



# Finance Act 1991

## 1991 CHAPTER 31

### PART I

#### CUSTOMS AND EXCISE, VALUE ADDED TAX AND CAR TAX

### CHAPTER I

#### CUSTOMS AND EXCISE

##### *Rates of duty*

#### **1 Spirits, beer, wine, made-wine and cider.**

- (1) In section 5 of the <sup>M1</sup>Alcoholic Liquor Duties Act 1979 (spirits) for “£17.35” there shall be substituted “ £18.96 ”.
- (2) In section 36 of that Act (beer) for “£0.97” there shall be substituted “ £1.06 ”.
- (3) For the Table of rates of duty in Schedule 1 to that Act (wine and made-wine) there shall be substituted the Table in Schedule 1 to this Act.
- (4) In section 62(1) of that Act (cider) for “£18.66” there shall be substituted “ £20.40 ”.
- (5) This section shall be deemed to have come into force at 6 o’clock in the evening of 19th March 1991.

#### **Commencement Information**

**II** S. 1 in force at 6 p.m. 19.03.1991: see s. 1(5).

#### **Marginal Citations**

**M1** 1979 c. 4.

*Status: Point in time view as at 11/05/2001.*

*Changes to legislation: Finance Act 1991 is up to date with all changes known to be in force on or before 11 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

**2 Tobacco products.**

(1) For the Table in Schedule 1 to the <sup>M2</sup>Tobacco Products Duty Act 1979 there shall be substituted—

“ TABLE

1. Cigarettes	An amount equal to 21 per cent. of the retail price plus £40.15 per thousand cigarettes.
2. Cigars	£61.72 per kilogram.
3. Hand-rolling tobacco	£65.12 per kilogram.
4. Other smoking tobacco and chewing tobacco	£28.69 per kilogram.”

(2) This section shall be deemed to have come into force at 6 o’clock in the evening of 19th March 1991.

**Commencement Information**  
**I2** S. 2 in force at 6 p.m. 19.03.1991: see s. 2(2).

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**Marginal Citations**  
**M2** 1979 c. 7.

**3 Hydrocarbon oil.**

(1) In section 6(1) of the <sup>M3</sup>Hydrocarbon Oil Duties Act 1979, for “£0.2248” (duty on light oil) and “£0.1902” (duty on heavy oil) there shall be substituted “ £0.2585 ” and “ £0.2187 ” respectively.

(2) In section 11(1) of that Act, for “£0.0083” (rebate on fuel oil) and “£0.0118” (rebate on gas oil) there shall be substituted “ £0.0091 ” and “ £0.0129 ” respectively.

(3) In section 13A(1) of that Act (rebate on unleaded petrol) for “£0.0299” there shall be substituted “ £0.0344 ”.

(4) In section 14(1) of that Act (rebate on light oil for use as furnace fuel) for “£0.0083” there shall be substituted “ £0.0091 ”.

(5) This section shall be deemed to have come into force at 6 o’clock in the evening of 19th March 1991.

**Commencement Information**  
**I3** S. 3 in force at 6 p.m. 19.03.1991: see s. 3(5).

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**Marginal Citations**  
**M3** 1979 c. 5.

**4** <sup>F1</sup>(1) .....

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- F1(2) .....
- F1(3) .....
- F2(4) .....
- F1(5) .....
- F1(6) .....

**Textual Amendments**

- F1 S. 4(1)-(3)(5)(6) repealed (1.9.1994) by 1994 c. 22, ss. 65, 66(1), **Sch. 5 Pt. I** (with s. 57(4))
- F2 S. 4(4) repealed (27.7.1993 with effect in relation to licences taken out after 16.3.1993) by 1993 c. 34, s. 213, **Sch. 23 Pt. I**.

**5 Pool betting duty.**

- (1) In section 7(1) of the <sup>M4</sup>Betting and Gaming Duties Act 1981 (which specifies 40 per cent. as the rate of pool betting duty) for “40 per cent.” there shall be substituted “37.50 per cent.”
- (2) This section shall apply in relation to bets made at any time by reference to an event taking place on or after 17th August 1991.

**Marginal Citations**

- M4 1981 c. 63.

F3 **6** .....

**Textual Amendments**

- F3 S. 6 repealed (19.3.1997 with effect in relation to any gaming on or after 1.10.1997) by 1997 c. 19, s. 113, **Sch. 18 Pt. II** Note 2

*Duties of excise: other provisions*

**7 Beer duty.**

- (1) For section 36 of the <sup>M5</sup>Alcoholic Liquor Duties Act 1979 (charge on beer imported into, or brewed in, the United Kingdom of an excise duty at a rate per hectolitre for every degree by which the original gravity of the beer exceeds 1000 degrees) there shall be substituted—

**“36 Beer: charge of excise duty.**

- (1) There shall be charged on beer—
  - (a) imported into the United Kingdom, or

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- (b) produced in the United Kingdom,  
a duty of excise at the rate of £10.60 per hectolitre per cent. of alcohol in the beer.
- (2) Subject to the provisions of this Act—
  - (a) the duty on beer produced in, or imported into, the United Kingdom shall be charged and paid, and
  - (b) the amount chargeable in respect of any such duty shall be determined and become due,  
in accordance with regulations under section 49 below.”
- (2) After section 41 of that Act (which specifies certain reliefs from duty) there shall be inserted—

**“41A Suspension of duty: registration of persons and premises.**

- (1) A person registered by the Commissioners under this section may hold, on premises so registered in relation to him, any beer of a prescribed class or description—
  - (a) which has been produced in, or imported into, the United Kingdom, and
  - (b) which is chargeable as such with excise duty,  
without payment of that duty.
- (2) A person entitled under subsection (1) above to hold beer on premises without payment of duty may also without payment of duty carry out on those premises such operations as may be prescribed on, or in relation to, such of the beer as may be prescribed.
- (3) No person shall be registered under this section unless—
  - (a) he is a registered brewer or a packager of beer; and
  - (b) he appears to the Commissioners to satisfy such requirements for registration as they may think fit to impose.
- (4) No premises shall be registered under this section unless—
  - (a) they are used for the production or packaging of beer, or
  - (b) they are adjacent to, and occupied by the same person as, premises falling within paragraph (a) above which are registered under this section,  
and they appear to the Commissioners to satisfy such requirements for registration as the Commissioners may think fit to impose.
- (5) The Commissioners may register a person or premises under this section for such periods and subject to such conditions as they think fit.
- (6) The Commissioners may at any time for reasonable cause—
  - (a) revoke or vary the terms of their registration of any person or premises under this section; or
  - (b) restrict the premises which are so registered.

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- (7) As respects beer chargeable with a duty of excise that has not been paid, regulations under section 49 below may, without prejudice to the generality of that section, make provision—
- (a) regulating the holding or packaging of, or the carrying out of other operations on or in relation to, any such beer on registered premises without payment of the duty;
  - (b) for securing and collecting the duty on any such beer held on registered premises;
  - (c) permitting the removal of any such beer from registered premises without payment of duty in such circumstances and subject to such conditions as may be prescribed;
  - (d) for such persons as may be prescribed to be liable to pay the duty on any such beer held on, or removed without payment of duty from, registered premises, and for the circumstances in which, and the time at which, they are liable to do so.
- (8) If any person contravenes or fails to comply with any condition of registration under this section he shall be liable on summary conviction to a penalty not exceeding level 5 on the standard scale; and any beer in respect of which the offence was committed shall be liable to forfeiture.
- (9) In this section—
- “prescribed means specified in, or determined in accordance with, regulations made by the Commissioners under section 49 below;
- “registered premises means premises registered under this section.”
- (3) For sections 47 and 48 of that Act (licences to brew beer and to use premises for adding solutions to beer) there shall be substituted—

**“47 Registration of producers of beer.**

- (1) A person who produces beer on any premises in the United Kingdom must be registered with the Commissioners under this section in respect of those premises; and in this Act “registered brewer means a person registered under this section in respect of any premises.
- (2) A person who produces beer on any premises shall not be required to be registered under this section in respect of those premises if the beer is produced solely for his own domestic use or solely for the purposes of research or experiments in the production of beer.
- (3) An application for the registration under this section of any person required to be so registered in respect of any premises—
  - (a) shall be made at least fourteen days before the day on which he begins production of beer on those premises; and
  - (b) shall be in such form and manner as the Commissioners may by or under regulations prescribe.
- (4) If any person fails to apply for registration under this section in circumstances where he is required by subsection (3)(a) above to do so, he shall be liable on summary conviction to a penalty not exceeding level 4 on the standard scale;

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and any beer or worts produced in contravention of that provision shall be liable to forfeiture.

- (5) If any person produces beer on any premises in circumstances in which he is required to be, but is not, registered under this section in respect of those premises, he shall be liable on summary conviction to a penalty not exceeding level 5 on the standard scale; and any beer or worts in respect of which the offence was committed shall be liable to forfeiture.”
- (4) The enactments and instruments mentioned in Schedule 2 to this Act shall have effect with the amendments specified in that Schedule.
- (5) This section shall come into force on such day as the Commissioners may by order made by statutory instrument appoint, and different days may be so appointed for different provisions or for different purposes.
- (6) An order under subsection (5) above may contain such saving or transitional provision as the Commissioners think fit; and, without prejudice to the generality of the foregoing, any such order may include provision—
- (a) for treating beer—
    - (i) produced, or in the process of being produced, before the relevant day, and
    - (ii) held on, or in the process of being transported between, registered premises on that day,
 as beer produced on or after that day and chargeable accordingly, and
  - (b) for the remission or repayment of any duty charged or paid in respect thereof under provisions replaced by this section and Schedule 2 to this Act.
- (7) In this section—
- “the Commissioners means the Commissioners of Customs and Excise;
- “registered premises means—
- (a) premises which, on the relevant day, are registered under section 41A of the<sup>M6</sup>Alcoholic Liquor Duties Act 1979, or
  - (b) premises in respect of which, on that day, a person is registered under section 47 of that Act;
- “the relevant day means the day appointed for the coming into force of subsection (1) of the section 36 substituted by subsection (1) above.

#### Subordinate Legislation Made

**P1** S. 7(5) power fully exercised (26.4.1993): 1.5.1993 appointed day for s. 7(2)(3)(5) and 1.6.1993 appointed day for s. 7(1)(4)(6)(7) by S.I. 1993/1152.

#### Modifications etc. (not altering text)

**C1** S. 7(2)(3)(5) excluded (26.4.1993) by S.I. 1993/1152, art. 4(1).

#### Commencement Information

**I4** S. 7 wholly in force; s. 7 not in force at Royal Assent see s. 7(5); s. 7(2)(3)(5) in force at 1.5.1993 and s. 7(1)(4)(6)(7) in force at 1.6.1993 by S.I. 1993/1152, art. 3, Sch. 1.

#### Marginal Citations

**M5** 1979 c. 4.

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**M6** 1979 c. 4.

**F4<sup>8</sup> Vehicles excise duty: exemptions.**

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**Textual Amendments**

**F4** S. 8 repealed (1.9.1994) by 1994 c. 22, ss. 65, 66(1), **Sch. 5 Pt. I** (with s. 57(4))

**F5<sup>9</sup>**

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**Textual Amendments**

**F5** S. 9 repealed (1.9.1994) by 1994 c. 22, ss. 65, 66(1), **Sch. 5 Pt. I** (with s. 57(4))

**F6<sup>10</sup>**

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**Textual Amendments**

**F6** S. 10 repealed (1.9.1994) by 1994 c. 22, ss. 65, 66(1), **Sch. 5 Pt. I** (with s. 57(4))

*Management*

**11 Revenue traders and registered excise dealers and shippers.**

- (1) In section 1 of the <sup>M7</sup>Customs and Excise Management Act 1979 (interpretation) in subsection (1), after the definition of “Queen’s warehouse” there shall be inserted—
  - “ “registered excise dealer and shipper means a revenue trader approved and registered by the Commissioners under section 100G below;
  - “registered excise dealers and shippers regulations means regulations under section 100G below;”.
- (2) In the definition of “revenue trader” in that subsection, in paragraph (a) (person carrying on a trade or business subject to any of the revenue trade provisions of the customs and excise Acts) after the words “customs and excise Acts” there shall be inserted the words “or which consists of or includes—
  - (i) the buying, selling, importation, exportation, dealing in or handling of any goods of a class or description which is subject to a duty of excise (whether or not duty is chargeable on the goods); or
  - (ii) the financing or facilitation of any such transactions or activities;”.
- (3) Schedule 4 to this Act shall have effect.

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**Marginal Citations**

M7 1979 c. 2.

**12 Protection of the revenues derived from excise duties.**

Schedule 5 to this Act (which makes provision for the purpose of protecting the revenues derived from duties of excise) shall have effect.

**CHAPTER II**

**VALUE ADDED TAX**

**F7**13 .....

**Textual Amendments**

F7 S. 13 repealed (1.9.1994) by 1994 c. 23, ss. 100(2), 101(1), Sch. 15

**F8**14 .....

**Textual Amendments**

F8 S. 14 repealed (1.9.1994) by 1994 c. 23, ss. 100(2), 101(1), Sch. 15

**F9**15 .....

**Textual Amendments**

F9 S. 15 repealed (1.9.1994) by 1994 c. 23, ss. 100(2), 101(1), Sch. 15

**F10**16 .....

**Textual Amendments**

F10 S. 16 repealed (1.9.1994) by 1994 c. 23, ss. 100(2), 101(1), Sch. 15

**F11**17 .....

**Textual Amendments**

F11 S. 17 repealed (1.9.1994) by 1994 c. 23, ss. 100(2), 101(1), Sch. 15



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**F12** 18

**Textual Amendments**

**F12** S. 18 repealed (1.9.1994) by 1994 c. 23, ss. 100(2), 101(1), Sch. 15

**CHAPTER III**

**CAR TAX**

**19 Vehicles leased to the handicapped.**

(1) In section 5A of the <sup>M8</sup>Car Tax Act 1983 (relief where vehicle leased to the handicapped) after subsection (2) (which imposes a charge to tax where vehicle supplied by the lessor in certain circumstances) there shall be inserted—

“(2A) Subsection (2)(b) above shall not apply where at the time of the supply the lessor is—

- (a) a charity, or
- (b) a person used by a charity for the purpose of making supplies which attract relief under this section.”

(2) This section shall apply in relation to supplies made on or after the day on which this Act is passed.

**Marginal Citations**

**M8** 1983 c. 53.

**20 Research vehicles.**

(1) Section 7 of the <sup>M9</sup>Car Tax Act 1983 (remission of tax on certain vehicles) shall be amended as follows.

(2) After subsection (4) there shall be inserted—

“(4A) Regulations under this Act may make provision for enabling the Commissioners to remit the tax on a chargeable vehicle or, if the tax has been paid, to repay it, subject in either case to such conditions as they think necessary for the protection of the revenue, where—

- (a) subsection (4B) below applies, and
- (b) such other conditions are satisfied as may be prescribed by the regulations.

(4B) This subsection applies where a person registered under this Act—

- (a) makes the vehicle in the United Kingdom and appropriates it to his own use,
- (b) imports the vehicle into the United Kingdom and registers it, or
- (c) acquires the vehicle in the United Kingdom in an unused condition from another,

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and, at the time he appropriates, registers or, as the case may be, acquires the vehicle, he intends it to be used only by him or on his behalf and only for the purposes of commercial or industrial research.”

- (3) In subsection (5) (conditions which may be imposed) after “subsection (4)” there shall be inserted “or (4A)”.
- (4) In subsection (6) (recovery of tax where breach of condition)—
- (a) for “has been remitted on a vehicle under subsection (4) above” there shall be substituted “ on a vehicle has been—
    - (a) remitted under subsection (4) above, or
    - (b) remitted or repaid under subsection (4A) above,”;
  - (b) after “remission” there shall be inserted “or, as the case may be, an amount of tax equal to that repaid”.

**Marginal Citations**

**M9** 1983 c. 53.

**PART II**

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

**CHAPTER I**

GENERAL

**Commencement Information**

**I5** Chapter I partly in force at 4.5.1988 due to retrospective effect of s. 74(5)

*Income tax rates and allowances*

**21 Charge and rates of income tax for 1991-92.**

- (1) Income tax shall be charged for the year 1991-92, and—
- (a) the basic rate shall be 25 per cent.,
  - (b) the basic rate limit shall be £23,700, and
  - (c) the higher rate shall be 40 per cent.
- (2) In accordance with subsection (1)(b) above, section 1(4) of the Taxes Act 1988 (indexation) shall not apply for the year 1991-92.

**22 Married couple’s allowance.**

- (1) Section 257C(1) of the Taxes Act 1988 (indexation), so far as relating to section 257A(1) of that Act (married couple’s allowance), shall not apply for the year 1991-92.

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- (2) Section 257A(1) of that Act shall apply for the year 1991-92 as if the amount specified in it were “£1,720”.

### *Corporation tax rates*

#### **23 Rate of corporation tax for 1990.**

- (1) The rate at which corporation tax is charged for the <sup>M10</sup>financial year 1990 shall be 34 per cent. (and not 35 per cent. as provided by section 19 of the Finance Act 1990).
- (2) For the financial year 1990 the fraction mentioned in section 13(2) of the Taxes Act 1988 (marginal relief for small companies) shall be nine four-hundredths (and not one fortieth as provided by section 20 of the Finance Act 1990).
- (3) All such adjustments shall be made, whether by way of discharge or repayment of tax or otherwise, as may be required in consequence of the provisions of this section.

#### **Marginal Citations**

**M10** 1990 c. 29.

#### **24 Charge and rate of corporation tax for 1991.**

Corporation tax shall be charged for the financial year 1991 at the rate of 33 per cent.

#### **25 Small companies.**

- (1) For the financial year 1991—
  - (a) the small companies’ rate shall be 25 per cent., and
  - (b) the fraction mentioned in section 13(2) of the Taxes Act 1988 (marginal relief for small companies) shall be one fiftieth.
- (2) In section 13(3) of that Act (limits of marginal relief), in paragraphs (a) and (b)—
  - (a) for “£200,000” there shall be substituted “£250,000”, and
  - (b) for “£1,000,000” there shall be substituted “£1,250,000”.
- (3) Subsection (2) above shall have effect for the financial year 1991 and subsequent financial years; and where by virtue of that subsection section 13 of the Taxes Act 1988 has effect with different relevant maximum amounts in relation to different parts of a company’s accounting period, then for the purposes of that section those parts shall be treated as if they were separate accounting periods and the profits and basic profits of the company for that period shall be apportioned between those parts.

