



Income and Corporation Taxes Act 1988

1988 CHAPTER 1

PART VII

GENERAL PROVISIONS RELATING TO TAXATION OF INCOME OF INDIVIDUALS

CHAPTER I

PERSONAL RELIEFS

The reliefs

256 General

An individual who makes a claim in that behalf or, in the case of relief under section 266, who satisfies the conditions of that section, shall be entitled to such relief as is specified in sections 257 to 274, subject however to the provisions of sections 275 to 278 and 287 and 288.

257 Personal relief

- (1) Subject to the provisions of this section and section 261, the claimant shall be entitled—
 - (a) if he proves—
 - (i) that for the year of assessment he has his wife living with him, or
 - (ii) that his wife is wholly maintained by him during the year of assessment, and that he is not entitled in computing the amount of his income for that year for income tax purposes to make any deduction in respect of the sums paid for the maintenance of his wife, to a deduction of £3,795 from his total income;
 - (b) in any other case, to a deduction of £2,425 from his total income.
- (2) Subject to the provisions of this section, subsection (1) above shall have effect—

Status: This is the original version (as it was originally enacted).

- (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 65 or upwards, as if the sum specified in paragraph (a) were £4,675; 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 65 or upwards, as if the sum specified in paragraph (b) were £2,960;

and for the purposes of this subsection a person who would have been of the age of 65 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) Subject to the provisions of this section, subsection (1) above 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 80 or upwards, as if the sum specified in paragraph (a) 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 80 or upwards, as if the sum specified in paragraph (b) were £3,070;

and for the purposes of this subsection, a person who would have been of the age of 80 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.

- (4) For any year of assessment for which a person is entitled to increased personal relief by virtue of subsection (3) above, he shall not be entitled to increased relief under subsection (2) above.
- (5) Where the claimant's total income for the year of assessment exceeds £9,800, subsections (2) and (3) above shall not apply except in a case where the deduction to be allowed under subsection (1) above will be increased by virtue of this subsection; and in such a case subsection (2) or (3), as the case may be, shall apply as if the sums mentioned in it were reduced by two-thirds of the excess of that total income over £9,800.
- (6) If the total income of the claimant includes any earned income of his wife, the deduction to be allowed under this section shall be increased by the amount of that earned income or by £2,425, whichever is the less.
- (7) For the purposes of subsection (6) above—
 - (a) any earned income of the claimant's wife arising in respect of any pension, superannuation or other allowance, deferred pay or compensation for loss of office, given in respect of his past services in any office or employment, shall be deemed not to be earned income of his wife; and
 - (b) no payment of benefit under the Social Security Acts 1975 or the Social Security (Northern Ireland) Acts 1975 except—
 - (i) a Category A retirement pension (exclusive of any increase under section 10 of the Social Security Pensions Act 1975 or Article 12 of the Social Security Pensions (Northern Ireland) Order 1975);
 - (ii) unemployment benefit, and
 - (iii) invalid care allowance,
 shall be treated as earned income.

- (8) Subsection (1) above shall have effect in relation to any claim by a man who becomes married in the year of assessment for which the claim is made and has not previously in that year been entitled to relief under paragraph (a) of that subsection, as if the sum

specified in that paragraph were reduced, for each month of that year ending before the date of the marriage, by one-twelfth of the amount by which it exceeds the sum specified in paragraph (b) of that subsection.

In this subsection “month” means a month beginning with the 6th day of a month of the calendar year.

- (9) If the retail prices index for the month of December preceding a year of assessment is higher than it was for the previous December, then, unless Parliament otherwise determines, this section shall apply for that year as if for each amount specified in subsections (1) to (6) above as they applied for the previous year (whether by virtue of this subsection or otherwise) there were substituted an amount arrived at by increasing the amount for the previous year by the same percentage as the percentage increase in the retail prices index, and if—
- (a) in the case of an amount specified in subsection (5) above, the result is not a multiple of £100, rounding it up to the nearest amount which is such a multiple;
 - (b) in the case of any other amount, the increase is not a multiple of £10, rounding the increase up to the nearest amount which is such a multiple.
- (10) Subsection (9) above shall not require any change to be made in the amounts deductible or repayable under section 203 between the beginning of a year of assessment and 5th May in that year.
- (11) The Treasury shall in each year of assessment make an order specifying the amounts which by virtue of subsection (9) above will be treated as specified for the following year of assessment in subsections (1) to (6) above.

258 Widower’s or widow’s housekeeper

- (1) If the claimant proves that he is a widower and that for the year of assessment a person, being a relative of his or of his deceased wife, is resident with him in the capacity of a housekeeper, or that he has no relative of his own or of his deceased wife who is able and willing to act in such capacity and that he has employed some other person to reside with him for the purpose, he shall be entitled to a deduction of £100 from his total income in respect of that relative or person.
- (2) No relief shall be allowed under this section—
- (a) unless the claimant proves that no other individual is entitled to relief in respect of the relative under the provisions of this Chapter, or, if any other individual is so entitled, that the other individual has relinquished his claim thereto; or
 - (b) where the relative is a married woman living with her husband, and the husband has claimed and been allowed the higher relief under section 257(1), or the relative is a man who has claimed and been allowed that higher relief; or
 - (c) to a person entitled to relief under section 259.
- (3) Not more than one deduction shall be allowed under this section to any claimant for any year.
- (4) This section shall apply to a claimant being a widow as it applies to a claimant being a widower, with the substitution of “her deceased husband” for “his deceased wife”.

259 Additional relief in respect of children

- (1) This section applies—
- (a) to any individual who is not entitled for the year of assessment to the higher (married persons) relief under section 257(1); and
 - (b) to any married man who is entitled for the year of assessment to that higher relief but whose wife was throughout that year totally incapacitated by physical or mental infirmity.
- (2) Subject to subsections (3) and (4) below and to section 260, if the claimant, being a person to whom this section applies, proves in the case of a year of assessment that a qualifying child is resident with him for the whole or part of the year, he shall be entitled to a deduction from his total income of an amount equal to the difference between the higher (married persons) relief and the lower (single persons) relief under subsection (1) of section 257 as it applies to persons not falling within subsection (2) or (3) of that section.
- (3) A claimant is entitled to only one deduction under subsection (2) above for any year of assessment irrespective of the number of qualifying children resident with him in that year.
- (4) A person to whom this section applies by virtue of subsection (1)(a) above shall not be entitled to relief under this section for a year of assessment during any part of which that person is married and living with his or her spouse unless the child in connection with whom the relief is claimed is resident with that person during a part of the year in which that person is not married and living with his or her spouse.
- (5) For the purposes of this section a qualifying child means, in relation to any claimant and any year of assessment, a child who—
- (a) is born in, or is under the age of 16 years at the commencement of, the year or, being over that age at the commencement of that year, is receiving full-time instruction at any university, college, school or other educational establishment; and
 - (b) is a child of the claimant or, not being such a child, is born in, or is under the age of 18 years at the commencement of, the year and maintained for the whole or part of that year by the claimant at his own expense.
- (6) In subsection (5)(a) above the reference to a child receiving full-time instruction at an educational establishment includes a reference to a child undergoing training by any person (“the employer”) for any trade, profession or vocation in such circumstances that the child is required to devote the whole of his time to the training for a period of not less than two years.
- For the purposes of a claim in connection with a child undergoing training, the inspector may require the employer to furnish particulars with respect to the training of the child in such form as may be prescribed by the Board.
- (7) If any question arises under this section whether a child is receiving full-time instruction at an educational establishment, the Board may consult the Secretary of State or the Department of Education for Northern Ireland.
- (8) In subsection (5)(b) above the reference to a child of the claimant includes a reference to a stepchild of his, an illegitimate child of his if he has married the other parent after the child’s birth and an adopted child of his if the child was under the age of 18 years when he was adopted.

- (9) Notwithstanding anything in section 9 of the Family Law Reform Act 1969 or section 5 of the Age of Majority Act (Northern Ireland) 1969 or any rule of law in Scotland, for the purposes of subsection (5) above a child whose birthday falls on 6th April shall be taken to be over the age of 16 at the commencement of the year which begins with his 16th birthday and over the age of 18 at the commencement of the year which begins with his 18th birthday.

260 Apportionment of relief under section 259

- (1) Where for any year of assessment two or more individuals are entitled to relief under section 259 in connection with the same child—
- (a) the amount referred to in subsection (2) of that section shall be apportioned between them; and
 - (b) the deduction to which each of them is entitled under that section shall, subject to subsection (2) below, be equal to so much of that amount as is apportioned to him.
- (2) Where for any year of assessment amounts are apportioned to an individual under this section in respect of two or more children, the deduction to which he is entitled for that year under section 259 shall be equal to the sum of those amounts or the amount referred to in subsection (2) of that section, whichever is the less.
- (3) Any amount required to be apportioned under this section shall be apportioned between the individuals concerned in such proportions as may be agreed between them or, in default of agreement, in proportion to the length of the periods for which the child in question is resident with them respectively in the year of assessment; and where the proportions are not so agreed, the apportionment shall be made by such body of General Commissioners, being the General Commissioners for a division in which one of the individuals resides, as the Board may direct, or, if none of the individuals resides in Great Britain, by the Special Commissioners.
- (4) Where a claim is made under section 259 and it appears that, if the claim is allowed, an apportionment will be necessary under this section, the Board may if they think fit direct that the claim itself shall be dealt with by any specified body of Commissioners which could under this section be directed to make the apportionment and that the same Commissioners shall also make any apportionment which proves to be necessary; and where a direction is given under this subsection no other body of Commissioners shall have jurisdiction to determine the claim.
- (5) The Commissioners making any apportionment under this section shall hear and determine the case in like manner as an appeal, but any individual who is, or but for the provisions of this section would be, entitled to relief in connection with the child shall be entitled to appear and be heard by the Commissioners or to make representations to them in writing.
- (6) For the purposes of this section an individual shall not be regarded as entitled to relief under section 259 for any year of assessment in connection with the same child as another individual if there is another child in connection with whom he, and he alone, is entitled to relief under that section for that year.

261 Claims under sections 258 and 259 for year of marriage

A man who becomes married during a year of assessment may by notice to the inspector elect that his marriage be disregarded for the purposes of any claim for that year under section 258 or 259, and, in that case, the marriage shall also be disregarded for the purposes of any claim for that year under section 257.

262 Widows' bereavement allowance

Where a man dies in a year of assessment for which he is entitled to the higher (married persons) relief under section 257(1), or would be so entitled but for an election under section 261 or 287, his widow shall be entitled—

- (a) for that year of assessment, and
- (b) unless she marries again before the beginning of it, for the next following year of assessment,

to a deduction from her total income of an amount equal to that referred to in section 259(2).

263 Dependent relatives

- (1) If the claimant proves that he maintains at his own expense—
 - (a) any relative of his or of his wife who is incapacitated by old age or infirmity from maintaining himself; or
 - (b) his or his wife's mother who, whether or not incapacitated, is either widowed, or living apart from her husband, or a single woman in consequence of dissolution or annulment of marriage,

being (whether falling within paragraph (a) or (b) above) a person whose total income does not in a year exceed by more than £100 a sum equal to the basic retirement pension for that year, he shall be entitled in respect of each such person whom he so maintains to a deduction from his total income of £100 reduced, if the total income of the person so maintained exceeds the basic retirement pension, by the amount of the excess.
- (2) Where the claimant under subsection (1) above is a woman—
 - (a) the references in that subsection to the claimant's wife shall be construed as references to the claimant's husband; and
 - (b) unless she is a married woman living with her husband, for each reference in that subsection to £100 there shall be substituted a reference to £145.
- (3) For the purposes of this section "the basic retirement pension" for any year means the aggregate of the payments to which a person would be entitled in that year on account of a Category A retirement pension under the Social Security Acts 1975 or the Social Security (Northern Ireland) Acts 1975 if the weekly rate of his pension consisted (and consisted only) of the full amount of the basic component.
- (4) Subject to subsection (7) below, where two or more persons jointly maintain any such person as is mentioned in subsection (1) above, the deduction of £100 or less mentioned in that subsection in respect of the person so maintained shall be apportioned between them in proportion to the amount or value of their respective contributions towards the maintenance of that person.

The apportionment under this subsection may be effected as the persons entitled to claim the relief agree, and, subject to any such agreement, subsections (5) and (6) below shall apply to the apportionment.

- (5) Any apportionment under subsection (4) above shall be made by such body of General Commissioners, being the General Commissioners for a division in which one of the individuals resides, as the Board may direct, or, if none of the individuals resides in Great Britain, by the Special Commissioners.
- (6) Where a claim is made under subsection (1) above and it appears that, if the claim is allowed, an apportionment will be necessary under subsection (4) above, the Board may if they think fit direct that the claim itself shall be dealt with by any specified body of Commissioners which could under this section be directed to make the apportionment and that the same Commissioners shall also make any apportionment which proves to be necessary; and where a direction is given under this subsection no other body of Commissioners shall have jurisdiction to determine the claim.
- (7) Where, without subsection (2)(b) above, the claimant's relief would fall to be reduced by any proportion under subsection (4) above, any increase in the claimant's relief attributable to subsection (2)(b) above shall be reduced by the same proportion; and accordingly subsection (4) above shall be read without reference to the modifications made by subsection (2)(b).

264 Claimant depending on services of a son or daughter

If the claimant, by reason of old age or infirmity, is compelled to depend upon the services of a son or daughter resident with and maintained by him, he shall be entitled to a deduction of £55 from his total income.

265 Relief for blind persons

- (1) Subject to subsection (3) below, if the claimant proves—
 - (a) that he is a married man who for the year of assessment has his wife living with him, and that one of them was, and the other was not, a registered blind person for the whole or part of the year; or
 - (b) that, not being such a married man, he was a registered blind person for the whole or part of the year,he shall be entitled to a deduction of £540 from his total income.
- (2) Subject to subsection (3) below, if the claimant proves—
 - (a) that he is a married man who for the year of assessment has his wife living with him, and
 - (b) that he was a registered blind person for the whole or part of the year and his wife was also a registered blind person for the whole or part of the year,he shall be entitled to a deduction of £1,080 from his total income.
- (3) Unless a claimant who is entitled to relief for the year of assessment under section 264 in respect of the services of a son or daughter relinquishes his claim to that relief, he shall not be allowed relief under this section for that year.
- (4) In this section “registered blind person” means a person registered as a blind person in a register compiled under section 29 of the National Assistance Act 1948 or, in the

case of a person ordinarily resident in Scotland or in Northern Ireland, a person who is a blind person within the meaning of section 64(1) of that Act.

266 Life assurance premiums

- (1) Subject to the provisions of this section, sections 274 and 619(6) and Schedules 14 and 15, an individual who pays any such premium as is specified in subsection (2) below or makes a payment falling within subsection (7) below shall (without making any claim) be entitled to relief under this section.
- (2) The premiums referred to in subsection (1) above are any premiums paid by an individual under a policy of insurance or contract for a deferred annuity, where—
 - (a) the payments are made to —
 - (i) any insurance company legally established in the United Kingdom or any branch in the United Kingdom of an insurance company lawfully carrying on in the United Kingdom life assurance business (as defined in section 431); or
 - (ii) underwriters being members of Lloyd’s who comply with the requirements set forth in section 83 of the Insurance Companies Act 1982; or
 - (iii) a registered friendly society; or
 - (iv) in the case of a deferred annuity, the National Debt Commissioners; and
 - (b) the insurance or, as the case may be, the deferred annuity is on the life of the individual or on the life of his spouse; and
 - (c) the insurance or contract was made by him or his spouse.
- (3) Subject to subsections (7), (10) and (11) below, no relief under this section shall be given—
 - (a) except in respect of premiums payable under policies for securing a capital sum on death, whether in conjunction with any other benefit or not;
 - (b) in respect of premiums payable under any policy issued in respect of an insurance made after 19th March 1968 unless the policy is a qualifying policy;
 - (c) in respect of premiums payable under any policy issued in respect of an insurance made after 13th March 1984, except where the relief relates to part only of any such payment as falls within subsection (6) below;
 - (d) in respect of premiums payable during the period of deferment in respect of a policy of deferred assurance.
- (4) Subject to subsections (6) to (8) below, relief under this section in respect of any premiums paid by an individual in a year of assessment shall be given by making good to the person to whom they are paid any deficiency arising from the deductions authorised under subsection (5) below; and this section and Schedule 14 shall have effect in relation to any premium or part of a premium which is paid otherwise than in the year of assessment in which it becomes due and payable as if it were paid in that year.
- (5) Subject to the provisions of Schedule 14—
 - (a) an individual resident in the United Kingdom who is entitled to relief under this section in respect of any premium may deduct from any payment in respect of the premium and retain an amount equal to 15 per cent. of the payment; and

- (b) the person to whom the payment is made shall accept the amount paid after the deduction in discharge of the individual's liability to the same extent as if the deduction had not been made and may recover the deficiency from the Board.
- (6) Where—
- (a) a person is entitled to relief under this section in respect of part only of a payment made to a registered friendly society; and
- (b) the insurance or contract was made by the society in the course of tax exempt life or endowment business (as defined in section 466(2)),
- subsection (4) above shall not apply with respect to that relief but there shall be deducted from his total income an amount equal to one-half of that part of the payment.
- (7) Where a person makes a payment to a trade union as defined in section 28(1) of the Trade Union and Labour Relations Act 1974, and part of that payment is attributable to the provision of superannuation, life insurance or funeral benefits, he shall be entitled to relief under this section in respect of that part of the payment, but—
- (a) subsection (4) above shall not apply; and
- (b) there shall be deducted from his total income an amount equal to one-half of that part of the payment.
- This subsection shall also apply in relation to any payment made to an organisation of persons in police service but only where the annual amount of the part of the payment attributable to the provision of the benefits in question is £20 or more.
- (8) Where the individual is not resident in the United Kingdom but is entitled to relief by virtue of section 278(2), subsection (4) above shall not apply but (subject to section 278(3)) the like relief shall be given to him under paragraph 6 of Schedule 14.
- (9) Subsections (5) and (8) above shall apply in relation to an individual who is not resident in the United Kingdom but is a member of the armed forces of the Crown or the wife (but not the husband) of such a member as if the individual were so resident.
- (10) Subsection (3)(b) above shall not apply—
- (a) to any policy of life insurance having as its sole object the provision on an individual's death or disability of a sum substantially the same as any amount then outstanding under a mortgage of his residence, or of any premises occupied by him for the purposes of a business, being a mortgage the principal amount secured by which is repayable by instalments payable annually or at shorter regular intervals; or
- (b) to any policy of life insurance issued in connection with an approved scheme as defined in Chapter I of Part XIV.
- In the application of this subsection to Scotland, for any reference to a mortgage there shall be substituted a reference to a heritable security within the meaning of the Conveyancing (Scotland) Act 1924 (but including a security constituted by *ex facie* absolute disposition or assignment).
- (11) Subsection (3)(a) and (d) above shall not affect premiums payable—
- (a) under policies or contracts made in connection with any superannuation or bona fide pension scheme for the benefit of the employees of any employer, or of persons engaged in any particular trade, profession, vocation or business, or for the benefit of the wife or widow of any such employee or person or of his children or other dependants, or

- (b) under policies taken out by teachers in the schools known in the year 1918 as secondary schools, pending the establishment of a superannuation or pension scheme for those teachers.

