Finance Act 1993

1993 CHAPTER 34

PART II

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

CHAPTER I

GENERAL

Income tax: charge, rates and allowances

51 Charge and rates of income tax for 1993-94.

(1) Income tax shall be charged for the year 1993-94, and for that year—

(a) the lower rate shall be 20 per cent.,

(b) the basic rate shall be 25 per cent., and

(c) the higher rate shall be 40 per cent.

(2) For the year 1993-94 section 1(2) of the Taxes Act 1988 shall apply as if—

(a) the amount specified in paragraph (aa) were £2,500 (the lower rate limit), and

(b) the amount specified in paragraph (b) were £23,700 (the basic rate limit);

and accordingly section 1(4) of that Act (indexation) shall not apply for the year 1993-94.

52 Personal and married couple's allowances.

Sections 257 and 257A of the Taxes Act 1988 (personal and married couple's allowances) shall apply for the year 1993-94 as if the amounts specified in them were the same as the amounts specified in them as they apply for the year 1992-93, and accordingly section 257C(1) of that Act (indexation) shall not apply for the year 1993-94.

Corporation tax charge and rate

53 Charge and rate of corporation tax for 1993.

Corporation tax shall be charged for the financial year 1993 at the rate of 33 per cent.

54 Small companies.

For the financial year 1993—

(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.

Interest: general

55 Relief for interest.

For the year 1993-94 the qualifying maximum defined in section 367(5) of the Taxes Act 1988 (limit on relief for interest on certain loans) shall be £30,000.

F1 56 . . . . . .

Textual Amendments

F1 S. 56 repealed (27.7.1999 with effect in relation to any payment of interest falling within s. 38(3)(4) of the amending Act) by 1999 c. 16, s. 139, **Sch. 20 Pt. III(7)** Note 4

57 Temporary relief for interest payments.

F2(1) . . . . . .

F2(2) . . . . . .

(3) In section 365 of that Act (relief on interest on loans to buy a life annuity), after subsection (1) there shall be inserted the following subsections—

"(1A) Where, in the case of any loan—

(a) the condition specified in subsection (1)(d) above would not (apart from this subsection) be fulfilled with respect to any land by reason of its having ceased at any time to be used by a particular person as his only or main residence; and

(b) the intention at that time of the person to whom the loan was made, or of each of the annuitants owning an estate or interest in that land, was to take steps, before the end of the period of 12 months after the day on which it ceased to be so used, with a view to the disposal of his estate or interest,

that condition shall be treated in relation to interest on that loan as continuing to be fulfilled with respect to the land from that time until the end of that period or (if sooner) the abandonment by that person or any of those annuitants of his intention to dispose of his estate or interest.

(1B) If it appears to the Board reasonable to do so, having regard to all the circumstances of a particular case, they may direct that in relation to that case subsection (1A) above shall have effect as if for the reference to 12 months there were substituted a reference to such longer period as meets the circumstances of that case."

F2(4) . . . . . .

(5) This section shall have effect in relation to payments of interest made on or after 16th March 1993 (whenever falling due).

F2(6) . . . . . .

F3(7) . . . . . .

Textual Amendments

F2 S. 57(1)(2)(4)(6) repealed (27.7.1999 with effect in relation to any payment of interest falling within s. 38(3)(4) of the amending Act) by 1999 c. 16, s. 139, **Sch. 20 Pt. III(7)** Note 4

F3 S. 57(7) repealed (3.5.1994 with effect in accordance with s. 81(6) of the amending Act) by 1994 c. 9, ss. 81, 258, Sch. 9 para. 12, **Sch. 26 Pt. V(2)** Note

58 Overclaims in respect of deductions of mortgage interest.

(1) After subsection (6) of section 369 of the Taxes Act 1988 (recovery of amount treated as paid by recipient of interest paid subject to a deduction under that section) there shall be inserted the following subsection—

"(7) The following provisions of the Management Act, namely—

(a) section 29(3)(c) (excessive relief),

(b) section 30 (tax repaid in error etc.),

(c) section 88 (interest), and

(d) section 95 (incorrect return or accounts),

shall apply in relation to an amount which is paid to any person by the Board as an amount recoverable in accordance with regulations made by virtue of subsection (6) above but to which that person is not entitled as if it were income tax which ought not to have been repaid and, where that amount was claimed by that person, as if it had been repaid as a relief which was not due."

(2) This section shall not apply in relation to any payment if the payment, or the claim on which it is made, was made before the day on which this Act is passed.

59 Interest payments to persons not ordinarily resident in UK.

In section 349 of the Taxes Act 1988 (annual interest etc.) in subsection (3) (exceptions from requirement to deduct tax from interest payments) at the end of paragraph (g) there shall be inserted " or " and after that paragraph there shall be inserted the following paragraph—

"(h) to any payment in respect of which a liability to deduct income tax would, but for section 481(5)(k), be imposed by section 480A(1)."

60 Certain interest not allowed as a deduction.

(1) This section applies where—

(a) a qualifying company becomes subject to a qualifying debt, and

(b) the interest payable exceeds a commercial return on the capital repayable, expressing that capital in the settlement currency of the debt.

