



# Finance Act 1985

## 1985 CHAPTER 54

### PART II

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

### CHAPTER I

#### GENERAL

#### **34 Charge of income tax for 1985-86**

Income tax for the year 1985-86 shall be charged at the basic rate of 30 per cent.; and in respect of so much of an individual's total income as exceeds the basic rate limit (£16,200) at such higher rates as are specified in the Table below:

TABLE

<i>Higher rate bands</i>	<i>Higher rate</i>
The first (£3,000)	40 per cent.
The second (£5,200)	45 per cent.
The third (£7,900)	50 per cent.
The fourth (£7,900)	55 per cent.
The fifth	60 per cent.

and paragraphs (a) and (b) of subsection (1) of section 32 of the Finance Act 1971 (charge of tax at the basic and higher rates) shall have effect accordingly.

#### **35 Rate of advance corporation tax for financial year 1985**

The rate of advance corporation tax for the financial year 1985 shall be three-sevenths.

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### 36 Personal reliefs

- (1) Section 24(5) of the Finance Act 1980 (increase of personal reliefs) shall not apply for the year 1985-86.
- (2) In section 8 of the Taxes Act (personal reliefs)—
  - (a) in subsection (1)(a) (married) for " £3,155 " there shall be substituted " £3,455";
  - (b) in subsections (1)(b) (single) and (2) (wife's earned income relief) for " £2,005 " there shall be substituted " £2,205";
  - (c) in subsection (1A) (age allowance) for "£3,955 " and "£2,490" there shall be substituted " £4,255 " and " £2,690 " respectively ; and
  - (d) in subsection (1B) (income limit for age allowance) for " £8,100 " there shall be substituted " £8,800".

### 37 Relief for interest

- (1) For the year 1985-86 the qualifying maximum referred to in paragraphs 5(1) and 24(3) of Schedule 1 to the Finance Act 1974 (limit on relief for interest on certain loans for the purchase or improvement of land) shall be £30,000.
- (2) In paragraph 5 of Schedule 7 to the Finance Act 1982 (loans over the tax relief limit) in sub-paragraph (2) (which excludes interest on such loans unless the qualifying lender has given notice to bring them within the deduction scheme) after the word " unless " there shall be inserted—
  - “(a) the loan is made on or after 6th April 1987 ; or
  - (b)”.
- (3) In sub-paragraph (4) of the said paragraph 5 (interest on a limited loan can be relevant interest only to the extent that it qualifies for tax relief) for the words " notice has been given as mentioned in sub-paragraph (2) above" there shall be substituted " the condition in paragraph (a) or paragraph (b) of subparagraph (2) above is fulfilled".
- (4) In paragraph 14(2) of the said Schedule 7 (power by order to prescribe qualifying lenders for the purposes of the deduction scheme) for the words from " with effect" onwards there shall be substituted " with effect from such date as may be so specified".

### 38 Interest paid on deposits with banks etc.

- (1) Schedule 8 to the Finance Act 1984 (interest paid on deposits with banks etc.) shall be amended as follows.
- (2) In paragraph 2 (meaning of "deposit-taker"), for the word " section ", in paragraph (f) of sub-paragraph (1), there shall be substituted the word " sub-paragraph " and for subparagraph (2) there shall be substituted the following subparagraph—
  - “(2) An order under sub-paragraph (1)(f) above may prescribe a person or class of person in relation to all relevant deposits or only in relation to relevant deposits of a kind specified in the order”.
- (3) In paragraph 3(2), after paragraph (a) (person beneficially entitled to interest must be an individual), there shall be inserted the following paragraph—
  - “(ad) in Scotland, the person who is so entitled is a partnership all the partners of which are individuals ; or”.

