



Finance Act 1987

1987 CHAPTER 16

PART II

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

CHAPTER I

GENERAL

Tax rates

20 Charge of income tax for 1987-88

- (1) Income tax for the year 1987-88 shall be charged at the basic rate of 27 per cent.; and in respect of so much of an individual's total income as exceeds the basic rate limit (£17,900) at such higher rates as are specified in the Table below:

TABLE

<i>Higher rate bands</i>	<i>Higher rate</i>
The first £2,500	40 per cent.
The next £5,000	45 per cent.
The next £7,900	50 per cent.
The next £7,900	55 per cent.
The remainder	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.

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- (2) Section 24(4) of the Finance Act 1980 (indexation of thresholds) shall not, so far as it relates to the higher rate bands, apply for the year 1987-88.

21 Charge of corporation tax for financial year 1987

Corporation tax shall be charged for the financial year 1987 at the rate of 35 per cent.

22 Corporation tax: small companies

- (1) For the financial year 1987 the small companies rate shall be 27 per cent.
- (2) For the financial year 1987, the fraction mentioned in section 95(2) of the Finance Act 1972 (marginal relief for small companies) shall be one fiftieth.

23 Deduction rate for sub-contractors in construction industry

Section 69(4) of the Finance (No. 2) Act 1975 (which requires deductions to be made from payments to certain sub-contractors in the construction industry) shall have effect in relation to payments made on or after 2nd November 1987 with the substitution for the words "29 per cent." of the words "27 per cent."

Personal reliefs etc.

24 Personal reliefs: operative date for PAYE

For the year 1987-88, in subsection (7) of section 24 of the Finance Act 1980 (which specifies the date from which indexed changes in income tax thresholds and allowances are to be brought into account for the purposes of PA YE) for "5th May" there shall be substituted "18th May".

25 Relief for interest

For the year 1987-88 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.

26 Increased personal relief for those aged eighty and over

- (1) Subject to the provisions of this section, subsection (1) of section 8 of the Taxes Act (personal reliefs) shall have effect—
- (a) in relation to a claim by a person who proves that he or his wife was at any time within the year of assessment of the age of eighty or upwards, as if the sum specified in paragraph (a) (married) were £4,845; and
 - (b) in relation to a claim by a person who proves that he was at any time within the year of assessment of the age of eighty or upwards, as if the sum specified in paragraph (b) (single) were £3,070.
- (2) For the purposes of subsection (1) above, a person who would have been of the age of eighty or upwards within the year of assessment if he had not died in the course of it shall be treated as having been of that age within that year.

- (3) For any year of assessment for which a person is entitled to increased personal relief by virtue of this section, he shall not be entitled to increased relief under subsection (1A) of section 8 of the Taxes Act (increased relief for persons of sixty-five and upwards).
- (4) For the purpose of any enactment which refers to Part I of the Taxes Act or to Chapter II of that Part, subsections (1) and (2) above shall be taken to be included' in that Chapter.
- (5) In the following enactments—
 - (a) subsection (1B) of section 8 of the Taxes Act (tapering of relief under subsection (1A)),
 - (b) subsection (2) of section 14 of that Act (which, as applied by section 15A of that Act, determines the amount of widow's bereavement allowance), and
 - (c) paragraph 3(3) of Schedule 4 to the Finance Act 1971 (exclusion of certain reliefs where there is separate taxation of wife's earnings),any reference to subsection (1A) of section 8 of the Taxes Act includes a reference to subsection (1) above.
- (6) In subsection (8) of section 36 of the Finance Act 1976 (application of provisions relating to transfer of balance of certain reliefs between spouses) the reference in paragraph (b) to section 8(1A)(b) of the Taxes Act includes a reference to subsection (1) (b) above.
- (7) In section 24 of the Finance Act 1980 (indexation of income tax thresholds and allowances), any reference to section 8 of the Taxes Act includes a reference to subsection (1) above.
- (8) This section has effect for the year 1987-88 and subsequent years of assessment.

27 Invalid care allowance and unemployment benefit

- (1) In section 8 of the Taxes Act (personal reliefs) in paragraph (b) of subsection (2) (wife's earned income relief) after sub-paragraph (iii) there shall be inserted the words “and (iv) invalid care allowance”.
- (2) In Schedule 4 to the Finance Act 1971 (separate taxation of wife's earnings) in paragraph 1 (meaning of wife's earnings) at the end of paragraph (b) there shall be inserted the words "unemployment benefit or invalid care allowance".
- (3) This section—
 - (a) so far as it relates to invalid care allowance, has effect for the year 1984-85 and subsequent years of assessment, and
 - (b) so far as it relates to unemployment benefit, has effect for the year 1987-88 and subsequent years of assessment;and all such adjustments (whether by repayment of tax or otherwise) shall be made as are appropriate to give effect to this section.

28 Increased relief for blind persons

For the year 1987-88 and subsequent years of assessment, in section 18 of the Taxes Act—

- (a) in subsection (1) (single blind persons and married couples of whom one is blind) for "£360" there shall be substituted "£540"; and

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- (b) in subsection (2) (married couples, both of whom are blind) for "£720" there shall be substituted "£1,080".

