



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.

Status: This is the original version (as it was originally enacted).

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”.

Status: This is the original version (as it was originally enacted).

- (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

Status: This is the original version (as it was originally enacted).

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)

Status: This is the original version (as it was originally enacted).

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—

Status: This is the original version (as it was originally enacted).

- (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

Status: This is the original version (as it was originally enacted).

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;

Status: This is the original version (as it was originally enacted).

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—

Status: This is the original version (as it was originally enacted).

- (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—

Status: This is the original version (as it was originally enacted).

- (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

Status: This is the original version (as it was originally enacted).

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.

Status: This is the original version (as it was originally enacted).

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,

Status: This is the original version (as it was originally enacted).

- (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—

Status: This is the original version (as it was originally enacted).

“(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

Status: This is the original version (as it was originally enacted).

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

Status: This is the original version (as it was originally enacted).

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.

CHAPTER II

CAPITAL ALLOWANCES

55 Capital allowances in respect of machinery and plant: the revised code

- (1) With respect to capital expenditure incurred on or after 1st April 1985, in sections 41(1)(a) and 44(1)(a) of the Finance Act 1971 (which provide for first-year and writing-down allowances in respect of capital expenditure incurred on the provision of machinery and plant for the purposes of trade) after the words " machinery or plant" there shall be inserted " wholly and exclusively".
- (2) With respect to any chargeable period where that period or its basis period ends on or after 1st April 1985, the Finance Act 1971 shall have effect with the omission of—
 - (a) section 41(2) (which provides for the withdrawal of a first-year allowance where the machinery or plant is disposed of without being brought into use), and
 - (b) paragraph (c) of subsection (1) of section 44 (which makes it a condition for a writing-down allowance that the machinery or plant must be or have been in use for the purposes of the trade) and the word " and " immediately preceding that paragraph.
- (3) The enactments specified in Schedule 14 to this Act shall be amended in accordance with that Schedule,—
 - (a) as to those in Part I, with respect to capital expenditure incurred as mentioned in subsection (1) above ; and
 - (b) as to those in Part II, with respect to any such chargeable period as is referred to in subsection (2) above.

56 Time when capital expenditure is incurred

- (1) The provisions of this section have effect to determine when capital expenditure is to be taken to be incurred for the purposes of—
 - (a) Parts I and II of the Capital Allowances Act 1968 ;
 - (b) Chapter I of Part III of the Finance Act 1971 (machinery and plant);
 - (c) any enactment which falls to be construed (or is expressed to have effect) as if it were contained in any of those enactments; and
 - (d) Schedule 12 to the Finance Act 1982 (dwelling-houses let on assured tenancies).
- (2) Subject to subsections (3) to (5) below, an amount of capital expenditure is to be taken to be incurred on the date on which the obligation to pay that amount becomes unconditional (whether or not there is a later date on or before which the whole or any part of that amount is required to be paid).
- (3) If, under or by virtue of any agreement,—

Status: This is the original version (as it was originally enacted).

- (a) as a result of the issue of a certificate or some other event, an obligation to pay an amount of capital expenditure on the provision of an asset becomes unconditional, and
- (b) at a time before that obligation becomes unconditional, the asset becomes the property of or is otherwise under the contract attributed to the person having that obligation,

then, in a case where the obligation referred to in paragraph (a) above becomes unconditional within the period of one month beginning at the end of a chargeable period or its basis period but the time referred to in paragraph (b) above falls at or before the end of that chargeable period or its basis period, subsection (2) above shall apply as if the obligation became unconditional immediately before the expiry of that period.

- (4) Where, under or by virtue of any agreement, the whole or any part of an amount of capital expenditure is required to be paid on (or not later than) a date which is more than four months after the date on which the obligation to pay that amount becomes unconditional, so much of that expenditure as is required to be so paid shall be taken to be incurred on the date on or before which it is required to be so paid.
- (5) In any case where—
 - (a) under or by virtue of any agreement, an obligation to pay an amount of capital expenditure becomes unconditional on a date earlier than that which accords with normal commercial usage, and
 - (b) the sole or main benefit which (apart from this subsection) might have been expected to be obtained from the obligation becoming unconditional on that earlier date is that, by virtue of subsection (2) above, the expenditure would be taken to be incurred in a chargeable period or its basis period which is earlier than would otherwise have been the case,

then, in relation to that amount of expenditure, subsection (2) above shall have effect as if, for the words from " on which " onwards there were substituted " on or before which it is required to be paid " ; and, accordingly, subsection (4) above shall be disregarded.