- (12) Schedule 14 shall have effect for the purpose of modifying, for certain cases, and supplementing the provisions of this section.

267 Qualifying policies

Schedule 15, Part I of which contains the basic rules for determining whether or not a policy is a qualifying policy, Part II of which makes provision for the certification etc. of policies as qualifying policies and Part III of which modifies Parts I and II in their application to certain policies issued by non-resident companies, shall have effect for the purpose of determining whether or not a policy is a qualifying policy; and, accordingly, any reference in this Act to a qualifying policy shall be construed in accordance with that Schedule.

268 Early conversion or surrender of life policies

- (1) Where a policy of life insurance to which this section applies has been issued and, within four years from the making of the insurance in respect of which it was issued, any of the following events happens, that is to say—
- (a) the surrender of the whole or part of the rights conferred by the policy;
 - (b) the falling due (otherwise than on death) of a sum payable in pursuance of a right conferred by the policy to participate in profits; and
 - (c) the conversion of the policy into a paid-up or partly paid-up policy;
- the body by whom the policy was issued shall pay to the Board, out of the sums payable by reason of the surrender or, as the case may be, out of the sum falling due or out of the fund available to pay the sums which will be due on death or on the maturity of the policy, a sum determined in accordance with the following provisions of this section, unless the body is wound up and the event is a surrender or conversion effected in connection with the winding-up.
- (2) The sum payable under subsection (1) above shall, subject to the following provisions of this section, be equal to the lower of the following, that is to say—
- (a) the appropriate percentage of the premiums payable under the policy up to the happening of the event; and
 - (b) the surrender value of the policy at the time of the happening of the event less the complementary percentage of the premiums mentioned in paragraph (a) above.
- (3) If the event is one of those mentioned below, the sum payable to the Board shall not exceed the following limit, that is to say—
- (a) if it is the surrender of part of the rights conferred by the policy, the value of the rights surrendered at the time of the surrender;
 - (b) if it is the conversion of the policy into a partly paid-up policy, the surrender value at the time of the conversion, of so much of the policy as is paid up; and
 - (c) if it is the falling due of a sum, that sum.
- (4) If the event was preceded by the happening of such an event as is mentioned in subsection (1) above, subsection (2) above shall apply—

- (a) as if the lower of the amounts mentioned therein were reduced by the sum paid under this section in respect of the earlier event; and
 - (b) if the earlier event was such an event as is mentioned in paragraph (a) or (c) of subsection (3) above, as if the surrender value of the policy were increased by the amount which, under that paragraph, limited or might have limited the sum payable under this section in respect of the earlier event.
- (5) For the purposes of this section the appropriate percentage, in relation to any event, is the percentage equal to the following fraction of the percentage found by doubling that mentioned in section 266(5)(a) as in force for the year of assessment in which the event happened, that is to say—
- (a) if the event happens in the first two of the four years mentioned in subsection (1) above, three-sixths;
 - (b) if it happens in the third of those years, two-sixths; and
 - (c) if it happens in the last of those years, one-sixth;
- and the complementary percentage, in relation to any event, is 100 per cent. less the appropriate percentage.
- (6) Where the annual amount of the premiums payable under a policy of life insurance is at any time increased (whether under the policy or by any contract made after its issue) so as to exceed by more than 25 per cent.—
- (a) if the insurance was made on or before 26th March 1974, the annual amount as at that date, or
 - (b) in the case of any other insurance, the first annual amount so payable,
- the additional rights attributable to the excess shall be treated for the purposes of this section as conferred by a new policy issued in respect of an insurance made at that time, and the excess shall be treated as premiums payable under the new policy.
- (7) This section applies to any policy of life insurance which is a qualifying policy unless—
- (a) it is a policy in respect of the premiums on which relief under section 266 is not available by virtue of subsection (3)(c) of that section; or
 - (b) it is a policy of life insurance issued in connection with an approved scheme, as defined in Chapter I of Part XIV;
- and in relation to a policy of life insurance issued in respect of an insurance made before 27th March 1974 applies only in accordance with subsection (6) above.

269 Surrender etc. of policies after four years

- (1) Where a policy of life insurance to which this section applies has been issued and, in the fifth or any later year from the making of the insurance in respect of which it was issued, either of the following events happens, that is to say—
- (a) the surrender of the whole or part of the rights conferred by the policy; and
 - (b) the falling due (otherwise than on death or maturity) of a sum payable in pursuance of a right conferred by the policy to participate in profits;
- then, if either of those events has happened before, the body by whom the policy was issued shall pay to the Board, out of the sums payable by reason of the surrender, or, as the case may be, out of the sum falling due, a sum determined in accordance with the following provisions of this section.

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

- (2) The sum payable under subsection (1) above shall, subject to the following provisions of this section, be equal to the applicable percentage of the lower of the following—
- (a) the total of the premiums which are payable in that year under the policy; and
 - (b) the sums payable by reason of the surrender or, as the case may be, the sum falling due;
- and the percentage to be applied for this purpose shall be a percentage equal to that mentioned in section 266(5)(a) as in force for the year of assessment in which the event happens.
- (3) Where, after a sum has become payable under subsection (1) above, and within the same year from the making of the insurance, another such event happens as is mentioned therein, the sums payable under that subsection in respect of both or all of the events shall not exceed the applicable percentage of the total mentioned in subsection (2)(a) above.
- (4) Where, on the happening of an event in the fifth or any later year from the making of the insurance, any sum is payable under subsection (1) of section 268 as applied by subsection (6) of that section as well as under subsection (1) above, subsection (2) above shall apply as if the sums or sum mentioned in paragraph (b) thereof were reduced by the sum payable under that section.
- (5) This section applies to any policy of life insurance which is a qualifying policy unless—
- (a) it is a policy in respect of the premiums on which relief under section 266 is not available by virtue of subsection (3)(c) of that section; or
 - (b) it is a policy issued in the course of an industrial insurance business; or
 - (c) it was issued in respect of an insurance made before 27th March 1974.

270 Provisions supplementary to sections 268 and 269

- (1) Where on the happening of an event in relation to a policy of life insurance a sum is payable under section 268 or 269, relief under section 266 in respect of the relevant premiums paid under the policy shall be reduced by the sum so payable or, as the case may be, by so much of the sum as does not exceed the amount of that relief (or as does not exceed so much of that amount as remains after any previous reduction under this section).
- (2) For the purposes of this section the relevant premiums are—
- (a) in relation to a sum payable under section 268, the premiums payable under the policy up to the happening of the event by reason of which the sum is payable; and
 - (b) in relation to a sum payable under section 269, the premiums payable in the year (from the making of the insurance) in which the event happens by reason of which the sum is payable.
- (3) Where the relevant premiums are payable in more than one year of assessment the reduction in relief under this section shall, so far as possible, reduce relief for an earlier year of assessment before reducing relief for a later one.
- (4) Any sum paid under section 268 or 269 by reason of any event shall be treated—
- (a) as between the parties, as received by the person by whom the premiums under the policy were paid; and

- (b) for the purposes of section 266, as a sum paid by that person in satisfaction of his liability resulting from the reduction of relief under this section; and where that sum exceeds that liability he shall be entitled, on a claim made by him not later than six years after the end of the year of assessment in which the event happens, to repayment of the excess.

271 Deemed surrender in cases of certain loans

(1) Where—

- (a) under section 547 a gain arising in connection with a policy or contract would be treated as forming part of an individual's total income; and
- (b) the policy was issued in respect of an insurance made after 26th March 1974 or the contract was made after that date; and
- (c) any sum is at any time after the making of the insurance or contract lent to or at the direction of that individual by or by arrangement with the body issuing the policy or, as the case may be, the body with which the contract was made;

then, subject to subsection (2) below, the same results shall follow under sections 268 to 270 as if at the time the sum was lent there had been a surrender of part of the rights conferred by the policy or contract and the sum had been paid as consideration for the surrender (and if the policy is a qualifying policy, whether or not the premiums under it are eligible for relief under section 266, those results shall follow under section 269, whether or not a gain would be treated as arising on the surrender).

(2) Subsection (1) above does not apply—

- (a) in relation to a policy if—
 - (i) it is a qualifying policy; and
 - (ii) either interest at a commercial rate is payable on the sum lent or the sum is lent to a full-time employee of the body issuing the policy for the purpose of assisting him in the purchase or improvement of a dwelling used or to be used as his only or main residence; or
- (b) in relation to a contract if and to the extent that interest on the sum lent is eligible for relief under section 353 by virtue of section 365.

272 Collection of sums payable under sections 268 and 269

- (1) Any body by whom a policy to which section 268 or 269 applies has been issued shall, within 30 days of the end of each period of 12 months ending with 31st March in every year, make a return to the collector of the sums which, in that period, have become payable by it under either of those sections.
- (2) Any sum which is to be included in a return made under subsection (1) above shall be due at the time by which the return is to be made and shall be paid without being demanded.
- (3) Where any sum which was or ought to have been included in such a return is not paid by the end of the period for which the return was to be made, it may be recovered by an assessment as if it were income tax for the year of assessment in which that period ends; and where it appears to the inspector that a sum which ought to have been so included had not been included or that a return is not correct he may make such an assessment to the best of his judgment.

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

- (4) All the provisions of the Income Tax Acts relating to the assessment and collection of tax, interest on unpaid tax, appeals and penalties shall, with the necessary modifications, apply in relation to sums due under this section; and for the purposes of those provisions so far as they relate to interest on unpaid tax, a sum assessed in pursuance of this section shall be treated as having been payable when it would have been payable had it been included in a return under subsection (1) above.
- (5) Where, on an appeal against an assessment made in pursuance of this section, it is determined that a greater sum has been assessed than was payable, the excess, if paid, shall be repaid.
- (6) Where a body has paid a sum which is payable under section 268 or 269 it shall give within 30 days to the person by whom the sum is, under section 270(4), treated as received a statement specifying that sum and showing how it has been arrived at.
- (7) The Board or an inspector may, by notice served on the body by whom a policy to which section 268 or 269 applies has been issued, require the body, within such time, not being less than 30 days, as may be specified in the notice—
 - (a) to furnish such particulars; or
 - (b) to make available for inspection by an officer authorised by the Board such books and other documents in the possession or under the control of the body; as the Board or officer may reasonably require for the purposes of those sections or this section.

273 Payments securing widows' and children's annuities

Subject to sections 274, 617(3) and 619(6), if the claimant is, under any Act of Parliament or under the terms or conditions of his employment, liable to the payment of any sum, or to the deduction from his salary or stipend of any sum, for the purpose of securing a deferred annuity to his widow or provision for his children after his death, he shall be entitled to a deduction from the amount of income tax with which he is chargeable equal to income tax at the basic rate on the amount of the sum paid by him or deducted from his salary or stipend.

274 Limits on relief under sections 266 and 273

- (1) The aggregate of the premiums or other sums in respect of which relief is given to any person under section 266 shall not exceed £1,500 in any year of assessment or one-sixth of that person's total income, whichever is the greater.
- (2) The aggregate of the relief given under sections 266 and 273 in respect of premiums or sums payable for securing any benefits other than capital sums on death shall not exceed the amount of the income tax calculated at the appropriate rate on £100.
- (3) In subsection (2) above "the appropriate rate"—
 - (a) in relation to premiums to which section 266 applies, means 15 per cent.;
 - (b) in relation to other payments, means the basic rate of income tax.
- (4) War insurance premiums shall not be taken into account in calculating the limits of one-sixth of total income or of £100 mentioned in this section.

In this subsection "war insurance premiums" means any additional premium or other sum paid in order to extend an existing life insurance policy to risks arising from war

or war service abroad, and any part of any premium or other sum paid in respect of a life insurance policy covering those risks, or either of them, which appears to the inspector to be attributable to those risks, or either of them.

Supplemental

275 Meaning of “relative”

In this Chapter “relative” includes any person of whom the person claiming a relief had the custody and whom he maintained at his own expense while that person was under the age of 16 years.

276 Effect on relief of charges on income

- (1) Where any of the claimant’s income is income the income tax on which (at the basic rate) he is entitled to charge against any other person, or to deduct, retain or satisfy out of any payment, he shall not be entitled to relief under this Chapter in respect of that income, except to the extent, if any, that the relief would exceed tax at the basic rate on that income.
- (2) Notwithstanding subsection (1) above, relief under section 273 may be given to the extent that the deduction from tax provided for by that section can be made from so much of the income tax with which the claimant is chargeable as exceeds what would be the amount of that tax if all income tax were chargeable at the basic rate to the exclusion of any other rate.

277 Partners

- (1) Subject to subsection (2) below, the following persons having joint interests, that is to say—
 - (a) coparceners, joint tenants, or tenants in common of the profits of any property, and
 - (b) joint tenants, or tenants of land or tenements in partnership, being in the actual and joint occupation thereof in partnership, who are entitled to the profits thereof in shares, and
 - (c) partners carrying on a trade, profession or vocation together who are entitled to the profits thereof in shares,may claim any relief under this Chapter according to their respective shares and interests, and any such claims which are proved may be dealt with in the same manner as in the case of several interests.
- (2) The income of a partner from a partnership carrying on any trade, profession or vocation shall be deemed to be the share to which he is entitled during the year to which the claim relates in the partnership profits, such profits being estimated according to the provisions of the Income Tax Acts.

278 Non-residents

- (1) Subject to the provisions of this section, no relief under this Chapter shall be given in the case of any individual who is not resident in the United Kingdom.

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

- (2) Subject to subsection (3) below, subsection (1) above shall not apply in the case of any individual who satisfies the Board that he or she—
- (a) is a Commonwealth citizen or a citizen of the Republic of Ireland; or
 - (b) is a person who is or who has been employed in the service of the Crown, or who is employed in the service of any missionary society or in the service of any territory under Her Majesty's protection; or
 - (c) is resident in the Isle of Man or the Channel Islands; or
 - (d) has previously resided within the United Kingdom, and is resident abroad for the sake of his or her health, or the health of a member of his or her family resident with him or her; or
 - (e) is a widow whose late husband was in the service of the Crown.

- (3) No relief under this Chapter shall be given so as to reduce the amount of the income tax payable by the individual below the amount which results from applying the fraction—

$$\frac{A}{B}$$

to the amount which would have been payable by him by way of income tax if the tax were chargeable on his total income from all sources (including income which is not subject to income tax charged in the United Kingdom) where—

A is the amount of his income subject to income tax charged in the United Kingdom; and

B is the amount of his total income.

- (4) Subsection (3) above shall have effect as if the amount of any relief to which an individual is entitled under section 266(4) were an amount by which his liability to income tax is reduced.
- (5) For the purposes of subsection (3) above as it applies to an individual whose income includes income eligible for double taxation relief—
- (a) in computing the amount of the income tax payable by the individual, the tax chargeable in respect of the income eligible for double taxation relief shall be disregarded;
 - (b) in computing the amount of his income subject to income tax charged in the United Kingdom, the income eligible for double taxation relief shall be disregarded; and
 - (c) in computing his total income from all sources, including income which is not subject to income tax charged in the United Kingdom, income eligible for double taxation relief shall be included, and the income tax which would be chargeable on that total income shall be computed without regard to the double taxation relief available in respect of the income eligible for double taxation relief;

and, accordingly, where this subsection applies, the amount of the tax chargeable in respect of the income eligible for double taxation relief shall not be affected by subsections (2) and (3) above.

- (6) Subsection (5) shall not operate so as to make the tax payable by an individual for a year of assessment higher than it would have been if the double taxation relief had not been available.

- (7) In subsection (5) above “income eligible for double taxation relief” means any dividends, interest, royalties or other profits which are chargeable to income tax but in respect of which relief (other than credit) is available under an Order in Council under section 788 so as to limit the rate of income tax so chargeable (but not so as to confer an exemption and make it income which is not subject to income tax charged in the United Kingdom).
- (8) Any claim which an individual is entitled to make by virtue of subsection (2) above shall be made to the Board.

CHAPTER II

TAXATION OF INCOME OF SPOUSES

General rules

279 Aggregation of wife’s income with husband's

- (1) Subject to the provisions of this Chapter, a woman’s income chargeable to income tax shall, so far as it is income for—
- (a) a year of assessment; or
 - (b) any part of a year of assessment, being a part beginning with 6th April, during which she is a married woman living with her husband, be deemed for income tax purposes to be his income and not to be her income.
- (2) The question whether there is any income of hers chargeable to income tax for any year of assessment and, if so, what is to be taken to be the amount thereof for income tax purposes shall not be affected by the provisions of subsection (1) above.
- (3) Any tax falling to be assessed in respect of any income which, under subsection (1) above, is to be deemed to be the income of a woman’s husband shall, instead of being assessed on her, or on her trustee, guardian, curator, receiver or committee, or on her executors or administrators, be assessable on him or, in the appropriate cases, on his trustee, guardian, curator, receiver or committee, or on his executors or administrators.
- (4) Nothing in subsection (3) above shall affect the operation of section 111.
- (5) Any deduction from a man’s total income made under section 257(6) and (7) shall be treated as reducing the earned income of his wife.
- (6) References in this section to a woman’s income include references to any sum which, apart from the provisions of this section, would fall to be included in computing her total income, and this subsection has effect in relation to any such sum notwithstanding that some enactment (including, except so far as the contrary is expressly provided, an enactment passed after the passing of this Act) requires that that sum should not be treated as income of any person other than her.
- (7) For the purposes of sections 380 and 381 of this Act and section 71 of the 1968 Act (set off of capital allowances against general income), subsection (1)(b) above shall have effect as if the words “being a part beginning with 6th April” were omitted.

280 Transfer of reliefs

- (1) Where during any part of a year of assessment a husband and wife are living together but his income for that year does not or, if there were any, would not include any of hers, then if either of them—
 - (a) would, if he or she had sufficient income for that year, be entitled to have any amount deducted from or set off against it under a provision to which this subsection applies, and
 - (b) makes a claim in that behalf,
 that amount or, as the case may be, so much of it as cannot be deducted from or set off against his or her own income for that year shall instead be deducted from and set off against the income for that year of the other spouse.
- (2) Subsection (1) above applies—
 - (a) in the case of the husband, to any provision of Chapter I of this Part and sections 289 and 353;
 - (b) in the case of the wife, to—
 - (i) any provision of that Chapter except sections 257(1)(b), (2)(b) and (3)(b), 258, 259 and 262;
 - (ii) section 289 but only in respect of amounts subscribed by her for shares issued in the part of the year of assessment mentioned in subsection (1) above; and
 - (iii) section 353 so far as applicable to interest paid in the part of the year mentioned in subsection (1) above.