29 Income support etc.

- (1) For subsection (2) of section 219 of the Taxes Act (which specifies certain social security benefits which are not to be treated as income for the purposes of the Income Tax Acts) there shall be substituted the following subsection—

“(2) The following payments shall not be treated as income for any purpose of the Income Tax Acts—

- (a) payments of income support, family credit or housing benefit under the Social Security Act 1986 or the Social Security (Northern Ireland) Order 1986 other than payments of income support which are taxable by virtue of section 29 of the Finance Act 1987;
- (b) payments of child benefit; and
- (c) payments excepted by subsection (1) above from the charge to tax imposed by that subsection.”;

and, accordingly, paragraph 101(b) of Schedule 10 to the Social Security Act 1986 shall cease to have effect.

- (2) Subject to the following provisions of this section, payments to any person of income support under the Social Security Act 1986 in respect of any period shall be charged to income tax under Schedule E if during that period—

- (a) his right to income support is subject to the condition specified in section 20(3)(d)(i) of that Act (availability for employment); or
- (b) he is one of a married or unmarried couple and section 23 of that Act (trade disputes) applies to him but not to the other person;

and in paragraph (b) above "married couple" and "unmarried couple" have the same meaning as in Part II of the Social Security Act 1986.

- (3) Where the amount of income support paid to any person in respect of any week or part of a week exceeds the taxable maximum for that period as defined in Part I of Schedule 3 to this Act, the excess shall not be taxable.

- (4) Where payments of unemployment benefit and payments of income support are made to any person in respect of the same week or part of a week, the amount taxable in respect of that period in respect of those payments shall not exceed the taxable maximum for that period within the meaning of subsection (3) above.

- (5) In their application to Northern Ireland subsections (2) to (4) above and Part I of Schedule 3 to this Act shall have effect as if—

- (a) for the references to the Social Security Act 1986, to Part II of that Act and to sections 20(3)(d)(i) and 23 of that Act there were substituted respectively references to the Social Security (Northern Ireland) Order 1986, Part III of that Order and Articles 21(3)(d)(i) and 24 of that Order; and
- (b) for the references to paragraph 1 of Part I of Schedule 4 to the Social Security Act 1975 and paragraph 1(a) of Part IV of that Schedule there were substituted respectively references to paragraph 1 of Part I of Schedule 4 to the Social Security (Northern Ireland) Act 1975 and paragraph 1(a) of Part IV of that Schedule.

- (6) The consequential amendments in Part II of Schedule 3 to this Act shall have effect.

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- (7) Except as provided by subsection (8) below, this section and Schedule 3 to this Act shall have effect in relation to payments in respect of periods beginning on or after the income support date.
- (8) Subsection (1) above, so far as it relates to family credit or housing benefit, shall have effect in relation to payments in respect of periods beginning on or after the family credit date and the housing benefit date respectively; and nothing in that subsection shall affect payments of family income supplement in respect of periods before the family credit date.
- (9) In subsections (7) and (8) above, the "income support date", the "family credit date" and the "housing benefit date" mean the days on which regulations containing the first schemes under section 20 of the Social Security Act 1986 and Article 21 of the Social Security (Northern Ireland) Order 1986 providing respectively for income support, for family credit and for housing benefit come into force.

Friendly societies, trade unions and charities

30 Registered friendly societies

- (1) In so far as the profits of a registered friendly society from life or endowment business relate to contracts made on or after 1st September 1987, section 332 of the Taxes Act (registered friendly societies: tax exempt limits etc.) shall be amended in accordance with subsections (2) and (3) below.
- (2) In paragraph (a) of subsection (2) for the words from "the assurance" onwards there shall be substituted—
 - “(i) the assurance of gross sums under contracts under which the total premiums payable in any period of twelve months exceed £100; or
 - (ii) the granting of annuities of annual amounts exceeding £156; and”.
- (3) For subsection (3) there shall be substituted the following subsection—

“(3) In determining for the purposes of subsection (2)(a)(i) above the total premiums payable in any period of twelve months—

 - (a) where those premiums are payable more frequently than annually, there shall be disregarded an amount equal to 10 per cent. of those premiums; and
 - (b) so much of any premium as is charged on the ground that an exceptional risk of death is involved shall be disregarded;

and in applying the limit of £156 in subsection (2)(a)(ii) above, any bonus or addition declared upon an annuity shall be disregarded.”
- (4) In section 64 of the Friendly Societies Act 1974 (which relates to the maximum contractual benefits a person may have with friendly societies and is in the following provisions of this section referred to as "section 64"), paragraph (a) of subsection (1) shall not apply as respects sums assured under contracts made on or after 1st September 1987; and after that subsection there shall be inserted the following subsections—