- (6) Subject to subsection (7) below, the preceding provisions of this section have effect with respect to any chargeable period or its basis period ending on or after 18th December 1984 and, accordingly, the following provisions shall not have effect with respect to any such period, namely,—
 - (a) section 82(3) of the Capital Allowances Act 1968; and
 - (b) in subsection (4) of section 50 of the Finance Act 1971, the words from the beginning to " payable; and ".
- (7) In relation to Part II of the Capital Allowances Act 1968 (scientific research), the preceding provisions of this section have effect with respect to any chargeable period (within the meaning of that Part) ending on or after 1st April 1985.
- (8) In so far as (apart from subsections (2) to (6) above) any provision of the Capital Allowances Act 1968, Chapter I of Part XIV of the Taxes Act (patents and know-how) or the Finance Act 1971 would have the effect that any expenditure would for any purpose fall to be treated as incurred on a date which is later than that which would result from the application of those subsections, nothing in this section shall affect the continuing operation of that provision.

Status: This is the original version (as it was originally enacted).

57 Election for certain machinery or plant to be treated as short-life assets

- (1) The provisions of this section apply where—
- (a) a person carrying on a trade (in this section referred to as " the trader ") incurs capital expenditure on or after 1st April 1986 on the provision of machinery or plant wholly and exclusively for the purposes of the trade; and
 - (b) the machinery or plant is not of a description specified in Schedule 15 to this Act; and
 - (c) the trader makes an election under this section requiring the machinery or plant to be treated as a short-life asset;
- and any machinery or plant to which an election under this section applies is in the following provisions of this section referred to as a " short-life asset".
- (2) An election under this section—
- (a) shall be made in writing to the inspector;
 - (b) shall specify the short-life asset, the capital expenditure concerned and the date on which it was incurred;
 - (c) may not be made more than two years; after the end of the chargeable period or its basis period in which the capital expenditure was incurred ; and
 - (d) shall be irrevocable;
- and if different parts of the capital expenditure are incurred at different times, only that part of the expenditure which is first incurred shall be taken into account for the purposes of paragraph (c) above.
- (3) Where an election is made under this section, it shall be assumed for the purposes of section 44 of the Finance Act 1971 (in the following provisions of this section referred to as " section 44 ")—
- (a) that the trader incurred the expenditure on the provision of the short-life asset wholly and exclusively for the purposes of a trade (in the following provisions of this section referred to as " the notional trade ") carried on by him separately from the trade referred to in subsection (1) above (in those provisions referred to as his " actual trade ") and from any other trade which he in fact carries on or is assumed for any other purpose to carry on; and
 - (b) that, without prejudice to sub-paragraphs (i) to (iii) of paragraph (c) of subsection (5) of section 44, the notional trade is permanently discontinued when the short-life asset begins to be used wholly or partly for purposes other than those of the actual trade.
- (4) Any allowance or charge which, on the assumptions in subsection (3) above, would fall to be made for any chargeable period in the case of the notional trade shall be made for that period in the case of the actual trade; and all such assessments and adjustments of assessments shall be made as may be necessary to give effect to an election under this section.
- (5) If the disposal value of a short-life asset does not fall to be brought into account in accordance with section 44 for any of the chargeable periods ending on or before the fourth anniversary of the end of the chargeable period related to the incurring of the capital expenditure concerned or, as the case may be, the first part of that expenditure, then,—
- (a) in the first chargeable period ending after that fourth anniversary or, as the case may be, in its basis period, the notional trade shall be treated as permanently

Status: This is the original version (as it was originally enacted).