281 Tax repayments to wives

- (1) Where in any year of assessment tax has been deducted under section 203 from the earned income of a wife and, apart from this section, a repayment of tax for that year would fall to be made to her husband in consequence of an assessment under Schedule E, so much of the repayment as is attributable to the tax so deducted shall be made to her and not to him.
- (2) The amount of a repayment attributable to tax deducted as mentioned in subsection (1) above is the excess (if any) of the total net tax so deducted in the year of assessment over the tax chargeable on the wife's relevant earned income included in her husband's total income for that year after allowing—
 - (a) any relief for that year under section 266 in respect of any payment made by her of the kind mentioned in paragraph 5 of Schedule 14; and
 - (b) any relief for that year to which her husband is entitled under any other provision of the Income Tax Acts to the extent to which it cannot be allowed because his income, exclusive of her earned income, is insufficient;
 but that amount shall not exceed the aggregate of the amounts repayable for that year in respect of the total net tax deducted in that year under section 203 from the income of the wife and the income of her husband.
- (3) Where in consequence of an assessment under Schedule E any amount is repayable under this section to the wife of the person on whom the assessment is made the inspector shall notify both of them of his determination of that amount and, subject to subsection (4) below, an appeal shall lie against the determination as if it were a decision on a claim.

- (4) Any appeal under subsection (3) above shall be to the General Commissioners for the division in which the spouses reside or, if they reside in different divisions, for the division in which one of them resides, as the Board may direct, or, if neither of them resides in Great Britain, to the Special Commissioners; and on any such appeal by one of the spouses the other shall have the same rights as an appellant, including any right to require the statement of a case for the opinion of the court.
- (5) The Board may make regulations—
- (a) modifying subsection (2) above in relation to such cases as may be specified in the regulations;
 - (b) modifying section 824 in relation to cases in which a repayment falls to be made under this section.
- (6) This section does not apply to any repayment for a year of assessment—
- (a) for which the husband is chargeable to income tax at a rate or rates higher than the basic rate; or
 - (b) for which any earned income of the wife has been assessed otherwise than under Schedule E.
- (7) For the purposes of this section earned income of a wife has the same meaning as for the purposes of subsection (6) of section 257 and relevant earned income of a wife means so much of her earned income as exceeds the relief available in respect of it under that subsection.
- (8) References in this section to the total net tax deducted in any year under section 203 are references to the total income tax deducted during that year by virtue of regulations made under that section less any income tax repaid by virtue of any such regulations.

282 Construction of references to married women living with their husbands

- (1) A married woman shall be treated for income tax purposes as living with her husband unless—
- (a) they are separated under an order of a court of competent jurisdiction, or by deed of separation, or
 - (b) they are in fact separated in such circumstances that the separation is likely to be permanent.
- (2) Where a married woman is living with her husband and either—
- (a) one of them is, and the other is not, resident in the United Kingdom for a year of assessment, or
 - (b) both of them are resident in the United Kingdom for a year of assessment, but one of them is, and the other is not, absent from the United Kingdom throughout that year,
- the same consequences shall follow for income tax purposes as would have followed if, throughout that year of assessment, they had been in fact separated in such circumstances that the separation was likely to be permanent.
- (3) Where subsection (2) above applies and the net aggregate amount of income tax falling to be borne by the husband and the wife for the year is greater than it would have been but for that subsection, the Board shall cause such relief to be given (by the reduction of such assessments on the husband or the wife or the repayment of such tax paid, by

deduction or otherwise, by the husband or the wife, as the Board may direct) as will reduce that net aggregate amount by the amount of the excess.

Separate assessments

283 Option for separate assessment

- (1) If, within six months before the 6th July in any year of assessment for which his income would include any of hers, a husband or a wife makes an application for the purpose in such manner and form as the Board may prescribe, income tax for that year shall be assessed, charged and recovered on the income of the husband and on the income of the wife as if they were not married, and all the provisions of the Income Tax Acts with respect to the assessment, charge and recovery of income tax shall, save as otherwise provided by those Acts, apply as if they were not married.
- (2) Notwithstanding an application under subsection (1) above the income of the husband and the wife shall be treated as one in estimating total income; and the amount of tax payable by each of them shall be ascertained by first dividing between them, in proportion to the amounts of their respective incomes, the amount that would be payable by them if no reliefs were given under Chapter I or III of this Part and then applying section 284 to give effect to those reliefs.
- (3) Subject to subsection (4) below, an application duly made by a husband or wife under subsection (1) above shall have effect, not only as respects the year of assessment for which it is made, but also for any subsequent year of assessment.
- (4) A person who has made any such application for any year of assessment may give, for any subsequent year of assessment, a notice to withdraw that application, and where such a notice is given, the application shall not have effect with respect to the year for which the notice is given or any subsequent year.
- (5) A notice of withdrawal under subsection (4) above shall be in such form, and be given in such manner, as may be prescribed by the Board, and shall not be valid unless it is given within the period allowed by law for making, for the year for which the notice is given, applications similar to that to which the notice relates.

284 Effect of separate assessment on personal reliefs

- (1) Where, by virtue of an application under section 283(1), income tax for any year of assessment is to be assessable and chargeable on the incomes of a husband and wife as if they were not married, the total relief given to the husband and the wife by way of personal reliefs shall be the same as if the application had not had effect with respect to the year and, subject to subsections (2) and (3) below, the reduction of tax flowing from the personal reliefs shall be allocated to the husband and the wife—
 - (a) so far as it flows from relief under section 273 or Chapter III of this Part, to the husband or the wife according as he or she made the payment giving rise to the relief;
 - (b) so far as it flows from relief in respect of a dependent relative under section 263 or relief in respect of a son or daughter under section 264, to the husband or the wife according as he or she maintains the relative or son or daughter; and
 - (c) as to the balance, in proportion to the amounts of tax which would have been payable by them respectively if no personal reliefs had been allowable.

- (2) Subject to subsection (3) below, the amount of reduction of tax allocated to the wife by virtue of subsection (1) above shall not be less than the reduction resulting from section 279(5) in the tax chargeable in respect of her earned income, and the amount of reduction of tax allocated to the husband shall be correspondingly reduced.
- (3) Where the amount of reduction of tax allocated to the husband under subsection (1) above exceeds the tax chargeable on the income of the husband for the year of assessment, the balance shall be applied to reduce the tax chargeable on the income of the wife for that year; and where the amount of reduction of tax allocated to the wife under that subsection exceeds the tax chargeable on her income for the year of assessment, the balance shall be applied to reduce the tax chargeable on the income of the husband for that year.
- (4) Returns of the total incomes of the husband and the wife may be made for the purposes of this section either by the husband or by the wife, but, if the Board are not satisfied with any such return, they may obtain a return from the wife or the husband, as the case may be.
- (5) In this section “personal reliefs” means the reliefs provided for by Chapters I and III of this Part.

285 Collection from wife of tax assessed on husband but attributable to her income

- (1) Where—
 - (a) an assessment to income tax (“the original assessment”) is made on a man, or on a man’s trustee, guardian, curator, receiver or committee, or on a man’s executors or administrators; and
 - (b) the Board are of opinion that, if an application for separate assessment under section 283(1) had been in force with respect to the year for which the assessment is made, an assessment (“the potential assessment”) in respect of, or of part of, the same income would have fallen to be made on, or on the trustee, guardian, curator, receiver or committee of, or on the executors or administrators of, a woman who is that man’s wife, or was his wife in that year of assessment; and
 - (c) the whole or part of the amount payable under the original assessment has remained unpaid at the expiration of 28 days from the time when it became due;the Board may serve on her, or, if she is dead, on her executors or administrators, or, if the potential assessment could in the event referred to in paragraph (b) above have been made on her trustee, guardian, curator, receiver or committee, on her or on her trustee, guardian, curator, receiver or committee, a notice—
 - (i) giving particulars of the original assessment, and of the amount remaining unpaid thereunder, and
 - (ii) giving particulars, to the best of their judgment, of the potential assessment, and requiring the person on whom the notice is served to pay the amount which would have been payable under the potential assessment if it conformed with those particulars, or the amount remaining unpaid under the original assessment, whichever is the less.
- (2) The same consequences as respects—
 - (a) the imposition of a liability to pay, and the recovery of, the tax, with or without interest; and

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- (b) priority for the tax in bankruptcy, or in the administration of the estate of a deceased person; and
 - (c) appeals to the General or Special Commissioners, and the stating of cases for the opinion of the High Court; and
 - (d) the ultimate incidence of the liability imposed,
- shall follow on the service of a notice under subsection (1) above on a woman, or on her trustee, guardian, curator, receiver or committee, or on her executors or administrators, as would have followed on the making on her, or on her trustee, guardian, curator, receiver or committee, or on her executors or administrators, as the case may be, of the potential assessment, being an assessment which—
- (i) was made on the day of the service of the notice, and
 - (ii) charged the same amount of income tax as is required to be paid by the notice, and
 - (iii) fell to be made, and was made, by the authority who made the original assessment, and
 - (iv) was made by that authority to the best of their judgment,
- and the provisions of the Income Tax Acts relating to the matters specified in paragraphs (a) to (d) above shall, with the necessary adaptations, have effect accordingly.
- (3) Where an appeal against the original assessment has been heard in whole or in part by the Special Commissioners, any appeal from the notice under subsection (1) above shall be an appeal to the Special Commissioners, and where an appeal against the original assessment has been heard in whole or in part by the General Commissioners for any division, any appeal from the notice shall be an appeal to the General Commissioners for that division.
- (4) Where a notice is given under subsection (1) above—
- (a) income tax up to the amount required to be paid by the notice shall cease to be recoverable under the original assessment, and
 - (b) where the tax charged by the original assessment carried interest under section 86 of the Management Act, such adjustment shall be made of the amount payable under that section in relation to that assessment, and such repayment shall be made of any amounts previously paid under that section in relation thereto, as are necessary to secure that the total sum, if any, paid or payable under that section in relation to that assessment is the same as it would have been if the amount which ceases to be recoverable had never been charged.
- (5) Where the amount payable under a notice given under subsection (1) above is reduced as the result of an appeal, or of the stating of a case for the opinion of the High Court—
- (a) the Board shall, if in the light of that result they are satisfied that the original assessment was excessive, cause such relief to be given by way of repayment or otherwise as appears to them to be just, but
 - (b) subject to any relief so given, a sum equal to the reduction in the amount payable under the notice shall again become recoverable under the original assessment.
- (6) The Board and the inspector shall have the like powers of obtaining information with a view to the giving of, and otherwise in connection with, a notice under subsection (1) above as they would have had with a view to the making of, and otherwise in

connection with, the potential assessment if the necessary conditions had been fulfilled for the making of such an assessment.

286 Right of husband to disclaim liability for tax on deceased wife's income

- (1) Where a woman dies who at any time before her death was a married woman living with her husband, he or, if he is dead, his executors or administrators, may, not later than two months from the date of the grant of probate or letters of administration in respect of her estate or, with the consent of her executors or administrators, at any later date, serve on her executors or administrators and on the inspector a notice declaring that, to the extent permitted by this section, he disclaims or they disclaim responsibility for unpaid income tax in respect of all income of hers for any year of assessment or part of a year of assessment during which he was her husband and she was living with him.
- (2) A notice under subsection (1) above shall not be deemed to be validly served on the inspector unless it specifies the names and addresses of the woman's executors or administrators.
- (3) Where a notice under subsection (1) above has been duly served on a woman's executors or administrators and on the inspector—
 - (a) it shall be the duty of the Board to exercise such powers as they may then or thereafter be entitled to exercise under section 285 in connection with any assessment made on or before the date when the service of the notice is completed, being an assessment in respect of any of the income to which the notice relates; and
 - (b) the assessments (if any) which may be made after that date shall in all respects, and in particular as respects the persons assessable and the tax payable, be the assessments which would have fallen to be made if—
 - (i) an application for separate assessment under section 283(1) had been in force in respect of the year of assessment in question; and
 - (ii) all assessments previously made had been made accordingly.
- (4) In the application of this section to Scotland, the reference to the date of the grant of probate or letters of administration shall be construed as a reference to the date of confirmation.

Separate taxation

287 Separate taxation of wife's earnings

- (1) Where a man and his wife living with him jointly so elect or have elected for any year of assessment, the wife's earnings and their other income shall be chargeable to income tax as provided in the following provisions of this section.
- (2) References in this section to the wife's earnings are references to any earned income of hers other than—
 - (a) income arising in respect of any pension, superannuation or other allowance, deferred pay or compensation for loss of office given in respect of the husband's past services in any office or employment; or
 - (b) any payment of benefit under the Social Security Acts except a Category A retirement pension (exclusive of any increase under section 10 of the Social Security Pensions Act 1975 or Article 12 of the Social Security

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Pensions (Northern Ireland) Order 1975), unemployment benefit or invalid care allowance.

In this subsection “the Social Security Acts” means the Social Security Acts 1975 and the Social Security (Northern Ireland) Acts 1975.

- (3) In charging the income of the husband and wife in accordance with section 279—
- (a) the wife’s earnings shall be charged to income tax as if she were a single woman with no other income; and
 - (b) the husband’s other income shall be charged to income tax as if the wife’s earnings were nil.
- (4) Subject to subsections (5) and (6) below, the reliefs to be given under Chapter I of this Part shall be determined as if the husband and the wife were not married and—
- (a) the wife’s earnings were her only income; and
 - (b) the husband’s income included all income of the wife, other than her earnings; and accordingly the reliefs to be given under that Chapter in respect of the income chargeable under either paragraph (a) or paragraph (b) of subsection (3) above shall not reduce the tax or the income chargeable under the other of those paragraphs.
- (5) No relief shall be given to either the husband or the wife under section 257(2) or (3) or 259.
- (6) References in Chapter I of this Part to the claimant shall be construed as including the wife.
- (7) Notwithstanding anything to the contrary in the Income Tax Acts, where any amount is under any provision of those Acts to be deducted from or set off against income in respect of any payments, loss or capital allowance, then—
- (a) if under that provision it is (or is in the first instance) to reduce the wife’s earned income, or is to be deducted or set off in respect of payments made by her or, in the case of relief under Chapter III of this Part, in respect of a payment made by her as a subscription for shares, it shall be treated as reducing her earnings and as not reducing any other income; and
 - (b) in any other case, it shall be treated as not reducing the wife’s earnings.
- (8) Subsection (7) above shall not affect the giving of any relief under section 388 for a year of assessment for which no election under this section was in force.
- (9) Income tax charged on the wife’s earnings under subsection (3)(a) above shall, whether or not an application under section 283 is in force, be assessed and recovered as if she were a single woman, and any repayment of tax assessed in pursuance of this subsection shall be made to her.
- (10) Where subsection (4) of section 284 applies for the purposes of subsections (1) to (3) of that section, it shall apply also for the purposes of this section; but, subject to that, nothing in this section shall be taken to affect the provisions of the Management Act as to returns.

288 Elections under section 287

- (1) An election under section 287 (“an election”) must be made in such form and manner as the Board may prescribe and must be made not earlier than six months before the

beginning of the year of assessment for which it is made nor later than 12 months after the end of that year or such later time as the Board may in any particular case allow.

- (2) An election for any year of assessment shall, unless revoked, have effect for any subsequent year of assessment.
- (3) An election in force for any year may be revoked by notice in such form and manner as the Board may prescribe and any such notice must be given jointly by the husband and the wife not later than 12 months after the end of that year or such later time as the Board may in any particular case allow.
- (4) An election or revocation of an election under this section that could have been made jointly with a person who has died may, within the time permitted by this section, be made jointly with his personal representatives.

CHAPTER III

RELIEF FOR INVESTMENT IN CORPORATE TRADES: THE BUSINESS EXPANSION SCHEME

289 The relief

- (1) This Chapter has effect for affording relief from income tax where an individual who qualifies for the relief subscribes for eligible shares in a qualifying company, and either—
 - (a) those shares are issued to him after 5th April 1983 for the purpose of raising money for a qualifying trade which is being carried on by the company or which it intends to carry on; or
 - (b) those shares are issued to him after 18th March 1986 for the purpose of raising money—
 - (i) for research and development which is being carried on by the company or by any subsidiary of the company on the date on which the shares are issued, or begins so to be carried on immediately thereafter, and from which it is intended that a qualifying trade (to be so carried on) will be derived; or
 - (ii) both for any such research and development and the resulting trade; or
 - (c) those shares are issued to him after 5th April 1985 and before 19th March 1986 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; or
 - (d) those shares are issued to him after the passing of the Finance Act 1986 (25th July 1986) for the purpose of raising money for oil exploration which—
 - (i) is being carried on by the company, or by any subsidiary of the company, on the date on which the shares are issued; or
 - (ii) begins so to be carried on immediately thereafter;
 and from which it is intended that a qualifying trade (to be so carried on) will be derived.