### *Interest*

#### **26 Relief for interest.**

For the year 1991-92 the qualifying maximum defined in section 367(5) of the Taxes Act 1988 (limit on relief for interest on certain loans) shall be £30,000.

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**27 Abolition of higher rate relief on certain mortgage interest etc.**

<sup>F13</sup>(1) .....

<sup>F13</sup>(2) .....

<sup>F13</sup>(3) .....

<sup>F13</sup>(4) .....

<sup>F13</sup>(5) .....

(6) The enactments mentioned in Schedule 6 to this Act shall have effect for the year 1991-92 and subsequent years of assessment with the amendments there specified.

<sup>F13</sup>(7) .....

**Textual Amendments**

**F13** S. 27(1)-(5)(7) repealed (3.5.1994 with effect in accordance with s. 81(6) of the amending Act) by Finance Act 1994 (c. 9), ss. 81(6), 258, **Sch. 26 Pt. V(2)** Note

**28 Mortgage interest relief: caravans.**

(1) Section 354(3) of the Taxes Act 1988 (interest eligible for relief in the case of a caravan only if the caravan is large or certain conditions presupposing domestic rating are met) shall cease to have effect.

(2) This section shall have effect for the year 1991-92 and subsequent years of assessment.

*Benefits in kind*

**29 Car benefits.**

(1) In Schedule 6 to the Taxes Act 1988 (taxation of directors and others in respect of cars) for Part I (tables of flat rate cash equivalents) there shall be substituted—

**“PART I**

**TABLES OF FLAT RATE CASH EQUIVALENTS**

**TABLE A**

*Cars with an original market value up to £19,250 and having a cylinder capacity*

<i>Cylinder capacity of car in cubic centimetres</i>	<i>Age of car at end of relevant year of assessment</i>	
	<i>Under 4 years</i>	<i>4 years or more</i>
1400 or less	£2,050	£1,400

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More than 1400 but not more than 2000	£2,650	£1,800
More than 2000	£4,250	£2,850

TABLE B

*Cars with an original market value up to £19,250 and not having a cylinder capacity*

<i>Original market value of car</i>	<i>Age of car at end of relevant year of assessment</i>	
	<i>Under 4 years</i>	<i>4 years or more</i>
Less than £6,000	£2,050	£1,400
£6,000 or more but less than £8,500	£2,650	£1,800
£8,500 or more but not more than £19,250	£4,250	£2,850

TABLE C

*Cars with an original market value of more than £19,250*

<i>Original market value of car</i>	<i>Age of car at end of relevant year of assessment</i>	
	<i>Under 4 years</i>	<i>4 years or more</i>
More than £19,250 but not more than £29,000	£5,500	£3,700
More than £29,000	£8,900	£5,900 <sup>2</sup>

(2) This section shall have effect for the year 1991-92 and subsequent years of assessment.

<sup>F14</sup>**30** .....

**Textual Amendments**

**F14** **S. 30** repealed (27.7.1999 with effect as mentioned in Sch. 20 Pt. III(9) Note of the amending Act) by 1999 c. 16, s. 139, **Sch. 20 Pt. III(9)** Note

<sup>F15</sup>**31** .....

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### Textual Amendments

- F15** S. 31 repealed (3.5.1994 with effect in accordance with s. 88(5) of the amending Act) by 1994 c. 9, s. 88(5), 258, **Sch. 26 Pt. V(5)** Note

### *Vocational training*

#### [<sup>F16</sup>32 Relief.

(1) This section applies where—

- (a) on or after 6th April 1992 an individual resident in the United Kingdom makes a payment in respect of a qualifying course of vocational training,
- (b) the payment is made in respect of an allowable expense,
- (c) the payment is made in connection with the individual's own training,

[ at the time the payment is made, the individual—

<sup>F17</sup>(ca) (i) in a case where the qualifying course of vocational training is such a course by virtue only of paragraph (b) of subsection (10) below, has attained the age of thirty, or

(ii) in any other case, has attained school-leaving age and, if under the age of nineteen, is not a person who is being provided with full-time education at a school,]

[ the individual undertakes the course neither wholly nor mainly for recreational purposes or as a leisure activity,]

<sup>F18</sup>(cb)

- (d) at the time the payment is made, the individual has not received in relation to the course, and is not entitled to receive in relation to it, any public financial assistance of a description specified in regulations made by the Treasury for the purposes of this paragraph, and
- (e) the individual is not entitled to claim any relief or deduction in respect of the payment under any other provision of the Income Tax Acts.

[ The individual shall be entitled to relief under this subsection in respect of the payment

<sup>F19</sup>(2) for the year of assessment in which it is made; but relief under this subsection shall be given only on a claim made for the purpose, except where subsections (3) to (5) below apply.

<sup>F19</sup>(2A) Where an individual is entitled to relief under subsection (2) above in respect of any payment made in a year of assessment, the amount of his liability for that year to income tax on his total income shall be the amount to which he would be liable apart from this section less whichever is the smaller of—

- (a) the amount which is equal to such percentage of the amount of the payment as is the basic rate for the year; and
- (b) the amount which reduces his liability to nil.

<sup>F19</sup>(2B) In determining for the purposes of subsection (2A) above the amount of income tax to which a person would be liable apart from this section, no account shall be taken of—

- (a) any income tax reduction under Chapter I of Part VII of the Taxes Act 1988 or under section 347B of that Act;
- (b) any income tax reduction under section 353(1A) of the Taxes Act 1988;

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- (c) any relief by way of a reduction of liability to tax which is given in accordance with any arrangements having effect by virtue of section 788 of the Taxes Act 1988 or by way of a credit under section 790(1) of that Act;
    - (d) any tax at the basic rate on so much of that person's income as is income the income tax on which he is entitled to charge against any other person or to deduct, retain or satisfy out of any payment.]
  - (3) In such cases and subject to such conditions as the Board may specify in regulations, relief under subsection (2) above shall be given in accordance with subsections (4) and (5) below.
  - (4) An individual who is entitled to such relief in respect of a payment may deduct and retain out of it an amount equal to income tax on it at the basic rate for the year of assessment in which it is made.
  - (5) The person to whom the payment is made—
    - (a) shall accept the amount paid after deduction in discharge of the individual's liability to the same extent as if the deduction had not been made, and
    - (b) may, on making a claim [<sup>F20</sup>in accordance with regulations], recover from the Board an amount equal to the amount deducted.
  - (6) The Treasury may make regulations providing that in circumstances prescribed in the regulations—
    - (a) an individual who makes, in respect of a qualifying course of vocational training, a payment in respect of an allowable expense shall cease to be and be treated as not having been entitled to relief under subsection (2) above in respect of the payment or such part of it as may be determined in accordance with the regulations; and
    - (b) he or the person to whom the payment was made (depending on the terms of the regulations) shall account to the Board for tax from which relief has been given on the basis that the individual was so entitled.
  - (7) Regulations under subsection (6) above may include provision adapting or modifying the effect of any enactment relating to income tax in order to secure the performance of any obligation imposed under paragraph (b) of that subsection.
  - (8) In subsection (1)(a) above, the reference to an individual resident in the United Kingdom includes an individual performing duties which are treated by virtue of section 132(4)(a) of the Taxes Act 1988 as performed in the United Kingdom.
  - (9) For the purposes of this section, a payment made in respect of a qualifying course of vocational training is made in respect of an allowable expense if—
    - (a) it is made in respect of fees payable in connection with undertaking the course, including fees payable for assessment purposes, or
    - (b) it is made in respect of fees payable in connection with the making, as a result of having undertaken the course, of any entry in an official register or any award.
- [ In this section “qualifying course of vocational training means—
- <sup>F21</sup>(10) (a) any programme of activity capable of counting towards a qualification—  
[ accredited as a National Vocational Qualification by the  
<sup>F22</sup>(i) Qualifications and Curriculum Authority or by the Qualifications,  
Curriculum and Assessment Authority for Wales, or]

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- (ii) accredited as a Scottish Vocational Qualification by the [<sup>F23</sup>Scottish Qualifications Authority]; or
- (b) any course of training which—
  - (i) satisfies the conditions set out in the paragraphs of section 589(1) of the Taxes Act 1988 (qualifying courses of training etc),
  - (ii) requires participation on a full-time or substantially full-time basis, and
  - (iii) extends for a period which consists of or includes four consecutive weeks,
 but treating any time devoted to study in connection with the course as time devoted to the practical application of skills or knowledge.]

[ In this section—  
<sup>F24</sup>(11) “school means any institution at which full-time education is provided to persons at least some of whom are under school-leaving age; and  
 “school-leaving age means the age of sixteen.]]

#### Textual Amendments

- F16** S. 32 repealed (27.7.1999 with effect on 1.9.2000) by 1999 c. 16, s. 59(2)(3)(b), **Sch. 20 Pt. III(15)** Note; S.I. 2000/2004, **art. 2**
- F17** S. 32(1)(ca) substituted (29.4.1996 with effect in relation to payments made on or after 6.5.1996) by 1996 c. 8, s. 144(1)(2)(4)
- F18** S. 32(1)(ca)(cb) inserted (3.5.1994) by 1994 c. 9, s. 84(1)(4)
- F19** S. 32(2)(2A)(2B) substituted for s. 32(2) (27.7.1999 with effect as mentioned in s. 59(3)(a) of the amending Act) by 1999 c. 16, s. 59(1)(3)(a)
- F20** Words in s. 32(5)(b) inserted (29.4.1996) by 1996 c. 8, s. 129(2)
- F21** S. 32(10) substituted (29.4.1996 with effect in relation to payments made on or after 6.5.1996) by 1996 c. 8, s. 144(1)(3)(4)
- F22** S. 32(10)(a)(i) substituted (1.10.1997) by 1997 c. 44, s. 57(1), **Sch. 7 para. 6** (with transitional provisions in S.I. 1997/1468, arts. 2(3), 4(2), **Sch. 1 Pt. III**) (which amending para. 6 was repealed (27.7.1999) by 1999 c. 16, s. 139, **Sch. 20 Pt. III** Note)
- F23** Words in s. 32(10)(a)(ii) substituted (1.4.1997) by 1996 c. 43, s. 36, **Sch. 5 para. 7**; S.I. 1997/365, **art. 2**
- F24** S. 32(11) inserted (3.5.1994) by 1994 c. 9, s. 84(3)(4)

#### Modifications etc. (not altering text)

- C2** S. 32(5)(b) excluded (29.4.1996) by 1996 c. 8, s. 129(2)

### [<sup>F25</sup>33 Section 32: supplementary.

- (1) The Board may by regulations—
  - (a) provide that a claim under section 32(2) or (5)(b) above shall be made in such form and manner, shall be made at such time, and shall be accompanied by such documents, as may be prescribed;
  - [<sup>F26</sup>(aa) make provision for and with respect to appeals against a decision of an officer of the Board or the Board with respect to a claim under section 32(5)(b) above;]
  - (b) make provision, in relation to payments in respect of which a person is entitled to relief under section 32 above, for persons who provide vocational training



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- courses to give, in such circumstances as may be prescribed, certificates of payment in such form as may be prescribed to such persons as may be prescribed;
- (c) provide that a person who provides (or has at any time provided) training courses which are (or were) qualifying courses of vocational training for the purposes of section 32 above 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 such courses;
- (d) provide that persons of such description as may be prescribed shall, within a prescribed period of being required to do so by the Board, furnish to the Board information (of a prescribed kind) about training courses which are qualifying courses of vocational training for the purposes of section 32 above;
- (e) make provision generally as to administration in connection with section 32 above.
- (2) The words “Regulations under section 33 of the Finance Act 1991 ” shall be added at the end of each column in the Table in section 98 of the <sup>M11</sup>Taxes Management Act 1970 (penalties for failure to furnish information etc.).
- (3) The following provisions of the <sup>M12</sup>Taxes Management Act 1970, namely—
- [ section 29(1)(c) (excessive relief) as it has effect apart from section 29(2) to <sup>F27</sup>(a) (10) of that Act;]
- (b) section 30 (tax repaid in error etc.) [<sup>F28</sup>apart from subsection (1B)],
- (c) [<sup>F29</sup>section 86] (interest), and
- (d) section 95 (incorrect return or accounts),
- [<sup>F30</sup>shall apply in relation to an amount which is paid to any person by the Board as an amount recoverable by virtue of section 32(5)(b) above but to which that person is not entitled as if it were income tax which ought not to have been repaid and, where that amount was claimed by that person, as if it had been repaid as respects a chargeable period as a relief which was not due.]
- [ In the application of section 86 of the Taxes Management Act 1970 by virtue of <sup>F31</sup>(3A) subsection (3) above in relation to sums due and payable by virtue of an assessment made under section 29(1)(c) or 30 of that Act, as applied by that subsection, the relevant date—
- (a) in a case where the person falling within section 32(5) above has made any interim claim, within the meaning of regulations made under subsection (1) above, as respects some part of the year of assessment for which the assessment is made, is 1st January in that year of assessment; and
- (b) in any other case, is the later of the following dates, that is to say—
- (i) 1st January in the year of assessment for which the assessment is made; or
- (ii) the date of the making of the payment by the Board which gives rise to the assessment.]
- (4) In sections <sup>F32</sup> . . . 257D(8) and 265(3) of the Taxes Act 1988, after paragraph (d) there shall be inserted
- (e) on account of any payments to which section 32(4) of the Finance Act 1991 applies.”

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- (5) In subsection (1) above, “prescribed means prescribed by or, in relation to form, under the regulations.]

#### Textual Amendments

- F25** S. 33 repealed (27.7.1999 with effect on 1.9.2000) by 1999 c. 16, ss. 59(3)(b), 139, **Sch. 20 Pt. III(15)** Note; S.I. 2000/2004, **art. 2**
- F26** S. 33(1)(aa) inserted (29.4.1996) by 1996 c. 8, s. 129(4)
- F27** S. 33(3)(a) substituted (29.4.1996 with effect as mentioned in **Sch. 18 para. 17** of the amending Act) by 1996 c. 8, s. 132, **Sch. 18 para. 14(2)(a)**
- F28** Words in s. 33(3)(b) inserted (29.4.1996 with effect as mentioned in **Sch. 18 para. 17** of the amending Act) by 1996 c. 8, s. 132, **Sch. 18 para. 14(2)(b)**
- F29** Words in s. 33(3)(c) substituted (29.4.1996 with effect as mentioned in **Sch. 18 para. 17** of the amending Act) by 1996 c. 8, s. 132, **Sch. 18 para. 14(2)(c)**
- F30** Words following s. 33(3)(d) substituted (29.4.1996 with effect as mentioned in **Sch. 18 para. 17** of the amending Act) by 1996 c. 8, s. 132, **Sch. 18 para. 14(2)(d)**
- F31** S. 33(3A) inserted (29.4.1996 with effect as mentioned in **Sch. 18 para. 17** of the amending Act) by 1996 c. 8, s. 132, **Sch. 18 para. 14(3)**
- F32** S. 33(4): reference to section 257B(2) repealed (16.7.1992 with application in relation to tax for the year 1993-94 and subsequent years of assessment) by Finance (No. 2) Act 1992 (c. 48, SIF 63:1), ss. 20, 82, **Sch. 5 para. 10, Sch. 18 Part VII(1)**.

#### Modifications etc. (not altering text)

- C3** S. 33(3A) modified (29.4.1996) by 1996 c. 8, s. 132, **Sch. 18 para. 17(3)**

#### Marginal Citations

- M11** 1970 c. 9.  
**M12** 1970 c. 9.

### *Retirement benefits schemes*

#### 34 Conditions for approval: amendments.

- (1) Section 590 of the Taxes Act 1988 (conditions for approval of retirement benefits schemes) shall be amended as follows.
- (2) In subsection (3)(a) for the words “or, if the employee is a woman, 55, and not later than 70” there shall be substituted the words “and not later than 75”.
- (3) The following subsection shall be inserted after subsection (4)—
- “(4A) In subsection (3)(c) above “benefits does not include any benefits for whose payment the scheme makes provision in pursuance of any obligation imposed by legislation relating to social security.”
- (4) This section shall have effect in relation to a scheme not approved by the Board before the day on which this Act is passed.

#### 35 Cessation of approval.

The following section shall be inserted after section 591 of the Taxes Act 1988—

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**“591A Effect on approved schemes of regulations under section 591.**

- (1) Subsection (2) below applies where on or after 17th April 1991 regulations are made for the purposes of section 591 ( “section 591 regulations) which contain provisions restricting the Board’s discretion to approve a retirement benefits scheme by reference to any circumstances other than the benefits provided by the scheme ( “relevant provisions”).
- (2) Any retirement benefits scheme approved by the Board by virtue of section 591 before the day on which the section 591 regulations come into force shall cease to be approved by virtue of that section at the end of the period of 36 months beginning with that day if at the end of that period the scheme—
  - (a) contains a provision of a prohibited description, or
  - (b) does not contain a provision of a required description,unless the description of provision is specified in regulations made by the Board for the purposes of this subsection.
- (3) For the purposes of this section, a provision contained in a scheme shall not be treated as being of a prohibited description by reason only of the fact that it authorises the retention of an investment held immediately before the day on which the section 591 regulations are made.
- (4) In determining for the purposes of this section whether any provision contained in a scheme is of a required description, the fact that it is framed so as not to require the disposal of an investment held immediately before the day on which the section 591 regulations are made shall be disregarded.
- (5) In this section—
  - (a) references to a provision of a prohibited description are to a provision of a description specified in the relevant provisions of the section 591 regulations as a description of provision which, if contained in a retirement benefits scheme, would prevent the Board from approving the scheme by virtue of section 591;
  - (b) references to a provision of a required description are to a provision of a description specified in the relevant provisions of the section 591 regulations as a description of provision which must be contained in a retirement benefits scheme before the Board may approve the scheme by virtue of section 591.”