- discontinued but no balancing allowance or charge shall be made to or on the trader by reason thereof; and
- (b) the amount which, apart from this subsection, would be the trader's qualifying expenditure for the chargeable period referred to in paragraph (a) above in respect of the notional trade shall be added to his qualifying expenditure for that period in respect of his actual trade.
- (6) If, at a time before the notional trade would otherwise be permanently discontinued for the purposes of section 44, the short-life asset begins to be used otherwise than for a qualifying purpose, within the meaning of section 64 of the Finance Act 1980 (leased assets used for certain purposes) and the occasion of its beginning to be so used falls within the requisite period, within the meaning of that section, then at that time—
- (a) the notional trade shall be treated as permanently discontinued but no balancing allowance or charge shall be made to or on the trader by reason thereof, and
- (b) the amount which, apart from this subsection, would be the trader's qualifying expenditure for the chargeable period in which, or in the basis period for which, the asset began to be so used shall for the purposes of section 44 (as it has effect in accordance with section 65 of the Finance Act 1980) be added to the trader's qualifying expenditure for that chargeable period in respect of the separate trade referred to in subsection (2) of the said section 65.
- (7) Subject to subsection (8) below, if, at a time before the notional trade is permanently discontinued for the purposes of section 44, the trader disposes of a short-life asset to a person with whom he is connected within the terms of section 533 of the Taxes Act,—
- (a) the disposal shall be treated for the purposes of section 44 (in its application both to the trader and to the connected person) as a sale of the short-life asset at a price equal to the amount of the trader's qualifying expenditure in respect of the notional trade for the chargeable period related to the disposal;
- (b) nothing in paragraph 3 of Schedule 8 to the Finance Act 1971 (sales between connected persons etc.) shall apply in relation to the disposal;
- (c) immediately after his acquisition of the short-life asset, the connected person shall be taken to have made an election under this section (so that, in his hands, the machinery or plant concerned is also a short-life asset for the purposes of this section); and
- (d) in relation to the connected person, subsection (5) above shall have effect as if any reference to the fourth anniversary of the end of the chargeable period related to the incurring of the capital expenditure concerned were a reference to the date which was (or which, by virtue of the previous operation of this paragraph, had effect as) that fourth anniversary in relation to the trader.
- (8) Paragraphs (a) and (b) of subsection (7) above do not apply in relation to a disposal unless, by notice in writing given to the inspector not more than two years after the end of the chargeable period or its basis period in which the disposal occurred, the trader and the connected person so elect.
- (9) In the application of subsection (6) of section 44 (disposal value) where a short-life asset is disposed of at a price lower than that which it would have fetched if sold in the open market, paragraph (b)(i) (which excludes open market value where the buyer is entitled to allowances) shall not apply unless an election is made under subsection (8) above.

Status: This is the original version (as it was originally enacted).

- (10) Any reference in Schedule 15 to this Act to expenditure in respect of which the making of a first-year allowance is precluded by any enactment shall be construed without regard to paragraph 2 of Schedule 12 to the Finance Act 1984 (which terminates first-year allowances in respect of expenditure incurred on the provision of machinery or plant on or after 1st April 1986).

58 Allowances for ships

- (1) With respect to expenditure incurred on or after 1st April 1985, paragraph 8 of Schedule 8 to the Finance Act 1971 (first-year allowances for new ships) shall have effect in relation to ships which are not new as well as in relation to new ships and accordingly—
- (a) the word " new ", wherever appearing, shall be omitted ; and
 - (b) sub-paragraph (5) (previous ownership disregarded in certain cases in determining whether ship is new) shall also be omitted.
- (2) After the said paragraph 8 there shall be inserted the paragraphs set out in Schedule 16 to this Act, being provisions relating to writing-down allowances for ships.

