

Status: Point in time view as at 01/02/1991. This version of this schedule contains provisions that are not valid for this point in time.
Changes to legislation: There are currently no known outstanding effects for the Finance Act 1989, SCHEDULE 11. (See end of Document for details)

SCHEDULES

SCHEDULE 11 U.K.

Section 94.

DEEP GAIN SECURITIES

Modifications etc. (not altering text)

- C1 Sch. 11 modified (27.7.1993) by 1993 c. 34, ss. 65(2)(4)(7)(8), 66(1)
Sch. 11 applied (27.7.1993) by 1993 c. 34, ss. 164(12), (with s. 165)

Deep gain securities

- 1 (1) For the purposes of this Schedule a deep gain security is a redeemable security (whenever issued) which fulfils the first and second conditions.
- (2) The first condition is that, taking the security at the time it is issued and assuming redemption, the amount payable on redemption might constitute a deep gain; and if the security is capable of redemption on one of a number of occasions, this condition is fulfilled if it is fulfilled as regards any one of them.
- (3) For the purposes of sub-paragraph (2) above “redemption” does not include any redemption which may be made before maturity only at the option of the person who issued the security (and no other person).
- [^{F1}(3A) In the case of a security issued before 13th November 1991, for the purposes of sub-paragraph (2) above “redemption” does not include any redemption which may be made before maturity otherwise than in pursuance of the exercise by the person who holds the security for the time being of an option exercisable only on the effluxion of time or the happening of an event which (judged at the time of the security’s issue) is certain or likely to occur.
- (3B) In the case of a security issued on or after 13th November 1991, for the purposes of sub-paragraph (2) above “redemption” does not include any redemption which may be made before maturity otherwise than at the option of the person who holds the security for the time being and as regards which the following conditions are fulfilled (judged at the time of the security’s issue)—
- (a) the event occasioning redemption is such that, if it occurred and there was no provision for redemption, the interests of the person holding the security at the time of the occurrence might be adversely affected,
 - (b) the event occasioning redemption is neither certain nor likely to occur,
 - (c) the event occasioning redemption is not one of a number of events occasioning or allowing redemption before maturity at least one of which is certain or likely to occur, and

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- (d) the obtaining of a tax advantage by any person is not the main benefit, or one of the main benefits, that might be expected to accrue from the provision for redemption.
- (3C) The condition set out in sub-paragraph (3B)(a) above is fulfilled if it is fulfilled by reference to any one potential holder, whether or not it is fulfilled by reference to other potential holders.
- (3D) In a case where—
- (a) the security is one which under the terms of issue can be converted into or exchanged for a security of a different kind, and
 - (b) it falls to be decided whether the condition set out in paragraph (b) or (c) of sub-paragraph (3B) above is fulfilled,
- the condition concerned shall not be treated as fulfilled unless it is fulfilled having regard only to circumstances in which (judged at the time of the security's issue) the right to convert or exchange cannot be or is unlikely to be exercised.
- (3E) In the case of a security issued on or after 13th November 1991, for the purposes of sub-paragraph (2) above "redemption" does not include any redemption which may be made before maturity at the option of the person who holds the security for the time being and as regards which the following conditions are fulfilled (judged at the time of the security's issue)—
- (a) the event allowing the option to be exercised is such that, if it occurred and there was no provision for redemption, the interests of the person holding the security at the time of the occurrence might be adversely affected,
 - (b) the event allowing the option to be exercised is neither certain nor likely to occur,
 - (c) the event allowing the option to be exercised is not one of a number of events occasioning or allowing redemption before maturity at least one of which is certain or likely to occur, and
 - (d) the obtaining of a tax advantage by any person is not the main benefit, or one of the main benefits, that might be expected to accrue from the provision for redemption.
- (3F) The condition set out in sub-paragraph (3E)(a) above is fulfilled if it is fulfilled by reference to any one potential holder, whether or not it is fulfilled by reference to other potential holders.
- (3G) In a case where—
- (a) the security is one which under the terms of issue can be converted into or exchanged for a security of a different kind, and
 - (b) it falls to be decided whether the condition set out in paragraph (b) or (c) of sub-paragraph (3E) above is fulfilled,
- the condition concerned shall not be treated as fulfilled unless it is fulfilled having regard only to circumstances in which (judged at the time of the security's issue) the right to convert or exchange cannot be or is unlikely to be exercised.]
- (4) The second condition is that the security—
- (a) is not a deep discount security (either because the amount payable on redemption is not known at issue or for some other reason),
 - (b) is not a share in a company,
 - (c) is not a qualifying indexed security,