**36 Cessation of approval: general provisions.**

- (1) The following section shall be inserted after section 591A of the Taxes Act 1988—

**“591B Cessation of approval: general provisions.**

- (1) If in the opinion of the Board the facts concerning any approved scheme or its administration cease to warrant the continuance of their approval of the scheme, they may at any time by notice to the administrator, withdraw their approval on such grounds, and from such date (which shall not be earlier than the date when those facts first ceased to warrant the continuance of their approval or 17th March 1987, whichever is the later), as may be specified in the notice.

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- (2) Where an alteration has been made in a retirement benefits scheme, no approval given by the Board as regards the scheme before the alteration shall apply after the date of the alteration unless—
  - (a) the alteration has been approved by the Board, or
  - (b) the scheme is of a class specified in regulations made by the Board for the purposes of this paragraph and the alteration is of a description so specified in relation to schemes of that class.”
- (2) Accordingly, in section 590 of the Taxes Act 1988 subsections (5) and (6) shall be omitted.
- (3) The amendments made by subsections (1) and (2) above shall be deemed always to have had effect.
- (4) The <sup>M13</sup>Finance Act 1970 shall be deemed always to have had effect—
  - (a) with the omission of section 19(3) and (4), and
  - (b) with the insertion after section 20 of a section 20A in the same form as section 591B of the Taxes Act 1988 (with the omission before 17th March 1987 of the words from “(which shall not” to “whichever is the later”).

**Marginal Citations**  
**M13** 1970 c. 24.

*Profit-related pay, share schemes etc.*

<sup>F33</sup>37

**Textual Amendments**  
**F33** S. 37 repealed (19.3.1997 in accordance with Sch. 18 Pt. VI(3) Note 1 of the amending Act) by 1997 c. 16, s. 61(2)(3), 113, Sch. 18 Pt. VI(3) Notes 1, 2

**38 Employee share schemes: non-discrimination.**

- (1) The Taxes Act 1988 shall be amended as follows.
- (2) In Part III of Schedule 9 (requirements applicable to savings-related share option schemes) in paragraphs 19(b) and 20 for “pensionable age” there shall be substituted “the specified age ”.
- (3) In Schedule 10 (further provisions relating to profit sharing schemes) in sub-paragraph (b) of paragraph 2 and in sub-paragraph (c)(ii) of paragraph 3 for “pensionable age” there shall be substituted “the relevant age ”, and at the end of each of those paragraphs there shall be inserted—

“In this paragraph, the reference to the relevant age is a reference, in the case of a scheme approved before the day on which the Finance Act 1991 was passed, to pensionable age and, in the case of a scheme approved on or after that day, to the specified age.”.

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- (4) In section 187(2) (definitions for the purposes of provisions relating to employee share schemes) after the definition of “shares” there shall be inserted—

“ “specified age, in relation to a scheme, means the age specified in pursuance of paragraph 8A of Schedule 9 as the specified age for the purposes of the scheme;”.

- (5) In Part II of Schedule 9 (requirements generally applicable to employee share schemes) after paragraph 8 there shall be inserted—

“8A (1) In the case of a savings-related share option scheme or a profit sharing scheme, the scheme must specify what age is to be the specified age for the purposes of the scheme.

(2) The age specified—

- (a) must be the same for men and women, and  
(b) must be not less than 60 and not more than 75.”

- (6) Subsections (2) and (5) above shall have effect in relation to a scheme not approved before the day on which this Act is passed.

### **39 Approved share option schemes: price at which shares may be acquired.**

- (1) In Schedule 9 to the Taxes Act 1988 (requirements by reference to which share option schemes approved) for paragraph 29 there shall be substituted—

“29 (1) The price at which scheme shares may be acquired by the exercise of a right obtained under the scheme—

- (a) must be stated at the time the right is obtained, and  
(b) except where stated under provision included in the scheme pursuant to sub-paragraph (2) below, must not be manifestly less than the market value of shares of the same class at the material time.

(2) The scheme may provide that, if sub-paragraph (3) below applies, scheme shares may be acquired by the exercise of a right obtained under the scheme at a price which is not manifestly less than 85 per cent. of the market value of shares of the same class at the material time.

(3) This sub-paragraph applies if the conditions specified in sub-paragraph (4)(a) and, as the case may be, (b) or (c) below, are met—

- (a) where at the time the right is obtained the scheme is not a group scheme, as respects the grantor;  
(b) where at the time the right is obtained the scheme is a group scheme, as respects each company to which the scheme is expressed to extend at that time.

(4) The conditions are—

- (a) that the company has established, or is at the time the right is obtained a participating company in relation to, a scheme which

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- is at that time an approved savings-related share option scheme or an approved profit sharing scheme (a “qualifying scheme);
- (b) where there is only one qualifying scheme, that every employee eligible to participate in that scheme at the time the right is obtained has, in the twelve months immediately preceding that time, been informed by an appropriate person of the scheme’s existence;
- (c) where there is more than one qualifying scheme, that, in the case of each of those schemes, every employee eligible to participate in that scheme at the time the right is obtained has, in the twelve months immediately preceding that time, been informed by an appropriate person of the scheme’s existence.
- (5) In determining whether the condition specified in sub-paragraph (4)(a) above is met, the withdrawal of approval under paragraph 3 above with effect from a time before the right is obtained shall be disregarded if the withdrawal takes place retrospectively from a time after the right is obtained.
- (6) For the purposes of sub-paragraph (4)(b) and (c) above, an employee has been informed of the existence of a scheme by an appropriate person if he has been informed by one or more of the following—
- (a) a company by virtue of employment with which the employee is eligible to participate in the scheme,
- (b) the grantor, and
- (c) where the scheme under which the right to acquire the shares is obtained is a group scheme, any other company which is a participating company in relation to that scheme.
- (7) The scheme may provide for such variation of the price at which scheme shares may be acquired as may be necessary to take account of any variation in the share capital of which the scheme shares form part.
- (8) In this paragraph, references to the material time are to the time the right to acquire the scheme shares is obtained or, if the Board and the grantor agree in writing, such earlier time or times as may be provided in the agreement.”
- (2) Section 185 of that Act (tax reliefs for approved share option schemes) shall be amended as mentioned in subsections (3) to (6) below.
- (3) In subsection (2) (exemption from tax in respect of receipt under approved scheme of right to acquire shares) for “Subject to subsections (4) and (6) below” there shall be substituted “Subject to subsections (6) to (6B) below”.
- (4) In subsection (4) (which relates to certain rights to acquire shares obtained under a savings-related share option scheme) for “Subsections (2) and (3) above” there shall be substituted “Subsection (3) above”.
- (5) For subsection (6) there shall be substituted—
- “(6) Subsection (6A) below applies where—
- (a) a person obtains a right to acquire shares under a scheme which is not a savings-related share option scheme, and

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- (b) the price at which he may acquire shares by exercising the right is not applicable by virtue of provision included in the scheme pursuant to paragraph 29(2) of Schedule 9.
- (6A) Where the aggregate of—
- (a) the amount or value of any consideration given by him for obtaining the right, and
  - (b) the price at which he may acquire the shares by exercising the right, is less than the market value, at the time he obtains the right, of the same quantity of issued shares of the same class, he shall be chargeable to tax under Schedule E for the year of assessment in which he obtains the right on the amount of the difference; and the amount so chargeable shall be treated as earned income, whether or not it would otherwise fall to be so treated.
- (6B) Subsection (6A) above shall also apply where—
- (a) a person obtains a right to acquire shares under a scheme which is not a savings-related share option scheme, and
  - (b) the price at which he may acquire shares by exercising the right is applicable by virtue of provision included in the scheme pursuant to paragraph 29(2) of Schedule 9;
- but with the substitution for “the market value” of “85 per cent. of the market value”.
- (6) In subsections (7) and (8), for “(6)” there shall be substituted “(6A)”.
- (7) Subsections (1), (5) and (6) above shall come into force on 1st January 1992.
- (8) Subsections (3) and (4) above shall apply in relation to rights obtained on or after 1st January 1992.

#### Commencement Information

**I6** S. 39 partly in force at Royal Assent; s. 39(1),(5) and (6) in force at 01.01.1992.

#### 40 Savings-related share option schemes.

- (1) In Part III of Schedule 9 to the Taxes Act 1988 (requirements applicable to savings-related share option schemes) in paragraph 24(2)(a) (scheme not to permit monthly amount of contributions linked to schemes to exceed £150) for “£150” there shall be substituted “£250”.
- (2) This section shall come into force on such day as the Treasury may by order made by statutory instrument appoint.

#### Subordinate Legislation Made

**P2** S. 40(2) power fully exercised: 01.09.1991 appointed by S.I. 1991/1741, art.2.

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**41 Profit sharing schemes.**

- (1) In section 187(2) of the Taxes Act 1988, in the definition of “relevant amount” (limit on the value of shares that may be appropriated to a participant in a year of assessment) for “not less than £2,000 and not more than £6,000” there shall be substituted “not less than £3,000 and not more than £8,000”.
- (2) This section shall apply for the year 1991-92 and subsequent years of assessment.

**42 Costs of establishing share option or profit sharing schemes: relief.**

The following section shall be inserted after section 84 of the Taxes Act 1988—

**“84A Costs of establishing share option or profit sharing schemes: relief.**

- (1) Subsection (2) below applies where—
  - (a) a company incurs expenditure on establishing a share option scheme which the Board approve and under which no employee or director obtains rights before such approval is given, or
  - (b) a company incurs expenditure on establishing a profit sharing scheme which the Board approve and under which the trustees acquire no shares before such approval is given.
- (2) In such a case the expenditure—
  - (a) shall be deducted in computing for the purposes of Schedule D the profits or gains of a trade carried on by the company, or
  - (b) if the company is an investment company or a company in the case of which section 75 applies by virtue of section 76, shall be treated as expenses of management.
- (3) In a case where—
  - (a) subsection (2) above applies, and
  - (b) the approval is given after the end of the period of nine months beginning with the day following the end of the period of account in which the expenditure is incurred,

for the purpose of applying subsection (2) above the expenditure shall be treated as incurred in the period of account in which the approval is given (and not the period of account mentioned in paragraph (b) above).
- (4) References in this section to approving are to approving under Schedule 9.
- (5) This section applies where the expenditure is incurred on or after 1st April 1991.”

**43 Costs of establishing employee share ownership trusts: relief.**

The following section shall be inserted after section 85 of the Taxes Act 1988—

**“85A Costs of establishing employee share ownership trusts: relief.**

- (1) Subsection (2) below applies where a company incurs expenditure on establishing a qualifying employee share ownership trust.



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- (2) In such a case the expenditure—
  - (a) shall be deducted in computing for the purposes of Schedule D the profits or gains of a trade carried on by the company, or
  - (b) if the company is an investment company or a company in the case of which section 75 applies by virtue of section 76, shall be treated as expenses of management.
- (3) In a case where—
  - (a) subsection (2) above applies, and
  - (b) the trust is established after the end of the period of nine months beginning with the day following the end of the period of account in which the expenditure is incurred,for the purpose of applying subsection (2) above the expenditure shall be treated as incurred in the period of account in which the trust is established (and not the period of account mentioned in paragraph (b) above).
- (4) In this section “qualifying employee share ownership trust shall be construed in accordance with Schedule 5 to the Finance Act 1989.
- (5) For the purposes of this section the trust is established when the deed under which it is established is executed.
- (6) This section applies where the expenditure is incurred on or after 1st April 1991.”

#### **44 Priority share allocations for employees etc.**

- (1) In relation to offers made on or after 16th January 1991, section 68 of the <sup>M14</sup>Finance Act 1988 (which provides for the benefits derived from priority rights in share offers to be disregarded in certain circumstances) shall have effect, and be deemed at all times on and after that date to have had effect, with the amendments specified in subsections (2) to (8) below.
- (2) In paragraph (a) of subsection (1), for the words “an offer” there shall be substituted the words “a bona fide offer”.
- (3) After that subsection there shall be inserted—

“(1ZA) A case falls within this subsection if—

  - (a) there is a bona fide offer to the public of a combination of shares in two or more companies at a fixed price or by tender ( “the public offer);
  - (b) there is at the same time an offer ( “the employee offer) of shares, or of a combination of shares, in any one or more, but not all, of those companies—
    - (i) to directors or employees, or
    - (ii) to directors or employees and to other persons,(whether the directors or employees are directors or employees of any of those companies, or of any other company or person); and
  - (c) any of those directors or employees is entitled, by reason of his office or employment, to an allocation of shares under the employee offer in

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priority to any allocation to members of the public under the public offer.

(1ZB) In any case falling within subsection (1ZA) above—

- (a) the public offer and the employee offer shall be regarded for the purposes of subsection (1) above as together constituting a single offer of shares to the public, notwithstanding the difference in the shares to which each offer relates;
- (b) the reference to “the shares in paragraph (b) of that subsection shall be taken as a reference to any of the shares which, in consequence of paragraph (a) above, are to be regarded as subject to that single offer; and
- (c) in the following provisions of this section references to the offer or to shares subject to the offer shall be construed accordingly.”

(4) For subsection (1A) there shall be substituted—

“(1A) Where, disregarding the amount or value of any registrant discount made to the director or employee in respect of the shares of the company (or, in a case falling within subsection (1ZA) above, of the company in question), the price payable by him for the shares of that company which are allocated to him under the offer—

- (a) in a case not falling within subsection (1ZA) above, is less than the fixed price or the lowest price successfully tendered, or
- (b) in a case falling within that subsection, is not the same as, or as near as reasonably practicable to, the appropriate notional price for the shares of that company,

subsection (1) above shall not apply to the benefit (if any) represented by the difference in price.”

(5) After subsection (2B) there shall be inserted—

“(2C) In a case falling within subsection (1ZA) above, the condition in paragraph (a) of subsection (2) above shall be taken to be satisfied in relation to the offer if, and only if, it is separately satisfied with respect to the shares in each one of the companies which are subject to that offer; and for this purpose only, any reference in that paragraph or in subsection (2A) or (2B) above to shares is a reference to shares in the particular company in question.”

(6) In subsection (3A) (saving where the allocations of directors or employees are larger than those of other persons) after the words “the company”, where first occurring, there shall be inserted the words “(or, in a case falling within subsection (1ZA) above, any one or more of the companies to which the offer relates) ”.

(7) At the end of subsection (5) (definitions) there shall be added—

“ “the public offer and “the employee offer have the meaning given by paragraphs (a) and (b) of subsection (1ZA) above.”

(8) After that subsection there shall be inserted—

“(5A) For the purposes of this section, there is a “registrant discount in respect of the shares of a company in any case where—

- (a) in connection with the offer, members of the public who comply with such requirements as may be imposed in that behalf are, or may

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become, entitled to a discount in respect of the whole or some part of the shares of that company which are allocated to them; and

- (b) at least 40 per cent. of the shares of that company which are allocated to members of the public other than employees and directors are allocated to individuals who are or become entitled either to that discount or to some other benefit of similar value for which they may elect as an alternative to the discount; and
- (c) directors or employees who either—
  - (i) subscribe for shares under the offer (or, in a case falling within subsection (1ZA) above, under the public offer) as members of the public, or
  - (ii) subscribe for shares under the employee offer, as directors or employees,

and who comply (or, in the case of a requirement to register, are taken under the terms of the offer to comply) with the same requirements as are mentioned in paragraph (a) above, are, or may become, entitled to the same discount in respect of the shares of the company as any other members of the public to whom shares of that company are allocated under the offer;

and any reference in this section to the amount or value of the registrant discount made to a director or employee is a reference to the amount of any such discount made to him as is mentioned in paragraph (c) above or, as the case may be, the value of any such other benefit as is mentioned in paragraph (b) above which is conferred upon him as an alternative to the discount.

- (5B) For the purposes of this section, in a case falling within subsection (1ZA) above “the appropriate notional price for the shares of any of the companies subject to the offer is such price as—
  - (a) had the shares of that company, and of each of the other companies, instead of being subject to the offer, been subject to separate offers to the public in respect of each company at fixed prices, and
  - (b) had those separate offers been made at the time at which the public offer was in fact made,

might reasonably have been expected to be the fixed price for the shares of that company under the separate offer of those shares; but where subsection (5C) below applies, the amount determined in accordance with this subsection as the notional price for the shares of any company shall be varied in accordance with that subsection.

- (5C) If the amounts determined in accordance with subsection (5B) above as the appropriate notional prices for the shares of each of the companies subject to the public offer are such that, had the price for the combination of shares subject to the public offer been determined by aggregating the appropriate notional price (as so determined) for each one of the shares comprised in the combination, the price for the combination would have been different from the actual fixed price or (as the case may be) lowest successfully tendered price, then those amounts shall each be varied by multiplying them by the fraction of which—
  - (a) the numerator is the actual fixed or lowest successfully tendered price for the combination of shares subject to the public offer; and

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- (b) the denominator is the different price mentioned above; and those amounts, as so varied, shall be the appropriate notional prices for the purposes of this section.”
- (9) In section 77 of that Act (scope of provisions about unapproved employee share schemes) in subsection (1), for the words “Subject to subsections (2) and (3) below” there shall be substituted the words “Subject to subsections (2) to (4) below”, and after subsection (3) (exemption where the acquisition is made in pursuance of an offer to the public) there shall be added—
  - “(4) Where, in a case falling within subsection (1ZA) of section 68 above, subsection (1) of that section—
    - (a) applies or applied in relation to such a benefit as is there mentioned, or
    - (b) would so apply or have applied, had there been any such benefit,
 any acquisition made on or after 16th January 1991 in pursuance of any of the offers which, in that case, fall to be regarded by virtue of subsection (1ZB) of that section as together constituting a single offer of shares to the public for the purposes of subsection (1) of that section shall be regarded for the purposes of subsection (3) above as an acquisition made in pursuance of an offer to the public.”
- (10) The amendments made by subsection (9) above shall be deemed to have come into force on 16th January 1991.

**Marginal Citations**  
**M14** 1988 c. 39.

*Foreign earnings*

<sup>F34</sup>**45** .....