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- (4) In paragraph 3(3) (deposits which are not relevant deposits), the following paragraphs shall be inserted after paragraph (d)—
- “(dd) it is a general client account deposit;
  - “(ddd) it forms part of a premiums trust fund (within the meaning of paragraph 16 of Schedule 10 to the Taxes Act) of an underwriting member of Lloyd's”.
- (5) In paragraph 3, after sub-paragraph (4), there shall be inserted the following sub-paragraph—
- “(4A) A declaration under sub-paragraph (3)(h) shall be in such form as may be prescribed or authorised, and; contain such information as may reasonably be required, by the Board”.
- (6) In paragraph 3(8) (interpretation), the following definition shall be inserted after the definition of " appropriate person " —
- “' general client account deposit' means a deposit, held by the deposit-taker in a client account (other than one which is identified by the deposit-taker as one in which sums are held only for one or more particular clients of the person whose account it is) in respect of which that person is required by provision made under any enactment to make payments representing interest to some or all of the clients for whom, or on whose account, he received the sums deposited in the account”.
- (7) After paragraph 3 there shall be inserted the following paragraph—
- “3A (1) The Treasury may by order made by statutory instrument make amendments in this Schedule providing for deposits of a kind specified in the order to be or, as the case may be, not to be relevant deposits in relation to all deposit-takers or such deposit-takers or classes of deposit-taker as may be so specified.
- (2) The Board may by regulations made by statutory instrument make provision—
- (a) requiring any declaration under paragraph 3 (3)(h)(ii) above which does not give the address of the person making it, to be supported by a certificate given by the deposit-taker concerned—
    - (i) in such form as may be prescribed or authorised by the Board ; and
    - (ii) containing such information as may reasonably be required by the Board ; and
  - (b) generally for giving effect to the principal section and this Schedule.
- (3) Any order or regulations made under this paragraph may contain such incidental and consequential provision as appears to the Treasury or, as the case may be, Board to be appropriate.
- (4) A statutory instrument made in the exercise of the power conferred by this paragraph shall be subject to annulment in pursuance of a resolution of the Commons House of Parliament.”
- (8) Subject to paragraph 6(1) of Schedule 8 to the Finance Act 1984 (deposits denominated in a foreign currency not to be treated as relevant deposits before 6th

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April 1986), subsections (3), (4) and (6) above apply in relation to payments of interest made or credited after 5th April 1985.

- (9) There shall be made such assessments, or reductions of assessments, or, on a claim in that behalf, repayments of tax as may in any case be required in order to give effect to subsections (3), (4), (6) and (8) above.
- (10) The words " Regulations under paragraph 3A of Schedule 8 to the Finance Act 1984 " shall be added at the end of each column in the Table in section 98 of the Taxes Management Act 1970 (penalties for failure to comply with notices, furnish information etc.).

### **39 Group relief: modifications**

- (1) Section 258 and the following sections of Chapter I of Part XI of the Taxes Act (the enactments relating to group relief) shall have effect subject to Part I of Schedule 9 to this Act.
- (2) Section 263 of the Taxes Act (exclusion of double allowances etc.) shall be amended in accordance with Part II of Schedule 9 to this Act and in that Part—
- (a) paragraphs 9, 10 and 13 have effect in relation to any claim with respect to an accounting period of the surrendering company which begins on or after 1st August 1985; and
  - (b) paragraphs 11 and 12 have effect in relation to any claim with respect to an accounting period of the claimant company which begins on or after that date.
- (3) In subsection (2) above " the surrendering company " and " the claimant company " have the meaning assigned by section 258 of the Taxes Act.

### **40 Building societies**

- (1) Section 343 of the Taxes Act (arrangements for building societies to account for tax on dividends and interest etc.) shall be amended in accordance with this section.
- (2) In subsection (1), after the words " year of assessment" there shall be inserted " ending before 6th April 1986".
- (3) After subsection (1) there shall be inserted the following subsections—
- “(1A) The Board may by regulations made by statutory instrument make provision with respect to the year 1986-87 and any subsequent year of assessment requiring building societies, on such sums as may be determined in accordance with the regulations, to account for and pay an amount representing income tax calculated in part at the basic rate and in part at the reduced rate determined for the year of assessment concerned under section 26(1)(a) of the Finance Act 1984; and any such regulations may contain such incidental and consequential provisions as appear to the Board to be appropriate, including provisions requiring the making of returns.
- (1B) A statutory instrument made in the exercise of the power conferred by subsection (1A) above shall be subject to annulment in pursuance of a resolution of the Commons House of Parliament.”
- (4) In subsection (2), for the words from the beginning to " this section" there shall be substituted " For any year of assessment to which regulations under subsection (1A)

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above apply "; for the words " the society ", in the first place where they occur, there shall be substituted " a building society " ; in paragraph (a) for the words " total profits of the society " there shall be substituted " income of the society from the trade carried on by it " ; and in paragraph (b) the words from " except that" to the end shall be omitted.