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- (d) is not a convertible security, and
 - (e) does not fall within sub-paragraph (5), (6) or (7) below.
- (5) A security falls within this sub-paragraph if it is a gilt-edged security and—
- (a) it was issued before 14th March 1989, or
 - (b) it was issued on or after that date but was issued under the same prospectus as any gilt-edged security issued before that date.
- (6) A security falls within this sub-paragraph if it is a gilt-edged security and—
- (a) it was issued under a prospectus under which no securities were issued before 14th March 1989,
 - (b) it was issued otherwise than on the occasion of the original issue under the prospectus, and
 - (c) all the securities issued on the occasion of the original issue under the prospectus are gilt-edged securities which are not deep gain securities.
- (7) A security falls within this sub-paragraph if it is not a gilt-edged security and was issued (at whatever time) under the same prospectus as any other security which was issued before the security in question and which is not a deep gain security.
- (8) For the purposes of this paragraph—
- (a) a deep discount security is a security which is a deep discount security for the purposes of Schedule 4 to the Taxes Act 1988,
 - (b) “qualifying indexed security” has the meaning given by paragraph 2 below, and
 - (c) a gilt-edged security is a security which is a gilt-edged security for the purposes of the ^{M1}Capital Gains Tax Act 1979.
- (9) For the purposes of this paragraph the amount payable on redemption of a security constitutes a deep gain if the issue price is less than the amount so payable, and the amount by which it is less represents more than—
- (a) 15 per cent. of the amount so payable, or
 - (b) half Y per cent. of the amount so payable, where Y is the number of complete years between the date of issue and the redemption date.
- (10) For the purposes of this paragraph the amount payable on redemption does not include any amount payable by way of interest.

Textual Amendments

F1 Sch. 11 para. 1(3A)-(3G) substituted (*retrospectively and deemed always to have had effect*) for para. 1(3A) by Finance (No. 2) Act 1992 (c. 48), s. 33, Sch. 7 paras. 2, 7, 8

Modifications etc. (not altering text)

C2 See Finance Act 1990 (c. 29), s. 56, Sch. 10 para. 11(4)—*definition employed for purposes of Finance Act 1990 (c. 29), Sch. 10—convertible securities*

Marginal Citations

M1 1979 c. 14.

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Qualifying indexed securities

- 2 (1) For the purposes of paragraph 1 above a qualifying indexed security is a security which fulfils each of the conditions set out below.
- (2) The first condition is that—
- (a) the security is denominated in sterling and under the terms of issue the amount payable on redemption is determined by reference to the movement of the retail prices index,
 - (b) the security is denominated in a currency other than sterling and under the terms of issue the amount payable on redemption is determined by reference to any similar general index of prices which is published by the government, or by an agent of the government, of the territory in whose currency the security is denominated, or
 - (c) [F²the security was quoted in the official list of a recognised stock exchange at the time it was issued], and under the terms of issue the amount payable on redemption is determined by reference to the movement of a published index of prices of shares quoted in the official list of a recognised stock exchange.
- (3) The second condition is that the terms of issue make no provision for conversion into, or redemption in, a currency other than that in which the security is denominated on issue.
- (4) The third condition is that under the terms of issue—
- (a) interest is payable on the security,
 - (b) not more than one year can elapse between the day of issue and the first day on which interest becomes payable, or between any day on which interest becomes payable and the next day on which it becomes payable,
 - (c) the interest payable is determined by reference to a rate which is not less than a reasonable commercial rate (judged by reference to the date of issue and by reference to securities of a similar nature to the one in question), and
 - (d) the interest payable is also determined by reference to the movement of the index by reference to which the amount payable on redemption is determined.
- (5) The fourth condition is that where that index is applied to determine the amount payable on redemption or to determine interest it must, under the terms of issue, be applied precisely and without restriction.
- (6) The fifth condition is that—
- (a) the security is expressed to be issued for a definite period stated on the face of the security, and
 - (b) the period so stated commences with the day of issue and is five years or more.
- (7) The sixth condition is that the terms of issue contain no provision enabling the person who holds the security for the time being to require any of the following before the expiry of a period which commences with the day of issue and which is five years or more—
- (a) the security to be repurchased by the person who issued it;
 - (b) the security to be purchased by a person other than the person who issued it;
 - (c) the security to be converted into another kind of security;

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- (d) the security to be redeemed in circumstances other than any of the qualifying circumstances (set out in sub-paragraph (13) below).
- (8) The seventh condition is that, where the issue is handled by an agent for the person making the issue or by an underwriter, the terms on which the agent or underwriter offers the security—
- (a) contain no provision for the security to be repurchased by the person who issued it, converted into another kind of security, or redeemed, before the expiry of a period which commences with the day of issue and which is five years or more, and
 - (b) contain no provision enabling the person who holds the security for the time being to require the security to be purchased, by a person other than the person who issued it, before the expiry of a period which commences with the day of issue and which is five years or more.
- [^{F3}(8A) If a security was issued before 9th June 1989, was not quoted in the official list of a recognised stock exchange at the time it was issued, but was quoted in such a list on 8th June 1989, for the purposes of sub-paragraph(2)(c) above it shall be deemed to have been quoted in that list at the time it was issued.
- (8B) If a security was issued on or after 9th June 1989, and was quoted in the official list of a recognised stock exchange at a time after it was issued but before the end of the qualifying period, for the purposes of sub-paragraph(2)(c) above it shall be deemed to have been quoted in that list at the time it was issued; and the qualifying period is the period of one month beginning with the day on which the security was issued]
- (9) For the purposes of sub-paragraph (5) above “redemption” does not include any redemption which may be made before maturity only at the option of the person who issued the security (and no other person).
- (10) In a case where the amount payable on redemption, or the amount of interest, is under the terms of issue determined by reference to the movement of the index for a period (a notional period) in place of a later actual period (a process commonly known as lagging) the fourth condition shall be treated as fulfilled if the following rules are fulfilled—
- (a) under the terms of issue the notional period must start not more than eight months before the actual period starts and must end not more than eight months before the actual period ends, and
 - (b) where the index is applied for the notional period it must, under the terms of issue, be applied precisely and without restriction.
- (11) In a case where the terms of issue contain provision for the amount payable on redemption to be not less than an amount stated in the terms, the provision shall not prevent the fourth condition being fulfilled if—
- (a) the security was issued before 9th June 1989, and
 - (b) the amount stated does not constitute a deep gain (within the meaning given by paragraph 1(9) above).
- [^{F3}(11A) In a case where the terms of issue contain provision for the amount payable on redemption to be not less than a specified percentage of the issue price, the provision shall not prevent the fourth condition being fulfilled if the specified percentage is not greater than 10.]
- (12) In a case where—

