



# Finance Act 1985

## 1985 CHAPTER 54

### PART II

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

### CHAPTER III

#### CAPITAL GAINS

#### **67 Exemption for gilt-edged securities and qualifying corporate bonds**

- (1) In section 67 of the Capital Gains Tax Act 1979 (gains on disposals of gilt-edged securities and corporate bonds held for 12 months not to be chargeable gains)—
  - (a) in subsection (1) the words from " except " to the end of the subsection shall not apply if the disposal occurs on or after 2nd July 1986 ; and
  - (b) subsections (2) and (3) shall not apply in relation to disposals on or after that date.
- (2) With respect to disposals occurring on or after 2nd July 1986—
  - (a) in section 270 of the Taxes Act (charge to tax on certain disposals of United Kingdom securities) at the end of subsection (6) there shall be added the words " or qualifying corporate bonds, within the meaning of section 64 of the Finance Act 1984";
  - (b) in section 84 of the Capital Gains Tax Act 1979 (compensation stock), in subsection (4) for paragraphs (a) and (b) there shall be substituted the following paragraphs—
    - “(a) shall, so far as possible, be identified with securities which were issued to him as mentioned in subsection (1) above rather than with other securities of that kind, and
    - (b) subject to paragraph (a) above, shall be identified with securities issued at an earlier time rather than with those issued at a later time”; and

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- (c) in Part II of Schedule 13 to the Finance Act 1984 (reorganisations etc. involving qualifying corporate bonds) in paragraph 10(1)(c) for the words from " if " to " that section " there shall be substituted " on that subsequent disposal section 67 of the principal Act".

## **68 Modification of indexation allowance**

- (1) Subject to subsection (2) below, with respect to disposals of assets on or after 6th April 1985 or, in the case of disposals by companies, 1st April 1985, the provisions of Chapter III of Part III of the Finance Act 1982 shall have effect subject to the amendments in Part I of Schedule 19 to this Act, being amendments designed—
  - (a) to remove the twelve month qualifying period for the indexation allowance; and
  - (b) to extend the indexation allowance to cases where there is a loss on a disposal; and
  - (c) to make provisions supplementary to those matters.
- (2) In the case of securities within the meaning of Chapter IV of this Part of this Act, the amendments in Part I of Schedule 19 to this Act—
  - (a) shall not have effect with respect to disposals of gilt edged securities as defined in Schedule 2 to the Capital Gains Tax Act 1979 or qualifying corporate bonds as defined in section 64 of the Finance Act 1984 ; and
  - (b) shall have effect with respect to disposals of other securities on or after 28th February 1986.
- (3) In Schedule 19 to this Act—
  - (a) Part II shall have effect with respect to holdings of securities to which Part II of Schedule 13 to the Finance Act 1982 applied (share pools in existence on 1st or 6th April 1982);
  - (b) Part III shall have effect with respect to other holdings of securities held on or acquired after the 1985 date;
  - (c) Part IV shall have effect with respect to the identification of securities disposed of on or after the 1985 date;
  - (d) Part V has effect with respect to securities in respect of which elections have been or could be made under Schedule 6 to the Finance Act 1983 ; and
  - (e) Part VI contains consequential provisions relating to assets forming part of a premiums trust fund ;

and in that Schedule and paragraphs (b) and (c) above "the 1985 date" means 1st April 1985 in the case of holdings or disposals by companies and 6th April 1985 in any other case.
- (4) For the purpose of computing the indexation allowance on a disposal of an asset to which this subsection applies where, on 31st March 1982, the asset was held by the person making the disposal, it shall be assumed that on that date the asset was sold by the person making the disposal and immediately reacquired by him at its market value on that date.
- (5) Subsection (4) above applies to a disposal—
  - (a) which occurs on or after 6th April 1985 or, in the case of a disposal by a company, 1st April 1985; and
  - (b) in respect of which a claim is made that subsection (4) above should apply ;

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and a claim under paragraph (b) above shall be made within the period of two years beginning at the end of the year of assessment or accounting period in which the disposal occurs or within such longer period as the Board may by notice in writing allow.