- (5) In subsection (3), for the words preceding paragraph (a) there shall be substituted " Except in so far as regulations under subsection (1A) above otherwise provide, for any year of assessment to which such regulations apply"; in paragraph (a) for the words " that society " there shall be substituted " a building society " ; and paragraphs (iii) and (iv) of the proviso shall be omitted.
- (6) In subsection (4), for the words from the beginning to "this Act" there shall be substituted " Notwithstanding anything in Part II of this Act, for any year of assessment to which regulations under subsection (1A) above apply " and for the words " the society" there shall be substituted " a building society".
- (7) In subsection (7), for the words following " dividend " there shall be substituted " has the meaning assigned to it by regulations under subsection (1A) above".
- (8) Subsections (6), (8A), (8B) and (9) shall be omitted.
- (9) Subsections (4) to (8) above have effect for the year 1986-87 and subsequent years of assessment.
- (10) The Table in section 98 of the Taxes Management Act 1970 (penalties for failure to comply with notices, furnish information etc.) shall be amended as follows—
  - (a) in the first column, after the words " Schedule 6, paragraph 10 ", and
  - (b) in the second column, after the words " Regulations under section 204 of the principal Act," there shall, in each case, be inserted " Regulations under section 343(1 A) of the principal Act".

#### **41 Friendly societies**

- (1) In section 64 of the Friendly Societies Act 1974 (maximum benefits for members of friendly societies) at the end of subsection (2) there shall be added the following subsections—
  - “(2A) In applying the limits in this section in accordance with section 73(6)(b) of the Finance Act 1984 (that is to say, in relation to the aggregate of the benefits secured by contracts made after 13th March 1984 and those secured by contracts made on or before that day), any contract for an annuity which was made before 1st June 1984 by a new society, as defined in section 337(3) of the Income and Corporation Taxes Act 1970, shall be regarded not only as a contract for the annual amount concerned but also as a contract for the assurance of a gross sum equal to 75 per cent, of the total premiums which would be payable under the contract if it were to run for its full term or, as the case may be, if the member concerned were to die at the age of seventy-five years.
  - (2B) If, on or after 19th March 1985, a person becomes in breach of the limits in this section, the policy effected by that contract which causes those limits to be exceeded shall not be a qualifying policy, within the meaning of Part I of Schedule 1 to the Income and Corporation Taxes Act 1970; and in any case where—

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- (a) the limits in this section are exceeded as a result of the aggregation of the sums assured under two or more contracts, and
  - (b) at a time immediately before one of those contracts was entered into (but not immediately after it was entered into) the sums assured by the contract or contracts which were then in existence did not exceed the limits in this section,
- only those policies effected by contracts made after that time shall be treated as causing the limits to be exceeded.”
- (2) Section 64 of the Friendly Societies Act 1974 (as amended by subsection (1) above)—
- (a) shall have effect as if contained within sections 332 to 336 of the Taxes Act, instead of within the said Act of 1974; and
  - (b) shall extend to Northern Ireland;
- and in consequence of paragraph (b) above, section 55 of the Friendly Societies Act (Northern Ireland) 1970 shall cease to have effect.
- (3) With respect to life or endowment business carried on on or after 1st June 1984, section 333 of the Taxes Act (distinction between old and new societies) shall have effect with the omission—
- (a) in subsection (1), of paragraph (b) and the word " or " immediately preceding it; and
  - (b) of subsections (2) and (3).
- (4) With respect to—
- (a) policies issued in respect of insurances made on or after 19th March 1985, and
  - (b) policies issued in respect of insurances made before that date which are varied on or after that date,
- section 7(3) of the Friendly Societies Act 1974 (societies not entitled to registration if in breach of the statutory limits) shall not apply and for paragraph 3 of Schedule 1 to the Taxes Act (qualifying friendly society policies) there shall be substituted the paragraphs set out in Part I of Schedule 10 to this Act.
- (5) Part II of Schedule 10 to this Act shall have effect with respect to policies issued in respect of insurances made on or after 1st June 1984 and before 19th March 1985; and, with respect to business carried on on or after 19th March 1985 by friendly societies which are not new societies,—
- (a) Part III of that Schedule shall have effect; and
  - (b) subsections (2) to (5) of section 335 of the Taxes Act (conditions for tax exempt business) shall not apply.
- (6) With respect to business carried on on or after 19th March 1985, section 334 of the Taxes Act (conditions for tax exempt business) shall be amended as follows—
- (a) in subsection (1) after the words " apply to " there shall be inserted " so much of the " and for the words from " unless " onwards there shall be substituted “as is attributable to a policy which, by virtue of section 64(2B) of the Friendly Societies Act 1974,—
    - (a) is not a qualifying policy ; and
    - (b) would not be a qualifying policy if all policies with other friendly societies were left out of account”; and
  - (b) in subsection (2), in paragraph (a) for the words " the payment of the first premium" there shall be substituted " the making of the insurance or, where the