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- “(1A) With respect to contracts for the assurance of gross sums under tax exempt life or endowment business, a member of a registered friendly society or branch shall not be entitled to have outstanding with any one or more such societies or branches (taking together all such societies or branches throughout the United Kingdom) contracts under which the total premiums payable in any period of twelve months exceed £100 unless all those contracts were entered into before 1st September 1987.
- (1B) In applying the limit in subsection (1A) above, the premiums under any contract for an annuity which was made before 1st June 1984 by a new society, shall be brought into account as if the contract were for the assurance of a gross sum.”
- (5) At the end of subsection (2) of section 64 (provisions disregarded in applying limits) there shall be added the following “and
- (d) so far as concerns the total premiums payable in any period of twelve months,—
- (i) 10 per cent. of the premiums payable under any contract under which the premiums are payable more frequently than annually; and
- (ii) £10 of the premiums payable under any contract made before 1st September 1987 by a society which is not a new society; and
- (iii) so much of any premium as is charged on the ground that an exceptional risk of death is involved.”
- (6) In subsection (2B) of section 64 (contracts not to be qualifying policies where limits are exceeded)—
- (a) in paragraph (a) after the words "sums assured" there shall be inserted "or premiums payable"; and
- (b) in paragraph (b) after the words "sums assured by" there shall be inserted "or, as the case may be, the premiums payable under".
- (7) At the end of subsection (6) of section 64 (declaration that limits are not exceeded) there shall be added the words "and that the total premiums under those contracts do not exceed those limits".
- (8) At the end of section 41(9) of the Finance Act 1985 (gains on non-qualifying policies issued by friendly societies in the course of tax exempt business to be chargeable under section 399 of the Taxes Act at basic rate as well as at higher rates) there shall be added the words "but any relief under section 400 of that Act shall be computed as if this subsection had not been enacted".

31 Relief in respect of certain income of trade unions

- (1) In section 338 of the Taxes Act (which, as amended by section 36 of the Finance Act 1982, provides for exemption for certain income and gains of a trade union precluded by Act or rules from assuring to any person a sum exceeding £2,400 by way of gross sum or £500 a year by way of annuity) for "£2,400" and "£500" there shall be substituted respectively "£3,000" and "£625".
- (2) This section has effect in relation to income or gains which are applicable and applied as mentioned in the said section 338 on or after 17th March 1987.

32 Charities: payroll deduction scheme

- (1) In section 27(7) of the Finance Act 1986 (which limits to £100 the deductions attracting relief) for "£100" there shall be substituted "£120".
- (2) This section has effect for the year 1987-88 and subsequent years of assessment.

Employees etc.

33 Employee share schemes, etc.

- (1) Schedule 10 to the Finance Act 1980 (savings-related share option schemes) and Schedule 10 to the Finance Act 1984 (approved share option schemes) shall have effect subject to the amendments in Part I of Schedule 4 to this Act (which enable schemes to allow rights acquired under them to be exchanged for other rights in certain circumstances); and the transitional provisions in Part II of that Schedule and the consequential provisions relating to capital gains tax in Part III thereof shall have effect.
- (2) Subject to subsection (3) below, the provisions of Part IV of Schedule 4 to this Act shall have effect for the purpose only of determining whether an individual has a material interest in a company for the purposes of the employee share scheme legislation.
- (3) Paragraph 8 of Schedule 4 to this Act shall also have effect for the purpose of determining whether interest on a loan made on or after 6th April 1987 is eligible for relief under section 75 of the Finance Act 1972 by virtue of paragraph 9 of Schedule 1 to the Finance Act 1974.
- (4) In this section "the employee share scheme legislation" means—
 - (a) Schedule 9 to the Finance Act 1978,
 - (b) Schedule 10 to the Finance Act 1980, and
 - (c) Schedule 10 to the Finance Act 1984.

34 Employees seconded to educational bodies

- (1) With respect to expenditure attributable to the employment of a person on or after 26th November 1986 and before 1st April 1997, section 28 of the Finance Act 1983 (employees seconded to charities) shall have effect as if the references in subsections (1) and (2A) of that section to a charity included references to any of the bodies specified in subsection (2) below.
- (2) The bodies referred to in subsection (1) above are—
 - (a) in England and Wales, any local education authority and any educational institution maintained by such an authority;
 - (b) in Scotland, any education authority, any educational establishment maintained by such an authority, and any college of education or central institution within the meaning of the Education (Scotland) Act 1980;
 - (c) in Northern Ireland, any education and library board, college of education or controlled school within the meaning of the Education and Libraries (Northern Ireland) Order 1986 and any institution of further education which is under the management of an education and library board by virtue of Article 28 of that Order; and

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- (d) any other educational body which is for the time being approved for the purposes of this section by the Secretary of State or, in Northern Ireland, the Department of Education for Northern Ireland.
- (3) Any approval granted by the Secretary of State or the Department of Education for Northern Ireland under subsection (2)(d) above before 1st September 1987 may be expressed to have effect for any period before that date.