(6) Where, after 31st March 1982, an asset which was held on that date has been merged or divided or has changed its nature or rights in or over the asset have been created, then, subject to subsection (5) above, subsection (4) above shall have effect to determine for the purposes of section 36 of the Capital Gains Tax Act 1979 (assets derived from other assets) the amount of the consideration for the acquisition of the asset which was so held.

(7) Subsection (8) below applies to a disposal of an asset which is not a no gain/no loss disposal if—

- (a) the person making the disposal acquired the asset after 31st March 1982; and
- (b) the disposal by which he acquired the asset and any previous disposal of the asset after 31st March 1982 was a no gain/no loss disposal;

and for the purposes of this subsection a no gain /no loss disposal is one on which, by virtue of section 267 or section 273 of the Taxes Act, section 44 of the Capital Gains Tax Act 1979, section 148 of the Finance Act 1982 or section 7(4) of the Finance (No. 2) Act 1983, neither a gain nor a loss accrues to the person making the disposal.

(8) Where this subsection applies to a disposal—

- (a) the person making the disposal shall be treated for the purpose referred to in subsection (4) above as having held the asset on 31st March 1982; and
- (b) for the purpose of determining any gain or loss on the disposal, the consideration which, apart from this subsection, that person would be treated as having given for the asset shall be taken to be reduced by deducting therefrom any indexation allowance brought into account by virtue of Part I of Schedule 13 to the Finance Act 1982 on any disposal falling within subsection (7) (b) above.

(9) In paragraphs (b) and (c) of subsection (3) above and in Parts III and IV of Schedule 19 to this Act " securities " does not include relevant securities as defined in section 88(9) of the Finance Act 1982 (as amended by paragraph 3(3) of Schedule 19 to this Act) but, subject to that, means—

- (a) shares or securities of a company; and
- (b) any other assets where they are of a nature to be dealt in without identifying the particular assets disposed of or acquired.

(10) Shares or securities of a company shall not be treated for the purposes of subsection (9) above or Part III of Schedule 19 to this Act as being of the same class unless they are so treated by the practice of the Stock Exchange or would be so treated if dealt with on the Stock Exchange.

## **69 Relief for disposals by individuals on retirement from family business**

(1) Relief from capital gains tax shall be given, subject to and in accordance with Schedule 20 to this Act, in any case where a material disposal of business assets is made by an individual who, at the time of the disposal,—

- (a) has attained the age of 60, or
- (b) has retired on ill-health grounds below the age of 60,

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and sections 124 and 125 of the Capital Gains Tax Act 1979 shall not apply to any disposal made on or after 6th April 1985 unless it is a disposal in respect of which, by virtue only of paragraph 5(1) of Schedule 20 to this Act, relief in accordance with that Schedule cannot be given.

(2) For the purposes of this section and Schedule 20 to this Act, a disposal of business assets is—

- (a) a disposal of the whole or part of a business, or
- (b) a disposal of one or more assets which, at the time at which a business ceased to be carried on, were in use for the purposes of that business, or
- (c) a disposal of shares or securities of a company (including a disposal of an interest in shares which a person is treated as making by virtue of section 72 of the Capital Gains Tax Act 1979—capital distributions),

and the question whether such a disposal is a material disposal shall be determined in accordance with the following provisions of this section.

(3) A disposal of the whole or part of a business is a material disposal if, throughout a period of at least one year ending with the date of the disposal, the relevant conditions are fulfilled and, in relation to such a disposal, those conditions are fulfilled at any time if at that time the business is owned by the individual making the disposal or—

- (a) the business is owned by a company—
  - (i) which is a trading company, and
  - (ii) which is either that individual's family company or a member of a trading group of which the holding company is that individual's family company ; and
- (b) that individual is a full-time working director of that company or, if that company is a member of a group or commercial association of companies, of one or more companies which are members of the group or association.

(4) A disposal of assets such as is mentioned in subsection (2)(b) above is a material disposal if—

- (a) throughout a period of at least one year ending with the date on which the business ceased to be carried on the relevant conditions are fulfilled and, in relation to such a disposal, those conditions are fulfilled at any time if at that time either the business was owned by the individual making the disposal or paragraphs (a) and (b) of subsection (3) above apply; and
- (b) on or before the date on which the business ceased to be carried on, the individual making the disposal had either attained the age of 60 or retired on ill-health grounds below that age; and
- (c) the date on which the business ceased to be carried on falls within the permitted period before the date of the disposal.