59 Entitlement to allowances for machinery and plant which are fixtures

- (1) The provisions of Schedule 17 to this Act apply to determine entitlement to an allowance under Chapter I of Part III of the Finance Act 1971 in respect of expenditure on the provision of machinery or plant which is so installed or otherwise fixed in or to a building or any other description of land as to become, in law, part of that building or other land ; and at any time when, by virtue of that Schedule, any machinery or plant is treated as belonging to any person, no other person shall be entitled to such an allowance in respect of it.
- (2) Schedule 17 to this Act applies to expenditure incurred after 11th July 1984, unless that expenditure—
- (a) consists of the payment of sums payable under a contract entered into on or before that date; or
 - (b) is incurred pursuant to an obligation contained in a lease or agreement for a lease entered into on or before that date.
- (3) All such assessments and adjustments of assessments shall be made as may be necessary to give effect to the provisions of Schedule 17 to this Act.
- (4) Where any question arises as to whether any machinery or plant has become, in law, part of a building or other land and that question is material with respect to the liability to tax (for whatever period) of two or more persons, that question shall be determined, for the purposes of the tax of all those persons, by the Special Commissioners who shall determine the question in like manner as if it were an appeal, except that, for the purposes of the determination, all those persons shall be entitled to appear and be heard by, or to make representations in writing to, the Special Commissioners.
- (5) In subsection (2) of section 46 of the Finance Act 1971 (lessee required to provide machinery or plant under the terms of his lease) after the word "Where " there shall be inserted " (a) " and after the words " terms of the lease " there shall be inserted “and
- (b) the machinery or plant is not so installed or otherwise fixed in or to a building or any other description of land as to become, in law, part of that building or other land,

Status: This is the original version (as it was originally enacted).

then, if the machinery or plant would not otherwise belong to him”.

- (6) The amendments made by subsection (5) above have effect in relation to any lease entered into after 11th July 1984, unless it was entered into pursuant to an agreement made on or before that date.
- (7) This section and Schedule 17 to this Act shall be construed as if they were contained in Chapter I of Part III of the Finance Act 1971, except that expenditure shall not be treated for the purposes of that Schedule as having been incurred after the date on which it was in fact incurred by reason only of so much of section 50(4) of that Act as relates to expenditure incurred before a trade begins.
- (8) Nothing in subsection (1) above affects the entitlement of any person to an allowance by virtue of section 85 of the Capital Allowances Act 1968 (allowances in respect of contributions of a capital nature) and, accordingly, in paragraph 15(6) of Schedule 8 to the Finance Act 1971 (modification of the operation of section 85 in relation to allowances for machinery and plant) after the words " the said Chapter I ", where they last occur, there shall be inserted " or Schedule 17 to the Finance Act 1985".

60 Carry-back by companies of losses referable to capital allowances

- (1) In section 177(3A) of the Taxes Act (which provides that where one or more first-year allowances fall to be made to a company for an accounting period in which the company incurs a loss in a trade, so much of the loss as would not have been incurred if the allowance or allowances had been totally disclaimed or postponed may be carried back for three years) for the words from " would not " to " postponed " there shall be substituted " does not exceed the allowance or allowances which are so made".
- (2) This section has effect with respect to accounting periods ending after 13th March 1984.

61 Dredging

- (1) No initial allowance shall be made under section 67 of the Capital Allowances Act 1968 (dredging) in respect of capital expenditure incurred on or after 1st April 1986 unless that expenditure—
 - (a) consists of the payment of sums under a contract entered into on or before 13th March 1984 by the person incurring the expenditure, and
 - (b) is incurred before 1st April 1987.
- (2) Subsection (1) above shall be construed as if it were contained in Part I of the Capital Allowances Act 1968.

62 Agricultural land and buildings

- (1) With respect to capital expenditure incurred on or after 1st April 1986, other than expenditure which—
 - (a) consists of the payment of sums under a contract entered into on or before 13th March 1984 by the person incurring the expenditure, and
 - (b) is incurred before 1st April 1987,

Status: This is the original version (as it was originally enacted).

section 68 of the Capital Allowances Act 1968 (allowances for capital expenditure relating to agricultural land and buildings etc.) shall be amended in accordance with subsections (2) and (3) below.