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- (a) the terms of issue contain provision for the amount payable on redemption in any of the qualifying circumstances (set out in sub-paragraph (13) below) to be not less than an amount stated in the terms, and
 - (b) the security was issued before 9th June 1989,
- the provision shall not prevent the fourth condition being fulfilled.

[^{F4}(12A) In a case where—

- (a) the terms of issue contain provision for the amount payable on redemption in any of the qualifying circumstances (set out in sub-paragraph (13) below) to be not more than the issue price, and
 - (b) the security was issued on or after 9th June 1989,
- the provision shall not prevent the fourth condition being fulfilled.]

(13) For the purposes of sub-paragraphs (7) [^{F5}, (12) and (12A)] above the following are qualifying circumstances—

- (a) there is a fundamental change in the rules governing the index and the change would be detrimental to the interests of the person who holds the security for the time being;
- (b) the index ceases to be published without being replaced by a comparable index;

[^{F6}(c) in the case of a security issued before 13th November 1991, any circumstances except circumstances in which the person who holds the security for the time being exercises an option exercisable only on the effluxion of time or the happening of an event which (judged at the time of the security's issue) is certain or likely to occur;

(d) in the case of a security issued on or after 13th November 1991, any circumstances for redemption which may be made before maturity otherwise than at the option of the person who holds the security for the time being and as regards which the conditions set out in paragraph 1(3B) above are fulfilled (judged at the time of the security's issue and read subject to paragraph 1(3C) and (3D) above);

(e) in the case of a security issued on or after 13th November 1991, any circumstances for redemption which may be made before maturity at the option of the person who holds the security for the time being and as regards which the conditions set out in paragraph 1(3E) above are fulfilled (judged at the time of the security's issue and read subject to paragraph 1(3F) and (3G) above).]

(14) In a case where an issue is handled by an agent for the person making the issue, or by an underwriter, for the purposes of sub-paragraphs (2) to (5) and (10) above the terms of issue shall be taken to include any terms on which the agent or underwriter offers the security.

(15) For the purposes of this paragraph the amount payable on redemption does not include any amount payable by way of interest.

(16) For the purposes of this paragraph “control” (in relation to a company) shall be construed in accordance with section 840 of the Taxes Act 1988.

Textual Amendments

F2 Finance Act 1990 (c. 29), s. 58(2)(7)—deemed always to have had effect. Previously

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“the security was issued before 9th June 1989 and was quoted in the official list of a recognised stock exchange on 8th June 1989”

- F3** Finance Act 1990 (c. 29), s. 58(3)(4) respectively—deemed always to have had effect (subs. (7))
F4 Finance Act 1990 (c. 29), s. 58(5)(7)—deemed always to have had effect
F5 Finance Act 1990 (c. 29), s. 58(6)(a)(7)—deemed always to have had effect. Previously “and (12)”
F6 Sch. 11 para. 2(13)(c)-(e) substituted (retrospectively and deemed always to have had effect) for sub-para. (13)(c)(d) by Finance (No. 2) Act 1992 (c. 48), s. 33, Sch. 7 paras. 3, 7, 8

Convertible securities

- 3 (1) For the purposes of paragraph 1 above a security is a convertible security if—
- (a) it was issued by a company before 9th June 1989,
 - (b) under the terms of issue it can be converted into or exchanged for share capital in a company (whether or not the company is the one which issued the security), and
 - (c) the condition set out in sub-paragraph (2) below is fulfilled.
- (2) The condition is that—
- (a) at some time in the qualifying period the security was quoted in the official list of a recognised stock exchange,
 - (b) at some time in that period relevant share capital was so quoted, or
 - (c) each of paragraphs (a) and (b) above is satisfied (though not necessarily as regards the same time).
- (3) For the purposes of sub-paragraph (2) above the qualifying period is the period of one month beginning with the day on which the security was issued.
- (4) For the purposes of sub-paragraph (2) above relevant share capital is share capital in the company into whose share capital the security can be converted or for whose share capital the security can be exchanged; and relevant share capital need not be share capital into or for which the security can be converted or exchanged.
- (5) References in this paragraph to share capital are to share capital by whatever name called.

VALID FROM 25/07/1991

[^{F7}Issue price]

Textual Amendments

- F7** Sch. 11 para. 3A inserted by Finance Act 1991 (c. 31, SIF 63:1), s. 54, Sch. 12 para. 4.