- (2) Subsection (1)(d) above shall not apply unless—
- (a) throughout the period of three years beginning with the date on which the shares were issued the company, or any subsidiary of the company, holds an exploration licence which was granted to it, or to another such subsidiary;
 - (b) the exploration is carried out solely within the area to which the licence applies; and
 - (c) on the date on which the shares are issued, neither the company nor any subsidiary of the company holds an appraisal licence or a development licence relating to that area or any part of that area.
- (3) Where, at any time after the issue of the shares but before the end of the period mentioned in subsection (2)(a) above, the company, or any subsidiary of the company, comes to hold an appraisal licence or development licence which relates to the area, or any part of the area, to which the exploration licence relates, the exploration licence and that other licence shall be treated for the purposes of subsection (2)(a) above as a single exploration licence.
- (4) In this Chapter “eligible shares” means new ordinary shares which, throughout the period of five years beginning with the date on which they are issued, carry no present or future preferential right to dividends or to a company’s assets on its winding up and no present or future preferential right to be redeemed.
- (5) Subject to subsection (6) below, the relief in respect of the amount subscribed by an individual for any eligible shares shall be given as a deduction of that amount from his total income for the year of assessment in which the shares are issued, and references in this Chapter to the amount of the relief are references to the amount of that deduction.
- (6) 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 partly by way of deduction from his total income for the preceding year of assessment.
- (7) 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 subsection (6) 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.
- (8) The relief shall be given on a claim and shall not be allowed—
- (a) in a case falling within subsection (1)(a)—
 - (i) unless and until the company has carried on the trade for four months; and
 - (ii) if the company is not carrying on that trade at the time when the shares are issued, unless the company begins to carry it on within two years after that time;

- (b) in a case falling within subsection (1)(b) or (c) unless and until the company or (as the case may be) the subsidiary has carried on the research and development for four months;
 - (c) in a case falling within subsection (1)(d) unless and until the company has carried on the exploration for four months.
- (9) A claim for relief may be allowed—
 - (a) under subsection (1)(a), (c) or (d) at any time after the trade, the research and development or the exploration (as the case may be) has been carried on by the company for four months;
 - (b) under subsection (1)(b) at any time after the research and development has been carried on for four months;if the conditions for the relief are then satisfied.
- (10) In the case of a claim allowed before the end of the relevant period, the relief shall be withdrawn if by reason of any subsequent event it appears that the claimant was not entitled to the relief allowed.
- (11) An individual is not entitled to relief in respect of any shares unless the shares are subscribed for and issued for bona fide commercial purposes and not as part of a scheme or arrangement the main purpose, or one of the main purposes of which, is the avoidance of tax.
- (12) In this Chapter “the relevant period”, in relation to relief in respect of any eligible shares issued by a company, means—
 - (a) as respects sections 291, 299, 300, 302 and 303, the period beginning with the incorporation of the company (or, if the company was incorporated more than two years before the date on which the shares were issued, beginning two years before that date) and ending five years after the issue of the shares; and
 - (b) as respects sections 293, 294, 297, 308 and 309, the period beginning with the date on which the shares were issued and ending either—
 - (i) three years after that date; or
 - (ii) in a case falling within subsection (1)(a), where the company was not at that date carrying on a qualifying trade, three years after the date on which it subsequently began to carry on such a trade.
- (13) Where by reason of its being wound up, or dissolved without winding up, the company carries on the qualifying trade for a period shorter than four months, subsection (8)(a) above shall have effect as if it referred to that shorter period but only if it is shown that the winding up or dissolution was for bona fide commercial reasons and not as part of a scheme or arrangement the main purpose or one of the main purposes of which was the avoidance of tax.
- (14) The relief shall be treated for the purposes of section 835(5) as a deduction to be made under Chapter I of this Part after all other deductions under that Chapter and shall be disregarded for the purposes of calculating relief under section 550(2), paragraph 3 of Schedule 2 and paragraphs 4 and 16 of Schedule 11 where an election has effect under paragraph 12 of that Schedule.
- (15) Where effect is given to a claim for relief by repayment of tax, section 824 shall have effect in relation to the repayment as if the time from which the 12 months mentioned in subsections (1)(b) and (3)(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 subsection (8)(a) above ends in a later year, the end of that later year.

290 Minimum and maximum subscriptions

- (1) Subject to section 311(3), the relief shall not be given in respect of any amount subscribed by an individual for eligible shares issued to him by any company in any year of assessment unless the amount or total amount subscribed by him for the eligible shares issued to him by the company in that year is £500 or more.
- (2) No more than £40,000 may be deducted by way of relief under section 289 from the total income of an individual for a year of assessment.

291 Individuals qualifying for relief

- (1) Subject to section 292, an individual qualifies for the relief if he—
 - (a) subscribes for the eligible shares on his own behalf,
 - (b) is resident and ordinarily resident in the United Kingdom at the time when they are issued, and
 - (c) is not at any time in the relevant period connected with the company;
 and, in relation to shares issued after 5th April 1986, an individual who is at any time performing duties which are treated by virtue of section 132(4)(a) as performed in the United Kingdom shall be treated for the purposes of this section as resident and ordinarily resident in the United Kingdom at that time.
- (2) An individual is connected with the company if he, or an associate of his, is—
 - (a) an employee of the company or of a partner of the company;
 - (b) a partner of the company; or
 - (c) subject to subsection (3) below, a director of the company or of another company which is a partner of that company.
- (3) An individual is not connected with a company by reason only that he, or an associate of his, is a director unless he or his associate (or a partnership of which he or his associate is a member) receives a payment from the company during the period of five years beginning with the date on which the shares are issued or is entitled to receive such a payment in respect of that period or any part of it; but for that purpose there shall be disregarded—
 - (a) any payment or reimbursement of travelling or other expenses wholly, exclusively and necessarily incurred by him or his associate in the performance of his duties as a director of the company;
 - (b) any interest which represents no more than a reasonable commercial return on money lent to the company;
 - (c) any dividend or other distribution which does not exceed a normal return on the investment;
 - (d) any payment for the supply of goods which does not exceed their market value; and
 - (e) any reasonable and necessary remuneration which —
 - (i) is paid for services rendered to the company in the course of a trade or profession (not being secretarial or managerial services or services of a kind provided by the company itself); and
 - (ii) is taken into account in computing the profits or gains of the trade or profession under Case I or II of Schedule D or would be so taken into account if it fell in a period on the basis of which those profits or gains are assessed under that Schedule.

- (4) An individual is connected with the company if he directly or indirectly possesses or is entitled to acquire more than 30 per cent. of—
- (a) the issued ordinary share capital of the company; or
 - (b) the loan capital and issued share capital of the company; or
 - (c) the voting power in the company.
- (5) For the purposes of subsection (4)(b) above the loan capital of a company shall be treated as including any debt incurred by the company—
- (a) for any money borrowed or capital assets acquired by the company; or
 - (b) for any right to receive income created in favour of the company; or
 - (c) for consideration the value of which to the company was (at the time when the debt was incurred) substantially less than the amount of the debt (including any premium thereon).
- (6) An individual is connected with the company if he directly or indirectly possesses or is entitled to acquire such rights as would, in the event of the winding up of the company or in any other circumstances, entitle him to receive more than 30 per cent. of the assets of the company which would then be available for distribution to equity holders of the company, and for the purposes of this subsection—
- (a) the persons who are equity holders of the company, and
 - (b) the percentage of the assets of the company to which the individual would be entitled,
- shall be determined in accordance with paragraphs 1 and 3 of Schedule 18, taking references in paragraph 3 to the first company as references to an equity holder and references to a winding up as including references to any other circumstances in which assets of the company are available for distribution to its equity holders.
- (7) An individual is connected with a company if he has control of it within the meaning of section 840.
- (8) For the purposes of this section an individual shall be treated as entitled to acquire anything which he is entitled to acquire at a future date or will at a future date be entitled to acquire, and there shall be attributed to any person any rights or powers of any other person who is an associate of his.
- (9) In determining for the purposes of this section whether an individual is connected with a company, no debt incurred by the company by overdrawing an account with a person carrying on a business of banking shall be treated as loan capital of the company if the debt arose in the ordinary course of that business.
- (10) Where an individual subscribes for shares in a company with which he is not connected (either within the meaning of this section or by virtue of section 309(6)(b)) he shall nevertheless be treated as connected with it if he subscribes for the shares as part of any arrangement which provides for another person to subscribe for shares in another company with which that or any other individual who is a party to the arrangement is connected (within the meaning of this section or by virtue of section 309(6)(b)).

292 Parallel trades

- (1) An individual is not entitled to relief in respect of any shares in a company which are issued after 18th March 1986 where, at the date mentioned in subsection (2) below—
- (a) he is one of a group of persons—

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- (i) who control the company; or
- (ii) to whom belongs an interest amounting in the aggregate to more than a half share in the trade carried on by the company;
- (b) he is also an individual, or one of a group of persons—
 - (i) controlling another company; or
 - (ii) to whom belongs an interest amounting in the aggregate to more than a half share in another trade; and
- (c) the trade carried on by the company, or a substantial part of it—
 - (i) is concerned with the same or similar types of property or parts thereof or provides the same or similar services or facilities; and
 - (ii) serves substantially the same or similar outlets or markets;
 as the other trade or (as the case may be) the trade carried on by the other company.
- (2) The date mentioned in subsection (1) above is—
 - (a) the date on which the shares are issued; or
 - (b) if later, the date on which the company begins to carry on the trade.
- (3) For the purposes of subsection (1) above—
 - (a) the persons to whom a trade belongs, and (where a trade belongs to two or more persons) their respective shares in that trade, shall be determined in accordance with section 344(1)(a) and (b), (2) and (3); and
 - (b) any interest, rights or powers of a person who is an associate of another person shall be treated as those of that other person.
- (4) For the purposes of this section—
 - (a) references to a company’s trade include references to the trade of any of its subsidiaries; and
 - (b) “trade” in the expressions “another trade”, “other trade” and “trade carried on by the other company” includes any business, profession or vocation.

293 Qualifying companies

- (1) Subject to section 294, a company is a qualifying company if it is incorporated in the United Kingdom and complies with the requirements of this section.
- (2) The company must, throughout the relevant period, be an unquoted company which is resident in the United Kingdom and not resident elsewhere, and be—
 - (a) a company which exists wholly, or substantially wholly, for the purpose of carrying on wholly or mainly in the United Kingdom one or more qualifying trades; or
 - (b) a company whose business consists wholly of—
 - (i) the holding of shares or securities of, or the making of loans to, one or more qualifying subsidiaries of the company; or
 - (ii) both the holding of such shares or securities, or the making of such loans, and the carrying on wholly or mainly in the United Kingdom of one or more qualifying trades.
- (3) In this section “qualifying subsidiary”, in relation to a company, means a subsidiary of that company of a kind which may be held by virtue of sections 308 and 309.

- (4) Where a company has one or more qualifying subsidiaries, it shall not be a qualifying company in relation to shares issued after 18th March 1986 if the qualifying trade or trades carried on by the company and its subsidiaries, taken as a whole, are not carried out wholly or mainly in the United Kingdom.
- (5) Without prejudice to the generality of subsection (2) above, but subject to subsection (6) below, a company ceases to comply with that subsection if before the end of the relevant period a resolution is passed, or an order is made, for the winding up of the company (or, in the case of a winding up otherwise than under the Insolvency Act 1986 or the Companies (Northern Ireland) Order 1986, any other act is done for the like purpose) or the company is dissolved without winding up.
- (6) A company shall not be regarded as ceasing to comply with subsection (2) above if it does so by reason of being wound up or dissolved without winding up and—
- (a) it is shown that the winding up or dissolution is for bona fide commercial reasons and not part of a scheme or arrangement the main purpose or one of the main purposes of which is the avoidance of tax; and
 - (b) the company's net assets, if any, are distributed to its members or dealt with as bona vacantia before the end of the relevant period or, in the case of a winding up, the end (if later) of three years from the commencement of the winding up.
- (7) The company's share capital must not, at any time in the relevant period, include any issued shares that are not fully paid up.
- (8) Subject to sections 308 and 309, the company must not at any time in the relevant period—
- (a) control (or together with any person connected with it control) another company or be under the control of another company (or another company and any other person connected with that other company); or
 - (b) be a 51 per cent. subsidiary of another company or itself have a 51 per cent. subsidiary;
- and no arrangements must be in existence at any time in that period by virtue of which the company could fall within paragraph (a) or (b) above.
- (9) A company is not a qualifying company in relation to shares issued before 19th March 1986 if—
- (a) an individual has acquired a controlling interest in the company's trade after 5th April 1983; and
 - (b) at any time in the period mentioned in subsection (10) below he has, or has had, a controlling interest in another trade; and
 - (c) the trade carried on by the company or a substantial part of it—
 - (i) is concerned with the same or similar types of property or parts thereof or provides the same or similar services or facilities as the other trade, or
 - (ii) serves substantially the same or similar outlets or markets as the other trade.
- Section 298(1) and (2) shall apply for the purposes of this subsection.
- (10) The period referred to in subsection (9) above is the period beginning two years before and ending three years after—
- (a) the date on which the shares were issued; or

(b) if later, the date on which the company began to carry on the trade.

(11) In subsections (9) and (10) above references to a company's trade include references to the trade of any of its subsidiaries.

294 Companies with interests in land

(1) Subject to section 296, a company is not a qualifying company in relation to shares issued after 18th March 1986 if at any time during the relevant period—

- (a) the value of the interests in land held by the company at that time; or
- (b) where lower, the value of the interests in land which were held by the company immediately after the issue of the shares (adjusted in accordance with section 295);

is greater than half the value of the company's assets as a whole.

(2) For the purposes of this section, the value of the interests in land held by a company on any date shall be arrived at by first aggregating the market value on that date of each of those interests and then deducting—

- (a) the amount of any debts of the company which are secured on any of those interests (including any debt secured by a floating charge on property which comprises any of those interests);
- (b) the amount of any unsecured debts of the company which do not fall due for payment before the expiry of the period of 12 months beginning with that date; and
- (c) the amount paid up in respect of those shares of the company (if any) which carry a present or future preferential right to the company's assets on its winding up.

(3) For the purposes of this section, the value of a company's assets as a whole shall be arrived at by first aggregating the market value of each of those assets and then deducting the amount of the debts and liabilities of the company.

(4) For the purposes of subsection (3) above, the amount paid up in respect of those shares of a company (if any) which carry a present or future preferential right to the company's assets on its winding up shall be treated as a debt of the company, but otherwise a company's share capital, share premium account and reserves shall not be treated for those purposes as debts or liabilities of the company.

(5) In this section "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—

- (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 arriving at the value of any interest in land for the purposes of this section—

- (a) it shall be assumed that there is no source of mineral deposits in the land of a kind which it would be practicable to exploit by extracting them from underground otherwise than by means of opencast mining or quarrying; and

- (b) any borehole on the land shall be disregarded if it was made in the course of oil exploration.
- (7) Where a company is a member of a partnership which holds any interest in land—
 - (a) that interest shall, for the purposes of this section and sections 295 and 296, be treated as an interest in land held by the company; but
 - (b) its value at any time shall, for those purposes, be taken to be such fraction of its value (apart from this subsection) as is equal to the fraction of the assets of the partnership to which the company would be entitled if the partnership were dissolved at that time.
- (8) Where a qualifying company has one or more subsidiaries, the company and its subsidiaries (“the group”) shall be treated as a single company or the purposes of this section and sections 295 and 296; but any debt owed by, or liability of, one member of the group to another shall be disregarded for those purposes.
- (9) The Treasury may by order amend subsection (1) above by substituting a different fraction for the fraction for the time being specified there.

295 Valuation of interests in land for purposes of section 294(1)(b)

- (1) For the purposes of section 294(1)(b), the value of the interests in land held by a company immediately after the issue of the shares in question (“the original interests”) shall be adjusted by—
 - (a) adding—
 - (i) the cost of any interests in land subsequently acquired by the company (“the later interests”); and
 - (ii) any expenditure (whenever payable) incurred by the company wholly and exclusively in enhancing the value of any of the original or later interests;
 - (b) deducting any consideration received by the company on the disposal of any of the original or later interests or on the grant by the company of any interest in land out of any of those interests;
 - (c) deducting any consideration otherwise derived by the company from its ownership of any of the original or later interests.
- (2) Any sum which is received by a company by way of rent, or which is attributable to the use of any premises by the company, shall be disregarded for the purposes of subsection (1)(c) above.
- (3) For the purposes of this section—
 - (a) the cost of an interest in land acquired by a company shall be taken to be the amount or value of the consideration given by the company, or on its behalf, wholly and exclusively for the acquisition of the interest;
 - (b) consideration shall be brought into account without any discount for the postponement of the right to receive any part of it; and
 - (c) the grant of an interest in land out of any of the original interests shall be treated as a disposal of the original interest in question.
- (4) Where—
 - (a) the interest of a company as lessee under a lease (“the lease”) falls to be valued at any time for the purposes of section 294 or the cost of acquiring that interest falls to be calculated for the purposes of this section; and

- (b) the aggregate amount of the rent payable by the lessee under the lease before the end of the relevant period exceeds that which would be so payable under a lease of the premises at a full market rent (but otherwise on the same terms and conditions as the lease);

the value of the company's interest at that time shall be calculated on the assumption that the aggregate amount payable as mentioned in paragraph (b) above is a nominal amount and, where the interest was acquired after the issue of the shares in question, it shall be assumed that the company paid the appropriate premium when acquiring the interest.

- (5) In determining, for the purposes of this section, the consideration for the disposal or acquisition of an interest in land, no account shall be taken in the first instance of any contingent liability assumed by the company or by any other person.
- (6) If it is subsequently shown to the satisfaction of the Board that a contingent liability which was not taken into account in determining the consideration for a disposal or acquisition has become enforceable and is being or had been enforced, such adjustment, whether by way of a further assessment or the discharge or repayment of tax or otherwise, shall be made as is required in consequence.
- (7) Where the relief obtainable under subsection (6) above requires a discharge or repayment of tax, it shall be given on a claim to the Board and such a claim may be made at any time.

296 Section 294 disapplied where amounts raised total £50,000 or less

- (1) Where a company raises any amount through the issue of eligible shares, section 294—
- (a) shall not have effect to deny relief in relation to those shares if the aggregate of that amount and of all other amounts (if any) so raised within the period of 12 months ending with the date of that issue does not exceed £50,000; and
- (b) where that aggregate exceeds £50,000, shall have effect to deny relief only in relation to the excess.
- (2) Where—
- (a) at any time within the relevant period, the company in question or any of its subsidiaries carries on any trade or part of a trade in partnership, or as a party to a joint venture, with one or more other persons; and
- (b) that other person, or at least one of those other persons, is a company;

each reference to £50,000 in subsection (1)(a) and (b) above shall have effect as if it were a reference to—

$$\frac{\pounds 50,000}{1 + A}$$

where A is the total number of companies (apart from the company in question or any of its subsidiaries) which are members of any such partnership or parties to any such joint venture during the relevant period.

- (3) Where section 294, as read with this section, requires a restriction to be placed on the relief given on claims in respect of shares issued to two or more individuals, the available relief shall be divided between them in proportion to the amounts which have been respectively subscribed by them for the shares to which their claims relate and which would, apart from the restrictions, be eligible for the relief.

- (4) A claimant who is dissatisfied with the manner in which the available relief is divided under this section between him and any other claimant or claimants may apply to the appropriate Commissioners who shall, after giving the other claimant or claimants an opportunity to appear and be heard or to make representations in writing, determine the question for all the claimants in the same way as an appeal.
- (5) In this section “the appropriate Commissioners” means—
- (a) in a case where the same body of General Commissioners has jurisdiction with respect to all the claimants, those Commissioners, unless all the claimants agree that the question should be determined by the Special Commissioners;
 - (b) in a case where different bodies of General Commissioners have jurisdiction with respect to the claimants, such of those bodies as the Board may direct, unless all the claimants agree that the question should be determined by the Special Commissioners;
 - (c) in any other case, the Special Commissioners.
- (6) In calculating the aggregate mentioned in subsection (1)(a) above in respect of any period of 12 months which begins on or before 18th March 1986, any amount raised by the issue of eligible shares on or before that date shall be disregarded.