- (2) For paragraphs (a) and (b) of subsection (1) (which provide for an initial allowance equal to one-fifth, followed by writing-down allowances over eight years equal to four-fifths) there shall be substituted the words " during a writing-down period of twenty-five years beginning with the chargeable period relating to the incurring of that expenditure, writing-down allowances of an aggregate amount equal to that expenditure".
- (3) Subsection (3A) (special provisions as to initial allowances) shall cease to have effect.
- (4) Subsection (1) above shall be construed as if it were contained in Part I of the Capital Allowances Act 1968.

63 Allowances for capital expenditure on scientific research

- (1) In section 91 of the Capital Allowances Act 1968 (allowances for capital expenditure on scientific research) after subsection (1) there shall be inserted the following subsections—

“(1A) No allowance shall be made under subsection (1) above in respect of expenditure on the acquisition of, or of rights in or over, any land except in so far as, on a just apportionment, that expenditure is referable to the acquisition of, or of rights in or over, or of machinery or plant which forms part of, a building or other structure already constructed on that land.

(1B) For the purposes of this section, expenditure on the provision of a dwelling is not scientific research expenditure ; but where part of a building is used for scientific research and part consists of a dwelling and the capital expenditure which it is just to apportion to the construction or acquisition of the dwelling is not more than one quarter of the capital expenditure which is referable to the construction or acquisition of the whole building, the whole of the building shall be treated for the purposes of this Part of this Act as used for scientific research.”

- (2) In section 92 of that Act (termination of use of assets provided for scientific research) in subsection (1) after the word " representing " there shall be inserted " allowable " and for the words from " be used" onwards there shall be substituted " belong to him; and the occasion of that asset ceasing to belong to him is in the following provisions of this section referred to as ' the relevant event'".
- (3) In subsections (2) and (3) of that section for the words " the sale " in each place where they occur there shall be substituted " the relevant event " and—
 - (a) in subsection (2)(a) for the words "proceeds of sale" there shall be substituted " disposal value of the asset"; and
 - (b) in subsection (3) for the words "proceeds of sale are " there shall be substituted " disposal value of the asset is".
- (4) After subsection (3) of that section there shall be inserted the following subsection—

“(3A) For the purposes of this section the disposal value of an asset depends upon the nature of the relevant event, and—

Status: This is the original version (as it was originally enacted).

- (a) if that event is the actual sale of the asset at a price not lower than that which it would have fetched if sold in the open market, equals the proceeds of that sale;
 - (b) if that event is the deemed sale of the asset under subsection (4) below, equals the deemed proceeds of sale under that subsection ; and
 - (c) in any other event, equals the price which the asset would have fetched if sold in the open market.”
- (5) In subsection (4) of that section, in paragraph (b) for the words from " unless " to " be used for " there shall be substituted " unless, prior to its demolition, the asset had begun to be used for purposes other than".
- (6) In subsection (5) of that section for the words " sale if the sale " there shall be substituted " relevant event if that event".
- (7) This section has effect with respect to capital expenditure incurred on or after 1st April 1985 unless that expenditure—
- (a) is incurred before 1st April 1987, and
 - (b) consists of the payment of sums under a contract entered into on or before 19th March 1985 by the person incurring the expenditure.

64 Writing-down allowances for expenditure on patent rights

- (1) With respect to expenditure incurred on or after 1st April 1986, subsection (1) of section 378 of the Taxes Act (writing-down allowances for capital expenditure on purchase of patent rights) shall be amended as follows,—
- (a) for the words from " there shall " to " allowances " there shall be substituted " then, in accordance with Part I of Schedule 18 to the Finance Act 1985, allowances and charges shall be made to and on him";
 - (b) the words from " during " to " defined " shall be omitted; and
 - (c) in the proviso the words " writing-down " shall be omitted.
- (2) With respect to expenditure incurred as mentioned in subsection (1) above,—
- (a) Part I of Schedule 18 to this Act shall have effect for the purpose of making the allowances and charges referred to in subsection (1) of section 378 of the Taxes Act;
 - (b) in subsection (2) of that section for the words from the beginning to the end of paragraph (b) of the proviso there shall be substituted " For the purposes of this section and Part I of Schedule 18 to the Finance Act 1985 " and the words " for the purposes of this subsection " shall be omitted ;
 - (c) subsection (3) of that section and section 379 of the Taxes Act shall not apply ;
 - (d) in subsection (1) of section 385 of the Taxes Act for the words " under section 378 or section 379 of this Act" there shall be substituted " falling to be made in accordance with Part I of Schedule 18 to the Finance Act 1985";
 - (e) in each of subsections (2) and (3) of section 385 of the Taxes Act for the words " under section 378, 379 or " there shall be substituted " in accordance with Part I of Schedule 18 to the Finance Act 1985, or under section";
 - (f) in subsection (4) of section 385 of the Taxes Act, for the words " section 379 of this Act " there shall be substituted " Part I of Schedule 18 to the Finance Act 1985";