- [3A (1) This paragraph applies where—
- (a) securities (old securities) of a particular kind are issued by way of the original issue of securities of that kind,

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- (b) on a later occasion securities (new securities) of the same kind are issued,
 - (c) a sum (the extra return) is payable in respect of each new security, by the person issuing it, to reflect the fact that interest is accruing on the old securities,
 - (d) the issue price of each new security includes an element (whether or not separately identified) representing payment for the extra return, and
 - (e) the extra return is equal to the amount of interest payable for the relevant period on each old security.
- (2) In such a case, the issue price of each new security shall be deemed for the purposes of paragraph 1(9) above to be its actual issue price less an amount equal to the extra return payable in respect of the security.
- (3) For the purposes of this paragraph securities are of the same kind if they are treated as being of the same kind by the practice of a recognised stock exchange or would be so treated if dealt with on such a stock exchange.
- (4) For the purposes of this paragraph the relevant period is the period beginning with the day following the relevant day and ending with the day on which the new securities are issued.
- (5) For the purposes of this paragraph the relevant day is—
- (a) the last (or only) interest payment day to fall in respect of the old securities before the day on which the new securities are issued, or
 - (b) the day on which the old securities were issued, in a case where no interest payment day fell in respect of them before the day on which the new securities are issued;
- and an interest payment day, in relation to the old securities, is a day on which interest is payable under them.]

Meaning of transfer etc.

- 4 (1) This paragraph has effect for the purposes of this Schedule.
- (2) “Transfer”, in relation to a security, means transfer by way of sale, exchange, gift or otherwise.
- [^{F8}(2A) But (notwithstanding sub-paragraph (2) above) “transfer” does not include a transfer made on a conversion of a security into share capital in a company.]
- (3) Where an agreement for the transfer of a security is made, it is transferred, and the person to whom it is agreed to be transferred becomes entitled to it, when the agreement is made and not on a later transfer made pursuant to the agreement; and “entitled”, “transfer” and cognate expressions shall be construed accordingly.
- (4) A person holds a security at a particular time if he is entitled to it at the time.
- (5) A person acquires a security when he becomes entitled to it; and “acquisition” shall be construed accordingly.
- (6) If an agreement is conditional (whether on the exercise of an option or otherwise) for the purposes of sub-paragraph (3) above it is made when the condition is exercised.

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Textual Amendments

F8 Finance Act 1990 (c. 29), s. 56, **Sch. 10 para. 27(2)**,²⁹⁽¹⁾—deemed always to have had effect

Charge to tax on transfer

- 5 (1) This paragraph applies if—
- (a) there is a transfer of a deep gain security on or after 14th March 1989 (irrespective of when the person making the transfer acquired it), and
 - (b) the amount obtained on transfer exceeds the amount paid on acquisition.
- (2) In such a case—
- (a) an amount equal to the difference between those two amounts, less the amount of any costs, shall be treated as income of the person making the transfer,
 - (b) the income shall be chargeable to tax under Case III or Case IV (as the case may be) of Schedule D,
 - (c) the income shall be treated as arising in the year of assessment in which the transfer takes place, and
 - (d) notwithstanding anything in sections 64 to 67 of the Taxes Act 1988, the tax shall be computed on the income arising in the year of assessment for which the computation is made.
- (3) For the purposes of this paragraph—
- (a) the amount obtained on transfer is the amount obtained, in respect of the transfer, by the person making it,
 - (b) the amount paid on acquisition is the amount paid by that person in respect of his acquisition of the security (or his last acquisition of it before the transfer), and
 - (c) costs are the costs incurred by that person in connection with the transfer and with his acquisition of the security (or his last acquisition of it before the transfer).
- (4) For the purposes of sub-paragraph (3)(a) above the person making the transfer shall be treated as obtaining in respect of it—
- (a) any amount he actually obtains in respect of it, and
 - (b) any amount he is entitled to obtain, but does not obtain, in respect of it.
- (5) Sub-paragraph (4) above shall not apply where paragraph 7, 8 or 9 below applies.

VALID FROM 27/07/1993

[^{F9} Exchange gains and losses]

Textual Amendments

F9 Sch. 11 para. 5A and crossheading inserted (27.7.1993) by 1993 c. 34, s. 170, **Sch. 18 para. 7**

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- F10** 5A (1) This paragraph applies where—
- (a) there is a transfer or redemption of a deep gain security, and
 - (b) the person making the transfer or (as the case may be) the person who was entitled to the security immediately before redemption is a qualifying company.
- (2) For the purposes of paragraph 5 above the amount treated as income—
- (a) shall be increased by the amount of any non-trading exchange loss, or the aggregate of the amounts of any non-trading exchange losses, accruing to the company as regards the underlying right for any accrual period or periods constituting or falling within the holding period;
 - (b) shall (after taking account of paragraph (a) above) be reduced by the amount of any non-trading exchange gain, or the aggregate of the amounts of any non-trading exchange gains, accruing to the company as regards the underlying right for any accrual period or periods constituting or falling within the holding period.
- (3) For the purposes of this paragraph—
- (a) the underlying right is the right to settlement under the debt on the security;
 - (b) “accrual period” and “qualifying company” have the same meanings as in Chapter II of Part II of the Finance Act 1993;
 - (c) the question whether a non-trading exchange gain or loss accrues to the company as regards the underlying right for an accrual period shall be decided in accordance with that Chapter.
- (4) For the purposes of this paragraph the holding period is the period which—
- (a) begins when the company acquired (or last acquired) the security before the transfer or redemption, and
 - (b) ends when the transfer or redemption is made.