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contract provides for the term to begin on a date not more than three months earlier than the making of the insurance, that date " and the words following paragraph (c) shall be omitted ;

- (c) at the end of paragraph (a) of subsection (3) there shall be added the words " and, for the purposes of this paragraph, if the term begins on a date earlier than the making of the insurance, any premium paid in respect of a period before the making of the insurance, or in respect of that period and a subsequent period, shall be treated as having been payable on that date";
- (d) at the end of paragraph (c) of subsection (4) there shall be added "and
  - (d) may make provision for the waiver of premiums by reason of a person's disability."

(7) Section 337 of the Taxes Act (interpretation of provisions relating to registered friendly societies) shall be amended as follows—

- (a) in subsection (1) for the words following " interpretation of " there shall be substituted—

- “(a) sections 332 to 336 above and the following provisions of this section,
- (b) paragraphs 3 and 3A of Schedule 1 to this Act, and
- (c) section 41 of and Parts II and III of Schedule 10 to the Finance Act 1985”;

- (b) in subsection (2) (definition of " life or endowment business ") for the words from " within " to " period)" there shall be substituted " within any of paragraphs (1), (2), (4) and (5) of Schedule 1 to the Friendly Societies Act 1974 " );

- (c) for paragraph (a) of subsection (2) there shall be substituted—

- “(a) shall not include the issue of a policy affording provision for sickness or other infirmity (whether bodily or mental) unless—
  - (i) it also affords assurance for a gross sum independent of sickness or other infirmity; and
  - (ii) not less than sixty per cent, of the amount of the premiums is attributable to the provision afforded during sickness or other infirmity ; and
  - (iii) there is no bonus or addition which may be declared or accrue upon the assurance of the gross sum”;

- (d) in subsection (3) (general definitions) after the definition of " life assurance business " there shall be inserted—

“ new society ' means a friendly society which was registered after 3rd May 1966 or which was registered in the period of three months ending on that date but which at no time earlier than that date carried on any life or endowment business”;

and after the words " said provisions " there shall be inserted " (including this subsection)";

- (e) in subsection (4) (amalgamated societies) in paragraph (a) of the proviso for the words " a society not within section 333(1)(6) above" there shall be substituted " not a new society"; and
- (f) in subsection (4), paragraph (b) of the proviso shall be omitted;

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and this subsection has effect with respect to business carried on on or after 19th March 1985 except that paragraphs (d) and (e) above also have effect with respect to business carried on on or after 1st June 1984.

- (8) In section 393 of the Taxes Act (the introductory provision to the "chargeable events" legislation affecting insurance policies, contracts for life annuities etc.) at the end of the definition of "life annuity" in subsection (3) there shall be added the words "and any annuity the contract for which is made on or after 1st June 1984 by a friendly society or branch thereof in the course of life or endowment business, as defined in section 337 of this Act".
- (9) Where, under section 395 or section 397 of the Taxes Act, a gain is to be treated as arising in connection with a policy issued by a friendly society in the course of tax exempt life or endowment business, section 399 of that Act (method of charging gain to tax) shall have effect in relation to the gain as if subsection (4) (exclusion of basic rate tax) were omitted.
- (10) In section 27 of the Finance Act 1974 (control of certain societies registered after 31st May 1973) in subsection (3) (notice of intention to withdraw certain tax advantages) for the words from "such date" onwards there shall be substituted "the date of the notice".