297 Qualifying trades

- (1) Subject to section 298(6) and (7) below, a trade is a qualifying trade if it complies with the requirements of this section.
- (2) Subject to subsection (9) below, the trade must not at any time in the relevant period consist of one or more of the following activities if that activity amounts, or those activities when taken together amount, to a substantial part of the trade—
- (a) dealing in commodities, shares, securities, land or futures;
 - (b) dealing in goods otherwise than in the course of an ordinary trade of wholesale or retail distribution;
 - (c) banking, insurance, money-lending, debt-factoring, hire-purchase financing or other financial activities;
 - (d) oil extraction activities;
 - (e) leasing (including letting ships on charter or other assets on hire) or receiving royalties or licence fees;
 - (f) providing legal or accountancy services;
 - (g) providing services or facilities for any trade carried on by another person which consists to any substantial extent of activities within any of paragraphs (a) to (f) above and in which a controlling interest is held by a person who also has a controlling interest in the trade carried on by the company;
 - (h) property development;
 - (j) farming.
- (3) For the purposes of subsection (2)(b) above—
- (a) a trade of wholesale distribution is one in which the goods are offered for sale and sold to persons for resale by them, or for processing and resale by them, to members of the general public for their use or consumption;
 - (b) a trade of retail distribution is one in which the goods are offered for sale and sold to members of the general public for their use or consumption;
 - (c) a trade is not an ordinary trade of wholesale or retail distribution if—

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- (i) it consists to a substantial extent of dealing in goods of a kind which are collected or held as an investment or of that activity and any other activity of a kind falling within subsection (2) above, taken together; and
- (ii) a substantial proportion of those goods are held by the company for a period which is significantly longer than the period for which a vendor would reasonably be expected to hold them while endeavouring to dispose of them at their market value; and
- (d) in determining whether a trade is an ordinary trade of wholesale or retail distribution regard shall be had to the extent to which it has the following features, that is to say—
 - (i) the goods are bought by the trader in quantities larger than those in which he sells them;
 - (ii) the goods are bought and sold by the trader in different markets;
 - (iii) the trader employs staff and incurs expenses in the trade in addition to the cost of the goods and, in the case of a trade carried on by a company, in addition to any remuneration paid to any person connected with it;
 - (iv) there are purchases or sales from or to persons who are connected with the trader;
 - (v) purchases are matched with forward sales or vice versa;
 - (vi) the goods are held by the trader for longer than is normal for goods of the kind in question;
 - (vii) the trade is carried on otherwise than at a place or places commonly used for wholesale or retail trade;
 - (viii) the trader does not take physical possession of the goods;
 those features in sub-paragraphs (i) to (iii) being regarded as indications that the trade is such an ordinary trade and those in sub-paragraphs (iv) to (viii) being regarded as indications of the contrary.
- (4) A trade shall not be treated as failing to comply with this section by reason only of its consisting to a substantial extent of receiving royalties or licence fees if—
 - (a) the company carrying on the trade is engaged throughout the relevant period in—
 - (i) the production of films; or
 - (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.
- (5) A trade shall not be treated as failing to comply with this section 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.
- (6) A trade shall not be treated as failing to comply with this section by reason only of its consisting of letting ships, other than oil rigs or pleasure craft, on charter if—

- (a) every ship let on charter by the company carrying on the trade is beneficially owned by the company;
- (b) every ship beneficially owned by the company is registered in the United Kingdom; and
- (c) throughout the relevant period the company is solely responsible for arranging the marketing of the services of its ships; and
- (d) the conditions mentioned in subsection (7) below are satisfied in relation to every letting on charter by the company;

but where any of the requirements mentioned in paragraphs (a) to (d) above are not satisfied in relation to any lettings of such ships, the trade shall not thereby be treated as failing to comply with this section if those lettings and any other activity of a kind falling within subsection (2) above do not, when taken together, amount to a substantial part of the trade.

(7) The conditions are that—

- (a) the letting is for a period not exceeding 12 months and no provision is made at any time (whether in the lease or otherwise) for extending it beyond that period otherwise than at the option of the lessee;
- (b) during the period of the letting there is no provision in force (whether made in the lease or otherwise) for the grant of a new letting to end, otherwise than at the option of the lessee, more than 12 months after that provision is made;
- (c) the letting is by way of a bargain made at arm's length between the company and a person who is not connected with it;
- (d) under the terms of the charter the company is responsible as principal—
 - (i) for taking, throughout the period of the charter, management decisions in relation to the ship, other than those of a kind generally regarded by persons engaged in trade of the kind in question as matters of husbandry; and
 - (ii) for defraying all expenses in connection with the ship throughout that period, or substantially all such expenses, other than those directly incidental to a particular voyage or to the employment of the ship during that period; and
- (e) no arrangements exist by virtue of which a person other than the company may be appointed to be responsible for the matters mentioned in paragraph (d) above on behalf of the company;

but this subsection shall have effect, in relation to any letting between the company in question and its subsidiary, or between it and another company of which it is a subsidiary or between it and a company which is a subsidiary of the same company of which it is a subsidiary, as if paragraph (c) were omitted.

- (8) The trade must, during the relevant period, be conducted on a commercial basis and with a view to the realisation of profits.
- (9) A trade which consists to any substantial extent of oil extraction activities shall, if it would be a qualifying trade were it not for subsection (2)(d) above, be treated as a qualifying trade for the purposes of section 289(1)(d).

298 Provisions supplementary to sections 293 and 297

- (1) For the purposes of sections 293(9) and 297 a person has a controlling interest in a trade—

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- (a) in the case of a trade carried on by a company, if—
 - (i) he controls the company;
 - (ii) the company is a close company and he or an associate of his is a director of the company and the beneficial owner of, or able directly or through the medium of other companies or by any other indirect means to control, more than 30 per cent. of the ordinary share capital of the company; or
 - (iii) not less than half of the trade could in accordance with section 344(2) be regarded as belonging to him;
 - (b) in any other case, if he is entitled to not less than half of the assets used for, or the income arising from, the trade.
- (2) For the purposes of subsection (1) above, there shall be attributed to any person any rights or powers of any other person who is an associate of his.
- (3) References in this section and section 297 to a trade shall be construed without regard to so much of the definition of “trade” in section 832(1) as relates to adventures or concerns in the nature of trade; but the foregoing provisions do not affect the construction of references in section 297(2)(g) or subsection (1) above to a trade carried on by a person other than the company and those references shall be construed as including a reference to any business, profession or vocation.
- (4) The Treasury may by order amend section 297 and this section, except in relation to shares issued before 19th March 1986, in such manner as they consider expedient.
- (5) In section 297—
- “film” means an original master negative of a film, an original master film disc or an original master film tape;
 - “oil rig” means any ship which is an offshore installation for the purposes of the Mineral Workings (Offshore Installations) Act 1971;
 - “pleasure craft” means any ship of a kind primarily used for sport or recreation;
 - “property development” means the development of land, by a company which has, or at any time has had, an interest in the land (within the meaning of section 294(5)), with the sole or main object of realising a gain from disposing of the land when developed; and
 - “sound recording” means, in relation to a film, its sound track, original master audio disc or, as the case may be, original master audio tape.
- (6) Section 297 shall have effect in relation to shares issued before 19th March 1986 subject to the following modifications—
- (a) in subsection (2) the words “or those activities when taken together amount” shall be omitted;
 - (b) subsection (2)(h) shall not apply unless the shares were issued after 19th March 1985;
 - (c) subsection (2)(j) shall not apply unless the shares were issued after 13th March 1984;
 - (d) in subsection (3) the words in paragraph (a) “to members of the general public for their use or consumption” and paragraph (c) shall be omitted; and
 - (e) subsections (6) and (7) shall be omitted;
- and in relation to shares issued after 18th March 1986 section 297(2) shall have effect with the omission of paragraphs (h) and (j).

- (7) Section 297(2) shall have effect so far as it relates to oil extraction only in relation to shares issued after 25th July 1986.
- (8) Section 297(4) shall have effect in relation to shares issued before 17th March 1987 with the omission of paragraph (a)(ii), together with the word “or” immediately before it, (but not the word “and” at the end of it) and the words in paragraph (b) “in that period” in the second place where they appear.

299 Disposal of shares

- (1) Where an individual disposes of any eligible shares before the end of the relevant period, then—
- (a) if the disposal is otherwise than by way of a bargain made at arm’s length, he shall not be entitled to any relief in respect of those shares; and
 - (b) in any other case, the amount of relief to which he is entitled in respect of those shares shall be reduced by the amount or value of the consideration which he receives for them.
- (2) Where after 18th March 1986 an option, the exercise of which would bind the grantor to purchase any shares, is granted to an individual during the relevant period, the individual shall not be entitled to any relief in respect of the shares to which the option relates.
- (3) Where an individual holds ordinary shares of any class in a company and the relief has been given (and not withdrawn) in respect of some shares of that class but not others, any disposal by him of ordinary shares of that class in the company, and any option of the kind mentioned in subsection (2) above, shall be treated for the purposes of this section as relating—
- (a) first, to those (if any) in respect of which relief has been given (and not withdrawn) under Chapter II of Part IV of the Finance Act 1981 rather than to others; and
 - (b) then, to those in respect of which relief has been given (and not withdrawn) under this Chapter (or Schedule 5 to the Finance Act 1983).
- (4) Where the relief has been given (and not withdrawn) to an individual in respect of shares of any class in a company which have been issued to him at different times, any disposal by him of shares of that class shall, subject to subsection (3) above, be treated for the purposes of this section as relating to those issued earlier rather than to those issued later.
- (5) Where shares in respect of which the relief was given have by virtue of any such allotment as is mentioned in section 77(2)(a) of the 1979 Act (not being an allotment for payment) fallen to be treated under section 78 of that Act as the same asset as a new holding—
- (a) a disposal of the whole or part of the new holding shall be treated for the purposes of this section as a disposal of the whole or a corresponding part of those shares; and
 - (b) the new holding shall be treated for the purposes of subsection (3) above as shares in respect of which the relief has been given.
- (6) For the purposes of this section—
- (a) shares in a company shall not be treated as being of the same class unless they would be so treated if dealt with on the Stock Exchange; and

- (b) references to a disposal of shares include references to the grant of an option (after 18th March 1986) the exercise of which would bind the grantor to sell the shares.

300 Value received from company

- (1) Subject to section 299, where an individual who subscribes for eligible shares in a company—

- (a) has, before the issue of the shares but within the relevant period, received any value from the company; or
 (b) after their issue but before the end of the relevant period, receives any such value;

the amount of the relief to which he is entitled in respect of the shares shall be reduced by the value received; but the value received shall be disregarded to the extent to which relief under Schedule 5 to the Finance Act 1983 or under this Chapter has been reduced on its account.

- (2) For the purposes of this section an individual receives value from the company if the company—

- (a) repays, redeems or repurchases any of its share capital or securities which belong to the individual or makes any payment to him for giving up his right to any of the company's share capital or any security on its cancellation or extinguishment;
 (b) repays any debt owed to the individual other than a debt which was incurred by the company—
 (i) on or after the date on which he subscribed for the shares in respect of which the relief is claimed; and
 (ii) otherwise than in consideration of the extinguishment of a debt incurred before that date;
 (c) makes to the individual any payment for giving up his right to any debt (other than a debt in respect of a payment of the kind mentioned in section 291(3)(a) or (e) or an ordinary trade debt) on its extinguishment;
 (d) releases or waives any liability of the individual to the company or discharges, or undertakes to discharge, any liability of his to a third person;
 (e) makes a loan or advance to the individual which has not been repaid in full before the issue of the shares in respect of which relief is claimed;
 (f) provides a benefit or facility for the individual;
 (g) transfers an asset to the individual for no consideration or for consideration less than its market value or acquires an asset from him for consideration exceeding its market value; or
 (h) makes to him any other payment except a payment of the kind mentioned in section 291(3)(a), (b), (c), (d) or (e) or a payment in discharge of an ordinary trade debt.

- (3) For the purposes of this section an individual also receives value from the company if he receives in respect of ordinary shares held by him any payment or asset in a winding up or in connection with a dissolution of the company, being a winding up or dissolution falling within section 293(6).

- (4) The value received by an individual is—

- (a) in a case within paragraph (a), (b) or (c) of subsection (2) above, the amount receivable by the individual or, if greater, the market value of the shares, securities or debt in question;
 - (b) in a case within paragraph (d) of that subsection, the amount of the liability;
 - (c) in a case within paragraph (e) of that subsection, the amount of the loan or advance reduced by the amount of any repayment made before the issue of the shares in respect of which relief is claimed;
 - (d) in a case within paragraph (f) of that subsection, the cost to the company of providing the benefit or facility less any consideration given for it by the individual;
 - (e) in a case within paragraph (g) of that subsection, the difference between the market value of the asset and the consideration (if any) given for it;
 - (f) in a case within paragraph (h) of that subsection, the amount of the payment; and
 - (g) in a case within subsection (3) above, the amount of the payment or, as the case may be, the market value of the asset.
- (5) For the purposes of this section an individual also receives value from the company if any person who would, for the purposes of section 291, be treated as connected with the company—
- (a) purchases any of its share capital or securities which belong to the individual; or
 - (b) makes any payment to him for giving up any right in relation to any of the company's share capital or securities;
- and the value received by the individual is the amount receivable by the individual or, if greater, the market value of the shares or securities in question.

301 Provisions supplementary to section 300

- (1) Where by virtue of section 300 any relief is withheld or withdrawn in the case of an individual to whom ordinary shares in a company have been issued at different times before 19th March 1986 the relief shall be withheld or withdrawn in respect of shares issued earlier rather than in respect of shares issued later.
- (2) Where relief to which an individual is entitled in respect of eligible shares issued after 18th March 1986 is reduced by virtue of section 300, effect shall be given to the reduction by apportioning it, as between any such eligible shares held by him, in such a way as appears to the inspector, or on an appeal to the Commissioners concerned, to be just and reasonable.
- (3) For the purposes of section 300(2)(d) a company shall be treated as having released or waived a liability if the liability is not discharged within 12 months of the time when it ought to have been discharged.
- (4) For the purposes of section 300(2)(e) there shall be treated as if it were a loan made by the company to the individual—
 - (a) the amount of any debt (other than an ordinary trade debt) incurred by the individual to the company; and
 - (b) the amount of any debt due from the individual to a third person which has been assigned to the company.

- (5) In this section and section 300, “an ordinary trade debt” means any debt for goods or services supplied in the ordinary course of a trade or business where the credit given does not exceed six months and is not longer than that normally given to the customers of the person carrying on the trade or business.
- (6) In this section and section 300—
- (a) any reference to a payment or transfer to an individual includes a reference to a payment or transfer made to him indirectly or to his order or for his benefit; and
 - (b) any reference to an individual includes a reference to an associate of his and any reference to the company includes a reference to any person connected with the company.
- (7) Section 300 shall apply in relation to shares issued before 19th March 1986 with the omission—
- (a) in subsection (2)(e) of the words “which has not been repaid in full before the issue of the shares in respect of which relief is claimed”; and
 - (b) in subsection (4)(c) of the words “reduced by the amount of any repayment made before the issue of the shares in respect of which relief is claimed”.

302 Replacement capital

- (1) An individual is not entitled to relief in respect of any shares in a company where—
- (a) at any time in the relevant period, the company or any of its subsidiaries—
 - (i) begins to carry on as its trade or as part of its trade a trade which was previously carried on at any time in that period otherwise than by the company or any of its subsidiaries; or
 - (ii) acquires the whole, or greater part, of the assets used for the purposes of a trade previously so carried on; and
 - (b) subsection (2) below applies in relation to that individual.
- (2) This subsection applies in relation to an individual where—
- (a) any person or group of persons to whom an interest amounting in the aggregate to more than a half share in the trade (as previously carried on) belonged, at any time in the relevant period, is or are a person or group of persons to whom such an interest in the trade carried on by the company belongs or has, at any such time, belonged; or
 - (b) any person or group of persons who control or, at any such time, have controlled the company is or are a person or group of persons who, at any such time, controlled another company which previously carried on the trade; and the individual is that person or one of those persons.
- (3) An individual is not entitled to relief in respect of any shares in a company where—
- (a) the company comes to acquire all of the issued share capital of another company, at any time in the relevant period; and
 - (b) any person or group of persons who control or have, at any such time, controlled the company is or are a person or group of persons who, at any such time, controlled that other company; and that individual is that person or one of those persons.
- (4) For the purposes of subsection (2) above—

- (a) the persons to whom a trade belongs and, where a trade belongs to two or more persons, their respective shares in that trade shall be determined in accordance with section 344(1)(a) and (b), (2) and (3); and
- (b) any interest, rights or powers of a person who is an associate of another person shall be treated as those of that other person.

(5) In this section—

“subsidiary” means a subsidiary of a kind which a qualifying company may have by virtue of sections 308 and 309; and

“trade” includes any business, profession or vocation, and references to a trade previously carried on include references to part of such a trade.

303 Value received by persons other than claimants

(1) The relief to which an individual is entitled in respect of any shares in a company shall be reduced in accordance with subsection (2) below if at any time in the relevant period the company repays, redeems or repurchases any of its share capital which belongs to any member other than—

- (a) that individual; or
- (b) another individual whose relief is thereby withdrawn or reduced by virtue of section 299 or reduced by virtue of section 300(2)(a);

or makes any payment to any such member for giving up his right to any of the company’s share capital on its cancellation or extinguishment.

(2) Where subsection (1) above applies, the amount of relief to which an individual is entitled shall be reduced by the amount receivable by the member or, if greater, the nominal value of the share capital in question; and where, apart from this subsection, two or more individuals would be entitled to relief the reduction shall be made in proportion to the amounts of relief to which they would, apart from this subsection, have been entitled.

(3) Where at any time in the relevant period a member of a company receives or is entitled to receive any value from the company within the meaning of this subsection, then, for the purposes of section 291(4) in its application to any subsequent time—

- (a) the amount of the company’s issued ordinary share capital; and
- (b) the amount of the part of that capital which consists of the shares which (within the meaning of section 291) the individual directly or indirectly possesses or is entitled to acquire, and the amount of the part consisting of the remainder,

shall each be treated as reduced in accordance with subsection (4) below.

(4) The amount of each of the parts mentioned in subsection (3)(b) above shall be treated as equal to such proportion of that amount as the amount subscribed for that part less the relevant value bears to the amount subscribed; and the amount of the issued share capital shall be treated as equal to the sum of the amounts treated under this subsection as the amount of those parts respectively.

(5) In subsection (4) above “the relevant value”, in relation to each of the parts there mentioned, means the value received by the member or members entitled to the shares of which that part consists.

(6) For the purposes of subsection (3) above a member of a company receives or is entitled to receive value from the company in any case in which an individual would receive value from the company by virtue of section 300(2)(d), (e), (f), (g) or (h) (but treating

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as excepted from paragraph (h) all payments made for full consideration) and the value received shall be determined as for the purposes of that section.