Status: This is the original version (as it was originally enacted).

- (g) in section 388(1) of the Taxes Act, in paragraph (b) of the definition of "income from patents" for the words "section 379(3)" there shall be substituted "paragraph 1(3) of Schedule 18 to the Finance Act 1985 or"; and
 - (h) notwithstanding the provisions of section 387 of the Taxes Act relating to the application of provisions of the Capital Allowances Act 1968, Schedule 7 to that Act shall not apply.
- (3) Schedule 18 to this Act shall be construed as if it were contained in Chapter I of Part XIV of the Taxes Act (patents and know-how).

65 Writing-down allowances for acquisition of know-how

- (1) With respect to expenditure incurred on or after 1st April 1986, subsection (1) of section 386 of the Taxes Act (writing-down allowances for expenditure on acquisition of know-how) shall be amended as follows,—
- (a) the words "after 19th March 1968" shall be omitted; and
 - (b) for the words "writing-down allowances" there shall be substituted "then, in accordance with Part II of Schedule 18 to the Finance Act 1985, allowances and charges shall be made to and on him"; and
 - (c) the words from "shall be made" to "discontinuance" shall be omitted.
- (2) With respect to expenditure incurred as mentioned in subsection (1) above,—
- (a) Part II of Schedule 18 to this Act shall have effect for the purpose of making the allowances and charges referred to in subsection (1) of section 386 of the Taxes Act; and
 - (b) subsection (9) of that section shall not apply.
- (3) With respect to consideration received in respect of the disposal of know-how on or after 1st April 1986—
- (a) in subsection (2) of section 386 of the Taxes Act for the word "not" there shall be substituted "neither brought into account as disposal value under Part II of Schedule 18 to the Finance Act 1985 nor"; and
 - (b) in subsection (4) of that section after the word "neither" there shall be inserted "brought into account as disposal value under Part II of Schedule 18 to the Finance Act 1985 nor".

66 Hotels

- (1) No initial allowance shall be made in respect of capital expenditure incurred on or after 1st April 1986 in respect of a qualifying hotel (within the meaning of section 38 of the Finance Act 1978) unless that expenditure—
- (a) consists of the payment of sums under a contract entered into on or before 13th March 1984 by the person incurring the expenditure, and
 - (b) is incurred before 1st April 1987.
- (2) Subsection (1) above shall be construed as if it were contained in Part I of the Capital Allowances Act 1968 except that—
- (a) expenditure shall not be treated for the purposes of that subsection as having been incurred after the date on which it was in fact incurred by reason only of section 1(6) of that Act (expenditure incurred before a trade begins); and
 - (b) expenditure falling within subsection (1)(b) of section 5 of that Act (purchase price of building bought unused) shall be treated for the purposes

of that subsection as having been incurred at the latest time when any expenditure falling within subsection (1)(a) of that section (expenditure on the construction of the building) was incurred.

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
 - (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 —

Status: This is the original version (as it was originally enacted).

- (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 ;
- 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

Status: This is the original version (as it was originally enacted).

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,
- 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

Status: This is the original version (as it was originally enacted).

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 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)

Status: This is the original version (as it was originally enacted).

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,

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

Status: This is the original version (as it was originally enacted).

- (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—
- (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

Status: This is the original version (as it was originally enacted).