Textual Amendments

F10 Sch. 11 para. 5A inserted (27.7.1993) by 1993 c. 34, s. 170, Sch. 18 para.7

Redemption

- 6 (1) Paragraph 5 above applies where there is a redemption of a deep gain security as well as where there is a transfer.
- (2) In its application by virtue of sub-paragraph (1) above, paragraph 5 above shall have effect as if—
- (a) references to the person making the transfer were to the person who was entitled to the security immediately before redemption, and
 - (b) other references to transfer were to redemption.

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Death

- 7 (1) Where an individual who is entitled to a security dies, for the purposes of this Schedule—
- (a) he shall be treated as transferring it to his personal representatives immediately before his death, and
 - (b) he shall be treated as obtaining in respect of the transfer an amount equal to the market value of the security at the time of the transfer.
- (2) Where a security is transferred by personal representatives to a legatee, for the purposes of paragraph 5 above they shall be treated as obtaining in respect of the transfer an amount equal to the market value of the security at the time of the transfer.
- (3) In sub-paragraph (2) above “legatee” includes any person taking (whether beneficially or as trustee) under a testamentary disposition or on an intestacy or partial intestacy, including any person taking by virtue of an appropriation by the personal representatives in or towards satisfaction of a legacy or other interest or share in the deceased’s property.

Modifications etc. (not altering text)

- C3** Sch. 11 para. 7(1) excluded (27.7.1993 with effect for the year 1992-93 and subsequent years of assessment) by 1993 c. 34, ss. 176(3)(c), 184(3)

Connected persons

- 8 (1) This paragraph applies where a security is transferred from one person to another (whether or not on or after 14th March 1989) and they are connected with each other.
- (2) For the purposes of paragraph 5 above—
- (a) the person making the transfer shall be treated as obtaining in respect of it an amount equal to the market value of the security at the time of the transfer, and
 - (b) the person to whom the transfer is made shall be treated as paying in respect of his acquisition of the security an amount equal to that market value.
- (3) Section 839 of the Taxes Act 1988 (connected persons) shall apply for the purposes of this paragraph.

Market value

- 9 (1) This paragraph applies where a security is transferred from one person to another (whether or not on or after 14th March 1989) and—
- (a) the transfer is made for a consideration which consists of or includes consideration not in money or money’s worth, or
 - (b) the transfer is made otherwise than by way of a bargain made at arm’s length.
- (2) For the purposes of paragraph 5 above—

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- (a) the person making the transfer shall be treated as obtaining in respect of it an amount equal to the market value of the security at the time of the transfer, and
- (b) the person to whom the transfer is made shall be treated as paying in respect of his acquisition of the security an amount equal to that market value.

Underwriters

- 10 (1) An underwriting member of Lloyd's shall be treated for the purposes of this Schedule as absolutely entitled as against the trustees to the securities forming part of his premiums trust fund, his special reserve fund (if any) and any other trust fund required or authorised by the rules of Lloyd's, or required by the underwriting agent through whom his business or any part of it is carried on, to be kept in connection with the business.
- (2) Where a security forms part of a premiums trust fund at the end of 31st December of any relevant year, for the purposes of this Schedule—
- (a) the trustees of the fund shall be treated as transferring it on that day, and
 - (b) they shall be treated as obtaining in respect of the transfer an amount equal to the market value of the security at the time of the transfer;
- and for this purpose relevant years are 1989 and subsequent years.
- (3) Where a security forms part of a premiums trust fund at the beginning of 1st January of any relevant year, for the purposes of this Schedule—
- (a) the trustees of the fund shall be treated as acquiring it on that day, and
 - (b) they shall be treated as paying in respect of the acquisition an amount equal to the market value of the security at the time of the acquisition;
- and for this purpose relevant years are 1990 and subsequent years.
- (4) Sub-paragraph (5) below applies where the following state of affairs exists at the beginning of 1st January of any year or the end of 31st December of any year—
- (a) securities have been transferred by the trustees of a premiums trust fund in pursuance of an arrangement mentioned in section 129(1) or (2) of the Taxes Act 1988,
 - (b) the transfer was made to enable another person to fulfil a contract or to make a transfer,
 - (c) securities have not been transferred in return, and
 - (d) section 129(3) of that Act applies to the transfer made by the trustees.
- (5) The securities transferred by the trustees shall be treated for the purposes of sub-paragraphs (2) and (3) above as if they formed part of the premiums trust fund at the beginning of 1st January concerned or the end of 31st December concerned (as the case may be).
- (6) Paragraph 7(1) above shall not apply where the individual concerned is an underwriting member of Lloyd's and the security concerned forms part of a premiums trust fund, a special reserve fund or any other trust fund required or authorised by the rules of Lloyd's, or required by the underwriting agent through whom the individual's business or any part of it is carried on, to be kept in connection with the business.

