Finance (No. 2) Act 1992

1992 CHAPTER 48

PART I

CUSTOMS AND EXCISE, VALUE ADDED TAX AND CAR TAX

CHAPTER I

CUSTOMS AND EXCISE

Abolition of fiscal frontiers etc.

1 Powers to fix excise duty point.

(1) Subject to the following provisions of this section, the Commissioners may by regulations make provision, in relation to any duties of excise on goods, for fixing the time when the requirement to pay any duty with which goods become chargeable is to take effect ("the excise duty point").

(2) Where regulations under this section fix an excise duty point for any goods, the rate of duty for the time being in force at that point shall be the rate used for determining the amount of duty to be paid in pursuance of the requirement that takes effect at that point.

(3) Regulations under this section may provide for the excise duty point for any goods to be such of the following times as may be prescribed in relation to the circumstances of the case, that is to say—

(a) the time when the goods become chargeable with the duty in question;

(b) the time when there is a contravention of any prescribed requirements relating to any suspension arrangements applying to the goods;

(c) the time when the duty on the goods ceases, in the prescribed manner, to be suspended in accordance with any such arrangements;

(d) the time when there is a contravention of any prescribed condition subject to which any relief has been conferred in relation to the goods;

(e) such time after the time which, in accordance with regulations made by virtue of any of the preceding paragraphs, would otherwise be the excise duty point for those goods as may be prescribed;

and regulations made by virtue of any of paragraphs (b) to (e) above may define a time by reference to whether or not at that time the Commissioners have been satisfied as to any matter.

(4) Where regulations under this section prescribe an excise duty point for any goods, such regulations may also make provision—

(a) specifying the person or persons on whom the liability to pay duty on the goods is to fall at the excise duty point (being the person or persons having the prescribed connection with the goods at that point or at such other time, falling no earlier than when the goods become chargeable with the duty, as may be prescribed); and

(b) where more than one person is to be liable to pay the duty, specifying whether the liability is to be both joint and several.

(5) Schedule 1 to this Act (which contains minor and consequential amendments and savings for purposes connected with the other provision made by this section) shall have effect.

(6) The power of the Commissioners to make regulations under this section shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament and shall include power—

(a) to make different provision for different cases, including different provision for different duties and different goods; and

(b) to make such incidental, supplemental, consequential and transitional provision as the Commissioners think necessary or expedient.

(7) In this section—

"the Commissioners" means the Commissioners of Customs and Excise;

"contravention" includes a failure to comply;

"customs and excise Acts" and "goods" have the same meanings as in the [M1]Customs and Excise Management Act 1979; and

"prescribed" means prescribed by regulations under this section;

and references in this section to suspension arrangements are references to any provision made by or under the customs and excise Acts for enabling goods to be held or moved without payment of duty or any provision made by or under those Acts in connection with any provision enabling goods to be so held or moved.

(8) This section and Schedule 1 to this Act shall come into force on such day as the Commissioners may by order made by statutory instrument appoint, and different days may be appointed under this subsection for different provisions and for different purposes.

Subordinate Legislation Made

P1 S. 1(8) power partly exercised (30.11.1992): 1.12.1992 appointed for specified provisions by S.I. 1992/2979, arts. 3, 4, **Sch.** (with transitional provisions).
S. 1(8) power partly exercised (17.12.1992): 1.1.1993 appointed for specified provisions by S.I. 1992/3261, art. 3, **Sch.** (with transitional provisions).

S. 1(8) power partly exercised (21.5.1993): 1.6.1993 appointed for specified provisions y S.I. 1993.1341, art. 2, Sch.

Commencement Information

I1 S. 1(1)-(7) wholly in force (and power in s. 1(8) exercisable by virtue of Interpretation Act 1978 (c. 30), **s. 13**); s. 1 not in force at Royal Assent see s. 1(8); s. 1(1)-(4)(6)(7) wholly in force and s. 1(5) in force for certain purposes at 1.12.1992 by S.I. 1992/2979, art. 3, **Sch. Pt. I**; s. 1(5) in force for further purposes at 1.1.1993 by S.I. 1992/3261, art. 3, **Sch.** (with transitional provisions in arts. 4, 5, 6, and 7) and s. 1(5) wholly in force at 1.6.1993 by S.I. 1993/1341, art. 2, **Sch.**

Marginal Citations

M1 1979 c. 2.

2 Power to provide for drawback of excise duty.

(1) Subject to the following provisions of this section, the Commissioners may, in relation to any duties of excise, by regulations make provision conferring an entitlement to drawback of duty in prescribed cases where the Commissioners are satisfied that goods chargeable with duty have not been, and will not be, consumed in the United Kingdom.

(2) The power of the Commissioners to make regulations under this section shall include power—

(a) to provide for, or for the imposition of, the conditions to which an entitlement to drawback under the regulations is to be subject;

(b) to provide for the determination of the person on whom any such entitlement is conferred;

(c) to make different provision for different cases, including different provision for different duties and different goods; and

(d) to make such incidental, supplemental, consequential and transitional provision as the Commissioners think necessary or expedient.

(3) Without prejudice to the generality of subsection (2)(d) above, the power of the Commissioners to make regulations under this section shall include power, in relation to any drawback of duty to which any person is entitled by virtue of regulations under this section, to provide—

(a) for entitlement to the drawback to be cancelled at any time after it has been conferred if there is a contravention of any conditions to which it is subject or in such other circumstances as may be prescribed; and

(b) for such persons as may be prescribed to be liable to the Commissioners for sums paid or credited to any person in respect of any drawback that has been cancelled in accordance with any such regulations.

(4) The power of the Commissioners to make regulations under this section shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

(5) In this section—

"the Commissioners" means the Commissioners of Customs and Excise;

"contravention" includes a failure to comply;

"goods" has the same meaning as in the [M2]Customs and Excise Management Act 1979; and

"prescribed" means prescribed by regulations under this section.

(6) 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 appointed under this subsection for different provisions and for different purposes.

Subordinate Legislation Made

P2 S. 2(6) power fully exercised (30.11.1992): 1.12.1992 appointed day by S.I. 1992/2979, art. 3, **Sch. Pt. I** (with transitional provisions).

Commencement Information

I2 S. 2 wholly in force at 1.6.1993 S. 2 not in force at Royal assent see s. 2(6). S. 2 partly in force at 1.12.1992 by S.I. 1992/2979, art. 3, **Sch. Pt. I**. S. 2 wholly in force at 1.6.1993 by S.I. 1993/1341, art. 2, **Sch.**

Marginal Citations

M2 1979 c. 2.

3 Protection of revenues derived from excise duties.

(1) Schedule 2 to this Act (which makes additional provision for purposes connected with the protection of the revenues derived from excise duties) shall have effect.

(2) This section and Schedule 2 to this Act shall come into force on such day as the Commissioners of Customs and Excise may by order made by statutory instrument appoint, and different days may be appointed under this subsection for different provisions and for different purposes.

Subordinate Legislation Made

P3 S. 3(2) power partly exercised (8.12.1992): 9.12.1992 appointed for specified provisions by S.I. 1992/3104, **art. 2**.
S. 3(2): power partly exercised (21.5.1993): 1.6.1993 appointed for specified provisions by S.I. 1993/1341, art. 2, **Sch.**

Commencement Information

I3 S. 3 wholly in force at 9.12.1992 see s. 3(2) and S.I. 1992/3104, **art. 2(1)**.

4 Enforcement powers.

(1) Except in a case falling within subsection (2) below, the powers to which this section applies shall not be exercisable in relation to any person or thing entering or leaving the United Kingdom so as to prevent, restrict or delay the movement of that person or thing between different member States.

(2) The cases in which a power to which this section applies may be exercised as mentioned in subsection (1) above are those where it appears to the person on whom the power is conferred that there are reasonable grounds for believing that the movement in question is not in fact between different member States or that it is necessary to exercise the power for purposes connected with—

(a) securing the collection of any Community customs duty or giving effect to any Community legislation relating to any such duty;
(b) the enforcement of any prohibition or restriction for the time being in force by virtue of any Community legislation with respect to the movement of goods into or out of the member States; or
(c) the enforcement of any prohibition or restriction for the time being in force by virtue of any enactment with respect to the importation or exportation of goods into or out of the United Kingdom.

(3) Subject to subsection (4) below, this section applies to any power which is conferred on the Commissioners of Customs and Excise or any officer or constable under any of the following provisions of the [M3]Customs and Excise Management Act 1979, that is to say—
(a) section 21 (control of movement of aircraft into and out of the United Kingdom);
(b) section 26 (power to regulate movement by land into and out of Northern Ireland);
(c) section 27 (officers' powers of boarding);
(d) section 28 (officers' powers of access);
(e) section 29 (officers' powers to detain ships);
(f) section 34 (power to prevent flight of aircraft);
(g) section 78 (questions as to baggage of person entering or leaving the United Kingdom);
(h) section 164 (powers of search).

(4) The Treasury may by order made by statutory instrument add any power conferred by any enactment contained in the customs and excise Acts to the powers to which this section applies; and a statutory instrument containing an order under this subsection shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(5) In this section—

"Community customs duty" includes any agricultural levy of the Economic Community; and

"the customs and excise Acts" and "goods" have the same meanings as in the [M4]Customs and Excise Management Act 1979;

and for the purposes of this section a power shall be taken to be exercised otherwise than in relation to a person or thing entering or leaving the United Kingdom in any case where the power is exercisable irrespective of whether the person or thing in question is entering or leaving the United Kingdom.

(6) This section shall come into force on 1st January 1993.

Marginal Citations
M3 1979 c. 2.
M4 1979 c. 2.

5 Controls of persons entering the United Kingdom.

(1) In section 78 of the Customs and Excise Management Act 1979 (controls of persons entering or leaving the United Kingdom), after subsection (2) there shall be inserted the following subsection —

"(2A) Subject to subsection (1A) above, where the journey of a person arriving by air in the United Kingdom is continued or resumed by air to a destination in the United Kingdom which is not the place where he is regarded for the purposes of this section as entering the United Kingdom, subsections (1) and (2) above shall apply in relation to that person on his arrival at that destination as they apply in relation to a person entering the United Kingdom."

(2) This section shall come into force on 1st January 1993.

Other provisions

6 Abolition of duties on matches and mechanical lighters.

(1) The [M5]Matches and Mechanical Lighters Duties Act 1979 shall cease to have effect.

(2) This section shall come into force on 1st January 1993.

Marginal Citations

M5 1979 c. 6.

7 Bingo duty: increased exemption etc.

(1) Schedule 3 to the [M6]Betting and Gaming Duties Act 1981 shall be amended as follows.

(2) In paragraph 2 the following shall be substituted for sub-paragraph (1)(a) (exemption from bingo duty for clubs etc. where prizes do not exceed certain limits)—

"(a) a person's eligibility to participate in that bingo depends upon his being a member of a particular society or his being a guest of such a member or of the society;".

(3) In paragraph 12(1) (promoter of bingo other than bingo exempt from duty by virtue of paragraph 1, 5 or 6 to keep accounts etc.) for "paragraph 1, 5 or 6 above" there shall be substituted " Part I of this Schedule ".

(4) This section shall apply as regards bingo played in any week beginning on or after 3rd August 1992.

Marginal Citations

M6 1981 c. 63.

8 Tobacco products duty: retail price of cigarettes.

In section 5 of the [M7]Tobacco Products Duty Act 1979—

(a) in paragraph (b) of subsection (1) (determination of retail price of cigarettes by reference to price recommended by a manufacturer or importer), for "price recommended by the importer or manufacturer" and "price so recommended" there shall be substituted " recommended price "; and

(b) after that subsection there shall be inserted the following subsection—

"(1A) In subsection (1) above "recommended price"—

(a) in relation to a case in which cigarettes of the applicable description are manufactured by a manufacturer in a member State, means any price recommended by that manufacturer; and

(b) in relation to a case which does not fall within paragraph (a) above, means any price recommended by an importer of cigarettes of the applicable description."

Marginal Citations

M7 1979 c. 7.

9 Amendments relating to new beer duty regime.

(1) Schedule 2 to the [M8]Finance Act 1991 (amendments relating to beer duty) shall be amended as follows.

(2) Immediately before paragraph 22 there shall be inserted—

"21A In section 386(1) of the Insolvency Act 1986 (categories of preferential debts) after "betting and gaming duties" there shall be inserted ", beer duty"."

(3) Immediately before paragraph 23 there shall be inserted—

"22A In Article 346(1) of the Insolvency (Northern Ireland) Order 1989 (categories of preferential debts) after "betting and gaming duties" there shall be inserted ", beer duty"."

Marginal Citations

M8 1991 c. 31.

10 Search of aircraft.

(1) The [M9]Customs and Excise Management Act 1979 shall be amended as follows.

(2) In section 27(1) (officers' powers of boarding and searching aircraft at a customs and excise airport, etc.) for the words "a customs and excise airport" there shall be substituted " an aerodrome ".