35 Relief for costs of training etc.

- (1) Where, on or after 6th April 1987, a person (in this section referred to as the "employer") incurs expenditure in paying or reimbursing relevant expenses incurred in connection with a qualifying course of training which—
 - (a) is undertaken by a person (in this section referred to as the "employee") who is the holder or past holder of any office or employment under the employer, and
 - (b) is undertaken with a view to retraining the employee,
 the employee shall not thereby be regarded as receiving any emolument which forms part of his income for any purpose of Schedule E.
- (2) Schedule 5 to this Act shall have effect to determine for the purposes of this section—
 - (a) what is a qualifying course of training;
 - (b) whether such a course is undertaken by an employee with a view to retraining; and
 - (c) what are relevant expenses in relation to such a course.
- (3) Subject to subsection (4) below, where—
 - (a) an employer incurs expenditure in paying or reimbursing relevant expenses as mentioned in subsection (1) above, and
 - (b) that subsection has effect in relation to the income of the employee for the purposes of Schedule E,
 then, if and so far as that expenditure would not, apart from this subsection, be so deductible, it shall be deductible in computing for the purposes of Schedule D the profits or gains of the trade, profession or vocation of the employer for the purposes of which the employee is or was employed.
- (4) If the employer carries on a business, the expenses of management of which are eligible for relief under section 304 of the Taxes Act, subsection (3) above shall have effect as if for the words from "in computing" onwards there were substituted "as expenses of management for the purposes of section 304 of the Taxes Act".
- (5) In any case where—
 - (a) an employee's liability to tax for any year of assessment is determined (by assessment or otherwise) on the assumption that subsection (1) above applies in his case and, subsequently, there is a failure to comply with any provision of paragraph 4 of Schedule 5 to this Act, or
 - (b) an employer's liability to tax for any year is determined (by assessment or otherwise) on the assumption that, by virtue only of subsection (3) above (or subsections (3) and (4) above), he is entitled to a deduction on account of any expenditure and, subsequently, there is such a failure as is referred to in paragraph (a) above,

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an assessment under section 29(3) of the Taxes Management Act 1970 of an amount due in consequence of the failure referred to above may be made at any time not later than six years after the end of the chargeable period in which the failure occurred.

- (6) Where an event occurs by reason of which there is a failure to comply with any provision of paragraph 4 of Schedule 5 to this Act, the employer of the employee concerned shall within sixty days of coming to know of the event give a notice in writing to the inspector containing particulars of the event.
- (7) If the inspector has reason to believe that an employer has not given a notice which he is required to give under subsection (6) above in respect of any event, the inspector may by notice in writing require the employer to furnish him within such time (not being less than sixty days) as may be specified in the notice with such information relating to the event as the inspector may reasonably require for the purposes of this section.
- (8) The Table in section 98 of the Taxes Management Act 1970 (penalties) shall be amended as follows—
 - (a) at the end of the first column there shall be inserted—

“Section 35(7) of the Finance Act 1987”; and

- (b) at the end of the second column there shall be inserted—

“Section 35(6) of the Finance Act 1987”.

Companies

36 Time for payment of corporation tax by certain long-established companies and building societies

- (1) Section 244 of the Taxes Act (which, in the case of certain companies trading before the financial year 1965, provides that the interval within which corporation tax is to be paid in respect of any accounting period shall be longer than the period of nine months provided for, in relation to companies generally, by section 243(4) of that Act) shall not apply with respect to any accounting period of a company beginning on or after 17th March 1987.
- (2) Section 344 of the Taxes Act (which, in the case of certain building societies carrying on business in the year 1965-66, makes special provision as to the time for payment of corporation tax) shall not apply with respect to any accounting period of a building society ending on or after 6th April 1990.
- (3) In Schedule 6 to this Act—
 - (a) Part I has effect with respect to and in connection with the payment of corporation tax for certain accounting periods by a company to which, by virtue of section 244 of the Taxes Act, section 243(4) of that Act did not apply as respects the last accounting period ending before 17th March 1987; and
 - (b) Part II has effect with respect to and in connection with the payment by a building society to which section 344 of the Taxes Act applies of corporation tax for accounting periods ending in the year 1989-90.

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37 Close companies: meaning of "associate"

- (1) In subsection (3) of section 303 of the Taxes Act (close companies: meaning of "associate")—
- (a) in paragraph (c) for the words "any other person interested therein" there shall be substituted—
- “(i) the trustee or trustees of the settlement concerned or, as the case may be, the personal representatives of the deceased, and
- (ii) if the participator is a company, any other company interested in those shares or obligations”; and
- (b) the proviso shall be omitted.
- (2) In determining whether, by virtue of paragraph 9 of Schedule 1 to the Finance Act 1974, interest on a loan is eligible for relief under section 75 of the Finance Act 1972, the amendments made by subsection (1) above shall have effect with respect to loans made after 13th November 1986.
- (3) Subject to subsection (2) above, the amendments made by subsection (1) above shall be deemed to have come into force on 6th April 1986.

Unit trusts and investment companies

38 Authorised unit trusts

- (1) For section 354 of the Taxes Act there shall be substituted—

“354 Authorised unit trusts.