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Changes to legislation: There are currently no known outstanding effects for the Finance Act 1989, SCHEDULE 11. (See end of Document for details)

- (7) In a case where an amount treated as income chargeable to tax by virtue of paragraph 5(2) above constitutes profits or gains mentioned in section 450(1) of the Taxes Act 1988—
- (a) section 450(1)(b) shall apply, and
 - (b) paragraph 5(2)(c) above shall not apply.
- (8) For the purpose of computing income tax for the year 1987-88 sub-paragraph(7) above shall have effect as if—
- (a) the reference to section 450(1) of the Taxes Act 1988 were to paragraph 2 of Schedule 16 to the ^{M2}Finance Act 1973, and
 - (b) the reference to section 450(1)(b) were to paragraph 2(b) of that Schedule.
- (9) In this paragraph “business” and “premiums trust fund” have the meanings given by section 457 of the Taxes Act 1988.

Marginal Citations
M2 1973 c. 51.

Trustees

- 11 (1) Where on a transfer or redemption of a security by trustees an amount is treated as income chargeable to tax by virtue of paragraph 5 above, the rate at which it is chargeable shall be a rate equal to the sum of the basic rate and the additional rate for the year of assessment in which the transfer is made.
- (2) Where the trustees are trustees of a scheme to which section 469 of the Taxes Act 1988 applies, sub-paragraph (1) above shall not apply if or to the extent that the amount is treated as income in the accounts of the scheme.

Foreign currency

- 12 (1) Where, for the purposes of paragraph 5 above and apart from this paragraph, the amount obtained on transfer would be an amount expressed in a currency other than sterling, it shall be treated for those purposes as the sterling equivalent on the day of the transfer of the amount so expressed.
- (2) Where, for the purposes of paragraph 5 above and apart from this paragraph, the amount paid on acquisition would be an amount expressed in a currency other than sterling, it shall be treated for those purposes as the sterling equivalent on the day of the acquisition of the amount so expressed.
- (3) Where, for the purposes of paragraph 5 above and apart from this paragraph, the amount of the costs incurred by a person in connection with a transfer would be an amount expressed in a currency other than sterling, it shall be treated for those purposes as the sterling equivalent on the day of the transfer of the amount so expressed.

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- (4) Where, for the purposes of paragraph 5 above and apart from this paragraph, the amount of the costs incurred by a person in connection with an acquisition would be an amount expressed in a currency other than sterling, it shall be treated for those purposes as the sterling equivalent on the day of the acquisition of the amount so expressed.
- (5) In sub-paragraphs (1) and (3) above “transfer” includes “redemption”.
- (6) For the purposes of this paragraph the sterling equivalent of an amount on a particular day is the sterling equivalent calculated by reference to the London closing rate of exchange for that day.

Receipts in United Kingdom

- 13 (1) Sub-paragraph (2) below applies where—
- (a) by virtue of paragraph 5(2) above an amount is treated as income of a person and as chargeable to tax under Case IV of Schedule D, and
 - (b) the person satisfies the Board, on a claim in that behalf, that he is not domiciled in the United Kingdom, or that (being a Commonwealth citizen or a citizen of the Republic of Ireland) he is not ordinarily resident in the United Kingdom.
- (2) In such a case—
- (a) any amounts received in the United Kingdom in respect of the amount treated as income shall be treated as income arising in the year of assessment in which they are so received, and
 - (b) paragraph 5(2) above shall have effect with the substitution of paragraph (a) above for paragraph 5(2)(c).
- (3) For the purposes of sub-paragraph (2) above—
- (a) there shall be treated as received in the United Kingdom all amounts paid, used or enjoyed in, or in any manner or form transmitted or brought to, the United Kingdom, and
 - (b) subsections (6) to (9) of section 65 of the Taxes Act 1988 shall apply as they apply for the purposes of subsection (5) of that section.

Retirement benefit schemes

- 14 In a case where—
- (a) paragraph 5 above would apply (apart from this paragraph) to a transfer or redemption of a security, and
 - (b) immediately before the transfer or redemption was made the security was held for the purposes of an exempt approved scheme (within the meaning of Chapter I of Part XIV of the Taxes Act 1988),
- that paragraph shall not apply to the transfer or redemption.

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Charities

- 15 (1) In a case where—
- (a) paragraph 5 above would apply (apart from this paragraph) to a transferor redemption of a security,
 - (b) immediately before the transfer or redemption was made the security was held by a charity, and
 - (c) the amount which would (apart from this paragraph) be treated as income by virtue of paragraph 5 above is applicable and applied for charitable purposes, that paragraph shall not apply to the transfer or redemption.
- (2) In this paragraph “charity” has the same meaning as in section 506 of the Taxes Act 1988.

Stock lending

- 16 In a case where—
- (a) a security is the subject of a transfer which falls within section 129(3) of the Taxes Act 1988, and
 - (b) paragraph 5 above would apply to the transfer (apart from this paragraph), that paragraph shall not apply to the transfer.

Accrued income scheme

- 17 In a case where—
- (a) a security is the subject of a transfer to which paragraph 5 above applies, and
 - (b) apart from this paragraph, the transfer would be a transfer for the purposes of sections 710 to 728 of the Taxes Act 1988,
- the transfer shall not be a transfer for those purposes.

Other provisions excluded

- 18 In a case where paragraph 5 above applies to the redemption of a security, sections 123 and 348 to 350 of the Taxes Act 1988 shall not apply to any proceeds of the redemption.

Identification of securities

- 19 Section 88 of the ^{M3}Finance Act 1982 shall apply to the identification, for the purposes of this Schedule, of deep gain securities transferred or redeemed as it applies to the identification, for the purposes of capital gains tax, of deep discount securities disposed of.