(5) A disposal of shares or securities of a company (including such a disposal of an interest in shares as is mentioned in subsection (2)(c) above) is a material disposal if, throughout a period of at least one year ending with the operative date, the relevant conditions are fulfilled and, in relation to such a disposal, those conditions are fulfilled at any time if at that time—

- (a) the individual making the disposal owns the business which, at the date of the disposal, is owned by the company or, if the company is the holding company of a trading group, by any member of the group ; or
- (b) the company is the individual's family company and is either a trading company or the holding company of a trading group and the individual is a

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full-time working director of the company or, if the company is a member of a group or commercial association of companies, of one or more companies which are members of the group or association ;

and, except where subsection (6) or subsection (7) below applies, the operative date for the purposes of this subsection is the date of the disposal.

(6) In any case where—

- (a) within the permitted period before the date of the disposal referred to in subsection (5) above, the company concerned either ceased to be a trading company without continuing to be or becoming a member of a trading group or ceased to be a member of a trading group without continuing to be or becoming a trading company, and
- (b) on or before the date of that cessation, the individual making the disposal attained the age of 60 or retired on ill-health grounds below that age. then, subject to subsection (7) below, the operative date for the purposes of subsection (5) above is the date of the cessation referred to in paragraph (a) above; and, where this subsection applies, the reference in subsection (5)(a) above to the date of the disposal shall also be construed as a reference to the date of that cessation.

(7) If, throughout a period which ends on the date of the disposal referred to in subsection (5) above or, if subsection (6) above applies, on the date of the cessation referred to in paragraph (a) of that subsection and which begins when the individual concerned ceased to be a full-time working director of the company or, if that company is a member of a group or commercial association of companies, of one or more companies which are members of the group or association,—

- (a) the company concerned was his family company and either a trading company or the holding company of a trading group, and
- (b) he was a director of the company concerned or, as the case may be, of one or more members of the group or association and, in that capacity, devoted at least ten hours per week (averaged over the period) to the service of the company or companies in a technical or managerial capacity,

the operative date for the purposes of subsection (5) above is the date on which the individual ceased to be a full-time working director as mentioned above.

(8) For the purposes of this section—

- (a) any reference to the disposal of the whole or part of a business by an individual includes a reference to the disposal by him of his interest in the assets of a partnership carrying on the business; and
- (b) subject to paragraph (a) above, at any time when a business is carried on by a partnership, the business shall be treated as owned by each individual who is at that time a member of the partnership.

(9) Part I of Schedule 20 to this Act shall have effect for the interpretation of this section as well as of that Schedule.

## **70 Relief for other disposals associated with retirement**

(1) Relief from capital gains tax shall be given, subject to and in accordance with Schedule 20 to this Act, in any case where an individual—

- (a) who has attained the age of 60, or
- (b) who has retired on ill-health grounds below the age of 60,

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makes a relevant disposal of the whole or part of the assets provided or held for the purposes of an office or employment exercised by him ; and, if he ceases to exercise that office or employment before the date of the relevant disposal, the date on which he ceased to exercise it is in subsection (2) below referred to as the " prior cessation date " .