**Textual Amendments**  
**F34** S. 45 repealed (31.7.1998 with effect as mentioned in Sch. 27 Pt. III(11) Note) by 1998 c. 36, ss. 63, 165, **Sch. 27 Pt. III(11)** Note (with Sch. 18 para. 6(3))

**46 Workers in Kuwait or Iraq.**

- (1) This section applies if—
  - (a) a person was in Kuwait or Iraq at any time in the period of 62 days ending with 2nd August 1990,
  - (b) he was at that time engaged in performing the duties of an office or employment which were to be performed to a substantial extent in Kuwait or Iraq,
  - (c) he returned to the United Kingdom after that time,
  - (d) the period of absence from the United Kingdom which ends with his return is not, and is not part of, a qualifying period consisting of at least 365 days, and

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- (e) he satisfies the Board (or the Commissioners on appeal) that, having regard to the circumstances, it is likely that that period of absence would have been part of such a qualifying period but for events leading up to or arising from the invasion of Kuwait on 2nd August 1990.
- (2) In such a case, so much of the period before the day of his return to the United Kingdom as the Board are satisfied would have been part of a qualifying period consisting of at least 365 days (but for those events) shall be treated as a qualifying period consisting of at least 365 days.
- (3) All such adjustments shall be made, whether by way of discharge or repayment of tax or otherwise, as may be required in consequence of the provisions of this section.
- (4) In the case of employment as a seafarer, this section shall have effect as if “62 days” read “90 days”.
- (5) In this section—
  - (a) “qualifying period means a qualifying period for the purposes of section 193(1) of the Taxes Act 1988 (foreign earnings);
  - (b) “employment as a seafarer has the same meaning as in paragraph 3(2A) of Schedule 12 to that Act (further provisions about foreign earnings).

*Insurance companies and friendly societies*

**47 Investor protection schemes.**

- (1) In section 76 of the Taxes Act 1988, in subsection (7) (which treats certain levies as expenses of management of insurance companies) after the word “under there shall be inserted “(a) ” and after the words “Policyholders Protection Act 1975 there shall be inserted the words “or
  - (b) a levy imposed in pursuance of a scheme established by rules under section 54 of the 1986 Act (compensation fund for unsatisfied claims),”.
- (2) After that subsection there shall be inserted—

“(7A) The Treasury may by regulations make provision for any sums paid by a company under a prescribed levy imposed under a prescribed investor protection scheme established under the rules of a prescribed recognised self-regulating organisation to be treated for the purposes of this section as part of the company’s expenses of management; and, without prejudice to the generality of the foregoing, regulations under this subsection may, in particular—

  - (a) provide for only a prescribed part of any sums so paid to be so treated;
  - (b) provide for sums paid before, as well as after, the coming into force of the regulations to be so treated; and
  - (c) make different provision for different cases or in relation to different levies, schemes or organisations.”
- (3) For subsection (8) of that section (definitions) there shall be substituted—

“(8) In this section—

“the 1986 Act means the Financial Services Act 1986;

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“acquisition expenses means expenses falling within paragraphs (a) to (c) of subsection (1) of section 86 of the Finance Act 1989;

“authorised person has the same meaning as it has in the 1986 Act by virtue of section 207(1) of that Act;

“investment business has the same meaning as it has in the 1986 Act by virtue of section 1(2) of that Act;

“investor includes a person who is an investor for the purposes of the 1986 Act;

“investor protection scheme means a scheme established under the rules of a recognised self-regulating organisation for purposes which consist of or include the compensating of investors in cases where persons, or persons of some class or description, who are or have been authorised persons, are, or are likely to be, unable to satisfy claims in respect of any description of civil liability incurred by them in connection with their investment businesses;

“prescribed means specified in regulations made by the Treasury under subsection (7A) above;

“recognised self-regulating organisation has the same meaning as it has in the 1986 Act;

and other expressions have the same meaning as in Chapter I of Part XII.”

- (4) The amendments made by subsection (1) above shall have effect in relation to levies imposed, and sums paid, before or after the coming into force of that subsection.

**48 Assimilation of basic life assurance business and general annuity business.**

Schedule 7 to this Act shall have effect.

<sup>F35</sup>49 .....

**Textual Amendments**

**F35** S. 49 repealed (22.3.2001 with effect in accordance with s. 87 of the amending Act) by 2001 c. 9, s. 110, Sch. 33 Pt. 2(12)

**50 Friendly societies.**

Schedule 9 to this Act (which makes provision about friendly societies) shall have effect.

*Building societies*

**51 Qualifying shares.**

Schedule 10 to this Act (which makes provision about certain kinds of building society share) shall have effect.

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## 52 Marketable securities.

- (1) Schedule 11 to this Act (which makes provision about the deduction of income tax in the case of marketable securities issued by building societies) shall have effect.

<sup>F36</sup>(2) .....

<sup>F36</sup>(3) .....

### Textual Amendments

**F36** S. 52(2)(3) repealed (the repeal coming into force in accordance with the provisions of Ch. II of Pt. IV of the repealing Act) by 1996 c. 8, ss. 105, 205, Sch. 41 Pt. V(3) Note

## 53 Income Tax (Building Societies) Regulations 1986.

- (1) Section 343(1A) of the <sup>M15</sup>Income and Corporation Taxes Act 1970 (building societies) shall be deemed to have conferred power to make all the provisions in fact contained in the <sup>M16</sup>Income Tax (Building Societies) Regulations 1986 (the regulations).
- (2) Where a provision of the regulations requires a building society to pay to the Board a sum calculated by reference to the reduced rate and the basic rate, subsection (3) below shall apply to the extent that the sum is one in respect of payments or credits made in the period beginning with 1st March in any year and ending with 5th April in the same year.
- (3) The provision shall be deemed always to have had effect as if the reduced and basic rates concerned were those for the year of assessment in which the period falls.
- (4) In relation to a building society which commenced proceedings to challenge the validity of the regulations before 18th July 1986, this section shall not have effect to the extent that the regulations apply (or purport to apply) to payments or credits made before 6th April 1986.

### Marginal Citations

**M15** 1970 c. 10.

**M16** S.I. 1986/482.

## Securities

## 54 New issues.

Schedule 12 to this Act (which contains provisions about securities issued after an issue of securities of the same kind) shall have effect.

## 55 Purchase and sale of securities: options.

- (1) In section 731 of the Taxes Act 1988 (scope of bondwashing provisions) the following subsections shall be inserted after subsection (4)—

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“(4A) For the purposes of subsection (3) above, where a purchase or sale is effected as a direct result of the exercise of a qualifying option, it shall be treated as effected at the current market price if the terms under which the first buyer acquired the option, or, as the case may be, became subject to it, were arm’s length terms.

(4B) For the purposes of subsection (4A) above an option is a “qualifying option if it would be a traded option or financial option as defined in subsection (9) of section 137 of the 1979 Act were the reference in paragraph (b) of that subsection to the time of the abandonment or other disposal a reference to the time of exercise.

(4C) In subsection (4A) above the reference to arm’s length terms is to terms—  
(a) agreed between persons dealing at arm’s length, or  
(b) not so agreed, but nonetheless such as might reasonably be expected to have been agreed between persons so dealing.”

(2) This section shall apply where the subsequent sale by the first buyer takes place on or after the day on which this Act is passed.

<sup>F37</sup> 56 .....

**Textual Amendments**  
F37 S. 56 repealed (with effect where, for the purposes of 1988 c. 1, s. 731(2), the interest receivable by the first buyer is paid on or after 2.7.1997) by Finance (No. 2) Act 1997 (c. 58), ss. 26, 52, Sch. 8 Pt. II Note; and s. 56, in so far as it is still in force, repealed (with effect in relation to cases where the purchase by the first buyer (within the meaning of 1988 c. 1, s. 731(2)) is made on or after 1.4.2008) by Finance Act 2008 (c. 9), s. 66(4)(c)(6)-(8)

<sup>F38</sup> 57 .....

**Textual Amendments**  
F38 S. 57 repealed (19.3.1997 with effect in relation to, and to transfers under, any arrangement made on or after 1.7.1997) by 1997 c. 16, ss. 76, 113, Sch. 10 Pt. I para. 7(1), Sch. 18 Pt. VI(10) Note 1; S.I. 1997/991, art. 2

**58 Manufactured dividends and interest.**

(1) After section 736 of the Taxes Act 1988 there shall be inserted—

**“736A Manufactured dividends and interest.**

Schedule 23A to this Act shall have effect in relation to certain cases where under a contract or other arrangements for the transfer of shares or other securities a person is required to pay to the other party an amount representative of a dividend or payment of interest on the securities.”



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- (2) The enactments mentioned in Schedule 13 to this Act shall have effect with the amendments there specified.
- (3) This section shall have effect in relation to payments made on or after such day as the Treasury may specify for this purpose by regulations made by statutory instrument and different days may be so appointed for different provisions or different purposes.

#### Subordinate Legislation Made

- P3** S. 58(3) power partly exercised (4.2.1992): 26.2.1992 appointed day for specified provisions and purposes by [S.I. 1992/173](#)  
S. 58(3) power partly exercised (5.6.1992): 30.6.1992 appointed day for specified provisions and purposes by [S.I. 1992/1346](#)  
S. 58(3) power partly exercised (21.4.1993): 22.4.1993 appointed day for specified provisions and purposes by [S.I. 1993/933](#).

#### Commencement Information

- I7** S. 58: s. 58 came into force at Royal Assent (25.7.1991) with effect as mentioned in s. 58(3) in relation to payments made on or after such day or days as the Treasury may specify:  
26.2.1992 appointed for specified provisions and purposes by [S.I. 1992/173](#), [reg. 2](#).  
30.6.1992 appointed for specified provisions and purposes by [S.I. 1992/1346](#), [regs. 2-4](#).  
22.4.1993 appointed for specified provisions and purposes by [S.I. 1993/933](#), [regs. 2-4](#).

### *Capital allowances*

**F39**<sup>59</sup> .....

#### Textual Amendments

- F39** Ss. 59-61 repealed (22.3.2001 with effect as mentioned in [s. 579\(1\)](#) of the amending Act) by [2001 c. 2](#), [s. 580](#), [Sch. 4](#)

**F40**<sup>60</sup> .....

#### Textual Amendments

- F40** Ss. 59-61 repealed (22.3.2001 with effect as mentioned in [s. 579\(1\)](#) of the amending Act) by [2001 c. 2](#), [s. 580](#), [Sch. 4](#)

**F41**<sup>61</sup> .....

#### Textual Amendments

- F41** Ss. 59-61 repealed (22.3.2001 with effect as mentioned in [s. 579\(1\)](#) of the amending Act) by [2001 c. 2](#), [s. 580](#), [Sch. 4](#)

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### *Oil industry*

## **62 Expenditure on and under abandonment guarantees.**

- (1) To the extent that, by virtue of paragraph (hh) of subsection (1) of section 3 of the <sup>M17</sup>Oil Taxation Act 1975 (as set out in section 103(2) of this Act), expenditure incurred on or after 19th March 1991 by a participator in an oil field is allowable for the purposes of petroleum revenue tax under the said section 3, that expenditure shall be allowed as a deduction in computing the participator's ring fence income.
- (2) Expressions used in subsection (1) above and the following provisions of this section have the same meaning as in Chapter V of Part XII of the Taxes Act 1988 (petroleum extraction activities).
- (3) If, under an abandonment guarantee, a payment is made by the guarantor on or after 19th March 1991, then, to the extent that any expenditure for which the relevant participator is liable is met, directly or indirectly, out of the payment, that expenditure shall not be regarded for any purposes of tax as having been incurred by the relevant participator or any other participator in the oil field concerned.
- (4) In any case where—
  - (a) a payment made by the guarantor under the abandonment guarantee is not immediately applied in meeting any expenditure, and
  - (b) the payment is for any period invested (either specifically or together with payments made by persons other than the guarantor) so as to be represented by, or by part of, the assets of a fund or account, and
  - (c) at a subsequent time, any expenditure for which the relevant participator is liable is met out of the assets of the fund or account,
 any reference in subsection (3) above or section 63 below to expenditure which is met, directly or indirectly, out of the payment shall be construed as a reference to so much of the expenditure for which the relevant participator is liable as is met out of those assets of the fund or account which, at the subsequent time referred to in paragraph (c) above, it is just and reasonable to attribute to the payment.
- (5) In subsections (3) and (4) above—
  - (a) “abandonment guarantee has the same meaning as, by virtue of section 104 of this Act, it has for the purposes of section 105 of this Act; and
  - (b) “the guarantor and “the relevant participator have the same meaning as in subsection (1) of section 104 of this Act.

#### **Modifications etc. (not altering text)**

C4 S. 62 modified (27.7.1999) by 1999 c. 16, s. 98(2)(7) (with s. 98(8))

#### **Marginal Citations**

M17 1975 c. 22.

## **63 Relief for reimbursement expenditure under abandonment guarantees.**

- (1) This section applies in any case where—

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- (a) on or after 19th March 1991 a payment (in this section referred to as “the guarantee payment”) is made by the guarantor under an abandonment guarantee; and
  - (b) by virtue of the making of the guarantee payment, the relevant participator becomes liable under the terms of the abandonment guarantee to pay any sum or sums to the guarantor; and
  - (c) expenditure is incurred, or consideration in money’s worth is given, by the relevant participator in or towards meeting that liability.
- (2) In any case where the whole of the guarantee payment or, as the case may require, of the assets which, under section 62(4) above, are attributed to the guarantee payment is not applied in meeting liabilities of the relevant participator which fall within paragraphs (a) and (b) of subsection (1) of section 104 of this Act and a sum representing the unapplied part of the guarantee payment or of those assets is repaid, directly or indirectly, to the guarantor,—
  - (a) any liability of the relevant participator to repay that sum shall be excluded in determining the total liability of the relevant participator which falls within subsection (1)(b) above; and
  - (b) the repayment to the guarantor of that sum shall not be regarded as expenditure incurred by the relevant participator as mentioned in subsection (1)(c) above.
- (3) In the following provisions of this section “reimbursement expenditure means expenditure incurred as mentioned in subsection (1)(c) above or consideration (or, as the case may require, the value of consideration) given as so mentioned; and any reference to the incurring of reimbursement expenditure shall be construed accordingly.
- (4) So much of any reimbursement expenditure as, in accordance with subsection (5) below, is qualifying expenditure shall, by virtue of this section, be allowed as a deduction in computing the relevant participator’s ring fence income; and no part of the expenditure which is so allowed shall be otherwise deductible or allowable by way of relief for any purposes of tax.
- (5) Subject to subsection (6) below, of the reimbursement expenditure incurred in any accounting period by the relevant participator, the amount which constitutes qualifying expenditure shall be determined by the formula—

$$Ax \frac{B}{C}$$

where—

- ”A” is the reimbursement expenditure incurred in the accounting period;
- ”B” is so much of the expenditure represented by the guarantee payment as, if it had been incurred by the relevant participator, would have been taken into account (by way of capital allowance or a deduction) in computing his ring fence income; and
- ”C” is the total of the sums which, at or before the end of the accounting period, the relevant participator is or has become liable to pay to the guarantor as mentioned in subsection (1)(b) above.

- (6) In relation to the guarantee payment, the total of the reimbursement expenditure (whenever incurred) which constitutes qualifying expenditure shall not exceed

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whichever is the less of “B” and “C” in the formula in subsection (5) above; and any limitation on qualifying expenditure arising by virtue of this subsection shall be applied to the expenditure of a later in preference to an earlier accounting period.

- (7) For the purposes of this section, the expenditure represented by the guarantee payment is any expenditure—
- (a) for which the relevant participator is liable; and
  - (b) which is met, directly or indirectly, out of the guarantee payment (and which, accordingly, by virtue of section 62(3) above is not to be regarded as expenditure incurred by the relevant participator).
- (8) In this section—
- (a) “abandonment guarantee has the same meaning as, by virtue of section 104 of this Act, it has for the purposes of section 3 of the 1975 Act;
  - (b) “the guarantor and “the relevant participator have the same meaning as in subsection (1) of section 104 of this Act; and
  - (c) other expressions have the same meaning as in Chapter V of Part XII of the Taxes Act 1988 (petroleum extraction activities).

**Modifications etc. (not altering text)**

C5 S. 63 modified (27.7.1999) by 1999 c. 16, s. 98(2)(7) (with s. 98(8))

**64 Relief for expenditure incurred by a participator in meeting defaulter’s abandonment expenditure.**

- (1) This section applies in any case where—
- (a) paragraph 2A of Schedule 5 to the 1975 Act (as set out in section 107 of this Act) applies or would apply if a claim were made as mentioned in sub-paragraph (1)(a) of that paragraph; and
  - (b) under sub-paragraph (4) of that paragraph the default payment falls, in whole or in part, to be attributed to the qualifying participator (as an addition to his share of the abandonment expenditure).
- (2) In this section “default payment, “the defaulter and “qualifying participator have the same meaning as in paragraph 2A of Schedule 5 to the 1975 Act and other expressions have the same meaning as in Chapter V of Part XII of the Taxes Act 1988 (petroleum extraction activities).
- (3) In this section, the amount which is attributed to the qualifying participator as mentioned in subsection (1)(b) above (whether representing the whole or only a part of the default payment) is referred to as the additional abandonment expenditure.
- (4) Relief by way of capital allowance or, as the case may be, a deduction in computing ring fence income shall be available to the qualifying participator by virtue of this section in respect of the additional abandonment expenditure in any case where any such relief or deduction would have been available to the defaulter if—
- (a) the defaulter had incurred the additional abandonment expenditure; and
  - (b) at the time that that expenditure was incurred the defaulter continued to carry on a ring fence trade.

*Status: Point in time view as at 11/05/2001.*

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- (5) The basis of qualification for or entitlement to any relief or deduction which is available to the qualifying participator by virtue of this section shall be determined on the assumption that the conditions in paragraphs (a) and (b) of subsection (4) above are fulfilled but, subject to that, any such relief or deduction shall be available in like manner as if the additional abandonment expenditure had been incurred by the qualifying participator for the purposes of the ring fence trade carried on by him.