#### **42 Relief for Class 4 contributions**

- (1) An individual making a claim in that behalf shall be entitled, in computing his total income for any year of assessment beginning on or after 6th April 1985, to deduct one-half of any amount (as finally settled) which is determined under subsection (2) of section 9 of the Social Security Act 1975 or of the Social Security (Northern Ireland) Act 1975 and which he is liable to pay in respect of that year by way of Class 4 contributions under either of those sections.
- (2) In paragraph 3(2) of Schedule 2 to each of those Acts, there shall be inserted after paragraph (e) "and
  - (f) section 42 of the Finance Act 1985 (relief for Class 4 contributions)."

#### **43 Business entertaining expenses**

- (1) In subsection (8)(b) of section 411 of the Taxes Act (which limits expenses on gifts for which deductions may be made) for "£2" there shall be substituted "£10".
- (2) This section applies to expenses incurred after 5th April 1985.

#### **44 Business expansion scheme**

- (1) Schedule 5 to the Finance Act 1983 (relief for investment in corporate trades) shall be amended as follows.
- (2) The following paragraph shall be inserted after paragraph 2—

*“Modification of paragraph 2 for research and development companies*

- 2A (1) Where eligible shares in a company are issued for the purpose of enabling the company to raise money—



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- (a) for research and development from which it intends to derive a qualifying trade which it will carry on; or
    - (b) both for any such research and development and for the resulting trade;

paragraph 2 above shall apply in relation to the company with the modifications set out in this paragraph.
  - (2) For paragraph (b) of sub-paragraph (1) there shall be substituted—
    - “(b) those shares are issued to him for the purpose of raising money—
      - (i) for research and development which is being carried on at the time when the shares are issued, or begins immediately thereafter, and from which the company intends to derive a qualifying trade which will be carried on by it; or
      - (ii) both for any such research and development and the resulting trade.”
  - (3) For sub-paragraph (4) there shall be substituted the following—
    - “(4) The relief shall be given on a claim and shall not be allowed unless and until the company has carried on the research and development for four months.”
  - (4) In sub-paragraph (5), for the word ' trade ' there shall be substituted the words ' research and development '.
  - (5) In sub-paragraph (7)(b), for the words from 'either' to the end there shall be substituted the words 'three years after that date'.”
- (3) In paragraph 6(2) (trades which are excluded from being qualifying trades) after the word " or " there shall be inserted the words " of property development or".
- (4) In paragraph 6, after sub-paragraph (2A), there shall be inserted the following sub-paragraph—
- “(2AA) A trade shall not be treated as failing to comply with this paragraph by reason only that at any time after 19th March 1985 it consists to a substantial extent of receiving royalties or licence fees if—
    - (a) the company carrying on the trade is engaged in research and development throughout the relevant period; and
    - (b) all royalties and licence fees received by it in that period are attributable to research and development which it has carried out.”
- (5) In paragraph 6(2B) (interpretation), the following definitions shall be inserted after the definition of " film " —
- “ ' property development ' means the development of land, by a company which has, or at any time has had, an interest in the land, with the sole or main object of realising a gain from disposing of the land when developed ;
  - ' 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—

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- (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 Scotland, the interest of a creditor in a charge or security of any kind over land.”
- (6) In paragraph 20(2) (interpretation) the following definition shall be inserted after the definition of " the relevant period " —
- “research and development' means any activity which is intended to result in a patentable invention (within the meaning of the Patents Act 1977) or in a computer program.”
- (7) Subsection (2) has effect in relation to shares issued on or after 6th April 1985 and subsections (3) and (5) have effect in relation to shares issued after 19th March 1985.

#### **45 Profit sharing schemes**

- (1) Chapter III of Part III of the Finance Act 1978 (profit sharing schemes) shall be amended in accordance with this section.
- (2) In subsection (6) of section 54 of that Act (definition of " the release date ") for the words " seventh anniversary " (which were substituted by section 46(4) of the Finance Act 1980) there shall be substituted " fifth anniversary".
- (3) In subsection (7) of that section (definition of " the appropriate percentage ")—
- (a) in paragraph (c)(i) for the words " sixth anniversary " there shall be substituted " fifth anniversary " and the final word " or " shall be omitted ; and
  - (b) paragraphs (c)(ii) and (d) shall be omitted.
- (4) In subsection (6) of section 56 of that Act (capital receipts in respect of scheme shares) —
- (a) for " £140 " there shall be substituted " £100"; and
  - (b) for " 7 years " there shall be substituted " 5 years".
- (5) The amendments made by subsection (4) above have effect for the year 1986-87 and subsequent years of assessment.