- (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 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".

Status: This is the original version (as it was originally enacted).

- (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 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).

Status: This is the original version (as it was originally enacted).

(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,

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.

Status: This is the original version (as it was originally enacted).

- (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—
 “(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).

CHAPTER IV

SECURITIES

The accrued income scheme

73 Deemed sums and reliefs on transfers

- (1) This section applies where securities are transferred on or after 28th February 1986; and references to a period are to the interest period in which the settlement day falls.
- (2) If they are transferred with accrued interest—
- (a) the transferor shall be treated as entitled to a sum on them in the period of an amount equal to the accrued amount, and
 - (b) the transferee shall be treated as entitled to relief on them in the period of the same amount.
- (3) If they are transferred without accrued interest—
- (a) the transferor shall be treated as entitled to relief on them in the period of an amount equal to the rebate amount, and
 - (b) the transferee shall be treated as entitled to a sum on them in the period of the same amount.
- (4) In subsection (2) above " the accrued amount " means—
- (a) if the securities are transferred under an arrangement by virtue of which the transferee accounts to the transferor separately for the consideration for the securities and for gross interest accruing to the settlement day, an amount equal to the amount (if any) of gross interest so accounted for. and
 - (b) in any other case, an amount equal to the accrued proportion of the interest applicable to the securities for the period.
- (5) In subsection (3) above " the rebate amount " means—
- (a) if the securities are transferred under an arrangement by virtue of which the transferor accounts to the transferee for gross interest accruing from the settlement day to the next interest payment day. an amount equal to the amount (if any) of gross interest so accounted for, and
 - (b) in any other case, an amount equal to the rebate proportion of the interest applicable to the securities for the period.
- (6) The accrued proportion is—
- $$\frac{\mathbf{A}}{\mathbf{B}}$$
- (7) The rebate proportion is—
- $$\frac{\mathbf{B}-\mathbf{A}}{\mathbf{B}}$$
- (8) In this section—

Status: This is the original version (as it was originally enacted).

A is the number of days in the period up to (and including) the settlement day, and

B is the number of days in the period.

74 Treatment of deemed sums and reliefs

- (1) Subsection (2) below applies if a person is treated as entitled under section 73 above to a sum on securities of a particular kind in an interest period, and either—
 - (a) he is not treated as entitled under that section to relief on securities of that kind in the period, or
 - (b) the sum (or total sum) to which he is treated as entitled exceeds the amount (or total amount) of relief to which he is treated as entitled under that section on securities of that kind in the period.
- (2) The person shall be treated as receiving on the day the period ends annual profits or gains whose amount is (depending on whether subsection (1)(a) or (1)(b) above applies) equal to the sum (or total sum) to which he is treated as entitled or equal to the amount of the excess; and the profits or gains shall be chargeable to tax under Case VI of Schedule D for the chargeable period in which they are treated as received.
- (3) Subsection (4) below applies if a person is treated as entitled under section 73 above to relief on securities of a particular kind in an interest period, and either—
 - (a) he is not treated as entitled under that section to a sum on securities of that kind in the period, or
 - (b) the amount (or total amount) of relief to which he is treated as entitled exceeds the sum (or total sum) to which he is treated as entitled under that section on securities of that kind in the period.
- (4) The person shall be entitled to an allowance whose amount is (depending on whether subsection (3)(a) or (3)(b) above applies) equal to the amount (or total amount) of relief to which he is treated as entitled or equal to the amount of the excess; and subsection (5) or (6) below shall apply.
- (5) Any amount to which the person is entitled by way of interest which falls due on the securities at the end of the interest period, and is taken into account in computing tax charged for the chargeable period in which the interest period ends, shall for the purposes of the Tax Acts be treated as reduced by the amount of the allowance.
- (6) But if the period is one which does not end with an interest payment day, the person shall be treated as becoming, in the next interest period, entitled under section 73 above to relief on the securities of an amount equal to the amount of the allowance.
- (7) Where but for this subsection a company would by virtue of subsection (2) above be treated as receiving profits or gains on a day which does not fall within an accounting period of the company, the profits or gains shall instead be treated as received by the company on the latest day of the interest period which does so fall.