(3) In section 28(1) (officers' powers of access to aircraft at customs and excise airport, etc.) for the words "customs and excise airport" there shall be substituted " aerodrome ".

(4) In section 163 (power to stop and search vehicles or vessels) the following subsection shall be inserted at the end—

"(3) This section shall apply in relation to aircraft as it applies in relation to vehicles or vessels but the power to stop and search in subsection (1) above shall not be available in respect of aircraft which are airborne."

Marginal Citations

M9 1979 c. 2.

11 Vehicles excise duty: goods vehicles.

F1(1) . . . .

F2(2) . . . .

F1(3) . . . .

F2(4) . . . .

F2(5) . . . .

F2(6) . . . .

F2(7) . . . .

F2(8) . . . .

F2(9) . . . .

F1(10) . . . .

F1(11) . . . .

Textual Amendments

F1 S. 11(1)(3)(10)(11) repealed (1.9.1994) by 1994 c. 22, ss. 65, 66(1), **Sch. 5 Pt. I** (with s. 57(4))

F2 S. 11(2) and (4)-(9) repealed (8.11.1993) by S.I. 1993/2452, art. 3, **Sch. 2**

F3 12 . . . .

Textual Amendments

F3 S. 12 repealed (1.9.1994) by 1994 c. 22, ss. 65, 66(1), **Sch. 5 Pt. I** (with s. 57(4))

F4 13 . . . .

Textual Amendments

F4 S. 13 repealed (1.9.1994) by 1994 c. 22, ss. 65, 66(1), **Sch. 5 Pt I** (with s. 57(4))

CHAPTER II

VALUE ADDED TAX

14 Abolition of fiscal frontiers etc.

F5(1) . . . .

(2) Schedule 3 to this Act shall have effect for the purposes—

(a) of amending the M10Value Added Tax Act 1983, Chapter II of Part I of the M11Finance Act 1985 and certain other enactments in connection with the provision made by subsection (1) above; and

(b) of giving effect, in relation to—

(i) value added tax charged on the supply of goods and services; and

(ii) value added tax charged on the importation of goods from places outside the member States,

to requirements of the directive of the Council of the European Communities dated 17th May 1977 No. 77/388/EEC and the amendments of that directive by the directive of that Council dated 16th December 1991 No. 91/680/EEC (amendments with a view to the abolition of fiscal frontiers).

F5(3) . . . .

F5(4) . . . .

F5(5) . . . .

F5(6) . . . .

Textual Amendments

F5 S. 14(1)(3)-(6) repealed (1.9.1994) by 1994 c. 23, ss. 100(2), 101(1), **Sch. 15**

Commencement Information

I4 S. 14 wholly in force; s. 14 not in force at Royal Assent see s. 14(3); s. 14(2) in force for certain purposes at 1.8.1992 by S.I. 1992/1867, art. 3, **Sch. Pt. I**; s. 14(2) in force for certain purposes at 1.12.1992 by S.I. 1992/2979, art. 3, **Sch. Pt. II**; S. 14 in force insofar as not already in force at 1.1.1993 by S.I. 1992/3261, **art. 3** (with transitional provisions in arts. 4, 5, 6, and 7).

Marginal Citations

M10 1983 c. 55.

M11 1985 c. 54.

F615 . . . .

Textual Amendments

F6 S. 15 repealed (1.9.1994) by 1994 c. 23, ss. 100(2), 101(1), **Sch. 15**

[F7]16 . . . .

Textual Amendments

F7 S. 16 repealed (1.9.1994) by 1994 c. 23, ss. 100(2), 101(1), **Sch. 15**

[F8]17 . . . .

Textual Amendments

F8 S. 17 repealed (1.9.1994) by 1994 c. 23, ss. 100(2), 101(1), **Sch. 15**

CHAPTER III

CAR TAX

[[F9]18 Abolition of fiscal frontiers.

(1) The [M12]Car Tax Act 1983 shall be amended in accordance with Schedule 4 to this Act (amendments in connection with the abolition of fiscal frontiers between the member States).

(2) This section and Schedule 4 to this Act shall come into force on such day as the Commissioners of Customs and Excise may by order made by statutory instrument appoint; and different days may be appointed under this subsection for different provisions and for different purposes.**]**

Subordinate Legislation Made

P4 S. 18(2) power fully exercised (30.7.1992): 1.1.1993 appointed day by S.I. 1992/1867, art. 4, **Sch. Pt. II**.

Textual Amendments

F9 S. 18 deemed never to have been enacted by virtue of Car Tax (Abolition) Act 1992 (c. 58), **ss. 4**, 5

Marginal Citations

M12 1983 c. 53.

PART II

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

CHAPTER I

GENERAL

Lower rate

19 Lower rate: further provisions.

(1) In section 7(4) of the [M13]Taxes Management Act 1970 for "basic rate" there shall be substituted " the basic rate or the lower rate ".

(2) In each of the provisions to which this subsection applies, after "basic rate" there shall be inserted " or the lower rate "; and this subsection applies to section 91(3)(c) of the Taxes Management Act 1970 and to sections 550(3) and 599A(7) of the Taxes Act 1988.

(3) In each of the provisions to which this subsection applies, after "all income tax" there shall be inserted " not chargeable at the lower rate "; and this subsection applies to sections 167(2A), [F10]. . ., [F11]. . . , 549(2), 683(2), 684(2), 689(2), 699(2) and 819(2) of the Taxes Act 1988 and to the definition of "excess liability" in paragraph 19(1) of Schedule 7 to that Act.

(4) In each of the provisions to which this subsection applies, after "shall be treated" there shall be inserted " as income which is not chargeable at the lower rate and "; and this subsection applies to sections [F10]. . ., 249(4)(c) and 547(5)(c) of the Taxes Act 1988.

[F11](5) . . . .

(6) In section 421(1)(c) of the Taxes Act 1988 for "shall, notwithstanding that paragraph, be treated" there shall be substituted " shall be treated as income which is not chargeable at the lower rate and, notwithstanding that paragraph, shall be treated ".

(7) This section shall apply for the year 1992-93 and subsequent years of assessment.

Textual Amendments

F10 Words in s. 19(3)(4) repealed (27.7.1993 with effect for the years 1993-94 and subsequent years of assessment) by 1993 c. 34, s. 213, **Sch. 23 Pt. III**, Note

F11 S. 19(5) and words in s. 19(3) repealed (3.5.1994 with effect in accordance with s. 81(6) of the repealing Act) by 1994 c. 9, s. 258, **Sch. 26 Pt. V(2)**, Note

Marginal Citations

M13 1970 c. 9.

Married couple's allowance etc.

20 Married couple's allowance etc.

Schedule 5 to this Act (which makes provision in relation to the married couple's allowance) shall have effect.

Corporation tax charge and rate

21 Charge and rate of corporation tax for 1992.

Corporation tax shall be charged for the financial year 1992 at the rate of 33 per cent.

22 Small companies.

For the financial year 1992—

(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.

Capital gains tax

23 Capital gains tax: rates.

(1) In section 4 of the [M14]Taxation of Chargeable Gains Act 1992 (rates of capital gains tax) the following subsections shall be inserted after subsection (1)—

"(1A) If (after allowing for any deductions in accordance with the Income Tax Acts) an individual has no income for a year of assessment or his total income for the year is less than the lower rate limit, then—

(a) if the amount on which he is chargeable to capital gains tax does not exceed the relevant amount, the rate of capital gains tax in respect of gains accruing to him in the year shall be equivalent to the lower rate;

(b) if the amount on which he is chargeable to capital gains tax exceeds the relevant amount, the rate of capital gains tax in respect of such gains accruing to him in the year as correspond to the relevant amount shall be equivalent to the lower rate.

(1B) For the purposes of subsection (1A) above the relevant amount is—

(a) an amount equal to the lower rate limit, where the individual has no income;

(b) an amount equal to the difference between his total income and that limit, in any other case."

(2) In section 6(1) of that Act—

(a) after "all income tax" there shall be inserted " not chargeable at the lower rate ";

(b) after "otherwise than at the basic rate" in both places where the words occur there shall be inserted " or the lower rate ";

(c) for "section 4(4)" in both places where the words occur there shall be substituted " section 4(1A), (1B) and (4) ".

(3) This section shall apply for the year 1992-93 and subsequent years of assessment.

Marginal Citations
M14 1992 c. 12.

Groups etc.

24 Amendments relating to group relief etc.

Schedule 6 to this Act (which contains amendments relating to group relief etc.) shall have effect.

25 Companies ceasing to be members of groups.

(1) Sections 178 and 179 of the [M15]Taxation of Chargeable Gains Act 1992 (deemed sale etc. where company ceases to be member of a group) shall have effect, and be deemed always to have had effect, with the substitution in subsection (1) of each of those sections of the words " in consequence of another member of the group ceasing to exist " for the words from "by being wound up" to the end of the subsection.

(2) Subject to the repeals made by the [M16]Taxation of Chargeable Gains Act 1992, in relation to a company which ceases to be a member of a group of companies on or after 15th November 1991 section 278 of the [M17]Income and Corporation Taxes Act 1970 (deemed sale etc. where company ceases to be member of a group) shall have effect, and be deemed to have had effect, with the substitution in subsection (1) of the words " in consequence of another member of the group ceasing to exist " for the words from "by being wound up" to the end of the subsection.

Marginal Citations
M15 1992 c. 12.
M16 1992 c. 12.
M17 1970 c. 10.

Charities etc.

[F12]26 . . . .

Textual Amendments
F12 S. 26 repealed (27.7.1993 with effect in accordance with s. 67 as mentioned in Sch. 23 Pt. III Note) by 1993 c. 34, s. 213, **Sch. 23 Pt.III** Note

27 Covenanted payments to charity.

(1) In section 671 of the Taxes Act 1988 (revocable settlements allowing release of obligation) in subsection (2) (exceptions to sums payable under such settlements being income of settlor) after “shall not apply" there shall be inserted “ in the case of a covenanted payment to charity so long as that power has not been exercised, and in any other case ”.

(2) This section shall apply in relation to—

(a) any covenant made on or after 7th May 1992;

(b) any covenant made before that day and in the case of which the power to revoke cannot be exercised before that day.

28 Powers of inspection.

(1) Subsection (2) below applies if—

(a) an exempt body has made a claim for exemption from tax under section 505(1), 507 or 508 of the Taxes Act 1988, and

(b) the exemption results in, or (where it has yet to be granted or allowed) would if granted or allowed result in, the repayment of income tax or the payment of a tax credit.

(2) The Board may require the body to produce for inspection by an officer of the Board all such books, documents and other records in the possession, or under the control, of the body as contain information relating to the claim.

(3) For the purposes of subsection (1) above each of the following is an exempt body—

(a) any body of persons or trust established for charitable purposes only;

(b) each of the bodies mentioned in section 507 of the Taxes Act 1988 (heritage bodies);

(c) any Association of a description specified in section 508 of that Act (scientific research organisations).

(4) In the Table in section 98 of the [M18]Taxes Management Act 1970 (penalties for failure to produce documents etc.) at the end of the second column there shall be inserted—

	“Section 28(2) of the Finance (No.2) Act 1992.”

(5) Section 94 of the [M19]Finance Act 1990 (donations to charity: inspection powers) shall cease to have effect.

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

Marginal Citations

M18 1970 c. 9.

M19 1990 c. 29.

Interest, dividends and distributions

29 Returns of interest.

(1) In section 17 of the [M20]Taxes Management Act 1970 (returns of interest) in subsection (4) (interest not required to be included in return if declaration that person beneficially entitled to interest not ordinarily resident in UK) the words from "and if a person" to the end of the subsection shall cease to have effect and after that subsection there shall be inserted the following subsections—

"(4A) If a person to whom any interest is paid or credited in respect of any money received or retained in the United Kingdom by notice in writing served on the person paying or crediting the interest—

(a) has declared that the person beneficially entitled to the interest is a company not resident in the United Kingdom, and

(b) has requested that the interest shall not be included in any return under this section,

the person paying or crediting the interest shall not be required to include the interest in any such return.

(4B) Subsection (4C) below shall apply where—

(a) as a result of a declaration made under section 481(5)(k) of the principal Act and the operation of section 482(5) of that Act in relation to that declaration, there is no obligation under section 480A(1) of that Act to deduct a sum representing income tax out of any interest paid or credited in respect of any money received or retained in the United Kingdom, and

(b) the person who makes the declaration referred to in paragraph (a) above, by notice in writing served on the person paying or crediting the interest, requests that the interest shall not be included in any return under this section.

(4C) Where this subsection applies, the person paying or crediting the interest shall not be required to include the interest in any return under this section."

(2) This section shall apply to interest paid or credited after the day on which this Act is passed.

Marginal Citations
M20 1970 c. 9.