#### **46 Deep discount securities**

Schedule 11 to this Act (deep discount securities) shall have effect in relation to any deep discount security issued on or after 19th March 1985; and " deep discount security" and " issued " have the same meanings here as in that Schedule.

#### **47 Partnerships: basis of assessment**

- (1) This section applies where—
- (a) a trade, profession or vocation is carried on by persons in partnership,
  - (b) there is a change in those persons as a result of which section 154(1) of the Taxes Act treats the trade, profession or vocation as discontinued and a new trade, profession or vocation as set up and commenced, and
  - (c) a person engaged in carrying on the trade, profession or vocation immediately before the change continues to be engaged in carrying it on in partnership

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immediately after the change, but no election is made under section 154(2) to disapply section 154(1).

- (2) In a case where this section applies, the Taxes Act shall have effect as if—
- (a) the section set out in subsection (3) below were substituted for section 116 (special basis at commencement), and
  - (b) section 117 (special basis for two years following commencement) were amended as mentioned in subsection (4) below.
- (3) The substitute for section 116 is this—

**“116 Special basis at commencement.**

The computation of the profits or gains chargeable to income tax under Case I or Case II of Schedule D for the year of assessment in which the new trade, profession or vocation is treated as having been set up and commenced, and for each of the three years of assessment following that year of assessment, shall be made on the full amount of the profits or gains arising in the year of assessment in question.”

- (4) The amendments of section 117 are these—
- (a) in subsection (1) for " second ", " third ", " next after " and "next but one after" there shall be substituted (respectively) " fifth " , " sixth " , " next but three after " and " next but four after " ;
  - (b) in subsections (2) and (3) for " second " and " third " there shall be substituted (respectively and throughout) " fifth " and " sixth " .
- (5) This section has effect in relation to any change which takes place after 19th March 1985 in the persons engaged in carrying on a trade, profession or vocation in partnership.

**48 Limited partners: restriction of reliefs**

- (1) Schedule 12 to this Act (restriction in case of limited partners and others of reliefs in respect of losses, interest and charges and of allowances for expenditure) shall have effect where the chargeable period—
- (a) in which the loss in question is sustained or incurred, or the interest or charges in question paid, or
  - (b) for which the allowance in question falls to be made,
- begins after 19th March 1985.
- (2) That Schedule shall also have effect where that period begins on or before that date and ends after it if the person sustaining or incurring the loss or paying the interest or charges, or to whom the allowance falls to be made, begins after that date to carry on as a limited partner the trade—
- (a) in which, or in connection with which, the loss is sustained or incurred or the interest or charges paid, or
  - (b) in taxing which, or by reason of participation in which, the allowance falls to be made,

and it is immaterial whether or not he was carrying on the trade otherwise than as a limited partner on or before that date.

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**49 Covenanted payments to charity: increase of exemption from excess tax liability**

- (1) In section 457 of the Taxes Act (settlements made on or after 7th April 1965) in subsection (1A) (covenanted payments to charity: first £5,000 exempt from excess liability) for " £5,000 " there shall be substituted " £10,000".
- (2) In Schedule 16 to the Finance Act 1972 (apportionment of income of close companies) in paragraph 5, in sub-paragraph (5A) (total income reduced by amount of covenanted payments to charities subject to the £5,000 limit) for " £5,000 " there shall be substituted " £10,000".
- (3) This section has effect for the year 1985-86 and subsequent years of assessment in relation to payments made after 5th April 1985.