- (1) In respect of income arising to the trustees of an authorised unit trust, and for the purposes of the provisions relating to relief for capital expenditure, the Tax Acts shall have effect as if—
- (a) the trustees were a company resident in the United Kingdom, and
- (b) the rights of the unit holders were shares in the company.
- (2) The Tax Acts shall also have effect as if the aggregate amount shown in the accounts of the trust as income available for payment to unit holders or for investment were dividends on the shares referred to in subsection (1) above paid to them in proportion to their rights, the date of payment, in the case of income not paid to unit holders, being taken to be—
- (a) the date or latest date provided by the terms of the authorised unit trust for any distribution in respect of the distribution period in question;
- (b) if no date is so provided, the last day of the distribution period.
- (3) References in the Corporation Tax Acts to a body corporate shall be construed in accordance with the preceding provisions of this section, and section 242 of this Act shall apply with any necessary modifications.
- (4) Section 304 of this Act shall apply in relation to an authorised unit trust whether or not it falls within the definition of 'investment company' in subsection (5) of that section; and sums periodically appropriated for managers' remuneration shall be treated for the purposes of that section as sums disbursed as expenses of management.

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- (5) In this section 'distribution period' means a period over which income from the investments subject to the trusts is aggregated for the purposes of ascertaining the amount available for distribution to unit holders.”.
- (2) This section shall have effect in relation to distribution periods (within the meaning of section 354 of the Taxes Act) beginning on or after 1st April 1987.

39 Other unit trusts

- (1) After section 354 of the Taxes Act there shall be inserted—

“354A Other unit trusts.

- (1) This section applies to—
- (a) any unit trust scheme that is not an authorised unit trust, and
 - (b) any authorised unit trust to which, by virtue of section 60 of the Finance Act 1980, section 354 of this Act does not apply,
- except where the trustees of the scheme are not resident in the United Kingdom.
- (2) Income arising to the trustees of the scheme shall be regarded for the purposes of the Tax Acts as income of the trustees (and not as income of the unit holders); and the trustees (and not the unit holders) shall be regarded as the persons to or on whom allowances or charges are to be made under the provisions of those Acts relating to relief for capital expenditure.
- (3) For the purposes of the Tax Acts the unit holders shall be treated as receiving annual payments (made by the trustees under deduction of tax) in proportion to their rights.
- (4) The total amount of those annual payments in respect of any distribution period shall be the amount which, after deducting income tax at the basic rate in force for the year of assessment in which the payments are treated as made, is equal to the aggregate amount shown in the accounts of the scheme as income available for payment to unit holders or for investment.
- (5) The date on which the annual payments are treated as made shall be the date or latest date provided by the terms of the scheme for any distribution in respect of the distribution period in question, except that, if—
- (a) the date so provided is more than twelve months after the end of the period, or
 - (b) no date is so provided,
- the date on which the payments are treated as made shall be the last day of the period.
- (6) In this section 'distribution period' has the same meaning as in section 354 of this Act, but—
- (a) if the scheme does not make provision for distribution periods, then for the purposes of this section its distribution periods shall be taken to be successive periods of twelve months the first of which began with the day on which the scheme took effect, and

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- (b) if the scheme makes provision for distribution periods of more than twelve months, then for the purposes of this section each of those periods shall be taken to be divided into two (or more) distribution periods, the second succeeding the first after twelve months (and so on for any further periods).
- (7) In this section 'unit trust scheme' has the same meaning as in the Financial Services Act 1986, except that the Treasury may by regulations provide that any scheme of a description specified in the regulations shall be treated as not being a unit trust scheme for the purposes of this section.
- (8) Regulations under this section—
 - (a) may contain such supplementary and transitional provisions as appear to the Treasury to be necessary or expedient, and
 - (b) shall be made by statutory instrument, which shall be subject to annulment in pursuance of a resolution of the House of Commons.
- (9) Sections 16 and 17 of the Finance Act 1973 (which make provision for charging tax at the additional rate on certain trust income) shall not apply to a scheme to which this section applies.
- (10) Paragraph 8(1) of Schedule 23 to the Finance Act 1985 (which charges tax at the additional rate on certain sums treated as received by trustees in respect of accrued interest) shall not apply in relation to profits or gains treated as received by the trustees of a scheme to which this section applies if or to the extent that those profits or gains represent accruals of interest (within the meaning of Chapter IV of Part II of that Act) which are treated as income in the accounts of the scheme.”.
- (2) This section shall have effect in relation to distribution periods (within the meaning of section 354A of the Taxes Act) beginning on or after 6th April 1987.

40 Unit trusts: miscellaneous amendments

- (1) For section 358 of the Taxes Act there shall be substituted—

“358 Definitions: unit trusts.

In this Act—

'authorised unit trust' means, as respects an accounting period, a unit trust scheme in the case of which an order under section 78 of the Financial Services Act 1986 is in force during the whole or part of the accounting period;

'unit holder' means a person entitled to a share of the investments subject to the trusts of a unit trust scheme;

'unit trust scheme' has the same meaning as in section 354A of this Act.”.

- (2) In section 526(5) of the Taxes Act the following definitions shall be inserted at the appropriate places in alphabetical order—
 - “'authorised unit trust' has the meaning given by section 358 of this Act”;
 - “' 'unit holder', in relation to a unit trust scheme, has the meaning given by section 358 of this Act”;

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“'unit trust scheme' has the same meaning as in section 354A of this Act”.