30 Foreign dividends.

In section 123 of the Taxes Act 1988 (foreign dividends) the following subsections shall be inserted after subsection (6)—

"(7) In a case where—

(a) relevant foreign dividends referred to in subsection (2) above are dividends (as opposed to interest or other annual payments),

(b) they are entrusted by a company which at the time they are entrusted (the relevant time) is not resident in the United Kingdom,

(c) they are entrusted for payment to a company which at the relevant time is resident in the United Kingdom,

(d) at the relevant time the company mentioned in paragraph (c) above directly or indirectly controls not less than 10 per cent. of the voting power in the company mentioned in paragraph (b) above, and

(e) the relevant time falls on or after 1st January 1992,

subsection (2) above shall not apply.

(8) In a case where—

(a) foreign dividends referred to in subsection (3)(a) above are dividends (as opposed to interest or other annual payments),

(b) they are paid by a company which at the time of the payment (the relevant time) is not resident in the United Kingdom,

(c) payment is obtained on behalf of a company which at the relevant time is resident in the United Kingdom,

(d) at the relevant time the company mentioned in paragraph (c) above directly or indirectly controls not less than 10 per cent. of the voting power in the company mentioned in paragraph (b) above, and

(e) the relevant time falls on or after 1st January 1992,

subsection (3) above shall not apply."

31 Equity notes.

(1) In section 209 of the Taxes Act 1988 (meaning of "distribution" for purposes of Corporation Tax Acts) in subsection (2)(e) after sub-paragraph (vi) there shall be inserted "or

(vii) equity notes issued by the company ("the issuing company") and held by a company which is associated with the issuing company or is a funded company;".

(2) In that section the following subsections shall be inserted after subsection (8)—

"(9) For the purposes of subsection (2)(e)(vii) above a security is an equity note if as regards the whole of the principal or as regards any part of it—

(a) the security's terms contain no particular date by which it is to be redeemed,

(b) under the security's terms the date for redemption, or the latest date for redemption, falls after the expiry of the permitted period,

(c) under the security's terms redemption is to occur after the expiry of the permitted period if a particular event occurs and the event is one which (judged at the time of the security's issue) is certain or likely to occur, or

(d) the issuing company can secure that there is no particular date by which the security is to be redeemed or that the date for redemption falls after the expiry of the permitted period;

and the permitted period is the period of 50 years beginning with the date of the security's issue.

(10) For the purposes of subsection (2)(e)(vii) above and subsection (11) below a company is associated with the issuing company if—

(a) the issuing company is a 75 per cent. subsidiary of the other company,

(b) the other company is a 75 per cent. subsidiary of the issuing company, or

(c) both are 75 per cent. subsidiaries of a third company.

(11) For the purposes of subsection (2)(e)(vii) above a company is a funded company if there are arrangements involving the company being put in funds (directly or indirectly) by the issuing company or a company associated with the issuing company.”

(3) In section 212 of the Taxes Act 1988 (exclusions from “distribution") in subsection (1)(b) after “(vi)" there shall be inserted “ and (vii) ”.

(4) This section shall apply where the interest or other distribution is paid after 14th May 1992.

32 Information relating to distributions.

(1) The following section shall be inserted after section 234 of the Taxes Act 1988—

“234A Information relating to distributions: further provisions.

(1) This section applies where dividend or interest is distributed by a company which is—

(a) a company within the meaning of the Companies Act 1985 or the Companies (Northern Ireland) Order 1986, or

(b) a company created by letters patent or by or in pursuance of an Act.

(2) If the company makes a payment of dividend or interest to any person, and subsection (3) below does not apply, within a reasonable period the company shall send an appropriate statement to that person.

(3) If the company makes a payment of dividend or interest into a bank or building society account held by any person, within a reasonable period the company shall send an appropriate statement to either—

(a) the bank or building society concerned, or

(b) the person holding the account.

(4) In a case where—

(a) a statement is received by a person under subsection (2) or (3)(b) above,

(b) the whole or part of the sum concerned is paid to or on behalf of the person as nominee for another person, and

(c) the nominee makes a payment of the sum or part to the other person and subsection (5) below does not apply,

within a reasonable period the nominee shall send an appropriate statement to that person.

(5) In a case where—

(a) a statement is received by a person under subsection (2) or (3)(b) above,

(b) the whole or part of the sum concerned is paid to or on behalf of the person as nominee for another person, and

(c) the nominee makes a payment of the sum or part into a bank or building society account held by the other person,

within a reasonable period the nominee shall send an appropriate statement to either the bank or building society concerned or the other person.

(6) In the case of a payment of interest which is not a qualifying distribution or part of a qualifying distribution, references in this section to an appropriate statement are to a written statement showing—

(a) the gross amount which, after deduction of the income tax appropriate to the interest, corresponds to the net amount actually paid,

(b) the rate and the amount of income tax appropriate to such gross amount,

(c) the net amount actually paid, and

(d) the date of the payment.

(7) In the case of a payment of dividend or interest which is a qualifying distribution or part of a qualifying distribution, references in this section to an appropriate statement are to a written statement showing—

(a) the amount of the dividend or interest paid,

(b) the date of the payment, and

(c) the amount of the tax credit to which a person is entitled in respect of the dividend or interest, or to which a person would be so entitled if he had a right to a tax credit in respect of the dividend or interest.

(8) In this section "send" means send by post.

(9) If a person fails to comply with subsection (2), (3), (4) or (5) above, the person shall incur a penalty of £60 in respect of each offence, except that the aggregate amount of any penalties imposed under this subsection on a person in respect of offences connected with any one distribution of dividends or interest shall not exceed £600.

(10) The Board may by regulations provide that where a person is under a duty to comply with subsection (2), (3), (4) or (5) above, the person shall be taken to comply with the subsection if the person either—

(a) acts in accordance with the subsection concerned, or

(b) acts in accordance with rules contained in the regulations;

and subsection (9) above shall be construed accordingly.

(11) Regulations under subsection (10) above may make different provision for different circumstances."

(2) In section 234 of that Act—

(a) in subsection (1) for "subsections (3) and (4) below" there shall be substituted " section 234A ";

(b) subsections (3) and (4) shall be omitted.

(3) In section 468(3) of that Act for "234(3) and (4)" there shall be substituted " 234A ".

(4) This section shall apply in relation to distributions begun after the day on which this Act is passed.

Securities and deposits

33 Deep gain securities.

Schedule 7 to this Act (which contains provisions about deep gain securities) shall have effect.

34 Rights in pursuance of deposits.

Schedule 8 to this Act (which contains provisions about arrangements relating to rights in pursuance of deposits) shall have effect.

35 Exchange of securities.

(1) Section 135 of the [M21]Taxation of Chargeable Gains Act 1992 (exchange of securities for those in another company) shall have effect, and be deemed always to have had effect, with the insertion after subsection (1)(b) of "or

(c) company A holds, or in consequence of the exchange will hold, the greater part of the voting power in company B".

(2) Subject to the repeals made by the Taxation of Chargeable Gains Act 1992, in relation to exchanges made on or after 1st January 1992 section 85 of the [M22]Capital Gains Tax Act 1979 (exchange of securities for those in another company) shall have effect, and be deemed to have had effect, with the insertion after subsection (1)(b) of "or

(c) company A holds, or in consequence of the exchange will hold, the greater part of the voting power in company B".

Marginal Citations

M21 1992 c. 12.
M22 1979 c. 14.

Employee shares

36 Employee share ownership trusts.

(1) In section 69 of the [M23]Finance Act 1989 (chargeable events as regards employee share ownership trusts) the following shall be inserted after subsection (3)—

"(3A) For the purposes of subsection (1)(a) above a transfer is also a qualifying transfer if it is made by way of exchange in circumstances mentioned in section 85(1) of the Capital Gains Tax Act 1979 or section 135(1) of the Taxation of Chargeable Gains Act 1992."

(2) This section applies in relation to exchanges made on or after 1st January 1992.

Marginal Citations

M23 1989 c. 26.

37 Employee share schemes: special benefits.

(1) Section 80 of the [M24]Finance Act 1988 (unapproved employee share schemes: charge on special benefits) shall be amended as follows.

(2) The following subsections shall be substituted for subsection (2)—

"(1A) If when a benefit is received the company is a dependent subsidiary and its shares are of a single class, the benefit is a special benefit for the purposes of subsection (1) above.

(2) A benefit which does not fall within subsection (1A) above is a special benefit for the purposes of subsection (1) above unless—

(a) when it becomes available it is available to at least ninety per cent. of the persons who then hold shares of the same class as those which, or an interest in which, the person acquired, and

(b) any of the conditions in subsection (3) below is satisfied."

(3) In subsection (3) (other conditions) in paragraph (a) for "of the class concerned" there shall be substituted " in respect of which the benefit is received ".

(4) In paragraph (c) of subsection (3) for "its shares are of a single class" there shall be substituted "the majority of its shares in respect of which the benefit is received are held otherwise than by or for the benefit of—

(i) directors or employees of the company,

(ii) a company which is an associated company of the company but is not its parent company, or

(iii) directors or employees of a company which is an associated company of the company".

(5) The following subsection shall be inserted after subsection (3)—

"(3A) For the purposes of subsection (3)(c)(ii) above a company is another company's parent company if the second company is a subsidiary of the first."

(6) This section shall apply in relation to benefits received on or after 12th November 1991.

Marginal Citations

M24 1988 c. 39.

Business expansion scheme

[F13]38 . . . .

Textual Amendments

F13 S. 38 repealed (3.5.1994 with effect in relation to shares issued on or after 1.1.1994) by 1994 c. 9, s. 258, **Sch. 26 Pt. V(17)**, Note

[F14]39 . . . .

Textual Amendments

F14 S. 39 repealed (3.5.1994 with effect in relation to shares issued on or after 1.1.1994) by 1994 c. 9, s. 258, **Sch. 26 Pt. V(17)**, Note

[F15]40 . . . .

Textual Amendments

F15 S. 40 repealed (3.5.1994 with effect in relation to shares issued on or after 1.1.1994) by 1994 c. 9, s. 258, **Sch. 26 Pt. V(17)**, Note

VALID FROM 22/03/2001

[40A [F16] Revenue nature of expenditure on master versions of films

(1) Expenditure incurred on the production or acquisition of a master version of a film is to be regarded for the purposes of the Tax Acts as expenditure of a revenue nature unless an election under section 40D below has effect with respect to it.

(2) If expenditure on the master version of a film is regarded as expenditure of a revenue nature under subsection (1) above, sums received from the disposal of the master version are to be regarded for the purposes of the Tax Acts as receipts of a revenue nature (if they would not be so regarded apart from this subsection).

(3) For the purposes of subsection (2) above sums received from the disposal of a master version of a film include—

- (a) sums received from the disposal of any interest or right in or over the master version, including an interest or right created by the disposal, and
- (b) insurance, compensation or similar money derived from the master version.

(4) In this section—

- (a) "expenditure of a revenue nature" means expenditure which, if it were incurred in the course of a trade the profits of which are chargeable to tax under Case I of Schedule D, would be taken into account for the purpose of computing the profits or losses of the trade, and
- (b) "receipts of a revenue nature" means receipts which, if they were receipts of such a trade, would be taken into account for that purpose.

(5) For the purposes of this section and sections 40B to 40D below, a "master version" of a film means a master negative, master tape or master audio disc of the film and includes any rights in the film (or its soundtrack) that are held or acquired with the master negative, master tape or master audio disc.]

Textual Amendments

F16 S. 40A inserted (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, ss. 578, 579(1), **Sch. 2 para. 82**

Modifications etc. (not altering text)

C1 S. 40A applied (with modifications) (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, s. 579, **Sch. 3 Pt. XIII para. 116**

VALID FROM 22/03/2001

40B F17 Allocation of expenditure to periods

(1) In computing the profits or gains accruing to any person from a trade or business which consists of or includes the exploitation of master versions of films, expenditure which is—

(a) incurred on the production or acquisition of a master version of a film, and

(b) expenditure of a revenue nature (whether as a result of section 40A above or otherwise),

must be allocated to relevant periods in accordance with this section.

(2) Subsection (1) above does not apply if an election under section 40D below has effect with respect to the expenditure.

(3) In this section "relevant period" means—

(a) a period for which the accounts of the trade or business concerned are made up, or

(b) if no accounts of the trade or business concerned are made up for a period—

(i) if the profits or gains accrue to a company within the charge to corporation tax, the accounting period of the company;

(ii) in any other case, the period the profits or gains of which are taken into account in assessing the income of the trade or business for a year of assessment.

(4) The amount of expenditure falling within subsection (1) above which falls to be allocated to any relevant period is so much as is just and reasonable, having regard to—

(a) the amount of that expenditure which remains unallocated at the beginning of that period,

(b) the proportion which the estimated value of the master version of the film which is realised in that period (whether by way of income or otherwise) bears to the aggregate of the value so realised and the estimated remaining value of the master version at the end of that period, and

(c) the need to bring the whole of the expenditure falling within subsection (1) above into account over the time during which the value of the master version is expected to be realised.