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Marginal Citations

M3 1982 c. 39.

[^{F11}Early redemption: special rules]

Textual Amendments

F11 Sch. 11 para 19A and cross heading inserted (*retrospectively and deemed always to have had effect*) by Finance (No. 2) Act 1992 (c. 48), s. 33, Sch. 7 paras 4, 7, 8

^{F12}19A(1) Sub-paragraph (2) below applies where—

- (a) a security is issued on or after 13th November 1991,
- (b) it would be a deep gain security apart from paragraph 1(3B) or (3E) above,
- (c) it is redeemed before maturity, and
- (d) immediately before redemption it was held by a person connected with the person who issued it.

(2) As regards the redemption, paragraphs 5 to 19 above shall have effect as if—

- (a) the security were a deep gain security, and
- (b) it had been acquired as such (whatever the time it was acquired).

(3) Sub-paragraph (4) below applies where—

- (a) the conditions set out in sub-paragraph (1)(a) to (c) above are fulfilled,
- (b) the security was transferred in the period ending with redemption and beginning with the day falling one year before the day of redemption, and
- (c) the transfer was by a person connected with the person who issued the security.

(4) As regards the transfer, paragraphs 5 to 19 above shall have effect as if—

- (a) the security were a deep gain security, and
- (b) it had been acquired as such (whatever the time it was acquired).

(5) Section 839 of the Taxes Act 1988 (connected persons) shall apply for the purposes of this paragraph.

Textual Amendments

F12 Sch. 11 para 19A and cross heading inserted (*retrospectively and deemed always to have had effect*) by Finance (No. 2) Act 1992 (c. 48), s. 33, Sch. 7 paras 4, 7, 8

Gilts: special rules

20 (1) In a case where—

- (a) securities have been issued under a prospectus under which no securities were issued before 14th March 1989,

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- (b) some of the securities issued under the prospectus are gilt-edged securities which are would-be deep gain securities,
- (c) some of the securities issued under the prospectus are gilt-edged securities which are not would-be deep gain securities, and
- (d) there is a time when the aggregate nominal value of the securities falling within paragraph (b) above (at that time) exceeds the aggregate nominal value of the securities falling within paragraph (c) above (at that time),

sub-paragraph (2) below shall apply in relation to any gilt-edged security which has been or is issued under the prospectus at any time (whether before, at or after the time mentioned in paragraph (d) above).

- (2) As regards any event occurring in relation to the security after the time mentioned in sub-paragraph (1)(d) above, paragraphs 5 to 19 above shall have effect as if—
 - (a) the security were a deep gain security, and
 - (b) it had been acquired as such (whatever the time it was acquired).
- (3) For the purposes of sub-paragraph (1) above a would-be deep gain security is a security which would be a deep gain security apart from paragraph 1(6) above.
- (4) In sub-paragraph (1) above “gilt-edged security” has the same meaning as in paragraph 1 above.
- (5) For the purposes of sub-paragraph (2) above events, in relation to a security, include anything constituting a transfer or acquisition for the purposes of this Schedule.

Non-gilts: special rules

- 21 (1) In a case where—
- (a) all the securities issued on the occasion of the original issue under a particular prospectus (whatever the time of the issue) are neither gilt-edged securities nor deep gain securities,
 - (b) some of the securities issued under the prospectus are not gilt-edged securities but are new would-be deep gain securities, and
 - (c) there is a time when the aggregate nominal value of the securities falling within paragraph (b) above (at that time) exceeds the aggregate nominal value of the securities which (looking at the state of affairs at that time) have been issued under the prospectus and are neither gilt-edged securities nor new would-be deep gain securities,
- sub-paragraph (2) below shall apply in relation to any security which is not a gilt-edged security but which has been or is issued under the prospectus at any time (whether before, at or after the time mentioned in paragraph (c) above).
- (2) As regards any event occurring in relation to the security after the time mentioned in sub-paragraph (1)(c) above, paragraphs 5 to 19 above shall have effect as if—
 - (a) the security were a deep gain security, and
 - (b) it had been acquired as such (whatever the time it was acquired).
 - (3) For the purposes of sub-paragraph (1) above [^{F13}, and subject to paragraph 21A below,] a new would-be deep gain security is a security which—
 - (a) would be a deep gain security apart from paragraph 1(7) above, and

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- (b) was issued on or after 14th March 1989.
- (4) In sub-paragraph (1) above “gilt-edged security” has the same meaning as in paragraph 1 above.
- (5) For the purposes of sub-paragraph (2) above events, in relation to a security, include anything constituting a transfer or acquisition for the purposes of this Schedule.

Textual Amendments

F13 Words in [Sch. 11 para. 21\(3\)](#) inserted (*retrospectively and deemed always to have had effect*) by [Finance \(No. 2\) Act 1992 \(c. 48\)](#), s. 33, [Sch. 7 paras. 5\(1\), 7, 8](#)

- [^{F14}21A(1) A security which (apart from this paragraph) would be a new would-be deep gain security for the purposes of paragraph 21(1) above is not such a security if the following three conditions are fulfilled.
- (2) The first condition is that all the securities issued on the occasion of the original issue were issued before 13th November 1991.
- (3) The second condition is that the security is issued on or after 13th November 1991.
- (4) The third condition is that, even if paragraph 1(7) above did not prevent the security being a deep gain security, it would nevertheless not be a deep gain security if for the purposes of paragraph 1(2) above “redemption” did not include any redemption which may be made before maturity otherwise than in pursuance of the exercise by the person who holds the security for the time being of an option exercisable only on the effluxion of time or the happening of an event which (judged at the time of the security’s issue) is certain or likely to occur.]