- (3) In section 92 of the Capital Gains Tax Act 1979, for the words from the beginning of the section to the end of paragraph (a) there shall be substituted—

“(1) Subject to subsection (2) below, in this Act—

- (a) 'unit trust scheme' has the same meaning as in the Financial Services Act 1986”.

- (4) At the end of section 92 of the Capital Gains Tax Act 1979 there shall be added—

“(2) The Treasury may by regulations provide that any scheme of a description specified in the regulations shall be treated as not being a unit trust scheme for the purposes of this Act.

(3) Regulations under this section—

- (a) may contain such supplementary and transitional provisions as appear to the Treasury to be necessary or expedient, and
(b) shall be made by statutory instrument, which shall be subject to annulment in pursuance of a resolution of the House of Commons.”.

- (5) This section, and the repeals effected by section 72 below and Part VI of Schedule 16 to this Act, shall come into force on such day as the Board may by order appoint; and different days may be appointed for different purposes.

- (6) An order under subsection (5) above—

- (a) may contain such transitional provisions as appear to the Board to be necessary or expedient, and
(b) shall be made by statutory instrument.

41 Investment companies, etc.

- (1) In section 304(1) of the Taxes Act, for the words "income for the purposes of Schedule A" there shall be substituted the words "profits apart from this section".
(2) This section shall have effect in relation to sums disbursed on or after 1st April 1987.

Business expansion scheme

42 Carry-back of relief

- (1) In paragraph 2 of Schedule 5 to the Finance Act 1983, at the beginning of sub-paragraph (3) (which provides that relief is to be given as a deduction from income for the year in which the relevant shares are issued) there shall be inserted the words "Subject to sub-paragraph (4A) below"; and after sub-paragraph (4) there shall be inserted—

“(4A) If—

- (a) the shares are issued before 6th October in a year of assessment, and
(b) the claimant so requests in his claim for relief,

the relief shall be given partly by way of deduction from the claimant's total income for the year of assessment in which the shares are issued and

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partly by way of deduction from his total income for the preceding year of assessment.

(4B) A deduction from the claimant's total income for the year of assessment preceding that in which the shares are issued shall be of such amount as may be specified in the claim, but—

- (a) that amount shall not exceed one half of the total relief in respect of the shares, and
- (b) the aggregate of that amount and the amounts of any other deductions made by virtue of sub-paragraph (4A) above from the claimant's total income for the year of assessment preceding that in which the shares are issued shall not exceed £5,000.”.

(2) For sub-paragraph (9) of paragraph 2 of that Schedule there shall be substituted—

“(9) Section 52(7) of Chapter II shall apply, but with the deletion of the reference to section 204(3) of the Taxes Act (pay as you earn).

(10) Where effect is given to a claim for relief by repayment of tax, section 47 of the Finance (No. 2) Act 1975 (repayment supplement) shall have effect in relation to the repayment as if the time from which the twelve months mentioned in subsections (1)(a) and (4)(a) of that section are to be calculated were the end of the year of assessment in which the shares are issued or, if the period mentioned in sub-paragraph (4)(a) above ends in a later year, the end of that later year.”.

(3) For sub-paragraph (2) of paragraph 3 of that Schedule there shall be substituted—

“(2) No more than £40,000 may be deducted by way of relief under paragraph 2 above from the total income of an individual for a year of assessment.”.

(4) In paragraph 12 of that Schedule, after sub-paragraph (2) there shall be added—

“(3) Section 60(4) and (5) of Chapter II shall apply in relation to the limit of £5,000 imposed by paragraph 2(4B) above as it applies in relation to the limit of £40,000 imposed by paragraph 3(2) above; and for this purpose the reference in section 60(5) to a division in proportion to the amounts subscribed by the husband and the wife shall be construed as a reference to a division in proportion to the aggregate amounts of the relevant deductions sought by each of them in their claims under paragraph 2(4A) above.”.

(5) In paragraph 14 of that Schedule, after sub-paragraph (1) there shall be inserted—

“(1A) Where by virtue of paragraph 2(4A) above relief has been given for each of two consecutive years of assessment, any withdrawal of relief shall be made for the first of those years before being made for the second.”.

(6) This section shall have effect in relation to shares issued on or after 6th April 1987.

43 Films

(1) In paragraph 6 of Schedule 5 to the Finance Act 1983 (qualifying trades), for paragraphs (a) and (b) of sub-paragraph (2A) there shall be substituted—

- “(a) the company carrying on the trade is engaged throughout the relevant period in—
 - (i) the production of films, or

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- (ii) the production of films and the distribution of films produced by it in the relevant period; and
 - (b) all royalties and licence fees received by it in that period are in respect of films produced by it in that period or sound recordings in relation to such films or other products arising from such films.”.
- (2) This section shall have effect in relation to shares issued on or after 17th March 1987.