(5) In addition to any expenditure which is allocated to a relevant period in accordance with subsection (4) above, if a claim is made, there must also be allocated to that

period so much of the unallocated expenditure as is specified in the claim and does not exceed the difference between—

(a) the amount allocated to that period in accordance with subsection (4) above, and

(b) the value of the master version of the film which is realised in that period (whether by way of income or otherwise).

(6) A claim under subsection (5) above must be made—

(a) for the purposes of income tax, on or before the first anniversary of the 31st January next following the year of assessment in which ends the relevant period mentioned in that subsection;

(b) for the purposes of corporation tax, not later than two years after the end of the relevant period to which the claim relates.

(7) In subsection (5) above "the unallocated expenditure", in relation to a relevant period, is any expenditure falling within subsection (1) above—

(a) which does not fall to be allocated to that period in accordance with subsection (4) above, and

(b) which has not been allocated to any earlier relevant period in accordance with subsection (4) or (5) above.

Textual Amendments

F17 S. 40B inserted (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, ss. 578, 579(1), **Sch. 2 para. 82**

Modifications etc. (not altering text)

C2 S. 40B applied (with modifications) (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, s. 579, **Sch. 3 Pt. XIII para. 116**

VALID FROM 22/03/2001

40C [F18] Cases where section 40B does not apply

(1) To the extent that a deduction has been made in respect of any expenditure for a relevant period under section 42 below—

(a) that expenditure must not be allocated under section 40B above, and

(b) no other expenditure incurred on the production or acquisition of the master version of the film is to be allocated under section 40B above to the relevant period.

(2) Section 40B above does not apply to the profits of a trade in which the master version of the film constitutes trading stock, as defined by section 100(2) of the Taxes Act 1988.

Textual Amendments

F18 S. 40C inserted (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, ss. 578, 579(1), **Sch. 2 para. 82**

Modifications etc. (not altering text)

C3 S. 40C applied (with modifications) (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, s. 579, **Sch. 3 Pt. XIII para. 116**

VALID FROM 22/03/2001

40D F19 Election for sections 40A and 40B not to apply

(1) Sections 40A and 40B above do not apply to expenditure—

(a) in relation to which an election is made under this section, and

(b) which meets the conditions in subsection (2) below.

(2) The conditions are that—

(a) the expenditure is incurred—

(i) by a person who carries on a trade or business which consists of or includes the exploitation of master versions of films, and

(ii) on the production or acquisition of a master version of a film,

(b) the master version is certified by the Secretary of State under paragraph 3 of Schedule 1 to the Films Act 1985 as a qualifying film, tape or disc for the purposes of this section, and

(c) the value of the master version is expected to be realisable over a period of not less than two years.

(3) An election under this section—

(a) must relate to all expenditure incurred (or to be incurred) on the production or acquisition of the master version in question,

(b) must be made by giving notice to the Inland Revenue, in such form as the Board of Inland Revenue may determine, and

(c) is irrevocable.

(4) Notice under subsection (3)(b) above must be given—

(a) for the purposes of income tax, on or before the first anniversary of the 31st January next following the year of assessment in which ends the relevant period in which the master version of the film is completed;

(b) for the purposes of corporation tax, not later than two years after the end of the relevant period in which the master version of the film is completed.

(5) In subsection (4) above “relevant period” has the same meaning as in section 40B above.

(6) For the purposes of subsection (4) above, the master version of a film is completed—

(a) at the time when it is first in a form in which it can reasonably be regarded as ready for copies of it to be made and distributed for presentation to the public, or

(b) if the expenditure in question was incurred on the acquisition of the master version and it was acquired after the time mentioned in paragraph (a) above, at the time it was acquired.

(7) An election may not be made under this section in relation to expenditure on a master version of a film if a claim has been made in respect of any of that expenditure under section 41 or 42 below.

Textual Amendments

F19 S. 40D inserted (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, ss. 578, 579(1), **Sch. 2 para. 82**

Modifications etc. (not altering text)

C4 S. 40D applied (with modifications) (22.3.2001 with effect as mentioned in s. 579(1) of the amending Act) by 2001 c. 2, s. 579, Sch. 3 Pt. XIII paras. 116, **117**

S. 40D restricted (24.7.2002 with application as mentioned in s. 99(3)-(6) of the amending Act) by 2002 c. 23, **s. 99(1)(a)(2)(6)**

Films

41 Relief for preliminary expenditure.

(1) Subject to the following provisions of this section and any other provisions of the Tax Acts, in computing for tax purposes the profits or gains accruing to a person in a relevant period from a trade or business which consists of or includes the exploitation of films, that person shall (on making a claim) be entitled to deduct the amount of any expenditure of a revenue nature payable by him in that or an earlier relevant period—

(a) which is expenditure to which this section applies,

(b) in respect of which no deduction has previously been made (whether under this section or otherwise) in computing for tax purposes the profits or gains accruing from the trade or business, and

(c) in respect of which no election has been made under section 68(9) of the 1990 Act.

(2) This section applies to any expenditure that—

(a) can reasonably be said to have been incurred with a view to enabling a decision to be taken as to whether or not to make a film,

(b) is payable before the first day of principal photography (where the decision that is taken is to make the film), and

(c) is not payable under any contract or other arrangement whereby it may fall to be repaid if the film is not made.

(3) A deduction shall not be made in respect of a film that has been completed unless the master negative of the film or any master tape or master disc of the film is a qualifying film, tape or disc.

(4) A deduction shall not be made in respect of a film that has not been completed unless it is reasonably likely that if the film were completed the master negative of the film or any master tape or master disc of the film would be a qualifying film, tape or disc.

(5) The total amount deducted under this section in respect of a film shall not exceed 20 per cent. of the budgeted total expenditure on the film, as calculated at the first day of principal photography.

(6) A claim under this section shall be made not later than two years after the end of the relevant period in which the expenditure to which it relates becomes payable.

(7) To the extent that a deduction has been made in respect of any expenditure under this section, no further deduction shall be made in respect of it in computing for tax purposes the profits or gains of the trade or business concerned.

(8) This section shall have effect in relation to expenditure payable on or after 10th March 1992.

42 Relief for production or acquisition expenditure.

(1) Subject to the following provisions of this section and any other provisions of the Tax Acts, in computing for tax purposes the profits or gains accruing to a person in a relevant period from a trade or business which consists of or includes the exploitation of films, that person shall (on making a claim) be entitled to deduct an amount in respect of any expenditure—

(a) which is expenditure to which subsection (2) or (3) below applies, and

(b) in respect of which no deduction has been made by virtue of subsections (3) to (6) of section 68 of the 1990 Act and no election has been made under subsection (9) of that section.

(2) This subsection applies to any expenditure of a revenue nature incurred by the claimant on the production of a film—

(a) which was completed in the relevant period to which the claim relates or an earlier relevant period, and

(b) the master negative of which or any master tape or master disc of which is a qualifying film, tape or disc.

(3) This subsection applies to any expenditure of a revenue nature incurred by the claimant on the acquisition of the master negative of a film or any master tape or master disc of a film where—

(a) the film was completed in the relevant period to which the claim relates or an earlier relevant period, and

(b) the master negative, tape or disc is a qualifying film, tape or disc.

(4) Any amount deducted for a relevant period under subsection (1) above shall not exceed—

(a) one third of the total expenditure incurred by the claimant on the production of the film concerned or the acquisition of the master negative or any master tape or master disc of it,

(b) one third of the sum obtained by deducting from the amount of that total expenditure the amount of so much of that total expenditure as has already been deducted by virtue of section 41 above, or

(c) so much of that total expenditure as has not already been deducted by virtue of section 68(3) to (6) of the 1990 Act, section 41 above or this section,

whichever is less.

(5) In relation to a relevant period of less than twelve months, the references to one third in subsection (4) above shall be read as references to a proportionately smaller fraction.

(6) A claim under this section shall be made not later than two years after the end of the relevant period to which the claim relates and shall be irrevocable.

(7) Where any expenditure is deducted by virtue of section 68(3) to (6) of the 1990 Act in computing the profits or gains of a trade or business for a relevant period, no deduction shall be made under this section for that relevant period in respect of expenditure incurred on the production or acquisition of the film concerned.

(8) This section does not apply to the profits or gains of a trade in which the film concerned constitutes trading stock, as defined in section 100(2) of the Taxes Act 1988.

(9) This section shall have effect in relation to expenditure incurred on films completed on or after 10th March 1992.

43 Interpretation of sections 41 and 42.

(1) In sections 41 and 42 above and this section—

"expenditure of a revenue nature" has the meaning given in section 68(10) of the 1990 Act,

"master disc", in relation to a film, means the original master film disc or the original master audio disc of the film,

"master negative", in relation to a film, means the original master negative of the film and its soundtrack (if any),

"master tape", in relation to a film, means the original master film tape or the original master audio tape of the film,

"qualifying disc" means a master disc of a film certified by the Secretary of State under Schedule 1 to the [M25]Films Act 1985 as a qualifying disc for the purposes of section 68 of the 1990 Act,

"qualifying film" means a master negative of a film certified by the Secretary of State under Schedule 1 to the [M26]Films Act 1985 as a qualifying film for the purposes of section 68 of the 1990 Act,

"qualifying tape" means a master tape of a film certified by the Secretary of State under Schedule 1 to the [M27]Films Act 1985 as a qualifying tape for the purposes of section 68 of the 1990 Act,

"relevant period" has the meaning given in section 68(3) of the 1990 Act, and

"the 1990 Act" means the [M28]Capital Allowances Act 1990.

(2) In sections 41 and 42 above and this section—

(a) any reference to a film shall be construed in accordance with paragraph 1 of Schedule 1 to the Films Act 1985, and

(b) any reference to the acquisition of a master negative, master tape or master disc of a film includes a reference to the acquisition of any description of rights in it.

(3) For the purposes of sections 41 and 42 above a film is completed—

(a) at the time when it is first in a form in which it can reasonably be regarded as ready for copies of it to be made and distributed for presentation to the general public, or

(b) in a case within section 42 where the expenditure in question was incurred on the acquisition of the master negative of the film or any master tape or master disc of the film and it was acquired after the time mentioned in paragraph (a) above, at the time it was acquired.

Marginal Citations

M25 1985 c. 21.
M26 1985 c. 21.
M27 1985 c. 21.
M28 1990 c. 1.

Transfers of trade

44 Transfer of a UK trade: amendment of 1992 Act.

The [M29]Taxation of Chargeable Gains Act 1992 shall have effect, and be deemed always to have had effect, with the insertion of the following after section 140—

“ *Transfers concerning companies of different member States*

140A Transfer of a UK trade.

(1) This section applies where—

(a) a qualifying company resident in one member State (company A)

transfers the whole or part of a trade carried on by it in the United Kingdom to a qualifying company resident in another member State (company B),

(b) the transfer is wholly in exchange for securities issued by company B to company A,

(c) a claim is made under this section by company A and company B,

(d) section 140B does not prevent this section applying, and

(e) the appropriate condition is met in relation to company B immediately after the time of the transfer.

(2) Where immediately after the time of the transfer company B is not resident in the United Kingdom, the appropriate condition is that were it to dispose of the assets included in the transfer any chargeable gains accruing to it on the disposal would form part of its chargeable profits for corporation tax purposes by virtue of section 10(3).

(3) Where immediately after the time of the transfer company B is resident in the United Kingdom, the appropriate condition is that none of the assets included in the transfer is one in respect of which, by virtue of the asset being of a description specified in double taxation relief arrangements, the company falls to be regarded for the purposes of the arrangements as not liable in the United Kingdom to tax on gains accruing to it on a disposal.

(4) Where this section applies—

(a) the two companies shall be treated, so far as relates to corporation tax on chargeable gains, as if any assets included in the transfer were acquired by company B from company A for a consideration of such amount as would secure that on the disposal by way of transfer neither a gain nor a loss would accrue to company A;

(b) section 25(3) shall not apply to any such assets by reason of the transfer (if it would apply apart from this paragraph).

(5) For the purposes of subsection (1)(a) above, a company shall be regarded as resident in a member State if it is within a charge to tax under the law of the State because it is regarded as resident for the purposes of the charge.

(6) For the purposes of subsection (5) above, a company shall be treated as not within a charge to tax under the law of a member State if it falls to be regarded for the purposes of any double taxation relief arrangements to which the State is a party as resident in a territory which is not within any of the member States.

(7) In this section—

"qualifying company" means a body incorporated under the law of a member State;

"securities" includes shares.

140B Section 140A: anti-avoidance.

(1) Section 140A shall not apply unless the transfer of the trade or part is effected for bona fide commercial reasons and does not form part of a scheme or arrangements of which the main purpose, or one of the main purposes, is avoidance of liability to income tax, corporation tax or capital gains tax.

(2) Subsection (1) above shall not apply where, before the transfer, the Board have on the application of company A and company B notified those companies that the Board are satisfied that the transfer will be effected for bona fide commercial reasons and will not form part of any such scheme or arrangements as are mentioned in that subsection.