- (7) For the purposes of subsection (6) above a person shall be treated as entitled to receive anything which he is entitled to receive at a future date or will at a future date be entitled to receive.
- (8) Subsection (1) above does not apply in relation to the redemption of any share capital for which the redemption date was fixed before 15th March 1983.
- (9) Where—
- (a) a company issues share capital (“the original shares”) of nominal value equal to the authorised minimum (within the meaning of the Companies Act 1985) for the purposes of complying with the requirements of section 117 of that Act (public company not to do business unless requirements as to share capital complied with); and
 - (b) after the registrar of companies has issued the company with a certificate under section 117, it issues eligible shares;

subsection (1) above shall not apply in relation to any redemption of any of the original shares within 12 months of the date on which those shares were issued.

In relation to companies incorporated under the law of Northern Ireland references in this subsection to the Companies Act 1985 and to section 117 of that Act shall have effect as references to the Companies (Northern Ireland) Order 1986 and to Article 127 of that Order.

- (10) Where relief to which an individual is entitled in respect of eligible shares issued after 18th March 1986 is reduced by virtue of this section, effect shall be given to the reduction by apportioning it as between any such eligible shares held by him in such a way as appears to the inspector, or on appeal to the Commissioners concerned, to be just and reasonable.
- (11) In relation to shares issued before 19th March 1986, subsection (1)(b) above shall have effect with the omission of the words “withdrawn or reduced by virtue of section 299 or”.

304 Husband and wife

- (1) In the case of any amount subscribed by a married woman for eligible shares issued to her at a time—
- (a) when she is living with her husband; and
 - (b) which falls in a year of assessment for which his income includes (or, if there were any, would include) any of hers,
- the deduction under section 289(5) shall, subject to Chapter II of this Part and subsections (2) to (5) below, be made from his total income, and references in this Chapter to the relief to which an individual is entitled in respect of any shares shall be construed accordingly.
- (2) The limits in section 290 shall apply jointly to a husband and wife as respects amounts subscribed for shares at a time—
- (a) when they are married and living together; and
 - (b) which falls in a year of assessment for which his income includes (or, if there were any, would include) any of hers;

but if the husband dies or they are divorced or cease to live together before the end of any such year those limits shall apply to the wife as respects amounts subscribed by her for shares issued in the remainder of the year as if it were a separate year of assessment.

- (3) Where an application under section 283(1) or an election under section 287(1) is in force for a year of assessment in which shares are issued for which amounts have been subscribed both by the husband and the wife, then, if section 290(2) requires a restriction to be placed on the relief given on a claim or claims in respect of those amounts, the available relief shall be divided between the husband and wife in proportion to the amounts which have been respectively subscribed by them for the shares to which the claim or claims relate and which would, apart from the restriction, be eligible for the relief.
- (4) Subsections (2) and (3) above shall apply in relation to the limit of £5,000 imposed by section 289(7) as it applies in relation to the limit of £40,000 imposed by section 290(2); and for this purpose the reference in subsection (3) above to a division in proportion to the amounts subscribed by the husband and 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 section 289(6).
- (5) Subsection (1) of section 299 shall not apply to a disposal made by a married woman to her husband at a time when she is living with him or to a disposal made at such a time by him to her; but where shares issued to one of them have been transferred to the other by a transaction *inter vivos*—
 - (a) that subsection shall apply on the disposal of the shares by the transferee to a third person; and
 - (b) if at any time the husband and wife are divorced or cease to live together and any of those shares have not been disposed of by the transferee before that time, any assessment for withdrawing relief in respect of those shares shall be made on the transferee.
- (6) Where a husband and wife are divorced or cease to live together, then, if any relief given in respect of shares for which either of them has subscribed and which were issued while they were married and living together falls to be withdrawn by virtue of a subsequent disposal of those shares by the person who subscribed for them, any assessment for withdrawing that relief shall be made on the person making the disposal and shall be made by reference to the reduction of tax flowing from the amount of the relief regardless of any allocation of that relief under section 280 or of any allocation of the reduction under section 284.

305 Reorganisation of share capital

- (1) Where shares in respect of which relief has been given and not withdrawn have by virtue of any such allotment, otherwise than for payment, as is mentioned in section 77(2)(a) of the 1979 Act fallen to be treated under section 78 of that Act as the same asset as a new holding—
 - (a) a disposal of the whole or part of the new holding shall be treated for the purposes of this Part as a disposal of the whole or a corresponding part of those shares; and
 - (b) the new holding shall be treated for the purposes of section 299(3) as shares in respect of which relief has been given and not withdrawn.

(2) Where—

- (a) there is, by virtue of any such allotment for payment as is mentioned in section 77(2)(a) of the 1979 Act, a reorganisation affecting ordinary shares in respect of which relief has been given; and
- (b) immediately before the reorganisation the relief had not been withdrawn; and
- (c) the amount of relief (or, where the relief has been reduced, the amount remaining) and the market value of the shares immediately before the reorganisation, exceeds their market value immediately after the reorganisation;

the relief shall be reduced by an amount equal to whichever is the smaller of those excesses.

(3) Subsection (2) above shall also apply where—

- (a) an individual who has received, or become entitled to receive, in respect of any ordinary shares in a company, a provisional allotment of shares in or debentures of the company disposes of his rights; and
- (b) subsection (2) above would have applied (apart from this subsection) had those rights not been disposed of but an allotment of shares or debentures made to him.

(4) This section has effect in relation to reorganisations occurring after 18th March 1986.

306 Claims

(1) A claim for relief in respect of eligible shares issued by a company in any year of assessment shall be made—

- (a) not earlier than the end of the period of four months mentioned in section 289(8)(a), (b) or (c), as the case may be; and
- (b) not later than two years after the end of that year of assessment or, if that period of four months ended after the end of that year, not later than two years after the end of that period.

(2) A claim for relief in respect of eligible shares in a company shall not be allowed unless it is accompanied by a certificate issued by the company in such form as the Board may direct and certifying that the conditions for the relief, so far as applying to the company and the trade, are satisfied in relation to those shares.

(3) Before issuing a certificate for the purposes of subsection (2) above a company shall furnish the inspector with a statement to the effect that it satisfies the conditions for the relief, so far as they apply in relation to the company and the trade, and has done so at all times since the beginning of the relevant period.

(4) No such certificate shall be issued without the authority of the inspector or where the company, or a person connected with the company, has given notice to the inspector under section 310(2).

(5) Any statement under subsection (3) above shall contain such information as the Board may reasonably require, shall be in such form as the Board may direct and shall contain a declaration that it is correct to the best of the company's knowledge and belief.

(6) Where a company has issued a certificate for the purposes of subsection (2) above, or furnished a statement under subsection (3) above and—

- (a) the certificate or statement is made fraudulently or negligently; or

- (b) the certificate was issued in contravention of subsection (4) above; the company shall be liable to a penalty not exceeding £250 or, in the case of fraud, £500.
- (7) For the purposes of regulations made under section 203 no regard shall be had to the relief unless a claim for it has been duly made and admitted.
- (8) No application shall be made under section 55(3) or (4) of the Management Act (application for postponement of payment of tax pending appeal) on the ground that the applicant is entitled to the relief unless a claim for the relief has been duly made by him.
- (9) For the purposes of section 86 of the Management Act (interest on overdue tax), tax charged by an assessment—
- (a) shall be regarded as due and payable notwithstanding that relief from the tax (whether by discharge or repayment) is subsequently given on a claim for the relief; but
- (b) shall, unless paid earlier or due and payable later, be regarded as paid on the date of the making of the claim on which the relief is given;
- and section 91 of that Act (effect on interest of reliefs) shall not apply in consequence of any discharge or repayment for giving effect to the relief.
- (10) For the purposes of the provisions of the Management Act relating to appeals against decisions on claims, the refusal of the inspector to authorise the issue of a certificate under subsection (2) above shall be taken to be a decision refusing a claim made by the company.

This subsection shall not apply in relation to shares issued before 19th March 1986.

307 Withdrawal of relief

- (1) Where any relief has been given which is subsequently found not to have been due, it shall be withdrawn by the making of an assessment to tax under Case VI of Schedule D for the year of assessment for which the relief was given; but where by virtue of section 289(6) 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.
- (2) Subject to subsections (3) to (7) below, any assessment for withdrawing relief which is made by reason of an event occurring after the date of the claim may be made within six years after the end of the year of assessment in which that event occurs.
- (3) No assessment for withdrawing relief in respect of shares issued to any person shall be made by reason of any event occurring after his death.
- (4) Where a person has, by a disposal or disposals to which section 299(1)(b) applies, disposed of all the ordinary shares issued to him by a company, no assessment for withdrawing relief in respect of any of those shares shall be made by reason of any subsequent event unless it occurs at a time when he is connected with the company within the meaning of section 291.
- (5) Subsection (2) above is without prejudice to section 36 of the Management Act (fraud and wilful default) and section 37 of that Act (neglect).

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- (6) In its application to an assessment made by virtue of this section, section 86 of the Management Act (interest on overdue tax) shall have effect as if the reckonable date were—
- (a) in the case of relief withdrawn by virtue of section 289(11)—
 - (i) so far as effect has been given to the relief in accordance with regulations under section 203, 5th April in the year of assessment in which effect was so given;
 - (ii) so far as effect has not been so given, the date on which the relief was granted.
 - (b) in the case of relief withdrawn by virtue of section 291, 293, 297, 302, 303(1) or 305 in consequence of any event after the grant of the relief, the date of that event;
 - (c) in the case of relief withdrawn by virtue of section 299(1) in consequence of a disposal after the grant of the relief, the date of the disposal;
 - (d) in the case of relief withdrawn by virtue of section 300 in consequence of a receipt of value after the grant of the relief, the date of the receipt.
- (7) For the purposes of subsection (6) above the date on which the relief is granted is the date on which a repayment of tax for giving effect to the relief was made or, if there was no such repayment, the date on which the inspector issued a notice to the claimant showing the amount of tax payable after giving effect to the relief.
- (8) Where a company has ceased to be a qualifying company in consequence of the operation of section 294, subsection (6) above shall apply as if the relief was withdrawn in consequence of an event which occurred at the time when the company so ceased to be a qualifying company.
- (9) Subsections (1) to (7) above apply in relation to relief under Chapter II of Part IV of the Finance Act 1981 as they apply in relation to relief under this Chapter (or Schedule 5 to the Finance Act 1983) but—
- (a) with the substitution for references to sections 299 (in both places), 291, 289(11), 293, 297, 302, 303(1), 305 and 300 of this Act of references respectively to sections 57, 54, 59(1), 53(7), 54, 55, 56, 59(2) and 58 of the Finance Act 1981; and
 - (b) with the omission of subsection (6)(a)(i).

308 Application to subsidiaries

- (1) A qualifying company may, in the relevant period, have one or more subsidiaries if—
- (a) the conditions mentioned in subsection (2) below are satisfied in respect of the subsidiary or, as the case may be, each subsidiary and, except as provided by subsection (3) below, continue to be so satisfied until the end of the relevant period; and
 - (b) the subsidiary or, as the case may be, each subsidiary exists wholly, or substantially wholly, for the purpose of carrying on one or more qualifying trades or is a property managing, or dormant, subsidiary.
- (2) The conditions referred to are—
- (a) that the qualifying company, or another of its subsidiaries, possesses not less than 90 per cent. of the issued share capital of, and not less than 90 per cent. of the voting power in, the subsidiary;

- (b) that the qualifying company, or another of its subsidiaries, would in the event of a winding up of the subsidiary or in any other circumstances be beneficially entitled to receive not less than 90 per cent. of the assets of the subsidiary which would then be available for distribution to the equity holders of the subsidiary;
 - (c) that the qualifying company or another of its subsidiaries is beneficially entitled to not less than 90 per cent. of any profits of the subsidiary which are available for distribution to the equity holders of the subsidiary;
 - (d) that no person other than the qualifying company or another of its subsidiaries has control of the subsidiary within the meaning of section 840; and
 - (e) that no arrangements are in existence by virtue of which the conditions in paragraphs (a) to (d) above could cease to be satisfied.
- (3) The conditions shall not be regarded as ceasing to be satisfied by reason only of the subsidiary or the qualifying company being wound up, or dissolved without winding up, if—
- (a) it is shown that the winding up or dissolution is for bona fide commercial reasons and not part of a scheme or arrangement the main purpose or one of the main purposes of which is the avoidance of tax; and
 - (b) the net assets, if any, of the subsidiary or, as the case may be, the qualifying company are distributed to its members or dealt with as bona vacantia before the end of the relevant period, or in the case of a winding up, the end (if later) of three years from the commencement of the winding up.
- (4) The conditions shall not be regarded as ceasing to be satisfied by reason only of the disposal by the qualifying company or (as the case may be) by another subsidiary, within the relevant period, of all its interest in the subsidiary if it is shown that the disposal is for bona fide commercial reasons and not part of a scheme or arrangement the main purpose or one of the main purposes of which is the avoidance of tax.
- (5) For the purposes of this section—
- (a) a subsidiary of a qualifying company is a property managing subsidiary if it exists wholly, or substantially wholly, for the purpose of holding and managing property used by the qualifying company, or by any of its subsidiaries, for the purposes of—
 - (i) research and development from which it is intended that a qualifying trade to be carried on by the company or any of its subsidiaries will be derived; or
 - (ii) one or more qualifying trades so carried on;
 - (b) a subsidiary is a dormant subsidiary if it has no profits for the purposes of corporation tax and no part of its business consists in the making of investments; and
 - (c) the persons who are equity holders of a subsidiary and the percentage of the assets of a subsidiary to which an equity holder would be entitled shall be determined in accordance with paragraphs 1 and 3 of Schedule 18, taking references in paragraph 3 to the first company as references to an equity holder and references to a winding up as including references to any other circumstances in which assets of the subsidiary are available for distribution to its equity holders.
- (6) In relation to shares issued before 19th March 1986 this section shall have effect subject to the following modifications—

- (a) the following paragraph shall be substituted for subsection (1)(b)—
 - “(b) the subsidiary or each subsidiary was incorporated in the United Kingdom and is a company falling within section 293(2)(a).”;
- (b) the following subsection shall be substituted for subsection (2)—
 - “(2) The conditions referred to in subsection (1)(a) above are—
 - (a) that the qualifying company possesses all the issued share capital of, and all the voting power in, the subsidiary; and
 - (b) that no other person has control of the subsidiary within the meaning of section 840; and
 - (c) that no arrangements are in existence by virtue of which the conditions in paragraphs (a) and (b) above could cease to be satisfied.”; and
 - (c) subsections (4) and (5) shall be omitted.

309 Further provisions as to subsidiaries

- (1) Where a qualifying company has one or more subsidiaries in the relevant period, this Chapter shall have effect subject to subsections (2) to (8) below.
- (2) The shares issued by the qualifying company may, instead of or as well as being issued for the purpose mentioned in subsection (1)(a) of section 289, be issued for the purpose of raising money for a qualifying trade which is being carried on by a subsidiary or which a subsidiary intends to carry on; and, where shares are so issued, subsections (8), (9), (12)(b)(ii) and (13) of that section shall have effect as if references to the company were or, as the case may be, included references to the subsidiary.
- (3) In relation to a qualifying trade carried on by a subsidiary the reference in section 297(2)(g) to another person shall not include a reference to the company of which it is a subsidiary.
- (4) In section 303(1) references to the company (except the first) shall include references to a company which during the relevant period is a subsidiary of the company whether it becomes a subsidiary before or after the redemption, repayment, repurchase or payment referred to in that subsection.
- (5) In subsections (2), (4) and (6) of section 291, references to the company (except, in each subsection, the first such reference) include references to a company which is during the relevant period a subsidiary of that company—
 - (a) whether it becomes a subsidiary before, during or after the year of assessment in respect of which the individual concerned claims relief; or
 - (b) whether or not it is such a subsidiary while he is such an employee, partner or director as is mentioned in subsection (2) or while he has or is entitled to acquire such capital or voting power or rights as are mentioned in subsections (4) and (6).
- (6) Without prejudice to the provisions of section 291 (as it has effect in accordance with subsection (5) above), an individual shall be treated as connected with a company if—
 - (a) he has at any time in the relevant period had control (within the meaning of section 840) of another company which has since that time and before the end of the relevant period become a subsidiary of the company; or

- (b) he directly or indirectly possesses or is entitled to acquire any loan capital of a subsidiary of that company.
- (7) Section 291(5) and (8) shall apply for the purposes of this section.
- (8) In sections 300(1) and 303(3) references to the receipt of value from the company shall include references to the receipt of value from any company which during the relevant period is a subsidiary of that company, whether it becomes a subsidiary before or after the individual concerned receives any value from it, and other references to the company in sections 300 and 301 and in section 303(6) shall be construed accordingly.

310 Information

- (1) Where an event occurs by reason of which any relief given to an individual falls to be withdrawn by virtue of sections 291, 299, 300 or 304(2) to (6), the individual shall within 60 days of his coming to know of the event give a notice to the inspector containing particulars of the event.
- (2) Where an event occurs by reason of which any relief in respect of any shares in a company falls to be withdrawn by virtue of section 289(11), 293, 297, 300, 302 or 303—
- (a) the company; and
 - (b) any person connected with the company who has knowledge of that matter;
- shall within 60 days of the event or, in the case of a person within paragraph (b) above, of his coming to know of it, give a notice to the inspector containing particulars of the event or payment.
- (3) Where—
- (a) a company has issued a certificate under section 306(2) in respect of any eligible shares in the company; and
 - (b) it appears to the company, or to any person connected with the company who has knowledge of the matter, that section 294 may have effect to deny relief in respect of those shares;
- the company or (as the case may be) that person or (where it so appears to each of them) both the company and that person shall give notice to the inspector setting out the particulars of the case.
- (4) If the inspector has reason to believe that a person has not given a notice which he is required to give under subsection (1) or (2) above in respect of any event, or under subsection (3) above in respect of any particular case, the inspector may by notice require that person to furnish him within such time (not being less than 60 days) as may be specified in the notice with such information relating to the event or case as the inspector may reasonably require for the purposes of this Chapter.
- (5) Where relief is claimed in respect of shares in a company and the inspector has reason to believe that it may not be due by reason of any such arrangement or scheme as is mentioned in section 289(11), 291(10), 293(8) or 308(2)(e), he may by notice require any person concerned to furnish him within such time (not being less than 60 days) as may be specified in the notice with—
- (a) a declaration in writing stating whether or not, according to the information which that person has or can reasonably obtain, any such arrangement or scheme exists or has existed;

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- (b) such other information as the inspector may reasonably require for the purposes of the provision in question and as that person has or can reasonably obtain.
- (6) References in subsection (5) above to the person concerned are references, in relation to sections 289(11), 291(10) and 308(2)(e), to the claimant and, in relation to sections 289(11), 293(8) and 308(2)(e), to the company and any person controlling the company.
- (7) Where relief has been given in respect of shares in a company—
- (a) any person who receives from the company any payment or asset which may constitute value received (by him or another) for the purposes of sections 300, 301 and 303(3); and
 - (b) any person on whose behalf such a payment or asset is received,
- shall, if so required by the inspector, state whether the payment or asset received by him or on his behalf is received on behalf of any person other than himself and, if so, the name and address of that person.
- (8) Where relief has been claimed in respect of shares in a company, any person who holds or has held shares in the company and any person on whose behalf any such shares are or were held shall, if so required by the inspector, state whether the shares which are or were held by him or on his behalf are or were held on behalf of any person other than himself and, if so, the name and address of that person.
- (9) No obligation as to secrecy imposed by statute or otherwise shall preclude the inspector from disclosing to a company that relief has been given or claimed in respect of a particular number or proportion of its shares.
- (10) This section shall have effect in relation to relief under Chapter II of Part IV of the Finance Act 1981 as it has effect in relation to relief under this Chapter but with the substitution—
- (a) in subsection (1) for “291, 299, 300 or 304(2) to (6)” of “54, 57, 58 and 60(6) of the Finance Act 1981”;
 - (b) for subsection (3) of the following subsection—

“(3) Where the company is notified by the inspector that relief has been given in respect of any shares issued by the company on a specified date, then, if any shares in the company (whether or not shares in respect of which relief has been given) are transferred at any time in the period of five years beginning with that date, the company shall within 60 days of—

 - (a) coming to know of the transfer; or
 - (b) receiving the notification from the inspector,

whichever is the later, give a notice to the inspector containing particulars of the transfer.”;
 - (c) in subsection (5) for references to sections 289(11), 291(10), 293(8) and 308(2)(e) of references to sections 54(9), 55(8) and 59(1) of the 1981 Act;
 - (d) in subsection (6) for “289(11), 293(10) and 308(2)(e)” and “289(11), 293(8) and 308(2)(e)” of “54(9) and 59(1) of the Finance Act 1981” and “55(8) and 59(1) of that Act”, respectively;
 - (e) in subsection (7) for “300, 301 or 303(3)” of “58 or 59(4) of the Finance Act 1981”.