Oil industry: advance corporation tax

44 Limited right to carry back surrendered ACT

- (1) In any case where,—
- (a) on a date not earlier than 17th March 1987, a company which is the surrendering company for the purposes of section 92 of the Finance Act 1972 (setting of company's advance corporation tax against subsidiary's liability) paid a dividend, and
 - (b) at no time in the accounting period of the surrendering company in which that dividend was paid was the surrendering company under the control of a company resident in the United Kingdom (construing "control" in accordance with section 302 of the Taxes Act), and
 - (c) under subsection (1) of the said section 92 the benefit of the advance corporation tax (in this section referred to as "ACT") paid in respect of that dividend was surrendered to a subsidiary of the surrendering company, and
 - (d) that ACT is not such that the restriction in paragraph (a) or paragraph (b) of subsection (2) of section 16 of the Oil Taxation Act 1975 (ACT on distributions to associated companies etc.) applies with respect to it, and
 - (e) in one or more of the accounting periods of the subsidiary beginning in the six years preceding the accounting period in which falls the date referred to in paragraph (a) above, the subsidiary has a liability to corporation tax in respect of income which consists of or includes income arising from oil extraction activities or oil rights, within the meaning of Part II of the Oil Taxation Act 1975 (in this section referred to as "ring fence income"),
- sections 85 and 92 of the Finance Act 1972 shall have effect-subject to subsections (3) to (7) below.
- (2) Where the conditions in subsection (1) above are fulfilled, the subsidiary to which the benefit of the ACT is surrendered is in the following provisions of this section referred to as a "qualifying subsidiary"; and in those provisions—
- (a) "section 85" means section 85 of the Finance Act 1972 (payments of ACT to be set against company's liability to corporation tax on its profits) and "section 92" means section 92 of that Act;
 - (b) "the surrendering company" has the same meaning as in section 92;
 - (c) "surrendered ACT" means ACT which, by virtue of subsection (2) of section 92, a qualifying subsidiary is treated as having paid in respect of a distribution made on a particular date; and
 - (d) "the principal accounting period" means the accounting period of the qualifying subsidiary in which that date falls.
- (3) So much of subsection (3A) of section 92 as would prevent surrendered ACT being set against a qualifying subsidiary's liability to corporation tax under subsection (3) of

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section 85 (carry back to earlier periods) shall not apply; but the said subsection (3) shall have effect subject to the following provisions of this section.

(4) Surrendered ACT may not under subsection (3) of section 85 be set against a qualifying subsidiary's liability to corporation tax for an accounting period earlier than the principal accounting period unless throughout—

- (a) that period,
- (b) the principal accounting period, and
- (c) any intervening accounting period,

the qualifying subsidiary was carrying on activities which, under and for the purposes specified in section 13 of the Oil Taxation Act 1975, constitute a separate trade (oil extraction activities etc.).

(5) Subject to subsection (6) below, for each accounting period of the surrendering company in which is paid a dividend, the ACT on which gives rise, under section 92, to surrendered ACT, the total amount of that surrendered ACT in respect of which claims may be made under subsection (3) of section 85 (whether by one qualifying subsidiary of the surrendering company or by two or more taken together) shall not exceed whichever of the following limits is appropriate to the accounting period of the surrendering company—

- (a) for periods ending on or after 17th March 1987 and before 1st April 1989, £10 million;
- (b) for periods ending on or after 1st April 1989 and before 1st April 1991, £15 million;
- (c) for later periods, £20 million.

(6) In any case where an accounting period of the surrendering company is less than twelve months, the amount which is appropriate to it under paragraphs (a) to (c) of subsection (5) above shall be proportionately reduced.

(7) The amount of surrendered ACT of the principal accounting period which, on a claim under subsection (3) of section 85, may be treated as if it were ACT paid in respect of distributions made by the qualifying subsidiary concerned in any earlier accounting period shall not exceed the amount of ACT that would have been payable in respect of a distribution made at the end of that earlier period of an amount which, together with the ACT so payable in respect of it, would equal the qualifying subsidiary's ring fence income of that period.

(8) In determining the amount (if any) of ACT which may be repayable—

- (a) under section 17(3) of the Oil Taxation Act 1975, or
- (b) under section 127(5) of the Finance Act 1981,

any ACT in respect of a distribution actually made on or after 17th March 1987 shall be left out of account.

45 Surrender of ACT where oil extraction company owned by a consortium

(1) In any case where—

- (a) a company (in this section referred to as "the consortium company") is owned by a consortium consisting of two members only, each of which owns 50 per cent. of the issued share capital of the company, and