(3) Subsections (2) to (5) of section 138 shall have effect in relation to subsection (2) above as they have effect in relation to subsection (1) of that section."

Marginal Citations

M29 1992 c. 12.

45 Transfer of a non-UK trade: amendment of 1992 Act.

The [M30]Taxation of Chargeable Gains Act 1992 shall have effect, and be deemed always to have had effect, with the insertion of the following sections after section 140B—

"140C Transfer of a non-UK trade.

(1) This section applies where—

(a) a qualifying company resident in the United Kingdom (company A)

transfers to a qualifying company resident in another member State (company B) the whole or part of a trade which, immediately before the time of the transfer, company A carried on in a member State other than the United Kingdom through a branch or agency,

(b) the transfer includes the whole of the assets of company A used for the purposes of the trade or part (or the whole of those assets other than cash),
(c) the transfer is wholly or partly in exchange for securities issued by company B to company A,
(d) the aggregate of the chargeable gains accruing to company A on the transfer exceeds the aggregate of the allowable losses so accruing,
(e) a claim is made under this section by company A, and
(f) section 140D does not prevent this section applying.

(2) In a case where this section applies, this Act shall have effect in accordance with subsection (3) below.

(3) The allowable losses accruing to company A on the transfer shall be set off against the chargeable gains so accruing and the transfer shall be treated as giving rise to a single chargeable gain equal to the aggregate of those gains after deducting the aggregate of those losses.

(4) No claim may be made under this section as regards a transfer in relation to which a claim is made under section 140.

(5) In a case where this section applies, section 815A of the Taxes Act shall also apply.

(6) For the purposes of subsection (1)(a) above—
(a) a company shall not be regarded as resident in the United Kingdom if it falls to be regarded for the purposes of any double taxation relief arrangements to which the United Kingdom is a party as resident in a territory which is not within any of the member States;
(b) a company shall be regarded as resident in another member State if it is within a charge to tax under the law of the State because it is regarded as resident for the purposes of the charge.

(7) For the purposes of subsection (6)(b) above, a company shall be treated as not within a charge to tax under the law of a member State if it falls to be regarded for the purposes of any double taxation relief arrangements to which the State is a party as resident in a territory which is not within any of the member States.

(8) Section 442(3) of the Taxes Act (overseas business of UK insurance companies) shall be ignored in arriving at the chargeable gains accruing to company A on the transfer, and the allowable losses so accruing, for the purposes of subsections (1)(d) and (3) above.

(9) In this section—
"qualifying company" means a body incorporated under the law of a member State;
"securities" includes shares.

140D Section 140C: anti-avoidance.

(1) Section 140C shall not apply unless the transfer of the trade or part is effected for bona fide commercial reasons and does not form part of a scheme or arrangements of which the main purpose, or one of the main purposes, is avoidance of liability to income tax, corporation tax or capital gains tax.

(2) Subsection (1) above shall not apply where, before the transfer, the Board have on the application of company A notified that company that the Board are satisfied that the transfer will be effected for bona fide commercial reasons and will not form part of any such scheme or arrangements as are mentioned in that subsection.

(3) Subsections (2) to (5) of section 138 shall have effect in relation to subsection (2) above as they have effect in relation to subsection (1) of that section."

Marginal Citations
M30 1992 c. 12.

46 Transfer of a trade: supplementary (1).

(1) The [M31]Taxation of Chargeable Gains Act 1992 shall have effect, and be deemed always to have had effect, with the following amendments.

(2) In section 35(3)(d)(i) (re-basing) after "139," there shall be inserted " 140A, ".

(3) In section 116(11) (qualifying corporate bonds) after "139," there shall be inserted " 140A, ".

(4) In section 140 (transfer of assets to non-resident company) the following subsection shall be inserted after subsection (6)—

"(6A) No claim may be made under this section as regards a transfer in relation to which a claim is made under section 140C."

(5) In section 174 (disposal or acquisition outside a group)—
(a) in subsection (2) after the word "section" (in the first place where it occurs) there shall be inserted " 140A, ";
(b) in subsection (3) after "section" there shall be inserted " 140A, ".

(6) In section 177(2) (dividend stripping) after "which section" there shall be inserted " 140A, ".

(7) In section 184(2) (indexation)—
(a) after the word "section" (in the first place where it occurs) there shall be inserted " 140A, ";
(b) for "either" there shall be substituted " one ".

Marginal Citations
M31 1992 c. 12.

47 Transfer of a UK trade: amendment of 1970 Act.

Subject to the repeals made by the [M32]Taxation of Chargeable Gains Act 1992, in relation to transfers taking effect on or after 1st January 1992 the [M33]Income and

Corporation Taxes Act 1970 shall have effect, and be deemed to have had effect, with the insertion of the following after section 269—

" Transfers concerning companies of different member States

269A Transfer of a UK trade.

(1) This section applies where—

(a) a qualifying company resident in one member State (company A)

transfers the whole or part of a trade carried on by it in the United Kingdom to a qualifying company resident in another member State (company B),

(b) the transfer is wholly in exchange for securities issued by company B to company A,

(c) a claim is made under this section by company A and company B,

(d) section 269B below does not prevent this section applying, and

(e) the appropriate condition is met in relation to company B immediately after the time of the transfer.

(2) Where immediately after the time of the transfer company B is not resident in the United Kingdom, the appropriate condition is that were it to dispose of the assets included in the transfer any chargeable gains accruing to it on the disposal would form part of its chargeable profits for corporation tax purposes by virtue of section 11(2)(b) of the Taxes Act 1988.

(3) Where immediately after the time of the transfer company B is resident in the United Kingdom, the appropriate condition is that none of the assets included in the transfer is one in respect of which, by virtue of the asset being of a description specified in double taxation relief arrangements, the company falls to be regarded for the purposes of the arrangements as not liable in the United Kingdom to tax on gains accruing to it on a disposal.

(4) Where this section applies—

(a) the two companies shall be treated, so far as relates to corporation tax on chargeable gains, as if any assets included in the transfer were acquired by company B from company A for a consideration of such amount as would secure that on the disposal by way of transfer neither a gain nor a loss would accrue to company A;

(b) section 127(3) of the Finance Act 1989 (deemed disposal at market value) shall not apply to any such assets by reason of the transfer (if it would apply apart from this paragraph).

(5) For the purposes of subsection (1)(a) above, a company shall be regarded as resident in a member State if it is within a charge to tax under the law of the State because it is regarded as resident for the purposes of the charge.

(6) For the purposes of subsection (5) above, a company shall be treated as not within a charge to tax under the law of a member State if it falls to be regarded for the purposes of any double taxation relief arrangements to which the State is a party as resident in a territory which is not within any of the member States.

(7) In this section—

"qualifying company" means a body incorporated under the law of a member State;

"securities" includes shares.

269B Section 269A: anti-avoidance.

(1) Section 269A above shall not apply unless the transfer of the trade or part is effected for bona fide commercial reasons and does not form part of a scheme or arrangements of which the main purpose, or one of the main purposes, is avoidance of liability to income tax, corporation tax or capital gains tax.

(2) Subsection (1) above shall not apply where, before the transfer, the Board have on the application of company A and company B notified those companies that the Board are satisfied that the transfer will be effected for bona fide commercial reasons and will not form part of any such scheme or arrangements as are mentioned in that subsection.

(3) Subsections (2) to (5) of section 88 of the Capital Gains Tax Act 1979 shall have effect in relation to subsection (2) above as they have effect in relation to subsection (1) of that section."

Marginal Citations

M32 1992 c. 12.

M33 1970 c. 10.

48 Transfer of a non-UK trade: amendment of 1970 Act.

Subject to the repeals made by the [M34]Taxation [M35]of Chargeable Gains Act 1992, in relation to transfers taking effect on or after 1st January 1992 the Income and Corporation Taxes Act 1970 shall have effect, and be deemed to have had effect, with the insertion of the following sections after section 269B—

"269C Transfer of a non-UK trade.

(1) This section applies where—

(a) a qualifying company resident in the United Kingdom (company A)

transfers to a qualifying company resident in another member State (company B) the whole or part of a trade which, immediately before the time of the transfer, company A carried on in a member State other than the United Kingdom through a branch or agency,

(b) the transfer includes the whole of the assets of company A used for the purposes of the trade or part (or the whole of those assets other than cash),

(c) the transfer is wholly or partly in exchange for securities issued by company B to company A,

(d) the aggregate of the chargeable gains accruing to company A on the transfer exceeds the aggregate of the allowable losses so accruing,

(e) a claim is made under this section by company A, and

(f) section 269D below does not prevent this section applying.

(2) The Capital Gains Tax Act 1979 shall have effect in accordance with subsection (3) below.

(3) The allowable losses accruing to company A on the transfer shall be set off against the chargeable gains so accruing and the transfer shall be treated as giving rise to a single chargeable gain equal to the aggregate of those gains after deducting the aggregate of those losses.

(4) No claim may be made under this section as regards a transfer in relation to which a claim is made under section 268A above.

(5) In a case where this section applies, section 815A of the Taxes Act 1988 shall also apply.

(6) For the purposes of subsection (1)(a) above—

(a) a company shall not be regarded as resident in the United Kingdom if it falls to be regarded for the purposes of any double taxation relief arrangements to which the United Kingdom is a party as resident in a territory which is not within any of the member States;

(b) a company shall be regarded as resident in another member State if it is within a charge to tax under the law of the State because it is regarded as resident for the purposes of the charge.

(7) For the purposes of subsection (6)(b) above, a company shall be treated as not within a charge to tax under the law of a member State if it falls to be regarded for the purposes of any double taxation relief arrangements to which the State is a party as resident in a territory which is not within any of the member States.

(8) Section 442(3) of the Taxes Act 1988 (overseas business of UK insurance companies) shall be ignored in arriving at the chargeable gains accruing to company A on the transfer, and the allowable losses so accruing, for the purposes of subsections (1)(d) and (3) above.

(9) In this section—

"qualifying company" means a body incorporated under the law of a member State;

"securities" includes shares.

269D Section 269C: anti-avoidance.

(1) Section 269C above shall not apply unless the transfer of the trade or part is effected for bona fide commercial reasons and does not form part of a scheme or arrangements of which the main purpose, or one of the main purposes, is avoidance of liability to income tax, corporation tax or capital gains tax.

(2) Subsection (1) above shall not apply where, before the transfer, the Board have on the application of company A notified that company that the Board are satisfied that the transfer will be effected for bona fide commercial reasons and will not form part of any such scheme or arrangements as are mentioned in that subsection.

(3) Subsections (2) to (5) of section 88 of the Capital Gains Tax Act 1979 shall have effect in relation to subsection (2) above as they have effect in relation to subsection (1) of that section."

Marginal Citations
M34 1992 c. 12.
M35 1970 c. 10.

49 Transfer of a trade: supplementary (2).

(1) Subject to the repeals made by the [M36]Taxation of Chargeable Gains Act 1992, the enactments mentioned in this section shall be amended as there mentioned.

(2) In section 268A of the [M37]Income and Corporation Taxes Act 1970 (transfer of assets to non-resident company) the following subsection shall be inserted after subsection (6) —

"(6A) No claim may be made under this section as regards a transfer in relation to which a claim is made under section 269C below."

(3) In section 275 of that Act (disposal or acquisition outside a group)—

(a) in subsection (1A) after the word "section" (in the first place where it occurs) there shall be inserted " 269A, ";

(b) in subsection (1B) after "section" there shall be inserted " 269A, ".

(4) In section 281(2) of that Act (dividend stripping) after "which section" there shall be inserted " 269A, ".

(5) In paragraph 10(2) of Schedule 13 to the [M38]Finance Act 1984 (qualifying corporate bonds) after paragraph (bb) there shall be inserted—

"(bc) section 269A of the Taxes Act (transfer of United Kingdom trade between companies of different member States); or".

(6) In section 68(7A)(b) of the [M39]Finance Act 1985 (indexation) after "267," there shall be inserted " 269A, ".

(7) In paragraph 1(3)(b) of Schedule 8 to the [M40]Finance Act 1988 (re-basing) after "267," there shall be inserted " 269A, ".

(8) In paragraph 5 of Schedule 11 to that Act (indexation)—

(a) after "section" there shall be inserted " 269A, ";

(b) the word "intra-group" shall be omitted;

(c) for "either" there shall be substituted " one ".

(9) Subsections (3) and (4) above apply where the transfer referred to in section 269A takes effect on or after 1st January 1992.

(10) Subsections (5) to (7) above apply to any disposal by way of transfer where the transfer takes effect on or after 1st January 1992.

(11) Subsection (8) above applies where any disposal to which section 269A applies is by way of a transfer taking effect on or after 1st January 1992.

Marginal Citations
M36 1992 c. 12.
M37 1970 c. 10.

M38 1984 c. 43.
M39 1985 c. 54.
M40 1988 c. 39.