- (2) For the purposes of subsection (1) above, a disposal of the whole or part of the assets provided or held as mentioned in that subsection is a relevant disposal if—
- (a) throughout a period of at least one year ending with the date of the disposal or, where applicable, the prior cessation date, the office or employment was the full-time occupation of the individual making the disposal; and
  - (b) that office or employment is other than that of director of a company which is either the family company of the individual concerned or is a member of a trading group of which the holding company is his family company; and
  - (c) where there is a prior cessation date, the individual either had attained the age of 60 on or before that date or on that date retired on ill-health grounds below that age; and
  - (d) where there is a prior cessation date, the disposal takes place within the permitted period after the cessation date.
- (3) Relief from capital gains tax shall be given, subject to and in accordance with Schedule 20 to this Act, where—
- (a) the trustees of a settlement dispose of—
    - (i) shares or securities of a company, or
    - (ii) an asset used or previously used for the purposes of a business, being, in either case, part of the settled property; and
  - (b) the conditions in subsection (4) or, as the case may be, subsection (5) below are fulfilled with respect to a beneficiary who, under the settlement, has an interest in possession in the whole of the settled property or, as the case may be, in a part of it which consists of or includes the shares or securities or the asset referred to in paragraph (a) above, but excluding, for this purpose, an interest for a fixed term ; and in those subsections that beneficiary is referred to as " the qualifying beneficiary " .
- (4) In relation to a disposal of shares or securities of a company (including such a disposal of an interest in shares as is mentioned in section 69(2)(c) above), the conditions referred to in subsection (3)(b) above are—
- (a) that, throughout a period of at least one year ending not earlier than the permitted period before the disposal, the company was the qualifying beneficiary's family company and either a trading company or the holding company of a trading group ; and
  - (b) that, throughout a period of at least one year ending as mentioned in paragraph (a) above, the qualifying beneficiary was a full-time working director of the company or, if the company is a member of a group or commercial association of companies, of one or more companies which are members of the group or association ; and
  - (c) that, on the date of the disposal or within the permitted period before that date, the qualifying beneficiary ceased to be a full-time working director as mentioned in paragraph (b) above, having attained the age of 60 or retired on ill-health grounds below that age.
- (5) In relation to a disposal of an asset, the conditions referred to in subsection (3) (b) above are—

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- (a) that, throughout a period of at least one year ending not earlier than the permitted period before the disposal, the asset was used for the purposes of a business carried on by the qualifying beneficiary ; and
  - (b) that, on the date of the disposal or within the permitted period before that date, the qualifying beneficiary ceased to carry on the business referred to in paragraph (a) above; and
  - (c) that, on or before the date of the disposal or, if it was earlier, the date on which the qualifying beneficiary ceased to carry on that business, he attained the age of 60 or retired on ill-health grounds below that age.
- (6) In any case where—
- (a) by virtue of section 69 above, relief falls to be given, in accordance with Schedule 20 to this Act, in respect of a material disposal of business assets which either consists of the disposal by an individual of his interest in the assets of a partnership or is of a description falling within subsection (5) of that section, and
  - (b) the individual making that material disposal makes an associated disposal of assets, as defined in subsection (7) below,
- relief from capital gains tax shall also be given, subject to and in accordance with that Schedule, in respect of the associated disposal.
- (7) In relation to a material disposal of business assets, a disposal of an asset is an associated disposal if—
- (a) it takes place as part of a withdrawal of the individual concerned from participation in the business carried on by the partnership referred to in subsection (6) (a) above or, as the case may be, by the company which owns the business as mentioned in subsection (5)(a) of section 69 above ; and
  - (b) immediately before the material disposal or, if it was earlier, the cessation of the business mentioned in paragraph (a) above, the asset was in use for the purposes of that business ; and
  - (c) during the whole or part of the period in which the asset has been in the ownership of the individual making the disposal the asset has been used—
    - (i) for the purposes of the business mentioned in paragraph (a) above (whether or not carried on by the partnership or company there referred to); or
    - (ii) for the purposes of another business carried on by the individual or by a partnership of which the individual concerned was a member; or
    - (iii) for the purposes of another business in respect of which the conditions in paragraphs (a) and (b) of subsection (3) of section 69 above were fulfilled.
- (8) In subsections (6) and (7) above "material disposal of business assets " has the same meaning as in section 69 above and Part I of Schedule 20 to this Act shall have effect for the interpretation of this section as well as of that Schedule.
- (9) In consequence of the provisions of this section and section 69 above, with respect to disposals on which relief falls to be given under Schedule 20 to this Act, section 126 of and Schedule 4 to the Capital Gains Tax Act 1979 (gifts of business assets) shall be amended as follows—
- (a) in subsection (2)(b) of section 126 for the words " the proportion" there shall be substituted " the appropriate proportion"; for the words " subsection (5)(b) of section 124 above " there shall be substituted " paragraph 7(2) or paragraph

