sports stadium) if such an order had then been in operation and a safety certificate had then been issued or applied for, subsection (1) of the said section 49 shall have effect in relation to the expenditure as it has effect in relation to the expenditure mentioned in that subsection.
- (2) All such adjustments shall be made by discharge or repayment of tax as may be required for giving effect to the relief available under this section for expenditure incurred before the passing of this Act.
- (3) Any disclaimer or claim under section 41(3) of the Finance Act 1971 in respect of the relief available under this section for expenditure incurred before the passing of this Act, and any claim for relief (or additional relief) under any other provision of the Tax Acts which is made in consequence of the relief available under this section for such expenditure, shall not be out of time if made within twelve months after the passing of this Act.
- (4) Any provision of regulations made under section 6(1)(b) of the Safety of Sports Grounds Act 1975 (power of local authorities to charge fees) shall, with the necessary modifications, apply to the issue of a certificate for the purposes of this section as it applies to the issue of a safety certificate.
- (5) In this section " sports stadium ", " safety certificate " and " local authority " have the same meaning as in the said Act of 1975.
- (6) The Tax Acts shall have effect as if this section were contained in Chapter I of Part III of the Finance Act 1971.

#### **41 Date for payment of tax for 1977-78**

- (1) Where income tax under Schedule A, Schedule D or Schedule E was charged for the year 1977-78 by an assessment in the case of which the amount of tax charged was

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adjusted, after the issue of the notice of assessment and before the passing of this Act, so as to give effect to any of the provisions of the Finance (Income Tax Reliefs) Act 1977, any tax charged by the assessment which became due and payable—

- (a) in the case of tax under Schedule A or Schedule D, before the expiration of a period of thirty days beginning with the date of notification of the adjustment; or
- (b) in the case of tax under Schedule E, before the expiration of a period of fourteen days beginning with the date of the collector's application for payment next following notification of the adjustment,

shall be treated as having become due and payable at the expiration of that period.

- (2) This section does not apply where the adjustment was made on the determination of an appeal, whether by the Commissioners or by agreement under section 54(1) of the Taxes Management Act 1970.

#### **42 Deduction of tax from payments of interest in 1978-79**

Section 522 of the Taxes Act (effect of reduction in basic rate on deduction of tax from payments of interest) shall apply as if a resolution having statutory effect under the Provisional Collection of Taxes Act 1968 and providing for the charging of income tax as specified in section 13 above had been passed immediately before the passing of this Act; and the proviso to paragraph (b) of the said section 522 shall apply to any over-deduction to be made good in consequence of this section as if the reference to the passing of the Act imposing the tax were a reference to a date one month after the passing of this Act.

#### **43 Repayment of tax paid under Police Regulations**

- (1) The Board shall repay to police authorities any tax paid by those authorities by reason of the regulations mentioned in subsection (2) below (which required police authorities to discharge any tax liability of members of police forces arising in consequence of the provision of free accommodation); and no person other than a police authority shall be entitled to any repayment or credit in respect of tax paid as aforesaid unless he has made an application in that behalf to the Board or an inspector before the coming into force of this section.
- (2) The regulations referred to above are—
  - (a) Regulation 30A of the Police Regulations 1952 ;
  - (b) Regulation 40A of the Police (Scotland) Regulations 1956;
  - (c) any regulation subsequently in force and corresponding to either of those mentioned above.
- (3) Subsection (1) above shall also apply to tax paid by the Ministry of Home Affairs for Northern Ireland or the Police Authority for Northern Ireland by reason of Article 8A of the Royal Ulster Constabulary Allowances (Rent and Compensatory Grant) Order 1963 or of any corresponding provision subsequently in force, but any tax so paid by the Ministry shall be repaid to the Authority.
- (4) This section shall be deemed to have come into force on 7th July 1978.