**Modifications etc. (not altering text)**

C6 S. 64 modified (27.7.1999) by 1999 c. 16, s. 98(2)(7) (with s. 98(8))

**65 Reimbursement by defaulter in respect of certain abandonment expenditure.**

- (1) This section applies in any case where—
- (a) paragraph 2A of Schedule 5 to the 1975 Act (as set out in section 107 of this Act) applies or would apply if a claim were made as mentioned in sub-paragraph (1)(a) of that paragraph; and
  - (b) under sub-paragraph (4) of that paragraph the default payment falls, in whole or in part, to be attributed to the qualifying participator (as an addition to his share of the abandonment expenditure); and
  - (c) expenditure is incurred, or consideration in money's worth is given, by the defaulter in reimbursing the qualifying participator in respect of, or otherwise making good to him, the whole or any part of the default payment;
- and in this section “default payment,” “the defaulter and “qualifying participator have the same meaning as in the said paragraph 2A and other expressions have the same meaning as in Chapter V of Part XII of the Taxes Act 1988 (petroleum extraction activities).
- (2) In the following provisions of this section “reimbursement expenditure means expenditure incurred as mentioned in subsection (1)(c) above or consideration (or, as the case may require, the value of consideration) given as so mentioned; and any reference to the incurring of reimbursement expenditure shall be construed accordingly.
- (3) Subject to subsection (7) below, reimbursement expenditure shall be allowed as a deduction in computing the defaulter's ring fence income.
- (4) Subject to subsection (7) below, reimbursement expenditure received by the qualifying participator shall be treated as a receipt (in the nature of income) of his ring fence trade for the relevant accounting period.
- (5) For the purposes of subsection (4) above, the relevant accounting period is the accounting period in which the reimbursement expenditure is received by the qualifying participator or, if the qualifying participator's ring fence trade is permanently discontinued before the receipt of the reimbursement expenditure, the last accounting period of that trade.
- (6) Any additional assessment to corporation tax required in order to take account of the receipt of reimbursement expenditure by the qualifying participator may be made at any time not later than six years after the end of the calendar year in which the reimbursement expenditure is so received.

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- (7) In relation to a particular default payment, reimbursement expenditure incurred at any time—
- (a) shall be allowed as mentioned in subsection (3) above, and
  - (b) shall be taken into account in computing the qualifying participator's ring fence income by virtue of subsection (4) above,
- only to the extent that, when aggregated with any reimbursement expenditure previously incurred in respect of that default payment, it does not exceed so much of the default payment as falls to be attributed to the qualifying participator as mentioned in subsection (1)(b) above.
- (8) The incurring of reimbursement expenditure shall not be regarded, by virtue of [F42 section 532 of the Capital Allowances Act (the general rule excluding contributions)], as the meeting of the expenditure of the qualifying participator in making the default payment.

**Textual Amendments**

**F42** Words in s. 65(8) substituted (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, s. 578, **Sch. 2 para. 73**

**Modifications etc. (not altering text)**

**C7** S. 65 modified (27.7.1999) by 1999 c. 16, s. 98(2)(7) (with s. 98(8))

**66 Restriction on setting ACT against liability to corporation tax on profits from oil extraction activities etc.**

- (1) In section 497 of the Taxes Act 1988 (restriction on setting ACT against liability to corporation tax on profits from oil extraction activities etc.), in subsection (2) after the words “resident in the United Kingdom” there shall be inserted the words “or in respect of any distribution which, in accordance with subsections (2A) and (2B) below, is made pursuant to a substitution scheme”.
- (2) After subsection (2) of that section there shall be inserted the following subsections—
- “(2A) For the purposes of subsection (2) above, a distribution ( “the relevant distribution) is made pursuant to a substitution scheme if—
- (a) it is made on or after 2nd May 1991 in respect of shares or securities issued or transferred pursuant to or otherwise for the purposes of a scheme or arrangements; and
  - (b) by virtue of the scheme or arrangements a person's entitlement to, or to any rights in, the relevant distribution arises, directly or indirectly, by way of substitution for or addition to any entitlement of his to, or any prospect of his of, a distribution in respect of shares in or securities of another company; and
  - (c) at the time of the relevant distribution that other company is associated with the distributing company and is resident in the United Kingdom.
- (2B) Where a distribution is made in respect of shares the issue or transfer of which constituted or formed part of an exempt distribution, within the meaning of section 213 (demergers), the distribution in respect of the shares shall not

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be regarded for the purposes of subsection (2) above as made pursuant to a substitution scheme by reason only that the transfer or issue of the shares was carried out as part of a transaction falling within subsection (1) of that section.”

F43 67 .....

**Textual Amendments**

**F43** S. 67 repealed (6.3.1992 with effect as mentioned in s. 289(1)(2) of the repealing Act) by Taxation of Chargeable Gains Act 1992 (c. 12), ss. 289, 290, **Sch.12** (with s. 201(3), Sch. 11 paras. 20, 22, 26(2), 27)

*Miscellaneous*

**68 Gifts to educational establishments.**

(1) For section 84 of the Taxes Act 1988 (payments for technical education) there shall be substituted the following—

**“84 Gifts to educational establishments.**

(1) This section applies where a person carrying on a trade, profession or vocation ( “the donor) makes a gift for the purposes of a designated educational establishment of—

- (a) an article manufactured, or of a class or description sold, by the donor in the course of his trade which qualifies as machinery or plant in the hands of the educational establishment; or
- (b) an article used by the donor in the course of his trade, profession or vocation—
  - (i) which, for the purposes of Part II of the 1990 Act (capital allowances for machinery and plant), constitutes machinery or plant used by him wholly or partly in the course of that trade, profession or vocation; and
  - (ii) in respect of which he has claimed an allowance under that Part of that Act.

(2) For the purposes of this section, an article “qualifies as machinery or plant in the hands of an educational establishment if, and only if, it is an article such that—

- (a) were the activities carried on by the educational establishment regarded as a trade carried on by a body of persons, and
- (b) had that body, at the time of the gift, incurred capital expenditure wholly and exclusively on the provision of an identical article for the purposes of those activities, and
- (c) had the identical article belonged to that body in consequence of the incurring of that expenditure,

the identical article would be regarded for the purposes of Part II of the 1990 Act as machinery or plant provided by the body for the purposes of that trade.

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- (3) Where this section applies—
- (a) if the gift is of an article falling within paragraph (a) of subsection (1) above, then, for the purposes of the Tax Acts, no amount shall be required to be brought into account as a trading receipt of the donor in consequence of his disposal of that article from trading stock; and
  - (b) if the gift is of an article falling within paragraph (b) of that subsection, subsection (6) of section 24 of the 1990 Act shall not require the donor to bring into account any disposal value in respect of the article for the purposes of that section;
- but this subsection shall not apply unless, within two years of making the gift, the donor makes a claim for relief under this subsection, specifying the article given and the name of the educational establishment in question.
- (4) In any case where—
- (a) relief is given under subsection (3) above in respect of the gift of an article, and
  - (b) any benefit received in any chargeable period by the donor or any person connected with him is in any way attributable to the making of that gift,
- the donor shall in respect of that chargeable period be charged to tax under Case I or Case II of Schedule D or, if he is not chargeable to tax under either of those Cases for that period, under Case VI of Schedule D on an amount equal to the value of that benefit.
- (5) In this section “designated educational establishment means any educational establishment designated, or of a category designated,—
- (a) as respects Great Britain, in regulations made by the Secretary of State; or
  - (b) as respects Northern Ireland, in regulations made by the Department of Education for Northern Ireland;
- and any such regulations may make different provision for different areas.
- (6) If any question arises as to whether a particular establishment falls within a category designated in regulations under subsection (5) above, the Board shall refer the question for decision—
- (a) in the case of an establishment in Great Britain, to the Secretary of State, or
  - (b) in the case of an establishment in Northern Ireland, to the Department of Education for Northern Ireland.
- (7) The power of the Secretary of State to make regulations under subsection (5) above shall be exercisable by statutory instrument; and a statutory instrument containing any such regulations shall be subject to annulment in pursuance of a resolution of the House of Commons.
- (8) Regulations made under subsection (5) above for Northern Ireland—
- (a) shall be a statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979; and
  - (b) shall be subject to negative resolution within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954.
- (9) Section 839 applies for the purposes of subsection (4) above.”



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- (2) The amendment made by subsection (1) above shall have effect with respect to gifts made on or after 19th March 1991.

## **69 Expenses of entertainers.**

- (1) Section 201A of the Taxes Act 1988 (deduction of fees paid by entertainer to employment agency) shall be amended as follows.

- (2) In subsection (1)(a) after “subsection (2)” there shall be inserted “or (2A) ”.

- (3) The following subsection shall be inserted after subsection (2)—

“(2A) Fees fall within this subsection if—

- (a) they are paid by the employee in pursuance of an arrangement under which a bona fide co-operative society agrees, or the members of such a society agree, to act as agent of the employee in connection with the employment,
- (b) they are calculated as a percentage of the emoluments of the employment or as a percentage of part of those emoluments, and
- (c) they are defrayed out of the emoluments of the employment falling to be charged to tax for the year concerned.”

- (4) The following subsection shall be inserted after subsection (3)—

“(3A) Subsection (3) of section 1 of the Industrial and Provident Societies Act 1965 (co-operative society does not include profit-making society) shall apply for the purposes of subsection (2A)(a) above as it applies for the purposes of that section.”

- (5) The following subsection shall be inserted after subsection (4)—

“(4A) Subject to subsection (4) above, a deduction by virtue of this section as regards a particular employment and a particular year of assessment may be based on fees falling within subsection (2) above or fees falling within subsection (2A) above, or both.”

- (6) The amendments made by this section shall apply for the year 1990—91 and subsequent years of assessment.

- (7) Any such adjustment (whether by way of discharge or repayment of tax, the making of an assessment or otherwise) as is appropriate in consequence of this section may be made.

## **70 Personal equity plans.**

In section 333 of the Taxes Act 1988 (personal equity plans) in subsection (3) (regulations) the following paragraphs shall be inserted after paragraph (f)—

- “(g) provide for plans to be treated as being of different kinds, according to criteria set out in the regulations;
- (h) provide that the Board may register a plan as being of a particular kind;
- (i) make different provision as to different kinds of plan;
- (j) provide for investment by an individual under more than one plan in the same year of assessment.”

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## 71 Donations to charity.

- (1) Section 339A of the Taxes Act 1988 (maximum qualifying donations in the case of companies) shall cease to have effect.
- (2) In consequence of subsection (1) above, in section 338(2) of that Act, for “to sections 339 and 339A” there shall be substituted “to section 339”.
- (3) Subsections (1) and (2) above shall apply in relation to accounting periods beginning on or after 19th March 1991.
- (4) In its application to accounting periods beginning before 19th March 1991 and ending on or after that date, section 339A of the Taxes Act 1988 shall have effect as if—
  - (a) in subsections (1) and (2), after the words “in that period”, in the first place where they occur, there were inserted “and before 19th March 1991”; and
  - (b) in subsection (3)(b), after “that section” there were inserted “in respect of payments made before 19th March 1991”.
- (5) In section 25 of the <sup>M18</sup>Finance Act 1990 (donations to charity by individuals) subsection (2)(h) (maximum qualifying donations) shall cease to have effect.
- (6) Subsection (5) above shall apply in relation to gifts made on or after 19th March 1991.

### Marginal Citations

M18 1990 c. 29.

## 72 Deduction of trading losses.

- (1) Where under section 380 of the Taxes Act 1988 (set-off of trading losses against general income) a person makes a claim for relief for a year of assessment in respect of an amount ( “the trading loss) which is available for relief under that section, he may in the notice by which the claim is made make a claim under this subsection for the relevant amount for the year to be determined.
- (2) The relevant amount for the year is so much of the trading loss as—
  - (a) cannot be set off against the claimant’s income for the year, and
  - (b) has not already been taken into account for the purpose of giving relief (under section 380 or this section or otherwise) for any other year.
- (3) Where the claim under subsection (1) above is finally determined, the relevant amount for the year shall be treated for the purposes of capital gains tax as an allowable loss accruing to the claimant in the year; but the preceding provisions of this subsection shall not apply to so much of the relevant amount as exceeds the maximum amount.
- (4) The maximum amount is the amount on which the claimant would be chargeable to capital gains tax for the year, disregarding section [F443(1) of the Taxation of Chargeable Gains Act 1992] and the effect of this section.
- (5) In ascertaining the maximum amount, no account shall be taken of any event—
  - (a) occurring after the date on which the claim under subsection (1) above is finally determined, and
  - (b) in consequence of which the amount referred to in subsection (4) above is reduced by virtue of any enactment relating to capital gains tax.

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- (6) An amount treated as an allowable loss by virtue of this section shall not be allowed as a deduction from chargeable gains accruing to a person in any year of assessment beginning after he has ceased to carry on the trade, profession, vocation or employment in which the relevant trading loss was sustained.
- (7) For the purposes of this section, the claim under subsection (1) above shall not be deemed to be finally determined until the relevant amount for the year can no longer be varied, whether by the Commissioners on appeal or on the order of any court.
- (8) References in sections 382(3), <sup>F45</sup> . . . and 385(1) of the Taxes Act 1988 to relief under section 380 of that Act shall be construed as including references to relief under this section.
- (9) This section shall apply in relation to losses sustained in the year 1991-92 and subsequent years of assessment.

#### Textual Amendments

- F44** Words in s. 72(4) substituted (6.3.1992 with effect as mentioned in s. 289(1)(2) of the amending Act) by Taxation of Chargeable Gains Act 1992 (c. 12), ss. 289, 290, **Sch. 10 para. 23** (with ss. 60, 101(1), 201(3))
- F45** Words in s. 72(8) repealed (3.5.1994 with effect in accordance with ss. 211(2), 218(1)(b) of the repealing Act) by 1994 c. 9, ss. 211(2), 218(1)(b), 258, **Sch. 26 Pt. V(24)** Note 5(e)

#### Modifications etc. (not altering text)

- C8** S. 72(1) modified (5.4.1994) by S.I. 1994/728, reg. 9, **Sch. 2**  
S. 72(1) modified (9.3.1995 with effect as mentioned in ss. 14(2), 15(2) of the amending S.I.) by S.I. 1995/352, regs. 14, 15, **Sch.**

### 73 Relief for company trading losses.

- (1) After section 393 of the Taxes Act 1988 (losses other than terminal losses) there shall be inserted—

**“393A Losses: set off against profits of the same, or an earlier, accounting period.**

- (1) Subject to section 492(3), where in any accounting period ending on or after 1st April 1991 a company carrying on a trade incurs a loss in the trade, then, subject to subsection (3) below, the company may make a claim requiring that the loss be set off for the purposes of corporation tax against profits (of whatever description)—
  - (a) of that accounting period, and
  - (b) if the company was then carrying on the trade and the claim so requires, of preceding accounting periods falling wholly or partly within the period specified in subsection (2) below;

and, subject to that subsection and to any relief for an earlier loss, the profits of any of those accounting periods shall then be treated as reduced by the amount of the loss, or by so much of that amount as cannot be relieved under this subsection against profits of a later accounting period.

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- (2) The period referred to in paragraph (b) of subsection (1) above is the period of three years immediately preceding the accounting period in which the loss is incurred; but the amount of the reduction that may be made under that subsection in the profits of an accounting period falling partly before the beginning of that period shall not exceed a part of those profits proportionate to the part of the accounting period falling within that period.
- (3) Subsection (1) above shall not apply to trades falling within Case V of Schedule D; and a loss incurred in a trade in any accounting period shall not be relieved under that subsection unless—
  - (a) the trade is one carried on in the exercise of functions conferred by or under any enactment (including an enactment contained in a local or private Act), or
  - (b) it is shown that for that accounting period the trade was being carried on on a commercial basis and with a view to the realisation of gain in the trade or in any larger undertaking of which the trade formed part; but this subsection is without prejudice to section 397.
- (4) For the purposes of subsection (3) above—
  - (a) the fact that a trade was being carried on at any time so as to afford a reasonable expectation of gain shall be conclusive evidence that it was then being carried on with a view to the realisation of gain; and
  - (b) where in an accounting period there is a change in the manner in which a trade is being carried on, it shall be treated as having throughout the accounting period been carried on in the way in which it was being carried on by the end of that period.
- (5) A claim under subsection (1) above may require that capital allowances in respect of the trade, being allowances that fall—
  - (a) to be made to the company by way of discharge or repayment of tax, and
  - (b) to be so made for an accounting period ending on or after 1st April 1991,

shall (so far as they cannot be otherwise taken into account so as to reduce or relieve any charge to corporation tax in respect of that, or any earlier, accounting period) be added to the loss incurred by the company in that accounting period or, if the company has not incurred a loss in the period, shall be treated as a loss so incurred.
- (6) For the purposes of subsection (5) above, the allowances for any period shall not be treated as including amounts carried forward from an earlier period.
- (7) Where a company ceases to carry on a trade, subsection (9) of section 393 shall apply in computing for the purposes of this section a loss in the trade in the accounting period in which the cessation occurs as it applies in computing a loss in an accounting period for the purposes of subsection (1) of that section.
- (8) Relief shall not be given by virtue of subsection (1)(b) above in respect of a loss incurred in a trade so as to interfere with any relief under section 338 in respect of payments made wholly and exclusively for the purposes of that trade.
- (9) For the purposes of this section—

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- (a) the amount of a loss incurred in a trade in an accounting period shall be computed in the same way as trading income from the trade in that period would have been computed;
  - (b) “trading income means, in relation to any trade, the income which falls or would fall to be included in respect of the trade in the total profits of the company; and
  - (c) references to a company carrying on a trade refer to the company carrying it on so as to be within the charge to corporation tax in respect of it.
- (10) A claim under subsection (1) above may only be made within the period of two years immediately following the accounting period in which the loss is incurred or within such further period as the Board may allow.
- (11) In any case where—
- (a) by virtue of section 62B of the 1990 Act (post-cessation abandonment expenditure related to offshore machinery or plant) the qualifying expenditure of the company for the chargeable period related to the cessation of its ring fence trade is treated as increased by any amount, or
  - (b) by virtue of section 109 of that Act (restoration expenditure incurred after cessation of trade of mineral extraction) any expenditure is treated as qualifying expenditure incurred by the company on the last day on which it carried on the trade,
- then, in relation to any claim under subsection (1) above to the extent that it relates to an increase falling within paragraph (a) above or to expenditure falling within paragraph (b) above, subsection (10) above shall have effect with the substitution of “five years” for “two years”.
- (2) Sections 393(2) to (6) and 394 of the Taxes Act 1988 (which are superseded by this section) shall cease to have effect.
- (3) Schedule 15 to this Act shall have effect.
- (4) This section shall have effect only in relation to losses incurred in accounting periods ending on or after 1st April 1991.
- (5) Any enactment amended by this section or that Schedule shall, in its application in relation to losses so incurred, be deemed to have had effect at all times with that amendment; and where any such enactment is the re-enactment of a repealed enactment, the repealed enactment shall, in its application in relation to losses so incurred, be deemed to have had effect at all times with a corresponding amendment.