**50 Agents acting for non-residents**

- (1) Section 78 of the Taxes Management Act 1970 (method of charging non-residents) shall be amended in accordance with subsections (2) and (3) below, and the amendments made by those subsections shall have effect—
  - (a) for the year 1985-86 and subsequent years of assessment, in the case of profits or gains chargeable to income tax; and
  - (b) for accounting periods ending on or after 1st April 1985, in the case of profits or gains chargeable to corporation tax.
- (2) After the words " Subject to" there shall be inserted " subsection (2) below and".
- (3) At the end of the section there shall be inserted the following subsections—
  - “(2) Subject to the following provisions of this section, a person who is not resident in the United Kingdom shall not, by virtue of this section, be chargeable in the name of an agent in respect of profits or gains arising from investment transactions carried out by the agent if—
    - (a) the agent is carrying on a business of providing investment management services to a number of clients of whom the non-resident person is one; and
    - (b) the investment transactions concerned were carried out in the ordinary course of the business referred to in paragraph (a) above; and
    - (c) the remuneration which the agent receives for the provision of investment management services to the non-resident person is at a rate which is not less than that which is customary for that class of business; and
    - (d) in the case of profits or gains which are chargeable to tax as the profits or income of the non-resident person from carrying on a trade in the United Kingdom through a branch or agency, the agent carrying out the investment transaction is also the agency through which the trade is carried on;

and in the case of an agent who provides investment management services as part only of a business, paragraphs (a) to (d) above shall apply as if that part were a separate business.
  - (3) In subsection (2) above ' investment transactions' means—
    - (a) transactions in shares, stock or securities of any other description, excluding commodity or financial futures,

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(b) transactions on a recognised futures exchange, within the meaning of the Capital Gains Tax Act 1979, and

(c) the placing of money at interest,

and for the purposes of that subsection an agent carries out such a transaction on behalf of his client whether he undertakes the transaction himself or by giving instructions to another person.

(4) Subsection (2) above does not apply to profits or gains which constitute income of an offshore fund, within the meaning of Chapter VII of Part II of the Finance Act 1984.

(5) Subsection (2) above does not apply if the non-resident person and the agent are connected with each others within the terms of section 533 of the principal Act.”

## **51 Offshore life assurance: chargeable events**

(1) In Part III of Schedule 15 to the Finance Act 1984 (modifications of chargeable events legislation in relation to new non-resident policies and new offshore capital redemption policies) at the beginning of sub-paragraph (1) of paragraph 8 (reduction of gain so as to reflect only that part of the period of the policy during which the policy holder is resident in the United Kingdom) there shall be inserted the words " Subject to sub-paragraph (3) below".

(2) At the end of sub-paragraph (2) of the said paragraph 8 there shall be inserted the following sub-paragraph—

“(3) If, on the happening of the chargeable event referred to in sub-paragraph (1) above or at any time during the period referred to in paragraph (a) of that sub-paragraph, the policy is or was held by a trustee resident outside the United Kingdom or by two or more trustees any of whom is or was so resident, no reduction shall be made under that sub-paragraph unless—

(a) the policy was issued in respect of an insurance made on or before 19th March 1985 ; and

(b) on that date the policy was held by a trustee who was so resident or, as the case may be, by two or more trustees any of whom was so resident.”

## **52 London Regional Transport: tax losses**

In computing for the purposes of corporation tax the profit or loss of London Regional Transport for any accounting period beginning on or after 1st April 1985, the loss of the London Transport Executive for any earlier accounting period shall be computed as if section 16(1)(b) of the Finance Act 1970 (grants to the Executive to be left out of account in computing profits chargeable to corporation tax) had not been enacted.

## **53 Valuation for corporation and income tax purposes of oil appropriated in certain circumstances**

(1) In section 14 of the Oil Taxation Act 1975 (valuation of oil disposed of or appropriated in certain circumstances) after subsection (4) there shall be inserted the following subsection—

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“(4A) If a person appropriates oil acquired by him in the course of oil extraction activities carried on by him or by virtue of oil rights held by him and the appropriation is to refining or to any use except for production purposes of an oil field, within the meaning of Part I of this Act, then, unless subsection (2) above applies, for all purposes of income tax and for the purposes of the charge of corporation tax on income,—

- (a) he shall be treated as having, at the time of the appropriation, sold and bought the oil as mentioned in sub-paragraphs (i) and (ii) of that subsection; and
- (b) that sale and purchase shall be deemed to have been at a price equal to the market value of the oil at the material time in the calendar month in which it was appropriated.”