Double taxation relief

50 Transfer of a non-UK trade.

The following section shall be inserted after section 815 of the Taxes Act 1988—

"**815A Transfer of a non-UK trade.**

(1) This section applies where section 269C of the 1970 Act or section 140C of the Taxation of Chargeable Gains Act 1992 applies; and references in this section to company A, the transfer and the trade shall be construed accordingly.

(2) Where company A produces to the inspector an appropriate certificate given by the tax authorities of the relevant member State, this Part, including any arrangements having effect by virtue of section 788, shall apply as if the amount stated in the certificate in accordance with subsection (4)(b) below were tax payable under the law of the relevant member State.

(3) In any case where—

(a) company A is unable to obtain an appropriate certificate from the tax authorities of the relevant member State,

(b) the Board is satisfied that this is the case, and

(c) company A makes a claim to the Board under this subsection and provides the Board with such information and documents in connection with the claim as the Board may require,

the Board shall determine the amount which in their opinion is the amount of tax computed on the required basis which would have been payable under the law of the relevant member State in respect of the gains accruing to company A on the transfer but for the Mergers Directive; and this Part, including any arrangements having effect by virtue of section 788, shall apply as if the amount so determined were tax payable under the law of the relevant member State.

(4) For the purposes of this section, an appropriate certificate is one containing—

(a) a statement to the effect that gains accruing to company A on the transfer would have been chargeable to tax under the law of the relevant member State but for the Mergers Directive;

(b) a statement of the amount of tax which would have been payable under that law in respect of the gains so accruing but for that Directive; and

(c) a statement to the effect that that amount has been computed on the required basis.

(5) For the purposes of this section, the required basis is that—

(a) so far as permitted under the law of the relevant member State, any losses arising on the transfer are set against any gains so arising, and

(b) any relief available to company A under that law has been duly claimed.

(6) In this section—

“the Mergers Directive” means the Directive of the Council of the European Communities dated 23rd July 1990 on the common system of taxation applicable to mergers, divisions, transfers of assets and exchanges of shares concerning companies of different member States (no. 90/434/EEC);

“relevant member State” means the member State in which, immediately before the time of the transfer, company A carried on the trade through a branch or agency.”

51 The Arbitration Convention.

(1) The following section shall be inserted after section 815A of the Taxes Act 1988—

“815B The Arbitration Convention.

(1) Subsection (2) below applies if the Arbitration Convention requires the Board to give effect to—

(a) an agreement or decision, made under the Convention by the Board (or their authorised representative) and any other competent authority, on the elimination of double taxation, or

(b) an opinion, delivered by an advisory commission set up under the Convention, on the elimination of double taxation.

(2) The Board shall give effect to the agreement, decision or opinion notwithstanding anything in any enactment; and any such adjustment as is appropriate in consequence may be made (whether by way of discharge or repayment of tax, the making of an assessment or otherwise).

(3) Any enactment which limits the time within which claims for relief under any provision of the Tax Acts may be made shall not apply to a claim made in pursuance of an agreement, decision or opinion falling within subsection (1)(a) or (b) above.

(4) In this section “the Arbitration Convention” means the Convention on the elimination of double taxation in connection with the adjustment of profits of associated enterprises, concluded on 23rd July 1990 by the parties to the treaty establishing the European Economic Community (90/436/EEC).”

(2) In section 816 of the Taxes Act 1988 (disclosure of information) the following subsection shall be inserted after subsection (2)—

“(2A) The obligation as to secrecy imposed by any enactment shall not prevent the Board, or any authorised officer of the Board, from disclosing information required to be disclosed under the Arbitration Convention in pursuance of a request made by an advisory commission set up under that Convention; and “the Arbitration Convention” here has the meaning given by section 815B(4).”

(3) The following section shall be inserted after section 182 of the [M41]Finance Act 1989 (disclosure of information)—

"**182A Double taxation: disclosure of information.**

(1) A person who discloses any information acquired by him in the exercise of his functions as a member of an advisory commission set up under the Arbitration Convention is guilty of an offence.

(2) Subsection (1) above does not apply to any disclosure of information—

(a) with the consent of the person who supplied the information to the commission, or

(b) which has been lawfully made available to the public before the disclosure is made.

(3) It is a defence for a person charged with an offence under this section to prove that at the time of the alleged offence he believed that the information in question had been lawfully made available to the public before the disclosure was made and had no reasonable cause to believe otherwise.

(4) A person guilty of an offence under this section is liable—

(a) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine or both;

(b) on summary conviction, to imprisonment for a term not exceeding six months or a fine not exceeding the statutory maximum or both.

(5) No prosecution for an offence under this section shall be instituted in England and Wales or in Northern Ireland except—

(a) by the Board, or

(b) by or with the consent of the Director of Public Prosecutions or, in Northern Ireland, the Director of Public Prosecutions for Northern Ireland.

(6) In this section—

"the Arbitration Convention" has the meaning given by section 815B(4) of the Taxes Act 1988;

"the Board" means the Commissioners of Inland Revenue."

Marginal Citations

M41 1989 c. 26.

52 Interest.

(1) In the Taxes Act 1988 the following section shall be inserted after section 808—

"**808A Interest: special relationship.**

(1) Subsection (2) below applies where any arrangements having effect by virtue of section 788—

(a) make provision, whether for relief or otherwise, in relation to interest (as defined in the arrangements), and

(b) make provision (the special relationship provision) that where owing to a special relationship the amount of the interest paid exceeds the amount which would have been paid in the absence of the relationship, the provision mentioned in paragraph (a) above shall apply only to the last-mentioned amount.

(2) The special relationship provision shall be construed as requiring account to be taken of all factors, including—

(a) the question whether the loan would have been made at all in the absence of the relationship,

(b) the amount which the loan would have been in the absence of the relationship, and

(c) the rate of interest and other terms which would have been agreed in the absence of the relationship.

(3) The special relationship provision shall be construed as requiring the taxpayer to show that there is no special relationship or (as the case may be) to show the amount of interest which would have been paid in the absence of the special relationship.

(4) In a case where—

(a) a company makes a loan to another company with which it has a special relationship, and

(b) it is not part of the first company's business to make loans generally,

the fact that it is not part of the first company's business to make loans generally shall be disregarded in construing subsection (2) above.

(5) Subsection (2) above does not apply where the special relationship provision expressly requires regard to be had to the debt on which the interest is paid in determining the excess interest (and accordingly expressly limits the factors to be taken into account)."

(2) This section shall apply in relation to interest (as defined in the arrangements) paid after 14th May 1992.

Miscellaneous

53 Car fuel: cash equivalents.

(1) Section 158 of the Taxes Act 1988 (car fuel) shall be amended as follows.

(2) For subsection (2) (cash equivalents) there shall be substituted—

"(2) Subject to the provisions of this section, the cash equivalent of that benefit shall be ascertained from—

(a) Table A below where the car has an internal combustion engine with one or more reciprocating pistons and is not a diesel car;

(b) Table AB below where the car has an internal combustion engine with one or more reciprocating pistons and is a diesel car;

(c) Table B below where the car does not have an internal combustion engine with one or more reciprocating pistons.

TABLE A

Cylinder capacity of car in cubic centimetres	**Cash equivalent**
1,400 or less	£500
More than 1,400 but not more than 2,000	£630
More than 2,000	£940

TABLE AB

Cylinder capacity of car in cubic centimetres	**Cash equivalent**
2,000 or less	£460
More than 2,000	£590

TABLE B

Original market value of car	**Cash equivalent**
Less than £6,000	£500
£6,000 or more but less than £8,500	£630
£8,500 or more	£940

(2A) For the purposes of subsection (2) above a diesel car is a car which uses heavy oil as fuel; and "heavy oil" here means heavy oil as defined by section 1(4) of the Hydrocarbon Oil Duties Act 1979.

(2B) For the purposes of Tables A and AB in subsection (2) above a car's cylinder capacity is the capacity of its engine calculated as for the purposes of the Vehicles (Excise) Act 1971."

(3) In subsection (4) (Treasury orders) for "either" there shall be substituted " any ".

(4) This section shall have effect for the year 1992-93 and subsequent years of assessment.

54 Foreign earnings.

(1) In Schedule 12 to the Taxes Act 1988 (foreign earnings: provisions supplemental to section 193(1)) after paragraph 1 there shall be inserted—

Amount of emoluments

"1A For the purposes of section 193(1) and this Schedule the amount of the emoluments for a year of assessment from any employment shall be taken to be the amount remaining after any capital allowance and after any deductions under section 192(3), 193(4), 194(1), 195(7), 198, 199, 201, 332, 592 or 594."

(2) This section shall have effect for the year 1992-93 and subsequent years of assessment.

55 Oil extraction activities: extended transportation.

(1) In section 502 of the Taxes Act 1988 (defined expressions for Chapter V of Part XII of that Act - petroleum extraction activities), in subsection (1), in the definition of “oil extraction activities", in paragraph (c)—

(a) the words “as far as dry land in the United Kingdom" shall be omitted; and

(b) after the words “so held" there shall be inserted

“where the transportation is—

(i) to the place where the oil is first landed in the United Kingdom, or

(ii) to the place in the United Kingdom or, in the case of oil first landed in another country, the place in that or any other country (other than the United Kingdom) at which the seller in a sale at arm’s length could reasonably be expected to deliver it or, if there is more than one such place, the one nearest to the place of extraction”.

(2) Subsection (1) above has effect with respect to chargeable periods ending after 27th November 1991.

(3) In so far as the amendments made by paragraph 3 of Schedule 15 to this Act amend the definitions of “initial storage" and “initial treatment" as they have effect, by virtue of section 502(2) of the Taxes Act 1988, for the purposes of Chapter V of Part XII of that Act, those amendments have effect with respect to chargeable periods ending after 27th November 1991.

56 Friendly societies.

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

57 Rents or receipts between connected persons.

(1) In the Taxes Act 1988, the following shall be inserted after section 33—

“ *Connected persons*

33A Rents or receipts payable by a connected person.

(1) Subsection (2) below applies where—

(a) any rents or receipts in respect of which a person is chargeable to tax under Schedule A accrue in a chargeable period of his earlier than the one in which they are payable,

(b) the person by whom they are payable is entitled to a deduction in respect of them in computing his profits or gains for tax purposes, and

(c) the two persons are connected with one another when the rents or receipts accrue, or were connected with one another at any time before they accrue and after both 9th March 1992 and the making of the lease or other agreement under which they accrue.

(2) The chargeable person shall be regarded for the purposes of Schedule A as becoming entitled to the rents or receipts in the chargeable period in which they accrue (rather than in the chargeable period in which they become payable).

(3) For the purposes of this section, any rents or receipts shall be taken to accrue at the times at which, and in the amounts in which, they are taken to accrue for the purposes of calculating the deduction mentioned in subsection (1)(b) above.

(4) Section 839 (connected persons) shall apply for the purposes of this section.

33B Rents or receipts relating to land in respect of which a connected person makes payments to a third party.

(1) Subsection (2) below applies where—

(a) any rents or receipts in respect of which a person is chargeable to tax under Schedule A accrue in a chargeable period of his earlier than the one in which they are payable,

(b) the land to which the rents or receipts relate is land in respect of which another person becomes entitled to a relevant tax deduction at any time before the rents or receipts become payable,

(c) the two persons are connected with one another when the rents or receipts accrue, or were connected with one another at any time before they accrue and after both 9th March 1992 and the making of the lease or other agreement referred to in subsection (4) below, and

(d) section 33A(2) does not apply.

(2) The chargeable person shall be regarded for the purposes of Schedule A as becoming entitled to the rents or receipts in the chargeable period in which they accrue (rather than in the chargeable period in which they become payable).

(3) For the purposes of this section, any rents or receipts payable to the chargeable person shall be taken to accrue at the times at which, and in the amounts in which, they would be taken to accrue for the purposes of calculating a deduction in respect of them in computing his profits or gains for tax purposes if—

(a) they were payable by him instead of to him, and

(b) he were assessable to tax under Case I of Schedule D in respect of his profits or gains.

(4) In this section, "relevant tax deduction", in relation to a person and any land, means a deduction (in computing the person's profits or gains for tax purposes) in respect of any rents or other sums payable after they accrue under a lease or other agreement relating to the land or any part of it.

(5) For the purposes of this section—

(a) a person shall be regarded as becoming entitled to a relevant tax deduction when the rents or other sums to which the deduction relates accrue, and

(b) any rents or other sums to which a relevant tax deduction relates shall be taken to accrue at the times at which, and in the amounts in which, they are taken to accrue for the purposes of calculating the deduction.

(6) Section 839 (connected persons) shall apply for the purposes of this section."

(2) This section shall have effect in relation to rents or receipts accruing on or after 10th March 1992.