Textual Amendments

F14 [Sch. 11 para. 21A](#) inserted (*retrospectively and deemed always to have had effect*) by [Finance \(No. 2\) Act 1992 \(c. 48\)](#), s. 33, [Sch. 7 paras. 5\(2\), 7, 8](#)

Indexed securities: special rules

- 22 (1) Sub-paragraph (2) below applies where—
- (a) a qualifying indexed security has been issued,
 - (b) the person by whom it was issued and the person for the time being holding it make an agreement, on or after 14th March 1989, varying the terms under which it is held, and
 - (c) the terms as varied are such that, had the security been issued on those terms, it would be a deep gain security.
- (2) As regards any event occurring in relation to the security after the agreement is made, paragraphs 5 to 19 above shall have effect as if—
- (a) the security were a deep gain security, and
 - (b) it had been acquired as such (whatever the time it was acquired).

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- (3) For the purposes of sub-paragraph (2) above events, in relation to a security, include anything constituting a transfer or acquisition for the purposes of this Schedule.
- (4) In this paragraph “qualifying indexed security” has the meaning given by paragraph 2 above.

[^{F15} Convertible securities: special rules (1)]

Textual Amendments

F15 Finance Act 1990 (c. 29), s. 56, Sch. 10 paras. 27(3), 29(4) on and after 9 June 1989

- 22A (1) Sub-paragraph (2) below applies where—
- (a) a security is a qualifying convertible security, for the purposes of Schedule 10 to the Finance Act 1990, at the time of its issue,
 - (b) apart from paragraph 21 of Schedule 4 to the Taxes Act 1988, it would be a deep discount security at that time, and
 - (c) at a later time it ceases to be a qualifying convertible security for the purposes of Schedule 10 to the Finance Act 1990.
- (2) As regards any event occurring in relation to the security after the time mentioned in sub-paragraph (1)(c) above, paragraphs 5 to 19 above shall have effect as if—
- (a) the security were a deep gain security, and
 - (b) it had been acquired as such (whatever the time it was acquired).
- (3) For the purposes of sub-paragraph (2) above events, in relation to a security, include anything constituting a transfer or acquisition for the purposes of this Schedule.

Convertible securities: special rules (2)

- 22B (1) In a case where—
- (a) a security is a qualifying convertible security, for the purposes of Schedule 10 to the Finance Act 1990, at the time of its issue, and
 - (b) apart from this sub-paragraph it would be a deep gain security at that time, then (subject to sub-paragraph (3) below) the security shall be treated, at the time of its issue and at all subsequent times, as not being a deep gain security.
- (2) Sub-paragraph (3) below applies where—
- (a) sub-paragraph (1) above applies in the case of a security, and
 - (b) at a time after its issue it ceases to be a qualifying convertible security for the purposes of Schedule 10 to the Finance Act 1990.
- (3) As regards any event occurring in relation to the security after the time mentioned in sub-paragraph (2)(b) above, paragraphs 5 to 19 above shall have effect as if—
- (a) the security were a deep gain security, and
 - (b) it had been acquired as such (whatever the time it was acquired).

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- (4) For the purposes of sub-paragraph (3) above events, in relation to a security, include anything constituting a transfer or acquisition for the purposes of this Schedule.

[^{F16}No particular redemption date: special rule]

Textual Amendments

F16 Sch. 11 para 22C and cross heading inserted (*retrospectively and deemed always to have had effect*) by Finance (No. 2) Act 1992 (c. 48), s. 33, Sch. 7 paras 6, 7, 8

^{F17}22C(1) This paragraph applies to a security whose terms contain no particular date by which it is to be redeemed.

- (2) In the case of such a security the following expressions, wherever they appear in this Schedule, shall be construed as if the words “before maturity” were omitted—
- (a) the expression “redemption which may be made before maturity”;
 - (b) the expression “redemption before maturity”;
 - (c) the expression “redeemed before maturity”.

Textual Amendments

F17 Sch. 11 para 22C and cross heading inserted (*retrospectively and deemed always to have had effect*) by Finance (No. 2) Act 1992 (c. 48), s. 33, Sch. 7 paras 6, 7, 8

Power to modify

- 23 (1) The Treasury may make regulations amending paragraph 2 above so as to do one or more of the following—
- (a) vary any condition for the time being set out in that paragraph;
 - (b) omit any condition for the time being so set out;
 - (c) add a new condition to any for the time being so set out;
 - (d) substitute a condition or conditions for any condition or conditions for the time being so set out.
- (2) Regulations under sub-paragraph (1) above—
- (a) shall be made by statutory instrument subject to annulment in pursuance of a resolution of the House of Commons,
 - (b) shall apply where there is a transfer within the meaning of this Schedule, or a redemption, on or after such day as may be specified in the regulations, and
 - (c) may include such supplementary, incidental, consequential or transitional provisions as appear to the Treasury to be necessary or expedient.

Status:

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Changes to legislation:

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