#### **74 Trade unions and employers’ associations.**

- (1) Section 467 of the Taxes Act 1988 (trade unions and employers’ associations) shall be amended as follows.
- (2) In subsection (1) (exemption for certain income and gains of a trade union precluded by Act or rules from assuring to any person a sum exceeding £3,000 by way of gross sum or £625 by way of annuity)—
- (a) for “£3,000” there shall be substituted “£4,000”, and
  - (b) for “£625” there shall be substituted “£825”.

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- (3) In subsection (3) (matters to be disregarded in applying subsection (1)) for “£625” there shall be substituted “£825”.
- (4) After subsection (3) there shall be inserted—
- “(3A) The Treasury may by order substitute for any figure for the time being specified in this section such greater figure as may be specified in the order; and any amendment made in exercise of the power conferred by this subsection shall have effect in relation to such income or gains as may be specified in the order.”
- (5) In subsection (4) (definition of “trade union”)—
- (a) in paragraphs (a) and (b), for “Registrar of Friendly Societies” there shall be substituted “Certification Officer”; and
- (b) for “and” at the end of paragraph (b) there shall be substituted—
- “(ba) any trade union within the meaning of the Trade Union Act 1871 registered in Northern Ireland under section 6 of that Act; and”.
- (6) Subsections (2) and (3) above shall have effect in relation to income or gains which are applicable and applied as mentioned in section 467 of the Taxes Act 1988 on or after 1st April 1991.
- (7) Subsection (5) above shall be deemed always to have had effect.

#### Commencement Information

- 18** S. 74 in force at Royal Assent except s. 74(5) which is retrospective to 5.4.1988 being the commencement of s. 467, 1988 c.1

## 75 Audit powers in relation to non-residents.

The following section shall be inserted after section 482 of the Taxes Act 1988—

### “482A Audit powers in relation to non-residents.

- (1) The Board may make regulations with respect to the exclusion, in relation to investments of persons who are not ordinarily resident in the United Kingdom, of powers conferred by regulations made by virtue of section 477A(2)(a) or 482(11)(aa) (“audit powers”).
- (2) Regulations under subsection (1) above may in particular—
- (a) make provision for the exclusion of audit powers in the case of any building society or deposit-taker to be dependent on whether the society or deposit-taker is approved by the Board for the purposes of the regulations and on the scope of that approval;
- (b) make provision with respect to the approval of building societies and deposit-takers by the Board for the purposes of the regulations;
- (c) make provision with respect to, and with respect to alteration of, the scope of approval by the Board for the purposes of the regulations;
- (d) make provision with respect to the termination of approval by the Board for the purposes of the regulations; and

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- (e) make provision with respect to appeals against decisions of the Board with respect to approval for the purposes of the regulations, including decisions with respect to the scope of such approval.
- (3) Regulations under subsection (1) above may—
  - (a) make different provision for different cases; and
  - (b) contain such supplementary, incidental, consequential or transitional provision as appears to the Board to be appropriate.
- (4) In this section “deposit-taker has the meaning given by section 481(2).”

## 76 Capital element in annuities.

- (1) Section 656 of the Taxes Act 1988 (purchased life annuities other than retirement annuities) shall have effect, and be deemed always to have had effect, with the addition of the following subsections—
  - “(7) In using the prescribed tables of mortality to determine—
    - (a) the expected term of an annuity for the purposes of subsection (2)(a) above, or
    - (b) the actuarial value of any annuity payments for the purposes of subsection (4)(c) above,the age, as at the date when the first of the annuity payments begins to accrue, of a person during whose life the annuity is payable shall be taken to be the number of years of his age at his last birthday preceding that date.
  - (8) In any case where it is not possible to determine the expected term of an annuity for the purposes of subsection (2)(a) above by reference to the prescribed tables of mortality, that term shall for those purposes be such period as may be certified by the Government Actuary or the Deputy Government Actuary.
  - (9) In any case where it is not possible to determine the actuarial value of any annuity payments for the purposes of subsection (4)(c) above by reference to the prescribed tables of mortality, that value shall for those purposes be such amount as may be certified by the Government Actuary or the Deputy Government Actuary.”
- (2) Section 230 of the <sup>M19</sup>Income and Corporation Taxes Act 1970 (from which section 656 of the Taxes Act 1988 is derived) shall be deemed always to have had effect as if the subsections (7) to (9) set out in subsection (1) above had been contained in that section as subsections (8) to (10) respectively, but with the substitution for “(2)(a)” and “(4)(c)”, in each place where they occur, of “(2A)(a)” and “(3)(c)” respectively.
- (3) Section 27 of the <sup>M20</sup>Finance Act 1956 (from which section 230 of the Income and Corporation Taxes Act 1970 was derived) shall be deemed always to have had effect as if the subsections (7) and (9) set out in subsection (1) above had been contained in that section as subsections (8A) and (8B) respectively, but with the omission in subsection (7) of paragraph (a) and with the substitution of “(3)(c)” for “(4)(c)” in both places where it occurs.

### Marginal Citations

M19 1970 c. 10.

*Status: Point in time view as at 11/05/2001.*

*Changes to legislation: Finance Act 1991 is up to date with all changes known to be in force on or before 11 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

**M20** 1956 c. 54.

**77 Definition of “normal commercial loan”.**

(1) In paragraph 1 of Schedule 18 to the Taxes Act 1988 (under which a person who is a loan creditor of a company in respect of a non-commercial loan is an equity holder of the company) after sub-paragraph (5D) there shall be inserted—

“(5E) For the purposes of sub-paragraph (5)(b) above, the amount to which the loan creditor is entitled by way of interest—

- (a) shall not be treated as depending to any extent on the results of the company’s business or any part of it by reason only of the fact that the terms of the loan provide for the rate of interest to be reduced in the event of the results of the company’s business or any part of it improving, and
- (b) shall not be treated as depending to any extent on the value of any of the company’s assets by reason only of the fact that the terms of the loan provide for the rate of interest to be reduced in the event of the value of any of the company’s assets increasing.

(5F) Sub-paragraph (5H) below applies where—

- (a) a person makes a loan to a company on the basis mentioned in sub-paragraph (5G) below for the purpose of facilitating the acquisition of land, and
- (b) none of the land which the loan is used to acquire is acquired with a view to resale at a profit.

(5G) The basis referred to above is that—

- (a) the whole of the loan is to be applied in the acquisition of land by the company or in meeting the incidental costs of obtaining the loan,
- (b) the payment of any amount due in connection with the loan to the person making it is to be secured on the land which the loan is to be used to acquire, and
- (c) no other security is to be required for the payment of any such amount.

(5H) For the purposes of sub-paragraph (5)(b) above, the amount to which the loan creditor is entitled by way of interest shall not be treated as depending to any extent on the value of any of the company’s assets by reason only of the fact that the terms of the loan are such that the only way the loan creditor can enforce payment of an amount due is by exercising rights granted by way of security over the land which the loan is used to acquire.

(5I) In sub-paragraph (5G)(a) above the reference to the incidental costs of obtaining the loan is to any expenditure on fees, commissions, advertising, printing or other incidental matters wholly and exclusively incurred for the purpose of obtaining the loan or of providing security for it.”

<sup>F46</sup>(2) .....

(3) Except as provided by subsection (2) above, this section shall be deemed to have come into force on 1st April 1991.



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### Textual Amendments

- F46** S. 77(2) repealed (6.3.1992 with effect as mentioned in s. 289(1)(2) of the repealing Act) by [Taxation of Chargeable Gains Act 1992 \(c. 12\)](#), ss. 289, 290, [Sch. 12](#) (with s. 201(3), [Sch. 11 paras. 20, 22, 26\(2\), 27](#))

## 78 Sharing of transmission facilities.

- (1) This section applies to any agreement relating to the sharing of transmission facilities—
- (a) to which the parties are national broadcasting companies,
  - (b) which is entered into on or after the day on which this Act is passed and before 1st January 1992 or such later date as may be specified for the purposes of this paragraph by the Secretary of State, and
  - (c) in relation to which the Secretary of State has certified that it is expedient that this section should apply.

<sup>F47</sup>(2) .....

<sup>F47</sup>(3) .....

- (4) Where under an agreement to which this section applies one party to the agreement disposes of [<sup>F48</sup>plant or machinery] to another party to the agreement, the [<sup>F49</sup>Capital Allowances Act] shall apply—
- (a) in the case of the party making the disposal, as if the disposal value of the [<sup>F48</sup>plant or machinery] for the purposes of [<sup>F50</sup>section 60 of that Act] were equal to the capital expenditure incurred by that party on its provision, and
  - (b) in the case of the party to whom the disposal is made, as if the amount expended by that party in acquiring the [<sup>F48</sup>plant or machinery] were equal to the capital expenditure so incurred.

- (5) In subsection (4) above, references to [<sup>F51</sup>plant or machinery] include a share in [<sup>F51</sup>plant or machinery].

<sup>F47</sup>(6) .....

<sup>F47</sup>(7) .....

- (8) In this section, “national broadcasting company means a body corporate engaged in the broadcasting for general reception by means of wireless telegraphy of radio or television services or both on a national basis.

### Textual Amendments

- F47** S. 78(2)(3)(6)(7) repealed (6.3.1992 with effect as mentioned in s. 289(1)(2) of the repealing Act) by [Taxation of Chargeable Gains Act 1992 \(c. 12\)](#), ss. 289, 290, [Sch. 12](#) (with s. 201(3), [Sch. 11 paras. 20, 22, 26\(2\), 27](#))
- F48** Words in s. 78(4) substituted (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, s. 578, [Sch. 2 para. 74\(1\)\(b\)](#)
- F49** Words in s. 78(4) substituted (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, s. 578, [Sch. 2 para. 74\(1\)\(a\)](#)
- F50** Words in s. 78(4) substituted (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, s. 578, [Sch. 2 para. 74\(1\)\(c\)](#)

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**F51** Words in s. 78(5) substituted (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, s. 578, **Sch. 2 para. 74(2)**

**79 Abolition of CRT: consequential amendment.**

- (1) In Schedule 12 to the Finance Act 1988 (building societies: change of status) in paragraph 6(1)(b) for “section 476” there shall be substituted “section 477A”.
- (2) This section shall apply where qualifying benefits are conferred on or after 6th April 1991.

**80 Interest on certain debentures.**

Paragraph 8(2) of Schedule 11 to the <sup>M21</sup>Electricity Act 1989 (treatment of certain debentures for the purposes of the Corporation Tax Acts) shall have effect, and be deemed always to have had effect, with the addition after paragraph (b) of the words—

“ and if any such debenture includes provision for the payment of a sum expressed as interest in respect of a period which falls wholly or partly before the issue of the debenture, any payment made in pursuance of that provision in respect of that period shall be treated for the purposes of the Corporation Tax Acts as if the debenture had been issued at the commencement of that period and, accordingly, as interest on the principal sum payable under the debenture. ”

**Marginal Citations**

**M21** 1989 c. 29.

<sup>F52</sup>**81** .....

**Textual Amendments**

**F52** S. 81 repealed (1.5.1995 for the purposes mentioned in Sch. 29 Pt.VIII(16) Note 5 of the amending Act) by 1995 c. 4, s. 162, **Sch. 29 Pt. VIII** Note 5

**82 Certificates of non-liability to tax.**

- (1) In the <sup>M22</sup>Taxes Management Act 1970, the following section shall be inserted after section 99—

**“99A Certificates of non-liability to income tax.**

If a person who gives a certificate of non-liability to income tax in pursuance of regulations under section 477A of the principal Act (building societies) or section 480B of that Act (deposit-takers)—

- (a) gives the certificate fraudulently or negligently, or
- (b) fails to comply with any undertaking contained in the certificate in pursuance of the regulations,

he shall be liable to a penalty not exceeding £3,000.”

*Status: Point in time view as at 11/05/2001.*

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- (2) So far as relating to the giving of a certificate, this section shall apply in relation to certificates given on or after the day on which this Act is passed.
- (3) So far as relating to failure to comply with an undertaking contained in a certificate, this section shall apply in relation to certificates whenever given, but not so as to impose liability for a failure occurring before the day on which this Act is passed.

**Marginal Citations**

M22 1970 c. 9.

**CHAPTER II**

**CAPITAL GAINS**

**Commencement Information**

I9 Chapter II partly in force at 1.12.1988 due to retrospective effect of ss. 95 & 96

*Settlements*

<sup>F53</sup> **83** .....

**Textual Amendments**

**F53** Ss. 83-102 repealed (6.3.1992 with effect as mentioned in s. 289(1)(2) of the repealing Act) by Taxation of Chargeable Gains Act 1992 (c. 12), ss. 289, 290, **Sch.12** (with s. 201(3), Sch. 11 paras. 20, 22, 26(2), 27)

<sup>F54</sup> **84** .....

**Textual Amendments**

**F54** Ss. 83-102 repealed (6.3.1992 with effect as mentioned in s. 289(1)(2) of the repealing Act) by Taxation of Chargeable Gains Act 1992 (c. 12), ss. 289, 290, **Sch.12** (with s. 201(3), Sch. 11 paras. 20, 22, 26(2), 27)

<sup>F55</sup> **85** .....

*Status: Point in time view as at 11/05/2001.*

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**Textual Amendments**

**F55** Ss. 83-102 repealed (6.3.1992 with effect as mentioned in s. 289(1)(2) of the repealing Act) by Taxation of Chargeable Gains Act 1992 (c. 12), ss. 289, 290, **Sch.12** (with s. 201(3), Sch. 11 paras. 20, 22, 26(2), 27)

<sup>F56</sup>**86** .....

**Textual Amendments**

**F56** Ss. 83-102 repealed (6.3.1992 with effect as mentioned in s. 289(1)(2) of the repealing Act) by Taxation of Chargeable Gains Act 1992 (c. 12), ss. 289, 290, **Sch.12** (with s. 201(3), Sch. 11 paras. 20, 22, 26(2), 27)

<sup>F57</sup>**87** .....

**Textual Amendments**

**F57** Ss. 83-102 repealed (6.3.1992 with effect as mentioned in s. 289(1)(2) of the repealing Act) by Taxation of Chargeable Gains Act 1992 (c. 12), ss. 289, 290, **Sch.12** (with s. 201(3), Sch. 11 paras. 20, 22, 26(2), 27)

<sup>F58</sup>**88** .....

**Textual Amendments**

**F58** Ss. 83-102 repealed (6.3.1992 with effect as mentioned in s. 289(1)(2) of the repealing Act) by Taxation of Chargeable Gains Act 1992 (c. 12), ss. 289, 290, **Sch.12** (with s. 201(3), Sch. 11 paras. 20, 22, 26(2), 27)

<sup>F59</sup>**89** .....

**Textual Amendments**

**F59** Ss. 83-102 repealed (6.3.1992 with effect as mentioned in s. 289(1)(2) of the repealing Act) by Taxation of Chargeable Gains Act 1992 (c. 12), ss. 289, 290, **Sch.12** (with s. 201(3), Sch. 11 paras. 20, 22, 26(2), 27)

<sup>F60</sup>**90** .....

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**Textual Amendments**

**F60** Ss. 83-102 repealed (6.3.1992 with effect as mentioned in s. 289(1)(2) of the repealing Act) by Taxation of Chargeable Gains Act 1992 (c. 12), ss. 289, 290, **Sch.12** (with s. 201(3), Sch. 11 paras. 20, 22, 26(2), 27)

**F61**91 .....

**Textual Amendments**

**F61** Ss. 83-102 repealed (6.3.1992 with effect as mentioned in s. 289(1)(2) of the repealing Act) by Taxation of Chargeable Gains Act 1992 (c. 12), ss. 289, 290, **Sch.12** (with s. 201(3), Sch. 11 paras. 20, 22, 26(2), 27)

**F62**92 .....

**Textual Amendments**

**F62** Ss. 83-102 repealed (6.3.1992 with effect as mentioned in s. 289(1)(2) of the repealing Act) by Taxation of Chargeable Gains Act 1992 (c. 12), ss. 289, 290, **Sch.12** (with s. 201(3), Sch. 11 paras. 20, 22, 26(2), 27)

*Private residence*

**F63**93 .....

**Textual Amendments**

**F63** Ss. 83-102 repealed (6.3.1992 with effect as mentioned in s. 289(1)(2) of the repealing Act) by Taxation of Chargeable Gains Act 1992 (c. 12), ss. 289, 290, **Sch.12** (with s. 201(3), Sch. 11 paras. 20, 22, 26(2), 27)

**F64**94 .....

**Textual Amendments**

**F64** Ss. 83-102 repealed (6.3.1992 with effect as mentioned in s. 289(1)(2) of the repealing Act) by Taxation of Chargeable Gains Act 1992 (c. 12), ss. 289, 290, **Sch. 12** (with s. 201(3), Sch. 11 paras. 20, 22, 26(2), 27)

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*Miscellaneous*

F65<sup>95</sup> .....

**Textual Amendments**

**F65** Ss. 83-102 repealed (6.3.1992 with effect as mentioned in s. 289(1)(2) of the repealing Act) by Taxation of Chargeable Gains Act 1992 (c. 12), ss. 289, 290, **Sch.12** (with s. 201(3), Sch. 11 paras. 20, 22, 26(2), 27)

F66<sup>96</sup> .....

**Textual Amendments**

**F66** Ss. 83-102 repealed (6.3.1992 with effect as mentioned in s. 289(1)(2) of the repealing Act) by Taxation of Chargeable Gains Act 1992 (c. 12), ss. 289, 290, **Sch.12** (with s. 201(3), Sch. 11 paras. 20, 22, 26(2), 27)

F67<sup>97</sup> .....

**Textual Amendments**

**F67** Ss. 83-102 repealed (6.3.1992 with effect as mentioned in s. 289(1)(2) of the repealing Act) by Taxation of Chargeable Gains Act 1992 (c. 12), ss. 289, 290, **Sch.12** (with s. 201(3), Sch. 11 paras. 20, 22, 26(2), 27)

F68<sup>98</sup> .....