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8(2) of Schedule 20 to the Finance Act 1985"; and for the words " that section " there shall be substituted " that Schedule";

- (b) in subsection (7)(a) of section 126 for the words " section 124(8) above " there shall be substituted " paragraph 1 of Schedule 20 to the Finance Act 1985";
- (c) in paragraph 8(4) of Schedule 4 for the words "the proportion determined under subsection (5)(b) of section 124 of this Act" there shall be substituted " the appropriate proportion determined under Schedule 20 to the Finance Act 1985"; and
- (d) for the words " section 124 above " or " section 124 of this Act", in any other place where they occur, there shall be substituted " Schedule 20 to the Finance Act 1985";

and, with respect to disposals (and associated acquisitions) made on or after 6th April 1985, in section 120 of the Capital Gains Tax Act 1979 (roll-over relief etc,—trade carried on by family company) in paragraph (b) for the words " section 124 below " there shall be substituted " Schedule 20 to the Finance Act 1985".

- (10) In consequence of the provisions referred to in subsection (9) above, the words " Schedule 20 to the Finance Act 1985 " shall be substituted—
  - (a) for the words " section 124 of the said Act of 1979 " in section 79(3) of the Finance Act 1980 (general relief for gifts); and
  - (b) for the words " section 124 of that Act" in paragraph 1(2)(g) of Schedule 11 to the Finance Act 1984 (furnished holiday lettings);

and, in consequence of paragraph (b) above, in paragraph 1(2)(h) of Schedule 11 to the Finance Act 1984 for the words "that Act" there shall be substituted " the Capital Gains Tax Act 1979".

## **71 Assets disposed of in a series of transactions**

- (1) For the purposes of the Capital Gains Tax Act 1979 (in this section referred to as " the principal Act"), in any case where,—
  - (a) by way of two or more material transactions which are linked (in this section referred to as a series of linked transactions), one person disposes of assets to another person with whom he is connected or to two or more other persons with each of whom he is connected, and
  - (b) the original market value of the assets disposed of by any of the transactions in the series, as determined under Schedule 21 to this Act, is less than the appropriate portion of the aggregate market value of the assets disposed of by all the transactions in the series, as so determined,

then, subject to subsection (2) below, the disposal effected by any linked transaction in the series in respect of which the condition in paragraph (b) above is fulfilled shall be deemed to be for a consideration equal to the appropriate portion referred to in that paragraph.

- (2) Where the disposal effected by a material transaction is one to which section 44 of the principal Act applies (disposals of assets between husband and wife) nothing in subsection (1) above shall affect the amount which, for the purposes of the principal Act, is the consideration for that disposal.
- (3) Subject to subsections (6) to (8) below, any reference in this section to a material transaction is a reference to a transaction by way of gift or otherwise which takes place after 19th March 1985 ; and for the purposes of this section two or more material



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transactions are linked if they occur within the period of six years ending on the date of the last of them.

- (4) This section shall apply or, as the case may be, shall again apply—
- (a) when a second material transaction causes a series of linked transactions to come into being ; and
  - (b) whenever, on the occurrence of a further material transaction, an existing series is extended by the inclusion of that transaction (whether or not an earlier transaction ceases to form part of the series);

and all such assessments and adjustments of assessments shall be made as may be necessary to give effect to this section on each such occasion.

- (5) In consequence of the preceding provisions of this section, any gift or other transaction which occurs after 19th March 1985 shall be disregarded for the purposes of section 151 of the principal Act (the previous code for assets disposed of in a series of transactions).
- (6) Where a member of a group of companies disposes of an asset to another member of the group in circumstances such that, by virtue of section 273 of the Taxes Act, both companies are treated, so far as relates to corporation tax on chargeable gains, as if the consideration for the disposal were of such an amount as would secure that neither a gain nor a loss would accrue, the transaction by which that disposal is effected is not a material transaction; and a disposal in these circumstances is in this section referred to as an " inter-group transfer ".