- (11) In any case where this section has effect in accordance with subsection (10) above and the qualifying company has one or more subsidiaries—
- (a) subsection (3) above shall, where the inspector has notified the subsidiary that relief has been given in respect of shares in the company of which it is a subsidiary, apply to the subsidiary as respects any transfer of its shares as it applies to the company as respects any transfer of shares in the company; and
 - (b) subsections (5) and (6) above shall have effect in relation to any such arrangements as are mentioned in paragraph (c) of subsection (2) of section 308 (as that subsection has effect by virtue of subsection (6) of that section) as they have effect in relation to any such arrangement as is mentioned in section 289(11).

311 Nominees, bare trustees and approved investment funds

- (1) Shares subscribed for, issued to, held by or disposed of for an individual by a nominee shall be treated for the purposes of this Chapter as subscribed for, issued to, held by or disposed of by that individual.
- (2) Where eligible shares issued after 18th March 1986 are held on a bare trust for two or more beneficiaries, this Chapter shall have effect (with the necessary modifications) as if—
- (a) each beneficiary had subscribed as an individual for all of those shares; and
 - (b) the amount subscribed by each beneficiary was equal to the total amount subscribed on the issue of those shares divided by the number of beneficiaries.
- (3) Section 290(1) shall not apply where the amount is subscribed as nominee for an individual by the person or persons having the management of an investment fund approved for the purposes of this section by the Board (“the managers of an approved fund”).
- (4) Where an individual claims relief in respect of eligible shares in a company which have been issued to the managers of an approved fund as nominee for that individual, section 306(2) shall apply as if it required—
- (a) the certificate referred to in that section to be issued by the company to the managers;
 - (b) the claim for relief to be accompanied by a certificate issued by the managers, in such form as the Board may authorise, certifying that the managers hold certificates issued to them by the companies concerned, for the purposes of sections 306(2), in respect of the holdings of eligible shares shown on the managers' certificate.
- (5) The managers of an approved fund may be required by a notice given to them by an inspector or other officer of the Board to deliver to the officer, within the time limited by the notice, a return of the holdings of eligible shares shown on certificates issued by them in accordance with subsection (4) above in the year of assessment to which the return relates.
- (6) Section 306(6) shall not apply in relation to any certificate issued by the managers of an approved fund for the purposes of subsection (4) above.

312 Interpretation of Chapter III

(1) In this Chapter—

“associate” has the meaning given in subsections (3) and (4) of section 417 except that in those subsections “relative” shall not include a brother or sister;

“appraisal licence” means an appraisal licence incorporating the model clauses set out in Schedule 4 to the 1984 Regulations or a Northern Ireland licence granted for the five year renewal term and includes in either case any modified appraisal licence;

“control”, except in sections 291(7), 308(2) and 309(6)(a), shall be construed in accordance with section 416(2) to (6);

“debenture” has the meaning given by section 744 of the Companies Act 1985;

“development licence” means a development licence incorporating the model clauses set out in Schedule 5 to the 1984 Regulations or a Northern Ireland licence granted for the 30 year renewal term and includes in either case any modified development licence;

“director” shall be construed in accordance with section 417(5);

“exploration licence” means an exploration licence incorporating the model clauses set out in Schedule 3 to the 1984 Regulations or a Northern Ireland licence granted for the initial term and includes in either case any modified exploration licence;

“fixed-rate preference share capital” means share capital consisting of shares which—

- (a) are issued for consideration which is or includes new consideration; and
- (b) do not carry any right either to conversion into shares or securities of any other description or to the acquisition of any additional shares or securities; and
- (c) do not carry any right to dividends other than dividends which—
 - (i) are of a fixed amount or at a fixed rate per cent. of the nominal value of the shares, and
 - (ii) represent no more than a reasonable commercial return on the new consideration received by the company in respect of the issue of the shares; and
- (d) on repayment do not carry any rights to an amount exceeding that new consideration except in so far as those rights are reasonably comparable with those general for fixed dividend shares listed in the Official List of the Stock Exchange;

“modified appraisal licence”, “modified development licence” and “modified exploration licence” mean, respectively, any appraisal licence, development licence or exploration licence in which any of the relevant model clauses have been modified or excluded by the Secretary of State or in Northern Ireland the Department of Economic Development;

“new consideration” has the same meaning as in Part VI;

“Northern Ireland licence” means a licence granted under the Petroleum (Production) Act (Northern Ireland) 1964 and incorporating the model clauses set out in Schedule 2 to the Petroleum Production (Licences) Regulations (Northern Ireland) 1965, and in relation to such a licence the references above to “the initial term”, “the 30 year renewal term” and “the five year renewal

term” shall be construed in accordance with Clause 2 of Schedule 2 to those Regulations;

“oil” and “oil extraction activities” have the same meanings as they have in Chapter V of Part XII;

“oil exploration” means searching for oil;

“ordinary shares” means shares forming part of a company’s ordinary share capital;

“the relevant period” has the meaning given in section 289(12);

“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;

“the relief” and “relief”, except where the reference is to relief under Chapter II of Part IV of the Finance Act 1981, means relief under section 289 (and includes relief under Schedule 5 to the Finance Act 1983), and references to the amount of the relief shall be construed in accordance with section 289(5); and

“unquoted company” means a company none of whose shares, stocks or debentures are listed in the Official List of the Stock Exchange or dealt in on the Unlisted Securities Market;

and “the 1984 Regulations” means the Petroleum (Production) (Landward Areas) Regulations 1984.

- (2) Section 839 applies for the purposes of this Chapter other than section 291.
- (3) References in this Chapter to a disposal of shares include references to a disposal of an interest or right in or over the shares and an individual shall be treated for the purposes of this Chapter as disposing of any shares which he is treated by virtue of section 86(1) of the 1979 Act as exchanging for other shares.
- (4) References in this Chapter to the reduction of any amount include references to its reduction to nil.
- (5) For the purposes of this Chapter—
 - (a) in relation to shares issued after 18th March 1986, the market value at any time of any asset shall be taken to be the price which it might reasonably be expected to fetch on a sale at that time in the open market free from any interest or right which exists by way of security in or over it;
 - (b) in relation to shares issued before 19th March 1986, “market value” shall be construed in accordance with section 150 of the 1979 Act.
- (6) References in this Chapter to relief given to an individual in respect of eligible shares, and to the withdrawal of such relief, include respectively references to relief given to him in respect of those shares at any time after he has disposed of them and references to the withdrawal of such relief at any such time.
- (7) In relation to any case falling within section 289(1)(d), any reference in that section to any licence being held by, or granted to, any person shall be read as including a reference to such a licence being held by, or (as the case may be) granted to, that person together with one or more other persons.
- (8) The Treasury may by order amend any of the definitions set out in subsection (1) above which relate to licences under the Petroleum (Production) Act 1934 or the Petroleum (Production) Act (Northern Ireland) 1964.

CHAPTER IV

SPECIAL PROVISIONS

313 Taxation of consideration for certain restrictive undertakings

(1) Where—

- (a) an individual who holds, has held, or is about to hold, an office or employment gives in connection with his holding that office or employment an undertaking (whether absolute or qualified, and whether legally valid or not) the tenor or effect of which is to restrict him as to his conduct or activities; and
- (b) in respect of the giving of that undertaking by him, or of the total or partial fulfilment of that undertaking by him, any sum is paid either to him or to any other person; and
- (c) apart from this section, the sum paid would neither fall to be treated as income of any person for the purposes of income tax for any year of assessment nor fall to be taken into account as a receipt in computing, for the purposes of income tax for any year of assessment, the amount of any income of, or loss incurred by, any person;

that sum shall be treated for the purpose of computing that individual's total income as received by him after deduction of income tax from a corresponding gross amount ("the gross amount").

(2) In any case where subsection (1) above applies—

- (a) no assessment shall be made on the individual in respect of income tax at the basic rate on the gross amount but he shall be treated as having paid income tax at the basic rate on that amount or, if his total income is reduced by any deductions, on so much of that amount as is part of his total income as so reduced;
- (b) no repayment shall be made of income tax treated by virtue of paragraph (a) above as having been paid; and
- (c) the gross amount shall be treated for the purposes of sections 348 and 349 as not brought into charge to income tax.

(3) Where the individual has died before the payment of the sum referred to in subsection (1) above, so much of subsections (1) and (2) above as relates to the results which are to follow from the matters specified in paragraphs (a) to (c) of subsection (1) above shall have effect as if that sum had been paid immediately before the death.

(4) Where valuable consideration otherwise than in the form of money is given in respect of the giving of, or of the total or partial fulfilment of, any undertaking, subsections (1) to (3) above shall apply as if a sum had instead been paid equal to the value of that consideration.

(5) Where any sum is paid or valuable consideration given to any person in any year of assessment in respect of the giving of, or the total or partial fulfilment of, an undertaking satisfying the conditions specified in subsection (1)(a) above (not being a sum from which income tax is duly deducted under any provision of the Income Tax Acts), it shall be the duty of the person paying over the sum or giving the consideration to deliver particulars thereof in writing to the inspector not later than one month after the end of that year, identifying the recipient of the payment or consideration, the undertaking in connection with which it was made or given and the individual who gave that undertaking.

(6) In this section—

- (a) “office or employment” means any office or employment whatsoever such that the emoluments thereof, if any, are or would be chargeable to income tax under Case I or II of Schedule E; and
- (b) references to the giving of valuable consideration do not include references to the mere assumption of an obligation to make over or provide valuable property, rights or advantages, but do include references to the doing of anything in or towards the discharge of such an obligation.

314 Divers and diving supervisors

- (1) Where the duties of any employment which are performed by a person in the United Kingdom or a designated area consist wholly or mainly—
 - (a) of taking part, as a diver, in diving operations concerned with the exploration or exploitation of the seabed, its subsoil and their natural resources; or
 - (b) of acting, in relation to any such diving operations, as a diving supervisor, the Income Tax Acts shall have effect as if the performance by that person of those duties constituted the carrying on by him of a trade within Case I of Schedule D; and accordingly Schedule E shall not apply to the emoluments from the employment so far as attributable to his performance of those duties.
- (2) In this section “designated area” means any area designated under section 1(7) of the Continental Shelf Act 1964.

315 Wounds and disability pensions

- (1) Income from wounds and disability pensions to which this subsection applies shall be exempt from income tax and shall not be reckoned in computing income for any purposes of the Income Tax Acts.
- (2) Subsection (1) above applies to—
 - (a) wounds pensions granted to members of the naval, military or air forces of the Crown;
 - (b) retired pay of disabled officers granted on account of medical unfitness attributable to or aggravated by naval, military or air-force service;
 - (c) disablement or disability pensions granted to members, other than commissioned officers, of the naval, military or air forces of the Crown on account of medical unfitness attributable to or aggravated by naval, military or air-force service;
 - (d) disablement pensions granted to persons who have been employed in the nursing services of any of the naval, military or air forces of the Crown on account of medical unfitness attributable to or aggravated by naval, military or air-force service; and
 - (e) injury and disablement pensions payable under any scheme made under the Injuries in War (Compensation) Act 1914, the Injuries in War Compensation Act 1914 (Session 2) and the Injuries in War (Compensation) Act 1915 or under any War Risks Compensation Scheme for the Mercantile Marine.
- (3) Where the amount of any retired pay or pensions to which subsection (1) above applies is not solely attributable to disablement or disability, the relief conferred by that subsection shall extend only to such part as is certified by the Secretary of State

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for Social Services, after consultation with the appropriate government department, to be attributable to disablement or disability.

316 Allowances, bounties and gratuities

- (1) Where, under the scheme relating to men in the Armed Forces of the Crown announced on behalf of His Majesty's Government in the United Kingdom on 15th April 1946 or under any other scheme certified by the Treasury to make analogous provision for classes of persons to whom the first-mentioned scheme does not apply, a person who has served in the armed forces of the Crown at any time during the continuance in force of the Emergency Powers (Defence) Act 1939 voluntarily undertakes to serve therein for a further period, any sum payable to him in pursuance of the scheme out of moneys provided by Parliament by way of gratuity at the end of his further period of service shall not be regarded as income for any income tax purposes.
- (2) Where, under the scheme relating to members of the Women's Royal Naval Service, the Auxiliary Territorial Service and the Women's Auxiliary Air Force announced on behalf of His Majesty's Government in the United Kingdom on 20th November 1946, or under any other scheme certified by the Treasury to make analogous provision for classes of persons to whom the first-mentioned scheme does not apply, a woman who has served in or with the armed forces of the Crown at any time during the continuance in force of the Emergency Powers (Defence) Act 1939 voluntarily undertakes to serve in or with those forces for a further period, any sum payable to her in pursuance of the scheme out of moneys provided by Parliament by way of gratuity at the end of her further period of service shall not be regarded as income for any income tax purposes.
- (3) Any allowance payable out of the public revenue to or in respect of any class of persons, being members of the armed forces of the Crown, as respects which the Treasury certifies either—
 - (a) that it is payable to the persons in question in lieu of food or drink normally supplied in kind to members of the armed forces, or
 - (b) that it is payable in respect of the persons in question as a contribution to the expenses of a mess,
 shall not be regarded as income for any income tax purposes.
- (4) The sums known as training expenses allowances payable out of the public revenue to members of the reserve and auxiliary forces of the Crown, and the sums payable by way of bounty out of the public revenue to such members in consideration of their undertaking prescribed training and attaining a prescribed standard of efficiency, shall not be treated as income for any income tax purpose.
- (5) Any sum which, in pursuance of the scheme as to service emoluments contained in the Command Paper laid before Parliament in August 1950, becomes payable out of moneys provided by Parliament by way of bounty to a person who, having served in the armed forces of the Crown, voluntarily undertakes to serve for a further period shall not be regarded as income for any income tax purpose.

317 Victoria Cross and other awards

- The following shall be disregarded for all the purposes of the Income Tax Acts—
- (a) annuities and additional pensions paid to holders of the Victoria Cross;
 - (b) annuities and additional pensions paid to holders of the George Cross;
 - (c) annuities paid to holders of the Albert Medal or of the Edward Medal;

- (d) additional pensions paid to holders of the Military Cross;
 - (e) additional pensions paid to holders of the Distinguished Flying Cross;
 - (f) additional pensions paid to holders of the Distinguished Conduct Medal;
 - (g) additional pensions paid to holders of the Conspicuous Gallantry Medal;
 - (h) additional pensions paid to holders of the Distinguished Service Medal;
 - (i) additional pensions paid to holders of the Military Medal;
 - (j) additional pensions paid to holders of the Distinguished Flying Medal;
- where paid by virtue of holding the award.

318 Other pensions in respect of death due to war service etc

- (1) Payments of pensions or allowances to which this section applies shall not be treated as income for any purposes of the Income Tax Acts.
- (2) This section applies to—
 - (a) any pension or allowance payable by or on behalf of the Department of Health and Social Security under so much of any Order in Council, Royal Warrant, order or scheme as relates to death due to—
 - (i) service in the armed forces of the Crown or war-time service in the merchant navy, or
 - (ii) war injuries;
 - (b) any pension or allowance at similar rates and subject to similar conditions which is payable by the Ministry of Defence in respect of death due to peacetime service in the armed forces of the Crown before 3rd September 1939; and
 - (c) any pension or allowance which is payable under the law of a country other than the United Kingdom and is of a character substantially similar to a pension or allowance falling within paragraph (a) or (b) above.
- (3) Where a pension or allowance falling within subsection (2) above is withheld or abated by reason of the receipt of another pension or allowance not falling within that subsection, there shall be treated as falling within that subsection so much of the other pension or allowance as is equal to the pension or allowance that is withheld or, as the case may be, to the amount of the abatement.

319 Crown servants: foreign service allowance

—Where any allowance to any person in the service of the Crown is certified by the Treasury to represent compensation for the extra cost of having to live outside the United Kingdom in order to perform his duties, that allowance shall not be regarded as income for any income tax purpose.

320 Commonwealth Agents-General and official agents etc

- (1) An Agent-General who is resident in the United Kingdom shall be entitled to the same immunity from income tax as that to which the head of a mission so resident is entitled under the Diplomatic Privileges Act 1964.
- (2) Any person having or exercising any employment to which this subsection applies (not being a person employed in any trade, business or other undertaking carried on for the purposes of profit) shall be entitled to the same immunity from income tax

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as that to which a member of the staff of a mission is entitled under the Diplomatic Privileges Act 1964.

(3) The employments to which subsection (2) above applies are the employment in the United Kingdom as—

- (a) a member of the personal staff of any Agent-General; or
- (b) an official agent for, or for any state or province of, any of the countries for the time being mentioned in Schedule 3 to the British Nationality Act 1981 or the Republic of Ireland; or
- (c) an official agent for any self-governing colony,

of a person certified by the High Commissioner of the country in question or, as the case may be, by the Agent-General for the state, province or self-governing colony in question to be ordinarily resident outside the United Kingdom and to be resident in the United Kingdom solely for the purpose of the performance of his duties as such member or official agent.