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- (b) the consortium company carries on a trade consisting of or including activities falling within paragraphs (a) to (c) of subsection (1) of section 13 of the Oil Taxation Act 1975 (oil extraction etc.), and
 - (c) all of the issued share capital of the consortium company is of the same class and carries the same rights as to voting, dividends and distribution of assets on a winding up,
- section 92 of the Finance Act 1972 (setting of company's advance corporation tax against subsidiary's liability) shall have effect, subject to the following provisions of this section, as if the company were a subsidiary of each member of the consortium.
- (2) This section has effect with respect to advance corporation tax paid by either member of the consortium in respect of a dividend paid by it on or after 17th March 1987; and, in relation to a surrender under the said section 92 of the benefit of the advance corporation tax paid in respect of such a dividend,—
 - (a) "surrendered ACT" means advance corporation tax which, by virtue of subsection (2) of that section, the consortium company is treated as having paid; and
 - (b) "the notional distribution date" means the date of the distribution in respect of which the surrendered ACT is treated as paid.
 - (3) No surrender under subsection (1) of section 92 of the Finance Act 1972 of the benefit of advance corporation tax may be made by virtue of this section—
 - (a) unless the conditions in paragraphs (a) to (c) of subsection (1) above are fulfilled throughout that accounting period of the consortium company in which falls the notional distribution date; or
 - (b) if arrangements are in existence by virtue of which any person could cause one or more of those conditions to cease to be fulfilled at some time during that or any later accounting period.
 - (4) In the application of section 85 of the Finance Act 1972 (payments of ACT to be set against company's liability to corporation tax on its income) in relation to surrendered ACT resulting from a surrender by either one of the consortium members under section 92 of that Act, the reference in subsection (2) of section 85 (the limit on the amount to be set against corporation tax) to the consortium company's income charged to corporation tax shall be construed as a reference to one half of so much of that income as consists of income arising from oil extraction activities or oil rights, within the meaning of Part II of the Oil Taxation Act 1975.
 - (5) So much of any surplus advance corporation tax as consists of or includes surrendered ACT shall not be treated under section 85(4) of the Finance Act 1972 as if it were advance corporation tax paid in respect of distributions made by the consortium company in a later accounting period unless the conditions in paragraphs (a) to (c) of subsection (1) above are fulfilled throughout that later period.
 - (6) In any case where—
 - (a) as a result of a surrender by one of the consortium members, the consortium company is treated as paying an amount of surrendered ACT which exceeds the limit applicable under subsection (2) of section 85 of the Finance Act 1972 (as modified by subsection (4) above), and
 - (b) that excess falls to be treated under subsection (4) of that section as advance corporation tax paid by the consortium company in respect of distributions made in a later accounting period,

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then, for the purposes of the application of subsection (2) of that section (as modified by subsection (4) above) in relation to that later accounting period, the excess of the surrendered ACT shall be treated as resulting from a surrender by that one of the consortium members referred to in paragraph (a) above.

- (7) Where section 92 of the Finance Act 1972 has effect as mentioned in subsection (2) above, subsection (9) of that section shall have effect with the omission of paragraph (b) (and the word "and" immediately preceding it).
- (8) Notwithstanding the provisions of subsection (1) above the consortium company shall not be regarded as a subsidiary for the purposes of section 44 above.

46 ACT on redeemable preference shares

- (1) In section 16 of the Oil Taxation Act 1975 (oil extraction activities etc.: restriction on setting advance corporation tax against profits therefrom) in subsection (2), after the words "United Kingdom" there shall be inserted "or, where subsection (2A) below applies, in respect of any distribution consisting of a dividend on a redeemable preference share".

- (2) At the end of subsection (2) of the said section 16 there shall be inserted the following subsections—

“(2A) Subject to subsection (2B) below, this subsection applies in relation to the payment of a dividend on redeemable preference shares if the dividend is paid on or after 17th March 1987 and—

- (a) at the time the shares are issued, or
 (b) at the time the dividend is paid,

the company paying the dividend is under the control of a company resident in the United Kingdom, and in this subsection "control" shall be construed in accordance with section 302 of the Taxes Act.

(2B) Subsection (2A) above does not apply if or to the extent that it is shown that the proceeds of the issue of the redeemable preference shares—

- (a) were used to meet expenditure incurred by the company issuing them in carrying on oil extraction activities or in acquiring oil rights otherwise than from a connected person; or
 (b) were appropriated to meeting expenditure to be so incurred by that company;

and section 533 of the Taxes Act (connected persons) applies for the purposes of this subsection.”

- (3) At the end of the said section 16 there shall be added the following subsections—

“(4) For the purposes of subsections (2) to (2B) above, shares in a company are redeemable preference shares either if they are so described in the terms of their issue or if, however they are described, they fulfil the condition in paragraph (a) below and either or both of the conditions in paragraphs (b) and (c) below—

- (a) that, as against other shares in the company, they carry a preferential entitlement to a dividend or to any assets in a winding up or both;

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- (b) that, by virtue of the terms of their issue, the exercise of a right by any person or the existence of any arrangements, they are liable to be redeemed, cancelled or repaid, in whole or in part;
 - (c) that, by virtue of any material arrangements, the holder has a right to require another person to acquire the shares or is obliged in any circumstances to dispose of them or another person has a right or is in any circumstances obliged to acquire them.
- (5) For the purposes of paragraph (a) of subsection (4) above, shares are to be treated as carrying a preferential entitlement to a dividend as against other shares if, by virtue of any arrangements, there are circumstances in which a minimum dividend will be payable on those shares but not on others; and for the purposes of paragraph (c) of that subsection arrangements relating to shares are material arrangements if the company which issued the shares or a company associated with that company is a party to the arrangements.”