58 Rent etc. chargeable under Case VI.

(1) In section 15(1) of the Taxes Act 1988 (Schedule A) the following paragraph shall be substituted for paragraph 4—

in a case where—

(a) a sum (whether rent or otherwise) is payable in respect of the use of premises (whether under a lease or otherwise),

(b) the tenant or other person entitled to the use of the premises is entitled to the use of furniture, and

(c) tax in respect of the payment for the use of the furniture is chargeable under Case VI of Schedule D,

tax in respect of the sum mentioned in sub-paragraph (a) above shall be charged under that Case instead of under this Schedule unless the person entitled to that sum elects that this paragraph shall not apply."

(2) This section shall apply in relation to chargeable periods beginning on or after 6th April 1992.

59 Furnished accommodation.

Schedule 10 to this Act (which makes provision about furnished accommodation) shall have effect.

60 Deduction on account of certain payments.

(1) In section 347A(5) of the [M42]Taxes Act 1988 and in section 38(9) of the Finance Act 1988 (no deduction on account of certain payments) after "section 65(1)(b)" there shall be inserted " , 68(1)(b) or 192(3) ".

(2) This section shall have effect for the year 1992-93 and subsequent years of assessment.

Marginal Citations

M42 1988 c. 26.

61 Qualifying maintenance payments: extension to member States.

(1) In section 347B(1)(a) of the Taxes Act 1988 (payments under certain court orders or written agreements)—

(a) for "in the United Kingdom" there shall be substituted " in a member State ";

(b) for "a part of the United Kingdom" there shall be substituted " a member State or of a part of a member State ".

(2) This section shall have effect for the year 1992-93 and subsequent years of assessment.

62 Qualifying maintenance payments: maintenance assessments etc.

(1) In section 347B of the Taxes Act 1988 (qualifying maintenance payments), the following subsections shall be added at the end—

"(8) In subsections (1)(a) and (5)(a) above, the reference to an order made by a court in the United Kingdom includes a reference to a maintenance assessment.

(9) Where—

(a) any periodical payment is made under a maintenance assessment by one of the parties to a marriage (including a marriage which has been dissolved or annulled),

(b) the other party to the marriage is, for the purposes of the Child Support Act 1991 or (as the case may be) the Child Support (Northern Ireland) Order 1991, a parent of the child or children with respect to whom the assessment has effect,

(c) the assessment was not made under section 7 of the Child Support Act 1991 (right of child in Scotland to apply for maintenance assessment), and

(d) any of the conditions mentioned in subsection (10) below is satisfied,

this section shall have effect as if the payment had been made to the other party for the maintenance by that other party of that child or (as the case may be) those children.

(10) The conditions are that—

(a) the payment is made to the Secretary of State in accordance with regulations made under section 29 of the Child Support Act 1991, by virtue of subsection (3)(a)(ii) of that section;

(b) the payment is made to the Department of Health and Social Services for Northern Ireland in accordance with regulations made under Article 29 of the Child Support (Northern Ireland) Order 1991, by virtue of paragraph (3)(a)(ii) of that Article;

(c) the payment is retained by the Secretary of State in accordance with regulations made under section 41 of that Act;

(d) the payment is retained by the Department of Health and Social Services for Northern Ireland in accordance with regulations made under Article 38 of that Order.

(11) In this section "maintenance assessment" means a maintenance assessment made under the Child Support Act 1991 or the Child Support (Northern Ireland) Order 1991.

(12) Where any periodical payment is made to the Secretary of State or to the Department of Health and Social Services for Northern Ireland—

(a) by one of the parties to a marriage (including a marriage which has been dissolved or annulled), and

(b) under an order made under section 106 of the Social Security Administration Act 1992 or section 101 of the Social Security Administration (Northern Ireland) Act 1992 (recovery of expenditure on benefit from person liable for maintenance) in respect of income support claimed by the other party to the marriage,

this section shall have effect as if the payment had been made to the other party to the marriage to or for the benefit, and for the maintenance, of that other party or (as the case may be) to that other party for the maintenance of the child or children concerned."

(2) In section 36 of the [M43]Finance Act 1988 (annual payments), the following subsection shall be inserted after subsection (5)—

"(5A) The reference in subsection (4)(d) above to an order made by a court, and the reference in subsection (5)(b) above to an order, in each case includes a reference to a maintenance assessment made under the Child Support Act 1991 or the Child Support (Northern Ireland) Order 1991."

(3) In section 38 of the [M44]Finance Act 1988 (maintenance payments under existing obligations), the following subsection shall be inserted after subsection (8)—

"(8A) The reference in subsection (1)(a) above to an order made by a court includes a reference to a maintenance assessment made under the Child Support Act 1991 or under the Child Support (Northern Ireland) Order 1991."

(4) This section shall come into force on such date as the Secretary of State may by order provide.

(5) The power conferred by subsection (4) above shall be exercisable by statutory instrument.

(6) The provision made by this section shall have effect, so far as it concerns orders under section 106 of the [M45]Social Security Administration Act 1992 or section 101 of the [M46]Social Security Administration (Northern Ireland) Act 1992, only in relation to payments which fall due after the coming into force of this section.

Subordinate Legislation Made

P5 S. 62(4) power fully exercised (26.10.1992): 6.4.1993 appointed day by S.I. 1992/2642, **art. 2**.

Commencement Information

I5 S. 62 wholly in force at 6.4.1993 see s. 62(4) and S.I. 1992/2642, **art. 2**.

Marginal Citations

M43 1988 c. 39.
M44 1988 c. 39.
M45 1992 c. 5.
M46 1992 c. 8.

63 Paying and collecting agents etc.

Schedule 11 to this Act (which makes provision in relation to the payment of income tax on foreign dividends etc.) shall have effect.

64 Reduced and composite rate.

(1) For the purposes of this section each of the following is a relevant order—

(a) the [M47]Income Tax (Reduced and Composite Rate) Order 1985 (which sets out 25.25 per cent. as the reduced rate for building societies and the composite rate for deposit-takers for the year 1986-87);

(b) the [M48]Income Tax (Reduced and Composite Rate) Order 1986 (which sets out 24.75 per cent. as the rate for the year 1987-88);

(c) the [M49]Income Tax (Reduced and Composite Rate) Order 1987 (which sets out 23.25 per cent. as the rate for the year 1988-89);

(d) the [M50]Income Tax (Reduced and Composite Rate) Order 1988 (which sets out 21.75 per cent. as the rate for the year 1989-90).

(2) If apart from this section a relevant order would not be so taken, it shall be taken to be and always to have been effective to determine the rate set out in the order as the reduced rate and the composite rate for the year of assessment for which the order was made.

Marginal Citations

M47 S.I. 1985/1836.
M48 S.I. 1986/2147.
M49 S.I. 1987/2075.
M50 S.I. 1988/2145.

65 Life assurance business: I minus E basis.

(1) For the purposes of this section a claim is a relevant claim if it is made under or by virtue of any of the following provisions—

(a) section 393(1) of the Taxes Act 1988 (claim for carry forward of trading losses);

(b) section 393A(1) of the Taxes Act 1988 (claim for carry sideways and backwards of trading losses);

(c) section 402(2) of the Taxes Act 1988 (surrender of relief between members of groups and consortia: group claim);

(d) section 402(3) of the Taxes Act 1988 (surrender of relief between members of groups and consortia: consortium claim);

(e) any provision reproduced in any of the provisions mentioned in paragraphs (a) to (d) above (whether directly or indirectly and whether with or without modification).

(2) For the purposes of this section the following are relevant provisions—

(a) section 434(2) of the Taxes Act 1988 (profits derived from investments of life assurance fund treated as profits of life assurance business in ascertaining loss on that business);

(b) section 715(1)(a) of the Taxes Act 1988 (special treatment of transfer of securities with or without accrued interest not to apply to transferor where transfer falls to be taken into account in computing profits or losses of trade);

(c) section 715(2)(a) of the Taxes Act 1988 (special treatment of transfer of securities with or without accrued interest not to apply to transferee where transfer falls to be taken into account in computing profits or losses of trade);

(d) section 83(1) of the [M51]Finance Act 1989 (investment income etc. from assets of long-term business fund taken into account as receipts of life assurance business);

(e) section 37(1) of the [M52]Taxation of Chargeable Gains Act 1992 (exclusion from consideration for disposal of asset of any money or moneys worth taken into account in computing profits or losses etc.);

(f) any provision reproduced in any of the provisions mentioned in paragraphs (a) to (c) and (e) above (whether directly or indirectly and whether with or without modification).

(3) For the purposes of this section—

(a) the I minus E basis is the basis commonly so called (under which a company carrying on life assurance business is charged to tax in respect of that business otherwise than under Case I of Schedule D);

(b) life assurance business includes annuity business.

(4) Neither the making of a relevant claim in respect of a trading loss incurred by a company in an accounting period nor the application of any commercial or accounting principle or practice in computing that loss—

(a) shall prevent the I minus E basis being applied for that or any other accounting period in respect of the company's life assurance business;

(b) shall affect the calculation of the income or gains of that business for that or any other accounting period in applying that basis.

(5) The application of a relevant provision as regards a company for an accounting period shall not—

(a) prevent the I minus E basis being applied for that or any other accounting period in respect of its life assurance business;

(b) affect the calculation of the income or gains of that business for that or any other accounting period in applying that basis.

(6) This section—

(a) shall apply in relation to accounting periods beginning on or after the day on which this Act is passed;

(b) shall apply and be deemed always to have applied in relation to accounting periods beginning before that day**[**[F20]but, in relation to any case in which by virtue of section 99 of the Finance Act 1990 losses may be set off under subsection (1) of section 393 of the Taxes Act 1988 without the making of a claim, this section shall have effect as if references to the making of a claim under that subsection were references to the setting off of any loss under that subsection.**]**

Textual Amendments

F20 Words in s. 65(6) inserted (27.7.1993) by 1993 c. 34, s. 120, **Sch. 14 para.9**

Marginal Citations

M51 1989 c. 26.

M52 1992 c. 12.

66 Banks etc. in compulsory liquidation.

Schedule 12 to this Act (which makes provision in relation to companies that are or have been carrying on a deposit-taking business and are in compulsory liquidation) shall have effect.

CHAPTER II

CAPITAL ALLOWANCES

67 Transfer of a UK trade.

The following section shall be inserted after section 152A of the [M53]Capital Allowances Act 1990—

"**152B Transfer of a UK trade.**

(1) References in this section to company A, company B and the transfer shall be construed in accordance with section 269A of the Income and Corporation Taxes Act 1970 or, as the case may be, section 140A of the Taxation of Chargeable Gains Act 1992.

(2) This section applies where—

(a) section 269A of the Income and Corporation Taxes Act 1970 or section 140A of the Taxation of Chargeable Gains Act 1992 applies, and

(b) if immediately after the time of the transfer company B is not resident in the United Kingdom, the condition in subsection (3) below is met.

(3) The condition is that immediately after the time of the transfer company B carries on in the United Kingdom through a branch or agency a trade which consists of or includes the trade, or the part of the trade, transferred by the transfer.

(4) Where this section applies the first and second rules set out in subsections (5) and (6) below shall have effect.

(5) The first rule is that the transfer itself shall not be treated as giving rise to any allowances or charges under the Capital Allowances Acts.

(6) The second rule applies with regard to anything done after the transfer in relation to the assets included in it; and the rule is that everything done to or by company A in relation to those assets before the transfer shall for the purposes of the Capital Allowances Acts be treated as having been done to or by company B (and not company A).

(7) Where for the purposes of subsection (6) above expenditure falls to be apportioned between assets included in the transfer and other assets, the apportionment shall be made in such manner as is just and reasonable.

(8) Any question which arises as to the manner in which an apportionment referred to in subsection (7) above is to be made shall be determined, for the purposes of the tax of both company A and company B—

(a) in a case where the same body of General Commissioners have jurisdiction with respect to both the companies, by those Commissioners, unless the companies agree that it shall be determined by the Special Commissioners;

(b) in a case where different bodies of General Commissioners have jurisdiction with respect to the companies, by such of those bodies as the Board may direct, unless the companies agree that it shall be determined by the Special Commissioners;

(c) in any other case, by the Special Commissioners.

(9) The Commissioners by whom the question referred to in subsection (8) above falls to be determined shall make the determination in like manner as if it were an appeal except that company A and company B shall be entitled to appear and be heard by those Commissioners or to make representations to them in writing.

(10) In any case where this section applies, none of the following provisions shall apply—

(a) section 77;

(b) section 152A;

(c) section 157;

(d) section 158;

(e) section 343(2) of the principal Act."

Marginal Citations

M53 1990 c. 1.

68 Computer software.

(1) In Part II of the [M54]Capital Allowances Act 1990 (machinery and plant) after section 67 there shall be inserted the following section—

"67A Computer software.

(1) If a person carrying on a trade incurs capital expenditure in acquiring for the purposes of the trade a right to use or otherwise deal with computer software, then, for the purposes of this Part—

(a) the right and the software to which it relates shall be treated as machinery or plant;

(b) that machinery or plant shall be treated as provided for the purposes of the trade; and

(c) so long as he is entitled to the right, that machinery or plant shall be treated as belonging to him.