**Textual Amendments**

**F68** Ss. 83-102 repealed (6.3.1992 with effect as mentioned in s. 289(1)(2) of the repealing Act) by Taxation of Chargeable Gains Act 1992 (c. 12), ss. 289, 290, **Sch. 12** (with s. 201(3), Sch. 11 paras. 20, 22, 26(2), 27)

F69<sup>99</sup> .....

**Textual Amendments**

**F69** Ss. 83-102 repealed (6.3.1992 with effect as mentioned in s. 289(1)(2) of the repealing Act) by Taxation of Chargeable Gains Act 1992 (c. 12), ss. 289, 290, **Sch.12** (with s. 201(3), Sch. 11 paras. 20, 22, 26(2), 27)

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F70 **100** .....

**Textual Amendments**

**F70** Ss. 83-102 repealed (6.3.1992 with effect as mentioned in s. 289(1)(2) of the repealing Act) by Taxation of Chargeable Gains Act 1992 (c. 12), ss. 289, 290, **Sch.12** (with s. 201(3), Sch. 11 paras. 20, 22, 26(2), 27)

F71 **101** .....

**Textual Amendments**

**F71** Ss. 83-102 repealed (6.3.1992 with effect as mentioned in s. 289(1)(2) of the repealing Act) by Taxation of Chargeable Gains Act 1992 (c. 12), ss. 289, 290, **Sch.12** (with s. 201(3), Sch. 11 paras. 20, 22, 26(2), 27)

F72 **102** .....

**Textual Amendments**

**F72** Ss. 83-102 repealed (6.3.1992 with effect as mentioned in s. 289(1)(2) of the repealing Act) by Taxation of Chargeable Gains Act 1992 (c. 12), ss. 289, 290, **Sch.12** (with s. 201(3), Sch. 11 paras. 20, 22, 26(2), 27)

**PART III**

**OIL TAXATION**

*Abandonment etc.*

**103 Allowance of certain expenditure relating to abandonment, decommissioning assets, etc.**

- (1) Section 3 of the principal Act (allowance of certain expenditure) shall be amended in accordance with subsections (2) to (6) below.
- (2) With respect to expenditure incurred on or after 19th March 1991, in subsection (1), after paragraph (h) there shall be inserted the following paragraph—
  - “(hh) obtaining an abandonment guarantee, as defined in section 104 of the Finance Act 1991”.
- (3) With respect to expenditure incurred after 30th June 1991, in subsection (1), for paragraph (i) there shall be substituted the following paragraphs—
  - “(i) closing down, decommissioning, abandoning or wholly or partially dismantling or removing any qualifying asset;

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(j) carrying out qualifying restoration work consequential upon the closing down of the field or any part of it.”

(4) After subsection (1) there shall be inserted the following subsections—

“(1A) In this section “qualifying asset has the same meaning as in the Oil Taxation Act 1983; and, in the case of a qualifying asset which was leased or hired, the reference in subsection (1)(i) above to decommissioning includes a reference to carrying out any restoration or similar work which is required to be carried out to comply with the terms of the contract of lease or hire.

(1B) In subsection (1)(j) above “qualifying restoration work, in relation to a participator in an oil field, means—

- (a) restoring (including landscaping) land on which a qualifying asset is or was situated; or
- (b) restoring the seabed (including the subsoil thereof) on which a qualifying asset is or was situated.

(1C) In any case where—

- (a) expenditure is incurred by a participator for any of the purposes mentioned in paragraph (i) or paragraph (j) of subsection (1) above, and
- (b) the participator is or was a participator in two or more oil fields and the qualifying asset which is relevant to the incurring of that expenditure is, at the end of the claim period concerned, a qualifying asset in respect of more than one of those oil fields,

the expenditure shall be apportioned between those oil fields in such manner as is just and reasonable.

(1D) Without prejudice to any apportionment under subsection (1C) above, in any case where—

- (a) any expenditure incurred by a participator would, apart from this subsection, be regarded as wholly incurred for any of the purposes mentioned in paragraph (i) or paragraph (j) of subsection (1) above, and
- (b) the qualifying asset which is relevant to the incurring of that expenditure has at some time been used otherwise than in connection with an oil field,

only such portion of the expenditure as it is just and reasonable to apportion to the use in connection with an oil field shall be regarded as allowable for any of the purposes referred to in paragraph (a) above.”

(5) After subsection (5A) there shall be inserted the following subsection—

“(5B) Expenditure incurred by a participator in an oil field shall be taken to be incurred for the purpose mentioned in paragraph (hh) of subsection (1) above if, and only if,—

- (a) it consists of fees, commission or incidental costs incurred wholly and exclusively for the purposes of obtaining an abandonment guarantee; and
- (b) the abandonment guarantee is obtained in order to comply with a term of a relevant agreement relating to that field under which the participator is required to provide security (whether or not specifically



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in the form of an abandonment guarantee) in respect of his liabilities to contribute to field abandonment costs;

and expressions used in this subsection shall be construed in accordance with section 104 of the Finance Act 1991.”

- (6) In subsection (6) (apportionment of expenditure)—
  - (a) at the beginning there shall be inserted “Without prejudice to any apportionment under subsection (1C) or subsection (1D) above ”; and
  - (b) after the words “subsections (1) and (5) above” there shall be inserted “other than paragraph (hh) of subsection (1) ”.
- (7) In section 10 of the principal Act (exempt gas)—
  - (a) in subsection (2) for the words “and (i) of subsection (1)” there shall be substituted “(hh), (i) and (j) of subsection (1) and subsection (1D) ”;
  - <sup>F73</sup>(b) .....
  - <sup>F73</sup>(c) .....
- (8) So far as they relate to the paragraph (hh) inserted by subsection (2) above, the amendments in subsections (5) to (7) above have effect with respect to expenditure incurred on or after 19th March 1991 and, subject to that, the amendments in subsections (4) to (7) above have effect with respect to expenditure incurred after 30th June 1991.

**Textual Amendments**

**F73** S. 103(7)(b)(c) repealed (22.3.2001 with effect in accordance with s. 103(2) of the amending Act) by 2001 c. 9, s. 110, Sch. 33 Pt. 3(2)

**104 Abandonment guarantees.**

- (1) Subject to subsection (2) below, for the purposes of section 3 of the principal Act and sections 105 and 106 below, an abandonment guarantee is a contract under which a person ( “the guarantor) undertakes to make good any default by a participator in an oil field ( “the relevant participator) in meeting the whole or any part of those liabilities of his which—
  - (a) arise under a relevant agreement relating to that field; and
  - (b) are liabilities to contribute to field abandonment costs;and such a contract is an abandonment guarantee regardless of the form of the undertaking of the guarantor and, in particular, whether or not it is expressed as a guarantee or arises under a letter of credit, a performance bond or any other instrument.
- (2) For the purposes of section 3 of the principal Act and section 106 (but not section 105) below a contract is not an abandonment guarantee—
  - (a) unless it is entered into in good faith and on terms reasonably appropriate to the nature and extent of the guarantee; or
  - (b) if the guarantor undertakes any liability beyond that of making good any such default as is referred to in subsection (1) above; or
  - (c) if it can be revoked by the guarantor otherwise than on account of some fraud, misrepresentation or other fault on the part of the relevant participator occurring prior to the making of the contract; or

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- (d) if, subject to subsection (3) below, the guarantor is, or is a person connected with, a participator in one or more oil fields.
- (3) Paragraph (d) of subsection (2) above does not apply if—
- (a) the main business carried on by the guarantor is such that it is in the ordinary course of that business to provide guarantees; and
  - (b) the relevant participator is not connected with the guarantor;
- and section 839 of the Taxes Act 1988 (connected persons) applies for the purposes of this subsection and subsection (2) above.
- (4) Without prejudice to the generality of paragraph (a) of subsection (2) above, a contract shall not be regarded as entered into in good faith if, as a result of any arrangement, the liability to make good any such default as is referred to in subsection (1) above will be met, directly or indirectly, by such a person that, if he were the guarantor under the contract, the contract could not be an abandonment guarantee by virtue of paragraph (d) of subsection (2) above.
- (5) In this section and in section 3(5B) of the principal Act—
- (a) in relation to an oil field, a “relevant agreement means a joint operating agreement, a unitisation agreement (within the meaning of paragraph 1(1) of Schedule 17 to the <sup>M23</sup>Finance Act 1980) or an agreement entered into by some or all of the parties to a joint operating agreement or such a unitisation agreement; and
  - (b) in relation to an oil field, “field abandonment costs means costs incurred in closing down the field or any part of it, together with any costs incurred in discharging any continuing liabilities resulting directly from that closure.

**Marginal Citations**

**M23** 1980 c. 48.

**105 Restriction of expenditure relief by reference to payments under abandonment guarantees.**

- (1) If, under an abandonment guarantee, a payment is made by the guarantor on or after 19th March 1991, then, to the extent that any expenditure for which the relevant participator is liable is met, directly or indirectly, out of the payment, that expenditure shall not be regarded for any of the purposes of the principal Act as having been incurred by the relevant participator or any other participator in the oil field concerned.
- (2) In any case where—
- (a) a payment made by the guarantor under an abandonment guarantee is not immediately applied in meeting any expenditure, and
  - (b) the payment is for any period invested (either specifically or together with payments made by persons other than the guarantor) so as to be represented by, or by part of, the assets of a fund or account, and
  - (c) at a subsequent time, any expenditure for which the relevant participator is liable is met out of the assets of the fund or account,

any reference in subsection (1) above or section 106 below to expenditure which is met, directly or indirectly, out of the payment shall be construed as a reference to so much of the expenditure for which the relevant participator is liable as is met out

*Status: Point in time view as at 11/05/2001.*

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of those assets of the fund or account which, at the subsequent time referred to in paragraph (c) above, it is just and reasonable to attribute to the payment.

- (3) In subsections (1) and (2) above “the guarantor and “the relevant participator have the same meaning as in subsection (1) of section 104 above.

## **106 Relief for reimbursement expenditure under abandonment guarantees.**

- (1) This section applies in any case where—
- (a) on or after 19th March 1991 a payment (in this section referred to as “the guarantee payment) is made by the guarantor under an abandonment guarantee; and
  - (b) by virtue of the making of the guarantee payment, the relevant participator becomes liable under the terms of the abandonment guarantee to pay any sum or sums to the guarantor; and
  - (c) in any claim period (in this section referred to as “the relevant period) expenditure is incurred, or consideration in money’s worth is given, by the relevant participator in or towards meeting that liability.
- (2) In any case where the whole of the guarantee payment or, as the case may require, of the assets which, under section 105(2) above, are attributed to the guarantee payment is not applied in meeting liabilities of the relevant participator which fall within paragraphs (a) and (b) of subsection (1) of section 104 above and a sum representing the unapplied part of the guarantee payment or of those assets is repaid, directly or indirectly, to the guarantor,—
- (a) any liability of the relevant participator to repay that sum shall be excluded in determining the total liability of the relevant participator which falls within subsection (1)(b) above; and
  - (b) the repayment to the guarantor of that sum shall not be regarded as expenditure incurred by the relevant participator as mentioned in subsection (1)(c) above.
- (3) In the following provisions of this section “reimbursement expenditure means expenditure incurred as mentioned in subsection (1)(c) above or consideration (or, as the case may require, the value of consideration) given as so mentioned; and any reference to the incurring of reimbursement expenditure shall be construed accordingly.
- (4) So much of any reimbursement expenditure as, in accordance with subsection (5) below, is qualifying expenditure shall be treated for the purposes of the principal Act as if it were expenditure incurred by the relevant participator for the purpose of obtaining an abandonment guarantee.
- (5) Subject to subsection (6) below, of the reimbursement expenditure which is incurred in the relevant period, the amount which constitutes qualifying expenditure shall be determined by the formula—

$$Ax \frac{B}{C}$$

where—

“A” is the reimbursement expenditure incurred in the relevant period;

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“B” is so much of the expenditure represented by the guarantee payment as, if it had been incurred by the relevant participator, would have constituted expenditure allowable under section 3 of the principal Act; and  
 “C” is the total of the sums which, at or before the end of the relevant period, the participator is or has become liable to pay to the guarantor as mentioned in subsection (1)(b) above.

- (6) In relation to the guarantee payment, the total of the reimbursement expenditure (whether incurred in one or more claim periods) which constitutes qualifying expenditure shall not exceed whichever is the less of “B” and “C” in the formula in subsection (5) above; and any limitation on qualifying expenditure arising by virtue of this subsection shall be applied to the expenditure of a later in preference to an earlier claim period.
- (7) For the purposes of this section, the expenditure represented by the guarantee payment is any expenditure—
- (a) for which the relevant participator is liable; and
  - (b) which is met, directly or indirectly, out of the guarantee payment (and which, accordingly, by virtue of section 105 above is not to be regarded as expenditure incurred by the relevant participator).
- (8) In this section “the guarantor and “the relevant participator have the same meaning as in subsection (1) of section 104 above.

**107 Allowance of expenditure of participator meeting defaulter’s field abandonment expenditure.**

- (1) In Schedule 5 to the principal Act (procedure for allowance of expenditure) at the beginning of paragraph (b) of sub-paragraph (4) of paragraph 2 (claim must state the shares, by reference to their respective interests in the oil field, in which participators propose to divide expenditure) there shall be inserted “Subject to paragraph 2A below”.
- (2) After paragraph 2 of Schedule 5 to the principal Act there shall be inserted the following paragraph—

- “2A (1) This paragraph applies where—
- (a) a claim is made under this Schedule for the allowance of any expenditure which is incurred after 30th June 1991 and is allowable for an oil field by virtue of paragraph (i) or paragraph (j) of subsection (1) of section 3 of this Act (in this paragraph referred to as “the abandonment expenditure);
  - (b) a participator (in this paragraph referred to as “the defaulter) has defaulted on his liability under a relevant agreement to make a payment towards the abandonment expenditure;
  - (c) at the end of the claim period for which the claim is made, the defaulter still has an interest in the oil field which falls to be taken into account in determining, under paragraph 2(4)(b) above, the shares of each of the participators in the abandonment expenditure;
  - (d) the participators (other than any who have defaulted as mentioned in paragraph (b) above) have taken all reasonable steps by way

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- of legal remedy to secure that the defaulter meets the whole of the liability referred to in paragraph (b) above and to enforce any guarantee or other security provided in respect of that liability; and
- (e) one or more of those participators has paid an amount in or towards meeting the whole or any part of the payment for which the defaulter was liable as mentioned in paragraph (b) above.
- (2) For the purposes of this paragraph, a participator is to be regarded as defaulting on his liability to make a payment as mentioned in sub-paragraph (1)(b) above if he has failed to make the payment in full on the date on which it becomes due under the relevant agreement and either—
- (a) on the sixtieth day after that due date any of the payment remains unpaid; or
- (b) before that sixtieth day the participator's interest in a relevant licence becomes liable under the relevant agreement to be sold or forfeited, in whole or in part, by reason of his failure to meet his liability.
- (3) In this paragraph—
- (a) “relevant agreement has the meaning given by section 104(5)(a) of the Finance Act 1991;
- (b) “the sum in default means so much of the payment referred to in sub-paragraph (1)(b) above as has neither been paid by the defaulter nor met by virtue of any such guarantee or security as is referred to in sub-paragraph (1)(d) above;
- (c) the “default payment means the amount which the qualifying participator has paid as mentioned in sub-paragraph (1)(e) above; and
- (d) a “qualifying participator means a participator who falls within sub-paragraph (1)(e) above and who is not connected with the defaulter, applying section 839 of the Taxes Act (connected persons) for the purposes of this paragraph.
- (4) For the purposes of paragraphs 2(4)(b) and 3(1)(c) of this Schedule, there shall be attributed to a qualifying participator (as an addition to the share of the abandonment expenditure referable to his own interest in the oil field) whichever is the less of—
- (a) the default payment; and
- (b) subject to sub-paragraph (5) below, that portion of the sum in default which, in accordance with the relevant agreement, the qualifying participator is required to meet in the event of a failure by the defaulter to meet his liability to pay in full the payment referred to in sub-paragraph (1)(b) above.
- (5) If, in the case of any oil field, there are only two participators and one of them is the defaulter, the portion referred to in sub-paragraph (4)(b) above is the whole.
- (6) Where this paragraph applies, account shall, in the first instance, be taken under paragraph 2(4)(b) above of the whole of the defaulter's interest in the oil field in determining the share of the abandonment expenditure which, apart from sub-paragraph (4) above, is to be attributed to each of

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the other participators; but the amount of the abandonment expenditure which, apart from this paragraph, would be attributed to the defaulter by reference to his interest in the oil field shall be reduced (or, as the case may be, extinguished) by deducting therefrom any expenditure attributed to the other participators under sub-paragraph (4) above.”

## 108 Reimbursement by defaulter in respect of certain abandonment expenditure.

- (1) This section applies in any case where—
- (a) paragraph 2A of Schedule 5 to the principal Act (as set out in section 107 above) applies; and
  - (b) under sub-paragraph (4) of that paragraph the default payment falls, in whole or in part, to be attributed to the qualifying participator (as an addition to his share of the abandonment expenditure); and
  - (c) expenditure is incurred, or consideration in money’s worth is given, by the defaulter in reimbursing the qualifying participator in respect of, or otherwise making good to him, the whole or any part of the default payment;
- and expressions used in this section have the same meaning as in the said paragraph 2A.
- (2) In the following provisions of this section “reimbursement expenditure means expenditure incurred as mentioned in subsection (1)(c) above or consideration (or, as the case may require, the value of consideration) given as so mentioned; and any reference to the incurring of reimbursement expenditure shall be construed accordingly.
- (3) Subject to subsection (5) below, in relation to the defaulter, reimbursement expenditure shall be treated for the purposes of the principal Act as if it were expenditure incurred by the defaulter for purposes falling within paragraph (i) of subsection (1) of section 3 of that Act.
- (4) Subject to subsection (5) below, in computing under section 2 of the principal Act the assessable profit or allowable loss accruing to the qualifying participator from the oil field concerned in any chargeable period, the positive amounts for the purposes of that section (as specified in subsection (3)(a) thereof) shall be taken to include any reimbursement expenditure received by the qualifying participator in that period.
- (5) In relation to a particular default payment, reimbursement expenditure incurred at any time—
- (a) shall be treated as mentioned in subsection (3) above, and
  - (b) shall be taken to be included as mentioned in subsection (4) above,
- only to the extent that, when aggregated with any reimbursement expenditure previously incurred in respect of that default payment, it does not exceed so much of the default payment as falls to be attributed to the qualifying participator as mentioned in subsection (1)(b) above.
- (6) A claim by the defaulter for the allowance of reimbursement expenditure by virtue of subsection (3) above shall be made under Schedule 6 to the principal Act (instead of under Schedule 5); and, for this purpose only, Schedule 6 to that Act shall have effect as if, in sub-paragraph (1) of paragraph 1, the words from “if the participator” onwards were omitted.