(4) In this section—

“Agent-General” means the Agent-General for any state or province of a country within subsection (3)(b) above or for any self-governing colony;

“High Commissioner” includes the head of the mission of a country within subsection (3)(b) above by whatever name called;

“mission” has the same meaning as in the Diplomatic Privileges Act 1964, and references to the head of a mission and a member of the staff of a mission shall be construed in accordance with that Act;

“self-governing colony” means any colony certified by a Secretary of State to be a self-governing colony.

321 Consuls and other official agents

(1) Income arising from any office or employment to which this section applies shall be exempt from income tax, and no account shall be taken of any such income in estimating the amount of income for any income tax purposes.

(2) The offices and employments to which this section applies are the following, that is to say—

- (a) the office of a consul in the United Kingdom in the service of any foreign state; and
- (b) the employment of an official agent in the United Kingdom for any foreign state, not being an employment exercised by a Commonwealth citizen or a citizen of the Republic of Ireland or exercised in connection with any trade, business or other undertaking carried on for the purposes of profit.

(3) In this section—

“consul” means a person recognised by Her Majesty as being a consul-general, consul, vice-consul or consular agent; and

“official agent” means a person, not being a consul, who is employed on the staff of any consulate, official department or agency of a foreign state, not being a department or agency which carries on any trade, business or other undertaking for the purposes of profit.

322 Consular officers and employees

- (1) Where a consular officer or employee in the United Kingdom of any foreign state to which this section applies—
- (a) is not a British citizen, a British Dependent Territories citizen or a British Overseas citizen, and
 - (b) is not engaged in any trade, profession, vocation or employment in the United Kingdom, otherwise than as such a consular officer or employee, and
 - (c) either is a permanent employee of that state or was not ordinarily resident in the United Kingdom immediately before he became a consular officer or employee in the United Kingdom of that state;

then any income of his falling within Case IV or V of Schedule D shall be exempt from income tax, and he shall be treated as not resident in the United Kingdom for the purposes of sections 48 and 123(4).

- (2) Without prejudice to section 321, the income arising from a person's employment in the United Kingdom as a consular employee of any foreign state to which this section applies shall be exempt from income tax, except in the case of a person who is not a national of that state but is a British citizen, a British Dependent Territories citizen or a British Overseas citizen.
- (3) For the purposes of this section "consular employee" includes any person employed, for the purposes of the official business of a consular officer, at any consulate or consular establishment or at any other premises used for those purposes.
- (4) This section shall apply to any foreign state to which Her Majesty by Order in Council directs that it shall apply for the purpose of giving effect to any consular convention or other arrangement with that state making similar provision in the case of Her Majesty's consular officers or employees in that state.
- (5) An Order in Council under subsection (4) above—
- (a) may limit the operation of this section in relation to any state in such manner as appears to Her Majesty to be necessary or expedient having regard to the arrangement with that state;
 - (b) may be made so as to have effect from a date earlier than the making of the Order or the passing of this Act (but not earlier than the coming into force of the arrangement with regard to which it is made); and
 - (c) may contain such transitional provisions as appear to Her Majesty to be necessary or expedient;

and any statutory instrument under this section shall be subject to annulment in pursuance of a resolution of the House of Commons.

323 Visiting forces

- (1) The emoluments paid by the government of any designated country to any member of a visiting force of that country who is not a British citizen, a British Dependent Territories citizen or a British Overseas citizen shall be exempt from income tax.
- (2) A period during which a member of a visiting force to whom subsection (1) above applies is in the United Kingdom by reason solely of his being a member of that force shall not be treated for the purposes of income tax either as a period of residence in the United Kingdom or as creating a change of his residence or domicile.

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- (3) Subsection (2) above shall not affect the operation of section 278 in relation to any person for any year of assessment.
- (4) In subsections (1) and (2) above references to a visiting force shall apply to a civilian component of such a force as they apply to the force itself; and those subsections shall be construed as one with the Visiting Forces Act 1952, but so that, for the purposes of this section, references to a designated country shall be substituted in that Act for references to a country to which a provision of that Act applies.
- (5) For the purpose of conferring on persons attached to any designated allied headquarters the like benefits as are conferred by subsections (1) and (2) above on members of a visiting force or civilian component, any members of the armed forces of a designated country shall, while attached to any such headquarters, be deemed to constitute a visiting force of that country, and there shall be a corresponding extension of the class of persons who may be treated as members of a civilian component of such a visiting force.
- (6) In the case of persons of any category for the time being agreed between Her Majesty's government in the United Kingdom and the other members of the North Atlantic Council—
- (a) employment by a designated allied headquarters shall be treated for the purposes of subsection (2) above as if it were service as a member of a visiting force of a designated country; and
 - (b) the emoluments paid by a designated allied headquarters to persons employed by such a headquarters shall be exempt from income tax.
- (7) The exemption conferred by subsection (6)(b) above shall cease to apply to British citizens, British Dependent Territories citizens and British Overseas citizens if it becomes unnecessary that it should so apply for the purpose of giving effect to any agreement between parties to the North Atlantic Treaty.
- (8) For the purposes of this section—
- “allied headquarters” means any international military headquarters established under the North Atlantic Treaty, and
- “designated” means designated for the purpose in question by or under any Order in Council made for giving effect to any international agreement.

324 Designated international organisations

- (1) The Treasury may by order designate for the purposes of this section—
- (a) any international organisation—
 - (i) if one of its members is the United Kingdom or any of the Communities; and
 - (ii) if the agreement under which that member became a member provides for exemption from tax, in relation to the organisation, of the kind for which provision is made by this section; or
 - (b) any of the Communities or the European Investment Bank.
- (2) Where an organisation has been so designated, a person not resident in the United Kingdom shall not be liable to income tax in respect of income from any security issued by the organisation if he would not be liable but for the fact that—

- (a) the security or income is issued, made payable or paid in the United Kingdom or in sterling; or
- (b) the organisation maintains an office or other place of business in the United Kingdom.

325 Interest on deposits with National Savings Bank

—Where the total income of an individual for the year of assessment includes, or would but for this section include, any sums paid or credited in respect of interest on deposits with the National Savings Bank, other than investment deposits, those sums shall be disregarded for all purposes of the Income Tax Acts, other than the furnishing of information, if or in so far as they do not exceed £70; and for this purpose the question whether or how far those sums exceed £70 shall, where by virtue of section 279 a woman's income is deemed to be her husband's, be determined separately as regards the part of his income which is his by virtue of that section and the part which is his apart from that section.

326 Interest etc. under contractual savings schemes

- (1) Any terminal bonus, or interest or other sum, payable under a certified contractual savings scheme—
 - (a) in respect of money raised under section 12 of the National Loans Act 1968, or
 - (b) in respect of shares in a building society,shall be disregarded for all purposes of the Income Tax Acts.
- (2) In this section “certified contractual savings scheme” means, except in relation to a building society, a scheme—
 - (a) governed by regulations made under section 12 of the National Debt Act 1958 or section 52 of the Finance Act 1969; and
 - (b) providing for periodical contributions by individuals for a specified period, and the repayment in accordance with the regulations of contributions together with any additional sum by way of bonus or interest, and
 - (c) certified by the Treasury as qualifying for exemption under this section.
- (3) In this section “certified contractual savings scheme” means, in relation to a building society, a scheme—
 - (a) providing for periodical contributions by individuals for a specified period, being contributions by way of investment in shares in the building society, and
 - (b) certified by the Treasury as corresponding to a scheme certified under subsection (2) above, and as qualifying for exemption under this section.

327 Disabled person's vehicle maintenance grant

—A grant made under paragraph 2 of Schedule 2 to the National Health Service Act 1977 or section 46(3) of the National Health Service (Scotland) Act 1978 (cost of maintenance etc. of vehicles belonging to disabled persons) or under Article 30 of the Health and Personal Social Services (Northern Ireland) Order 1972 to any person owning a vehicle shall not be treated as income for any purpose of the Income Tax Acts.

328 Funds in court

(1) If any common investment fund established under section 42 of the Administration of Justice Act 1982 is for the time being designated for the purposes of this subsection by an agreement between the Board and the investment manager of the fund—

- (a) subject to subsection (2) below, the investment manager shall be entitled to exemption from income tax in respect of so much of the income derived from that fund or any investment thereof as is paid by him by way of dividend on the shares into which the fund is divided; and
- (b) dividends on those shares shall be paid without deduction of income tax and shall be chargeable under Case III of Schedule D.

A claim for exemption under paragraph (a) shall be made to the Board.

(2) Where the income or part of the income derived in a year of assessment from the fund or its investments consists of interest on securities, the income or part (as the case may be) shall for the purposes of subsection (1)(a) above be calculated by treating it as the amount it would be apart from section 714(5), but reduced by an amount (if any) equal to the excess of A over B.

(3) In subsection (2) above—

A is the total amount of allowances to which, by virtue of section 714(4), the investment manager of the fund is entitled in the year of assessment in respect of all securities comprised in the fund; and

B is the total amount of annual profits or gains which, by virtue of section 714(2), he is treated as receiving in the year of assessment in respect of those securities.

(4) In subsections (2) and (3) above “interest” and “securities” have the same meanings as in sections 710 and 711.

(5) Where at any time by virtue of subsection (1) above the income of any person from any source becomes chargeable to income tax as provided by that subsection, not having previously been chargeable by direct assessment on that person, section 66(3) shall apply as if the source of that income were a new source of income acquired by that person at that time.

(6) The Accountant General and any other person authorised to invest in a fund designated for the purposes of subsection (1) above shall as respects each year of assessment furnish to the Board, at such time and in such manner as they may direct, particulars of any sums paid without deduction of tax by virtue of that subsection and of the persons to whom they were paid, except that particulars shall not be required of any case where the total of such sums paid to any person in that year did not exceed £15.

(7) An agreement designating a fund for the purposes of subsection (1) above may provide for incidental and consequential matters, including arrangements for giving effect to subsection (1)(a) above by provisional repayments of tax deducted at source, and may be determined by the Board or the investment manager of the fund by one year’s notice expiring at the end of any year of assessment.

(8) The reference to the Accountant General is a reference to the Accountant General of the Supreme Court of England and Wales and in relation to money in the Supreme Court of Judicature of Northern Ireland, or money in a county court in Northern Ireland, and in relation to investments representing such money, includes a reference to the Accountant General of the Supreme Court of Judicature of Northern Ireland or any other person by whom such funds are held.

329 Interest on damages for personal injuries

- (1) The following interest shall not be regarded as income for any income tax purpose—
 - (a) any interest on damages in respect of personal injuries to a plaintiff or any other person, or in respect of a person's death, which is included in any sum for which judgment is given by virtue of a provision to which this paragraph applies; and
 - (b) any interest on damages or solatium in respect of personal injuries sustained by a pursuer or by any other person, decree for payment of which is included in any interlocutor by virtue of section 1 of the Interest on Damages (Scotland) Act 1958.
- (2) The provisions to which subsection (1)(a) above applies are—
 - (a) section 3 of the Law Reform (Miscellaneous Provisions) Act 1934;
 - (b) section 17 of the Law Reform (Miscellaneous Provisions) Act (Northern Ireland) 1937;
 - (c) section 35A of the Supreme Court Act 1981;
 - (d) section 69 of the County Courts Act 1984;
 - (e) section 33A of the Judicature (Northern Ireland) Act 1978; and
 - (f) Article 45A of the County Courts (Northern Ireland) Order 1980.
- (3) A payment in satisfaction of a cause of action, including a payment into court, shall not be regarded as income for any income tax purpose to the extent to which it is in respect of interest which would fall within subsection (1) above if included in a sum for which a judgment is given or if decree for payment of it were included in an interlocutor.
- (4) In this section “personal injuries” includes any disease and any impairment of a person's physical or mental condition.

330 Compensation for National-Socialist persecution

—Annuities and pensions payable under any special provision for victims of National-Socialist persecution which is made by the law of the Federal Republic of Germany or any part of it or of Austria shall not be regarded as income for any income tax purpose.

331 Scholarship income

- (1) Income arising from a scholarship held by a person receiving full-time instruction at a university, college, school or other educational establishment shall be exempt from income tax, and no account shall be taken of any such income in computing the amount of income for income tax purposes.
- (2) In this section “scholarship” includes an exhibition, bursary or any other similar educational endowment.

332 Expenditure and houses of ministers of religion

- (1) Subsection (2) below applies where an interest in any premises belongs to a charity or any ecclesiastical corporation and (in right of that interest)—
 - (a) the persons from time to time holding any full-time office as clergyman or minister of any religious denomination, or
 - (b) any particular person holding such an office,

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have or has a residence in those premises from which to perform the duties of the office.

- (2) In the case of such a clergyman or minister, for the purposes of income tax with which he may be chargeable under Schedule E, there shall be disregarded—
- (a) the making good to him, in consequence of his being the holder of his office, of statutory amounts payable in connection with the premises or statutory deductions falling to be made in connection therewith, except in so far as an amount or deduction is properly attributable to a part of the premises in respect of which he receives rent;
 - (b) the payment on his behalf, except as aforesaid, of such a statutory amount; and
 - (c) unless he is in director's or higher-paid employment (as defined in section 167), the value to him of any expenses incurred in connection with the provision in the premises of living accommodation for him, being expenses incurred in consequence of his being the holder of his office.
- (3) In assessing the income tax chargeable (whether under Schedule E or any other Schedule) upon a clergyman or minister of any religious denomination, the following deductions may be made from any profits, fees or emoluments of his profession or vocation—
- (a) any sums of money paid or expenses incurred by him wholly, exclusively and necessarily in the performance of his duty as a clergyman or minister;
 - (b) such part of the rent (not exceeding one-quarter) as the inspector by whom the assessment is made may allow, paid by him in respect of a dwelling-house any part of which is used mainly and substantially for the purposes of his duty as such clergyman or minister; and
 - (c) in respect of expenses borne by him in the maintenance, repairs, insurance or management of any premises in which, in right of such an interest as is mentioned in subsection (1) above, he has such a residence as is mentioned in that subsection, such part of the expenses as, together with any deduction allowable in respect of such expenses under paragraph (a) above, is equal to one-quarter of the amount of the expenses.

On an appeal to the General Commissioners or Special Commissioners, the Commissioners shall have jurisdiction to review the inspector's decision under paragraph (b) above.

- (4) In this section “statutory amount” and “statutory deduction” mean an amount paid and a deduction made in pursuance of any provision contained in or having the force of an Act.

333 Personal equity plans

- (1) The Treasury may make regulations providing that an individual who invests under a plan shall be entitled to relief from income tax in respect of the investments.
- (2) The regulations shall set out the conditions subject to which plans are to operate and the extent to which investors are to be entitled to relief from tax.
- (3) In particular, the regulations may—
 - (a) specify the description of individuals who may invest and the kind of investments they may make;

- (b) specify maximum investment limits and minimum periods for which investments are to be held;
 - (c) provide that investments are to be held by persons (“plan managers”) on behalf of investors;
 - (d) specify how relief from tax is to be claimed by, and granted to, investors or plan managers on their behalf;
 - (e) provide that plans and plan managers must be such as are approved by the Board;
 - (f) specify the circumstances in which approval may be granted and withdrawn.
- (4) The regulations may include provision—
- (a) that in prescribed circumstances—
 - (i) an investor under a plan shall cease to be, and be treated as not having been, entitled to relief from tax in respect of the investments; and
 - (ii) he or the plan manager concerned (depending on the terms of the regulations) shall account to the Board for tax from which relief has already been given on the basis that the investor was so entitled;
 - (b) that an investor under a plan or the plan manager concerned (depending on the terms of the regulations) shall account to the Board for tax from which relief has been given in circumstances such that the investor was not entitled to it;
 - (c) adapting, or modifying the effect of, any enactment relating to income tax in order to—
 - (i) secure that investors under plans are entitled to relief from tax in respect of investments;
 - (ii) secure that investors under plans cease to be, and are treated as not having been, so entitled;
 - (iii) secure that investors under plans or plan managers account for tax as mentioned in paragraph (a) or (b) above;
 - (d) that a person who is, or has at any time been, either an investor under a plan or a plan manager—
 - (i) shall comply with any notice which is served on him by the Board and which requires him within a prescribed period to make available for the Board’s inspection documents (of a prescribed kind) relating to a plan or to investments which are or have been held under it;
 - (ii) shall, within a prescribed period of being required to do so by the Board, furnish to the Board information (of a prescribed kind) about a plan or about investments which are or have been held under it;
 - (e) generally for the purpose of bringing plans into existence, and generally for the purpose of the administration of plans and the administration of income tax and corporation tax in relation to them.
- (5) In this section “prescribed” means prescribed by the regulations.

CHAPTER V

RESIDENCE OF INDIVIDUALS

334 Commonwealth citizens and others temporarily abroad

—Every Commonwealth citizen or citizen of the Republic of Ireland—

- (a) shall, if his ordinary residence has been in the United Kingdom, be assessed and charged to income tax notwithstanding that at the time the assessment or charge is made he may have left the United Kingdom, if he has so left the United Kingdom for the purpose only of occasional residence abroad, and
- (b) shall be charged as a person actually residing in the United Kingdom upon the whole amount of his profits or gains, whether they arise from property in the United Kingdom or elsewhere, or from any allowance, annuity or stipend, or from any trade, profession, employment or vocation in the United Kingdom or elsewhere.

335 Residence of persons working abroad

(1) Where—

- (a) a person works full-time in one or more of the following, that is to say, a trade, profession, vocation, office or employment; and
- (b) no part of the trade, profession or vocation is carried on in the United Kingdom and all the duties of the office or employment are performed outside the United Kingdom;

the question whether he is resident in the United Kingdom shall be decided without regard to any place of abode maintained in the United Kingdom for his use.

(2) Where an office or employment is in substance one of which the duties fall in the year of assessment to be performed outside the United Kingdom there shall be treated for the purposes of this section as so performed any duties performed in the United Kingdom the performance of which is merely incidental to the performance of the other duties outside the United Kingdom.

336 Temporary residents in the United Kingdom

(1) A person shall not be charged to income tax under Schedule D as a person residing in the United Kingdom, in respect of profits or gains received in respect of possessions or securities out of the United Kingdom, if—

- (a) he is in the United Kingdom for some temporary purpose only and not with any view or intent of establishing his residence there, and
- (b) he has not actually resided in the United Kingdom at one time or several times for a period equal in the whole to six months in any year of assessment,

but if any such person resides in the United Kingdom for such a period he shall be so chargeable for that year.

(2) For the purposes of Cases I, II and III of Schedule E, a person who is in the United Kingdom for some temporary purpose only and not with the intention of establishing his residence there shall not be treated as resident in the United Kingdom if he has not in the aggregate spent at least six months in the United Kingdom in the year of assessment, but shall be treated as resident there if he has.