(2) In any case where—

(a) a person carrying on a trade incurs capital expenditure on the provision of computer software for the purposes of the trade, and

(b) in consequence of his incurring that expenditure, the computer software belongs to him, but

(c) the computer software does not constitute machinery or plant, then for the purposes of this Part the computer software shall be treated as machinery or plant."

(2) In section 24 of that Act (writing-down allowances and balancing adjustments) in subsection (6) (disposal value) for the words "subsection (7)" there shall be substituted " subsections (6A) and (7) ".

(3) After that subsection there shall be inserted the following subsection—

"(6A) In the case of machinery or plant consisting of computer software or the right to use or otherwise deal with computer software, the disposal value to be brought into account by a person for any chargeable period by virtue of subsection (6) above shall also include the disposal value of all such machinery or plant—

(a) on the provision of which for the purposes of the trade he has incurred capital expenditure;

(b) which belongs to him at some time in the chargeable period or its basis period;

(c) in respect of which, in the chargeable period or its basis period, the following event occurs, namely, he grants to another person a right to use or otherwise deal with the whole or part of the computer software concerned in circumstances where the consideration in money for the grant constitutes (or if there were consideration in money for the grant would constitute) a capital sum; and

(d) in respect of which, whilst the machinery or plant belongs or belonged to him, no event falling within paragraph (iv) or (v) of subsection (6)(c) above has occurred before the event referred to in paragraph (c) above."

(4) In subsection (8) of that section for the words "subsection (7)" in both places where they occur there shall be substituted " subsections (6A) and (7) ".

(5) In section 26 of that Act (disposal value) in subsection (1) after paragraph (e) there shall be inserted—

"(ea) if that event is the grant of a right to use or otherwise deal with computer software for a consideration not consisting or not wholly consisting in money, equals the consideration in money which would have been given if the right had been granted in the open market;

(eb) unless paragraph (ea) above applies, if that event is the grant of a right to use or otherwise deal with computer software for no consideration or for a consideration in money lower than that which would have been given if the right had been granted in the open market, and otherwise than in circumstances such that—

(i) the grantee's expenditure on the acquisition of the right can be taken into account in making allowances to him under this Part or under Part VII and the grantee is not a dual resident investing company which is connected with the grantor within the terms of section 839 of the principal Act, or

(ii) there is a charge to tax under Schedule E,

equals the consideration in money which would have been given if the right had been granted in the open market;

(ec) if that event is the grant of a right to use or otherwise deal with computer software and neither paragraph (ea) nor paragraph (eb) above applies, equals the net consideration in money received by the grantor in respect of the grant, together with any insurance moneys received by him in respect of the computer software by reason of any event affecting the consideration obtainable on the grant and, so far as it consists of capital sums, any other compensation of any description so received;".

(6) After subsection (2) of that section there shall be inserted—

"(2AA) In deciding for the purposes of subsection (2) above whether the disposal value of machinery or plant consisting of computer software or the right to use or otherwise deal with computer software exceeds the capital expenditure incurred by a person on its provision, the disposal value shall (for the purposes of that subsection only) be taken to be increased by the amount of any disposal value which, in respect of that person and that machinery or plant, falls or has fallen to be taken into account for the purposes of section 24 by virtue of any previous event falling within subsection (6A)(c) of that section."

(7) In section 37 of that Act (election for certain machinery or plant to be treated as short-life assets) in subsection (5) for the words "section 24(7)" there shall be substituted " section 24(6A) and (7) ".

(8) Subsection (1) above shall apply in relation to expenditure incurred on or after 10th March 1992.

(9) Subsections (2) to (6) above shall apply in relation to rights granted on or after 10th March 1992.

(10) Subsection (7) above shall be deemed to have come into force on 10th March 1992.

Commencement Information

I6 S. 68(1)-(6) and (8)-(10) in force at Royal Assent; 68(7) in force at 10. 03. 1992 see s. 68(10).

Marginal Citations

M54 1990 c. 1.

69 Films etc.

(1) Section 68 of the [M55] Capital Allowances Act 1990 (which excludes certain expenditure relating to films, tapes and discs from being treated as capital expenditure for the purposes of Part II of that Act and gives relief by providing for such expenditure and other expenditure of a revenue nature to be allocated to relevant periods) shall be amended as follows.

(2) After subsection (6) there shall be inserted—

"(6A) To the extent that a deduction has been made in respect of any expenditure for a relevant period under section 42 of the Finance (No. 2) Act 1992 (relief for production or acquisition expenditure), no allocation of that expenditure shall be made under subsections (3) to (6) above.

(6B) Where subsection (6A) above applies, no expenditure incurred on the production or acquisition of the film, tape or disc concerned shall be allocated under subsections (3) to (6) above to the relevant period referred to in subsection (6A)."

(3) In subsection (9) (expenditure to which section 68 does not apply) after "expenditure" there shall be inserted " in relation to which an election is made under this subsection and ".

(4) After subsection (9) there shall be inserted—

"(9A) An election under subsection (9) above—

(a) shall relate to all expenditure incurred (or to be incurred) on the production or acquisition of the film, tape or disc in question,

(b) shall be made, by giving notice to the inspector in such form as the Board may determine, not later than two years after the end of the relevant period in which the film, tape or disc is completed, and

(c) shall be irrevocable.

(9B) For the purposes of subsection (9A)(b) above, a film, tape or disc is completed—

(a) at the time when it is first in a form in which it can reasonably be regarded as ready for copies of it to be made and distributed for presentation to the general public, or

(b) where the expenditure in question was incurred on the acquisition of the film, tape or disc and it was acquired after the time mentioned in paragraph (a) above, at the time it was acquired.

(9C) An election may not be made under subsection (9) above in relation to expenditure on a film, tape or disc if a claim has been made in respect of any of that expenditure under section 41 (relief for preliminary expenditure) or section 42 (relief for production or acquisition expenditure) of the Finance (No. 2) Act 1992."

(5) Subsections (3) and (4) above shall have effect in relation to films, tapes and discs completed on or after 10th March 1992.

Marginal Citations

M55 1990 c. 1.

70 Enterprise zones.

Schedule 13 to this Act (which makes provision in relation to capital allowances in respect of buildings and structures in enterprise zones) shall have effect.

71 Expensive motor cars.

(1) The [M56]Capital Allowances Act 1990 shall be amended as follows.

(2) In section 34 (writing-down allowances etc.) in subsection (1) for "£8,000" there shall be substituted " £12,000 ".

(3) In subsection (3) of that section for "£2,000" in each place where it occurs there shall be substituted " £3,000 ".

(4) In section 35 (contributions to expenditure and hiring of cars) in subsection (1) for "£8,000" and "£2,000" there shall be substituted " £12,000 " and " £3,000 " respectively.

(5) In subsection (2) of that section for "£8,000" in both places where it occurs there shall be substituted " £12,000 ".

(6) Subsections (2) and (3) above shall apply in relation to expenditure incurred or treated as incurred after 10th March 1992 unless the expenditure is incurred under a contract entered into on or before 10th March 1992.

(7) Subsection (4) above shall apply in relation to expenditure incurred after 10th March 1992 unless the expenditure is incurred under a contract entered into on or before 10th March 1992.

(8) Subsection (5) above shall apply in relation to expenditure on the hiring of a motor car under a contract entered into after 10th March 1992.

Marginal Citations
M56 1990 c. 1.

PART III

MISCELLANEOUS AND GENERAL

Inheritance tax

72 Increase of rate bands.

(1) For the Table in Schedule 1 to the [M57]Inheritance Tax Act 1984 there shall be substituted—

" TABLE OF RATES OF TAX

Portion of value		***Rate of tax***
Lower limit	*Upper limit*	*Per cent.*
£	£	
0	150,000	Nil
150,000		40"

(2) Subsection (1) above shall apply to any chargeable transfer made on or after 10th March 1992, and section 8(1) of the Inheritance Tax Act 1984 (indexation of rate bands) shall not apply to chargeable transfers made in the year beginning 6th April 1992.

Marginal Citations

M57 1984 c. 51.

73 Business and agricultural property relief.

Schedule 14 to this Act (which makes provision in relation to relief in respect of business property and agricultural property) shall have effect.

Petroleum revenue tax

74 Oil exported direct from United Kingdom off-shore fields.

(1) The enactments specified in Schedule 15 to this Act (being enactments relating to oil taxation) shall have effect subject to the amendments in that Schedule, being amendments—

(a) which take account, for the purpose of determining assessable profits and allowable losses, of certain cases where oil which is won from an off-shore oil field is, or could reasonably be expected to be, first landed in a country other than the United Kingdom; or

(b) which are consequential upon, or incidental to, the amendments referred to in paragraph (a) above.

(2) For the purposes of subsection (1)(a) above an oil field is an off-shore oil field if the whole of it is situated outside the geographical area of the United Kingdom (as determined under section 108 of the [M58]Finance Act 1986 - the on-shore/off-shore boundary).

(3) In the amendments in Schedule 15 to this Act, any reference to a country other than the United Kingdom shall be treated as a reference to the geographical area of that country exclusive of any land (or waters) to the seaward side of the high-water line along the coast of that country, including the coast of all islands comprised in that country.

(4) For the purpose of subsection (3) above, section 108(5) of the [M59]Finance Act 1986 (which provides a means of determining the high-water line at any place in the United Kingdom) shall, with any necessary modifications, apply to determine the high-water line at any place in a country other than the United Kingdom.

(5) Except in so far as they have effect in relation to corporation tax or income tax, the amendments in Schedule 15 to this Act take effect as follows—

(a) in so far as they relate to expenditure incurred, they take effect for claim periods ending after 27th November 1991; and

(b) in so far as they relate to any other matter, they take effect for chargeable periods ending after 30th June 1992.

(6) This section shall be construed as one with Part I of the [M60]Oil Taxation Act 1975.

Marginal Citations

M58 1986 c. 41.

M59 1986 c. 41.

M60 1975 c. 22.

General and Special Commissioners

75 Change of name.

(1) The Lord Chancellor may, with the consent of the Lord Advocate, make regulations providing for—

(a) Commissioners for the general purposes of the income tax to hold office by a different name (and to be referred to otherwise than as "General Commissioners"), and

(b) Commissioners for the special purposes of the Income Tax Acts to hold office by a different name (and to be referred to otherwise than as "Special Commissioners").

(2) The regulations may make such consequential amendments of any Act or instrument made under any Act as the Lord Chancellor thinks appropriate.

(3) Regulations under this section shall be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

Modifications etc. (not altering text)

C5 S. 75(1): power to transfer functions conferred (19.5.1999) by S.I. 1999/678, art. 2(1), **Sch.**
S. 75(1): power to transfer certain functions (1.7.1999) by S.I. 1999/1750, art. 2, **Sch. 1**; S.I. 1998/3178, **art. 3**
S. 75(1): power to make certain functions exercisable (30.6.1999) by S.I. 1999/1748, art. 3, **Sch. 1 para. 14**

76 Miscellaneous.

Schedule 16 to this Act (which makes provision in relation to the remuneration, jurisdiction, practice and procedure of the General and Special Commissioners etc.) shall have effect.

Miscellaneous

77 Northern Ireland Electricity.

Schedule 17 to this Act (which makes provision in relation to the transfer of the undertaking of Northern Ireland Electricity) shall have effect.

78 Gas levy: restriction of liability.

In section 123 of the [M61]Finance Act 1990 (gas levy), in subsection (3) (rights to gas of British Gas Corporation treated as continuing, for purposes of levy on producer, in certain circumstances) at the end of paragraph (b) (termination of rights disregarded unless occurring before 5th March 1990) there shall be added " or by effluxion of time, pursuant to a term in the contract or document, being a term in existence on 27th November 1991. "

Marginal Citations
M61 1990 c. 29.

79 Treasury bills.

(1) In section 8 of the [M62]Treasury Bills Act 1877 (bills to be issued under Treasury warrant countersigned by Comptroller and Auditor General) the words “countersigned by the Comptroller and Auditor General" shall be omitted.

(2) This section shall apply where the warrant concerned is issued on or after the day on which this Act is passed.

Marginal Citations
M62 1877 c. 2.

80 Publication of rates of interest.

(1) Section 5(8) of the [M63]National Loans Act 1968 (which requires the Treasury to publish certain rates of interest in the London and Edinburgh Gazettes) shall cease to have effect.

(2) This section shall have effect in relation to rates of interest determined after the day on which this Act is passed.

Marginal Citations
M63 1968 c. 13.

General

81 Interpretation.

In this Act “the Taxes Act 1988” means the [M64]Income and Corporation Taxes Act 1988.

Marginal Citations
M64 1988 c. 1.

82 Repeals.

The enactments specified in Schedule 18 to this Act (which include provisions which are already spent) are hereby repealed to the extent specified in the third column of that Schedule, but subject to any provision of that Schedule.

83 Short title.

This Act may be cited as the Finance (No. 2) Act 1992.