75 Exceptions from preceding provisions

- (1) Section 73 (2) (a) or (3) (a) above (as the case may be) does not apply if—
 - (a) the transferor carries on a trade and the transfer falls to be taken into account for the purposes of the Tax Acts in computing the profits or losses of that trade,

Status: This is the original version (as it was originally enacted).

- (b) the transferor is an individual and on no day in the year of assessment in which the interest period ends or the previous year of assessment the nominal value of securities held by him exceeded £5,000,
 - (c) the securities transferred form part of the estate of a deceased person, the transferor is his personal representative and on no day in the year of assessment in which the interest period ends or the previous year of assessment the nominal value of securities held by him as the deceased's personal representative exceeded £5,000,
 - (d) the securities transferred are held on a disabled person's trusts, the transferor is trustee of the settlement and on no day in the year of assessment in which the interest period ends or the previous year of assessment the nominal value of securities held by him as trustee of the settlement exceeded £5,000,
 - (e) the transferor does not fulfil the residence requirement for the chargeable period in which the transfer is made and is not a non-resident United Kingdom trader in that period,
 - (f) the transferor is not ordinarily resident in the United Kingdom during the chargeable period in which the transfer occurs and, if he became entitled in the period to any interest on the securities transferred, it would not be liable to income tax by virtue of section 99 of the Taxes Act (securities free of income tax for residents abroad),
 - (g) the securities transferred are FOTRA securities, the transferor is not domiciled in the United Kingdom at any time in the chargeable period in which the transfer occurs, and he is either not ordinarily resident in the United Kingdom during that period or a non-resident United Kingdom trader in that period, or
 - (h) the transferor is an individual who, if he became entitled in the year of assessment in which the transfer occurs to any interest on the securities transferred, would be liable, in respect of the interest, to tax chargeable under Case IV or Case V of Schedule D and computed on the amount of sums received in the United Kingdom.
- (2) Section 73(2)(b) or (3)(b) above (as the case may be) does not apply if—
- (a) the transferee carries on a trade, and if at the time he acquired the securities he were to transfer them that transfer would fall to be taken into account for the purposes of the Tax Acts in computing the profits or losses of that trade, or
 - (b) subsection (1)(b), (c), (d), (e), (f), (g) or (h) above would apply if " transferor " read " transferee " .
- (3) For the purposes of this section a person fulfils the residence requirement for a chargeable period if he is resident in the United Kingdom during any part of the period or is ordinarily resident in the United Kingdom during the period.
- (4) For the purposes of this section a person is a non-resident United Kingdom trader in a chargeable period if during any part of it he is (though neither resident during any part of it nor ordinarily resident during it) carrying on a trade in the United Kingdom through a branch or agency and the securities transferred—
- (a) were situated in the United Kingdom and used or held for the purposes of the branch or agency at or before the time of the transfer (where the person concerned is a transferor), or
 - (b) were so situated at the time of the transfer and were acquired for use by or for the purposes of the branch or agency (where the person concerned is a transferee),

Status: This is the original version (as it was originally enacted).

but the provisions in this subsection relating to the situation of the securities in the United Kingdom do not apply where the person concerned is a company.

- (5) For the purposes of this section " disabled person's trusts " means trusts falling within paragraph 5(1) of Schedule 1 to the Capital Gains Tax Act 1979, " branch or agency " has the meaning given by section 12(3) of that Act, and the place where securities are situated shall be determined in accordance with section 18(4) of that Act.
- (6) For the purposes of this section " FOTRA securities" means securities issued with the condition mentioned in section 22(1) of the Finance (No. 2) Act 1931 (securities free of tax for residents abroad) as modified by virtue of section 60(1) of the Finance Act 1940.

Deemed interest on certain securities

76 Deemed interest

Schedule 22 to this Act (which relates to securities held between certain dates) shall have effect.

Further provisions

77 Further provisions

Schedule 23 to this Act (which contains provisions relating to interpretation and other matters) shall have effect.