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- (7) The incurring of reimbursement expenditure shall not be regarded, by virtue of paragraph 8 of Schedule 3 to the principal Act (certain subsidised expenditure to be disregarded), as the meeting of the expenditure of the qualifying participator in making the default payment.

### *Penalties*

#### **109 PRT: proceedings for penalties.**

- (1) In Schedule 2 to the principal Act (management and collection of petroleum revenue tax) the Table in paragraph 1(1) shall be amended as follows.
- (2) The following shall be substituted for the entries relating to section 100 of the <sup>M24</sup>Taxes Management Act 1970—

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“Section 100C(1)	For the words from “General” to the end substitute “Special Commissioners for any penalty”.
(2)	Before “Commissioners” insert “Special”.
(3)	Before “Commissioners” insert “Special”.
(4)	
(5)”. ”.	

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- (3) The following shall be substituted for the entries relating to section 103 of the <sup>M25</sup>Taxes Management Act 1970—

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“Section 103(1)	For the words from the beginning to “court—” substitute “Where the amount of a penalty is to be ascertained by reference to tax payable by a person for any period, proceedings for the penalty may be commenced before the Special Commissioners—”.
(4)	For the words from the beginning to “court,” substitute “Proceedings for a penalty to which subsection (1) above does not apply may be commenced before the Special Commissioners”.”

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#### **Marginal Citations**

**M24** 1970 c. 9.

**M25** 1970 c. 9.

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## PART IV

### STAMP DUTY AND STAMP DUTY RESERVE TAX

#### 110 Stamp duty abolished in certain cases.

[<sup>F74</sup>(1) Where apart from this section stamp duty under any of the provisions of Schedule 13 to the Finance Act 1999 would be chargeable on an instrument, stamp duty shall not be so chargeable if the property consists entirely of exempt property.]

(5) For the purposes of this section exempt property is property other than—

- (a) land,
- [<sup>F75</sup>(b) an interest in the proceeds of the sale of land held on trust for sale, or]
- (c) a licence to occupy land.

(6) This section applies to—

- (a) an instrument executed in pursuance of a contract made on or after the abolition day;
- (b) an instrument which is not executed in pursuance of a contract and is executed on or after the abolition day.

(7) For the purposes of this section the abolition day is such day as may be appointed under section 111(1) of the <sup>M26</sup>Finance Act 1990 (abolition of stamp duty for securities etc).

#### Textual Amendments

**F74** S. 110(1) substituted for s. 110(1)-(4) (27.7.1999 with effect in relation to instruments executed on or after 1.10.1999) by 1999 c. 16, s. 112(4)(6), **Sch. 14 para. 25** (with s. 122)

**F75** S. 110(5)(b) repealed (1.1.1997) (E.W.) by 1996 c. 47, s. 25(2), **Sch. 4** (with ss. 24(2)(4)(5)); S.I. 1996/2974, **art. 2**

#### Marginal Citations

**M26** 1990 c. 29.

#### 111 Stamp duty reduced in certain cases.

(1) This section applies where—

- (a) stamp duty under [<sup>F76</sup>Part I of Schedule 13 to the Finance Act 1999 (conveyance or transfer on sale)] is chargeable on an instrument to which this section applies, and
- (b) part of the property concerned consists of exempt property.

(2) In such a case—

- (a) the consideration in respect of which duty would be charged (apart from this section) shall be apportioned, on such basis as is just and reasonable, as between the part of the property which consists of exempt property and the part which does not, and
- (b) the instrument shall be charged only in respect of the consideration attributed to such of the property as is not exempt property.

(3) In this section “exempt property has the same meaning as in section 110 above.



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- (4) This section applies to—
- (a) an instrument executed in pursuance of a contract made on or after the abolition day;
  - (b) an instrument which is not executed in pursuance of a contract and is executed on or after the abolition day.
- (5) In this section “the abolition day has the same meaning as in section 110 above.

#### Textual Amendments

**F76** Words in s. 111(1) substituted (27.7.1999 with effect with effect in relation to instruments executed on or after 1.10.1999) by 1999 c. 16, s. 112(4)(6), **Sch. 14 para. 26** (with s. 122)

### 112 Apportionment of consideration for stamp duty purposes.

- (1) Subsection (2) below applies where part of the property referred to in section 58(1) of the Stamp Act 1891 (consideration to be apportioned between different instruments as parties think fit) consists of exempt property.
- (2) Section 58(1) shall have effect as if “the parties think fit” read “is just and reasonable”.
- (3) Subsection (4) below applies where—
- (a) part of the property referred to in section 58(2) of the Stamp Act 1891 (property contracted to be purchased by two or more persons etc.) consists of exempt property, and
  - (b) both or (as the case may be) all the relevant persons are connected with one another.
- (4) Section 58(2) shall have effect as if the words from “for distinct parts of the consideration” to the end of the subsection read “, the consideration is to be apportioned in such manner as is just and reasonable, so that a distinct consideration for each separate part or parcel is set forth in the conveyance relating thereto, and such conveyance is to be charged *withad valorem* duty in respect of such distinct consideration.”
- (5) In a case where subsection (2) or (4) above applies and the consideration is apportioned in a manner that is not just and reasonable, the enactments relating to stamp duty shall have effect as if—
- (a) the consideration had been apportioned in a manner that is just and reasonable, and
  - (b) the amount of any distinct consideration set forth in any conveyance relating to a separate part or parcel of property were such amount as is found by a just and reasonable apportionment (and not the amount actually set forth).
- (6) In this section “exempt property has the same meaning as in section 110 above.
- (7) For the purposes of subsection (3) above—
- (a) a person is a relevant person if he is a person by or for whom the property is contracted to be purchased;
  - (b) the question whether persons are connected with one another shall be determined in accordance with section 839 of the Taxes Act 1988.

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- (8) This section applies where the contract concerned is made on or after the abolition day.
- (9) In this section “the abolition day has the same meaning as in section 110 above.

### 113 Certification of instruments for stamp duty purposes.

- [<sup>F77</sup>(1) For the purposes of paragraph 6(1) of Schedule 13 to the Finance Act 1999 (meaning of instrument being certified at an amount)—
- (a) a sale or contract or agreement for the sale of exempt property within the meaning of section 110 above shall be disregarded; and
  - (b) any statement as mentioned in that provision shall be construed as leaving out of account any matter which is to be so disregarded.]
- (4) This section applies to—
- (a) an instrument executed in pursuance of a contract made on or after the abolition day;
  - (b) an instrument which is not executed in pursuance of a contract and is executed on or after the abolition day.
- (5) In this section “the abolition day has the same meaning as in section 110 above.

#### Textual Amendments

**F77** S. 113(1) substituted for s. 113(1)-(3) (27.7.1999 with effect in relation to instruments executed on or after 1.10.1999) by 1999 c. 16, s. 112(4)(6), **Sch. 14 para. 27** (with s. 122)

### 114 Acquisition under statute: exempt property.

- (1) Section 36 of the <sup>M27</sup>Finance Act 1949 and section 9 of the <sup>M28</sup>Finance Act (Northern Ireland) 1949 shall be amended as mentioned in subsections (2) and (3) below.
- (2) In subsection (4) of each of those sections (goods not affected by section 12 of the <sup>M29</sup>Finance Act 1895, which relates to duty on property acquired under statute) for the words “goods, wares or merchandise” (in each place where they occur) there shall be substituted the words “exempt property”.
- (3) In each of those sections the following subsection shall be inserted after subsection (4)
 

“(5) In subsection (4) above “exempt property has the same meaning as in section 110 of the Finance Act 1991.”
- (4) This section applies where the Act mentioned in section 12 of the Finance Act 1895, and by virtue of which property is vested or a person is authorised to purchase property, is passed on or after the abolition day.
- (5) In this section “the abolition day has the same meaning as in section 110 above.

#### Marginal Citations

**M27** 1949 c. 47.

**M28** 1949 c. 15 (N.I.)

*Status: Point in time view as at 11/05/2001.*

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**M29** 1895 c. 16.

**F78** **115** .....

**Textual Amendments**

**F78** S. 115 repealed (27.7.1999 with effect as mentioned in Sch. 20 Pt. V(2) Notes 1, 2 of the amending Act) by 1999 c. 16, s. 139, **Sch. 20 Pt. V(2)** Notes 1, 2

**116 Investment exchanges and clearing houses: stamp duty.**

- (1) The Treasury may make regulations providing as mentioned in this section with regard to any circumstances which—
  - (a) would (apart from the regulations) give rise to a charge to stamp duty,
  - (b) involve a prescribed recognised investment exchange or a prescribed recognised clearing house, or a member or nominee (or member or nominee of a prescribed description) of such an exchange [<sup>F79</sup>or clearing house, or a nominee (or nominee of a prescribed description) of a member of such an exchange or clearing house, and]
  - (c) are such as are prescribed.
- (2) The regulations may provide that the charge to stamp duty shall be treated as not arising or (depending on the terms of the regulations) as reduced.
- (3) Regulations under this section—
  - (a) shall be made by statutory instrument subject to annulment in pursuance of a resolution of the House of Commons;
  - (b) may include such supplementary, incidental, consequential or transitional provisions as appear to the Treasury to be necessary or expedient;
  - (c) may make different provision for different circumstances;
  - (d) may make any provision in such way as the Treasury think fit (whether by amending enactments or otherwise).
- (4) In this section—
  - (a) “prescribed means prescribed by the regulations,
  - (b) “recognised investment exchange means a recognised investment exchange within the meaning of the <sup>M30</sup>Financial Services Act 1986, and
  - (c) “recognised clearing house means a recognised clearing house within the meaning of that Act.

**Textual Amendments**

**F79** Words in s. 116(1)(b) substituted (retrospectively) by **Finance Act 2010 (c. 15), s. 65**

**Marginal Citations**

**M30** 1986 c. 60.

*Status: Point in time view as at 11/05/2001.*

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## 117 Investment exchanges and clearing houses: SDRT.

- (1) The Treasury may make regulations providing as mentioned in this section with regard to any circumstances which—
- (a) would (apart from the regulations) give rise to a charge to stamp duty reserve tax,
  - (b) involve a prescribed recognised investment exchange or a prescribed recognised clearing house, or a member or nominee (or member or nominee of a prescribed description) of such an exchange [F80 or clearing house, or a nominee (or nominee of a prescribed description) of a member of such an exchange or clearing house, and]
  - (c) are such as are prescribed.
- (2) The regulations may provide that the charge to stamp duty reserve tax shall be treated as not arising or (depending on the terms of the regulations) as reduced.
- (3) Subsections (3) and (4) of section 116 above shall apply for the purposes of this section as they apply for the purposes of that.

### Textual Amendments

**F80** Words in s. 117(1)(b) substituted (retrospectively) by [Finance Act 2010 \(c. 15\), s. 65](#)

## PART V

### MISCELLANEOUS AND GENERAL

#### *Miscellaneous*

## 118 Designated international organisations: miscellaneous exemptions.

- (1) The following section shall be inserted after section 582 of the Taxes Act 1988—

### **“582A Designated international organisations: miscellaneous exemptions.**

- (1) The Treasury may by order designate for the purposes of any one or more of subsections (2) to (6) below any international organisation of which the United Kingdom is a member; and in those subsections “designated means designated under this subsection.
- (2) Section 43 shall not apply in the case of payment made by an organisation designated for the purposes of this subsection.
- (3) Section 123(2) and paragraph 6(1)(b) of Schedule 3 shall have effect as if “foreign dividends did not include any interest, dividends or other annual payments payable out of or in respect of the stocks, funds, shares or securities of an organisation designated for the purposes of this subsection.
- (4) Section 349(1) shall not apply in the case of a payment of an amount payable by an organisation designated for the purposes of this subsection.

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- (5) Section 349(2) shall not apply in the case of interest payable by—
- (a) an organisation designated for the purposes of this subsection, or
  - (b) a partnership of which such an organisation is a member.
- (6) An organisation designated for the purposes of this subsection shall not be a person to whom section 560(2) applies.”
- (2) In section 828(4) of that Act (Treasury orders not subject to annulment in pursuance of a resolution of the House of Commons) after “377(8),” there shall be inserted “582A(1),”.

## 119 Trading funds.

- (1) The <sup>M31</sup>Government Trading Funds Act 1973 shall be amended as follows.
- (2) In section 2 (assets and liabilities of funds) in subsections (1)(b) and (2) the words “at values or amounts determined by him in accordance with Treasury directions” shall be omitted.
- (3) In that section, the following subsection shall be inserted after subsection (2)—
- “(2A) The values or amounts of assets and liabilities which are the subject of provision under subsection (1) or (2) above shall be determined by the responsible Minister in accordance with Treasury directions.”

### Marginal Citations

M31 1973 c. 63.

## 120 National savings: date of issue of repayment warrants etc.

- (1) Where—
- (a) a payment in respect of certificates to which subsection (2) below applies has been made by means of a repayment warrant,
  - (b) the warrant was posted before 11th February 1991,
  - (c) the amount of the payment depended to any extent on the date of issue of the warrant, and
  - (d) that date was taken to be the expected date of receipt of the warrant or of a notice advising of the warrant’s availability,
- the amount shall to that extent be deemed to have been properly calculated.
- (2) This subsection applies to—
- (a) war savings certificates issued under section 1 of the <sup>M32</sup>War Loan Act 1915 or section 58 of the <sup>M33</sup>Finance Act 1916, or
  - (b) national savings certificates issued under section 59 of the <sup>M34</sup>Finance Act 1920, section 7 of the <sup>M35</sup>National Debt Act 1958 or section 12 of the <sup>M36</sup>National Loans Act 1968
- (3) Subsection (1) above shall not apply where the amount of the payment would have been greater had it been calculated on the basis that the date of issue of the warrant was the date on which it was posted.

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- (4) Where—
- (a) an amount has been reinvested in certificates to which subsection (2) above applies,
  - (b) the new certificates were posted before 11th February 1991,
  - (c) the amount reinvested depended to any extent on the date of issue of the new certificates, and
  - (d) that date was taken to be the expected date of receipt of the certificates,
- the amount shall to that extent be deemed to have been properly calculated.
- (5) Subsection (4) above shall not apply where the amount reinvested would have been greater had it been calculated on the basis that the date of issue of the new certificates was the date on which they were posted.
- (6) Where for any month before December 1989 the amount of the prize fund for a premium savings bond draw depended to any extent on the date of issue of a repayment warrant, the amount shall to that extent be deemed to have been properly calculated if calculated on the basis that the date of issue of the warrant was the expected date of its receipt.
- (7) Where the amount of a payment made, before the day on which this Act is passed, in respect of interest on—
- (a) a deposit (other than an investment deposit) made in a post office savings bank, or
  - (b) an ordinary deposit with the National Savings Bank,
- depended to any extent on the date of issue of a repayment warrant posted before 11th February 1991, the amount shall to that extent be deemed to have been properly calculated if calculated on the basis that the date of issue of the warrant was the expected date of its receipt.
- (8) Where the amount of a payment made, on or after the day on which this Act is passed, in respect of interest on an ordinary deposit with the National Savings Bank depends to any extent on the date of issue of a repayment warrant posted before 11th February 1991, the amount shall to that extent be deemed to be properly calculated if calculated on the basis that the date of issue of the warrant was the expected date of its receipt.

**Marginal Citations**

- M32** 1915 c. 55.  
**M33** 1916 c. 24.  
**M34** 1920 c. 18.  
**M35** 1958 c. 6.  
**M36** 1968 c. 13.

**121 Pools payments to support games etc.**

- (1) This section applies to any payment which, in consequence of the reduction in pool betting duty effected by section 5 above, is made—
- (a) by a person liable to pay that duty, and
  - (b) to trustees established mainly for the support of athletic sports or athletic games but with power to support the arts.

*Status: Point in time view as at 11/05/2001.*

*Changes to legislation: Finance Act 1991 is up to date with all changes known to be in force on or before 11 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (2) Where a person carrying on a trade makes a payment to which this section applies, the payment may be deducted in computing for tax purposes the [<sup>F81</sup>profits] of the trade.
- (3) A payment to which this section applies shall not be regarded as an annual payment.
- (4) Where a payment to which this section applies is made, the sum received by the trustees and any assets representing it (but not any income or gains arising from them) shall not be relevant property for the purposes of Chapter III of Part III of the <sup>M37</sup>Inheritance Tax Act 1984.

#### Textual Amendments

**F81** Words in s. 121(2) substituted (31.7.1998) by 1998 c. 36, s. 46(3), [Sch. 7 para. 6](#)

#### Marginal Citations

**M37** 1984 c. 51.

### General

#### 122 Interpretation etc.

- (1) In this Act “the Taxes Act 1988 means the <sup>M38</sup>Income and Corporation Taxes Act 1988.
- (2) Part II of this Act, so far as it relates to capital gains tax, shall be construed as one with the <sup>M39</sup>Capital Gains Tax Act 1979.
- (3) Part III of this Act shall be construed as one with Part I of the <sup>M40</sup>Oil Taxation Act 1975 and in that Part of this Act “the principal Act means that Act.

#### Marginal Citations

**M38** 1988 c. 1.

**M39** 1979 c. 14.

**M40** 1975 c. 22.

#### 123 Repeals.

The enactments specified in Schedule 19 to this Act (which include certain provisions which are already spent) are hereby repealed to the extent specified in the third column of that Schedule, but subject to any provision at the end of any Part of that Schedule.

#### 124 Short title.

This Act may be cited as the Finance Act 1991.

**Status:**

Point in time view as at 11/05/2001.

**Changes to legislation:**

Finance Act 1991 is up to date with all changes known to be in force on or before 11 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.