- (7) In any case where—
- (a) a company (in this subsection referred to as " company A ") disposes of an asset by way of a material transaction, and
  - (b) company A acquired the asset after 19th March 1985 by way of an inter-group transfer, and
  - (c) the disposal by company A is to a person who is connected with another company (in this subsection referred to as " company B ") which at some time after 19th March 1985 disposed of the asset by way of an inter-group transfer, and
  - (d) either the disposal by way of inter-group transfer which is referred to in paragraph (c) above was the occasion of the acquisition referred to in paragraph (b) above or, between that disposal and that acquisition, there has been no disposal of the asset which was not an inter-group transfer,

then, for the purpose of determining whether subsection (1) above applies in relation to a series of linked transactions, the disposal by company A shall be treated as having been made by company B; but any increase in the consideration for that disposal resulting from the application of subsection (1) above shall have effect with respect to company A.

- (8) In any case where one or more transactions occur on or before 19th March 1985 and one or more transactions occur after that date in circumstances such that—
- (a) if all the transactions had occurred before that date, section 151 of the principal Act would have applied in relation to them, and
  - (b) if all the transactions occurred after that date, subsection (1) above would apply to them,

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such of the transactions which occurred on or before that date as occurred not more than two years before the first of the transactions occurring after that date shall be treated as material transactions.

## **72 Commodity and financial futures and traded options**

- (1) If, apart from this subsection, gains arising to any person in the course of dealing in commodity or financial futures or in traded options would constitute, for the purposes of the Tax Acts, profits or gains chargeable to tax under Schedule D otherwise than as the profits of a trade, then, on and after 6th April 1985 —
- (a) his outstanding obligations under any futures contract entered into in the course of that dealing and any traded option granted or acquired in the course of that dealing shall be regarded as assets to the disposal of which the Capital Gains Tax Act 1979 (in this section referred to as " the principal Act") applies; and
  - (b) any gain arising in the course of that dealing shall not be chargeable to tax under Schedule D and any loss so arising shall not be allowable against profits or gains which are so chargeable.
- (2) In subsection (1) above— (a) " commodity or financial futures " means commodity futures or financial futures which are for the time being dealt in on a recognised futures exchange, within the meaning of the principal Act; and
- (b) "traded option" has the meaning given by section 137(9) of that Act.
- (3) For the purposes of the principal Act, where, in the course of dealing in commodity or financial futures, a person who has entered into a futures contract closes out that contract by entering into another futures contract with obligations which are reciprocal to those of the first-mentioned contract, that transaction shall constitute the disposal of an asset (namely, his outstanding obligations under the first-mentioned contract) and, accordingly,—
- (a) any money or money's worth received by him on that transaction shall constitute consideration for the disposal ; and
  - (b) any money or money's worth paid or given by him on that transaction shall be treated as incidental costs to him of making the disposal.
- (4) In any case where,—
- (a) a person who, in the course of dealing in financial futures, has entered into a futures contract does not close out that contract (as mentioned in subsection (3) above), and
  - (b) the nature of the futures contract is such that, at its expiry date, the person concerned is entitled to receive or liable to make a payment in full settlement of all obligations under that contract,
- then, for the purposes of the principal Act, he shall be treated as having disposed of an asset (namely, his outstanding obligations under the futures contract) and the payment received or made by him shall be treated as consideration for that disposal or, as the case may be, as incidental costs to him of making the disposal.
- (5) In section 137(9) of the principal Act (options and forfeited deposits) for the words " the London International Financial Futures Exchange " there shall be substituted " a recognised futures exchange".
- (6) In section 155 of the principal Act (interpretation) after subsection (3) there shall be inserted the following subsections—

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“(3A) In this Act ' recognised futures exchange ' means the London International Financial Futures Exchange and any other futures exchange which is for the time being designated for the purposes of this Act by order made by the Board.

(3B) An order made by the Board under subsection (3A) above—

- (a) may designate a futures exchange by name or by reference to any class or description of futures exchanges, including, in the case of futures exchanges in a country outside the United Kingdom, a class or description framed by reference to any authority or approval given in that country; and
- (b) may contain such transitional and other supplemental provisions as appear to the Board to be necessary or expedient.”

(7) Nothing in subsection (1) above affects the operation of section 312 of the Taxes Act (annuity business of insurance companies: separate charge on profits).