(2) In subsection (5) of that section—

- (a) for the words " preceding subsection ", in each place where they occur, there shall be substituted " subsections (4) and (4A) above " ;
- (b) in paragraph (a), in the version of paragraph 2(2)(c) of Schedule 3 to the Oil Taxation Act 1975 which is there set out, for the words from " section 14(4)" onwards there shall be substituted " subsection (4) or subsection (4A) of section 14 of this Act, and of no other oil; and, for the avoidance of doubt, it is hereby declared that the terms as to payment which are to be implied in the contract shall be those which are customarily contained in contracts for sale at arm's length of oil of the kind in question".

(3) Subsections (1) and (2) above have effect with respect to oil appropriated on or after 19th March 1985 and subsection (2)(b) above also has effect with respect to oil disposed of on or after that date.

#### **54 Withdrawal of right of certain non-resident companies to payment of tax credits**

(1) This section applies to a company which has, or is an associated company of a company which has, a qualifying presence in a unitary state and, at any time when it or its associated company has such a qualifying presence, is entitled by virtue of arrangements having effect under section 497(1) of the Taxes Act (relief by agreement with other countries) to a tax credit under section 86 of the Finance Act 1972 (tax credit for certain recipients of qualifying distributions) in respect of qualifying distributions made to it by companies which are resident in the United Kingdom which is equal to one half of the tax credit to which an individual resident in the United Kingdom would be entitled in respect of such distributions.

(2) Schedule 13 to this Act has effect to supplement the provisions of this section.

(3) Notwithstanding anything to the contrary in the arrangements referred to above and subject to paragraph 2 of the said Schedule, a company to which this section applies shall not be entitled to claim under subsection (4) of the said section 86 to have the tax credit referred to in subsection (1) above set against the income tax chargeable on its income for the year of assessment in which the distribution is made or, where the credit exceeds that income tax, to have the excess paid to it.

(4) A company shall be treated as having a qualifying presence in a unitary state if it is a member of a group and, in any period for which members of the group make up their accounts ending after the relevant date, 1½ per cent, or more in value of the property, payroll or sales of such members situated in, attributable to or derived from

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the territory outside the United Kingdom, of which that state is a province, state or other part, are situated in, attributable to or derived from that state.

- (5) For the purposes of subsection (4) above—
- (a) 7 ½ per cent, or more in value of such property, payroll or sales as are referred to in that subsection shall be treated as being situated in, attributable to or derived from the state there referred to, unless, on making any claim under subsection (4) of the said section 86, the claimant proves otherwise to the satisfaction of the Board, and
  - (b) the value of the property, payroll or sales of a company shall be taken to be the value as shown in its accounts for the period in question and for this purpose the value of any property consisting of an interest in another member of the group or of any sales made to another such member shall be disregarded.
- (6) In this section " the relevant date " means the date on which this section comes into force or, if earlier, the earliest date on which a distribution could have been made in relation to which the provisions of this section are applied by an order made under this section.
- (7) This section shall come into force on such date as the Treasury may by order made by statutory instrument appoint and the Treasury may in addition by order made by statutory instrument—
- (a) prescribe that the provisions of this section shall apply in relation to distributions made on or after a date before that on which the order bringing them into force is made, being a date not earlier than 1st April 1985,
  - (b) prescribe those provinces, states or other parts of a territory outside the United Kingdom which are to be treated as unitary states for the purposes of this section, and
  - (c) prescribe that for subsections (4) and (5) of this section (or for those subsections as they have effect at any time) there shall be substituted either the following provisions—
    - “(4) A company shall be treated as having a qualifying presence in a unitary state if it is subject to tax in such a state for any period ending after the relevant date for which that state charges tax.
    - (5) For the purposes of subsection (4) above a company shall be regarded as subject to tax in a unitary state if it is liable there to a tax charged on its income or profits by whatever name called and shall be treated as so charged unless it proves otherwise to the satisfaction of the Board.”,
- or the following provisions—
- “(4) 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.
  - (5) For the purposes of subsection (4) above—
    - (a) a company shall be treated as having its principal place of business in a unitary state unless it proves otherwise to the satisfaction of the Board, and
    - (b) the principal place of business of a company shall include both the place where the central management and control of the company is exercised and the place where the immediate

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day-to-day management of the company as a whole is exercised.”

- (8) No order shall be made under this section unless a draft of it has been laid before and approved by a resolution of the Commons House of Parliament.