(2) In computing the corporation tax chargeable for an accounting period of the company, so much of the excess interest as is paid in the accounting period shall not be allowed as a deduction against the total profits for the period (if it would be allowed apart from this section).

(3) In this section—

"qualifying company" has the meaning given by section 152 below;

"qualifying debt" has the meaning given by section 153(10) below;

"settlement currency", in relation to a debt, shall be construed in accordance with section 161 below.

(4) This section applies where the company becomes subject to the debt (whether as the original debtor or otherwise) on or after the day which is its commencement day for the purposes of section 165 below.

Interest etc. on debts between associated companies

F4 61 . . . . . .

Textual Amendments

F4 S. 61 repealed (29.4.1996 with effect in accordance with the provisions of Chapter II of Pt. IV of the repealing Act) by 1996 c. 8, s. 205, **Sch. 41 Pt. V(3)** Note

F5 62 . . . . . .

Textual Amendments

F5 S. 62 repealed (29.4.1996 with effect in accordance with the provisions of Chapter II of Pt. IV of the repealing Act) by 1996 c. 8, s. 205, **Sch. 41 Pt. V(3)** Note

F6 62A . . . . . .

Textual Amendments

F6 S. 62A repealed (29.4.1996 with effect in accordance with the provisions of Chapter II of Pt. IV of the repealing Act) by 1996 c. 8, s. 205, **Sch. 41 Pt. V(3)** Note

F7 63 . . . . . .

Textual Amendments

F7 S. 63 repealed (29.4.1996 with effect in accordance with the provisions of Chapter II of Pt. IV of the repealing Act) by 1996 c. 8, s. 205, **Sch. 41 Pt. V(3)** Note

F8 64 . . . . . .

Textual Amendments

F8 S. 64 repealed (29.4.1996 with effect in accordance with the provisions of Chapter II of Pt. IV of the repealing Act) by 1996 c. 8, s. 205, **Sch. 41 Pt. V(3)** Note (with Sch. 15 para. 19(3))

Modifications etc. (not altering text)

C1 S. 64 amended (27.7.1999 with application as mentioned in s. 67(8) of the amending Act) by 1999 c. 16, **s. 67(4)(8)**

F9 65 . . . . . .

Textual Amendments

F9 S. 65 repealed (29.4.1996 with effect in accordance with the provisions of Chapter II of Pt. IV of the repealing Act) by 1996 c. 8, s. 205, **Sch. 41 Pt. V(3)** Note (with Sch. 15 para. 20(2))

Modifications etc. (not altering text)

C2 S. 65 amended (27.7.1999 with application as mentioned in s. 67(8) of the amending Act) by 1999 c. 16, **s. 67(4)(8)**

F10 66 . . . . . .

Textual Amendments

F10 S. 66 repealed (29.4.1996 with effect in accordance with the provisions of Chapter II of Pt. IV of the repealing Act) by 1996 c. 8, s. 205, **Sch. 41 Pt. V(3)** Note

Charitable donations

67 Donations from companies and individuals.

(1) In section 339 of the Taxes Act 1988 (charges on income: donations to charity) in subsection (3A) (payment by close company not a qualifying donation if less than £400 after deducting income tax) for "£400" there shall be substituted " £250 ".

(2) In section 25 of the **M1**Finance Act 1990 (donations to charity by individuals) in subsection (2)(g) (gift must be not less than £400 to be a qualifying donation) for "£400" there shall be substituted " £250 ".

(3) Subsection (1) above shall apply in relation to payments made on or after 16th March 1993.

(4) Subsection (2) above shall apply in relation to gifts made on or after 16th March 1993.

Marginal Citations
M1 1990 c. 29.

68 Payroll deduction schemes.

(1) In section 202(7) of the Taxes Act 1988 (which limits to £600 the deductions attracting relief) for "£600" there shall be substituted " £900 ".

(2) This section shall have effect for the year 1993-94 and subsequent years of assessment.

69 Contributions to agent's expenses.

The following section shall be inserted after section 86 of the Taxes Act 1988—

"**86A Charitable donations: contributions to agent's expenses.**

(1) This section applies where—

(a) a person (the employer) is liable to make to any individual payments from which income tax falls to be deducted by virtue of section 203 and regulations under that section, and

(b) the employer withholds sums from those payments in accordance with a scheme falling within subsection (3) of section 202 and pays the sums to an agent (within the meaning of subsection (4)(a) of that section).

(2) Any relevant expenditure incurred by the employer on or after 16th March 1993—

(a) shall be deducted in computing for the purposes of Schedule D the profits or gains of a trade, profession or vocation carried on by the employer, or

(b) if the employer is an investment company or a company in the case of which section 75 applies by virtue of section 76, shall be treated as expenses of management.

(3) Relevant expenditure is expenditure incurred in making to the agent any payment in respect of expenses which have been or are to be incurred by the agent in connection with his functions under the scheme."

Benefits in kind

70 Car benefits: 1993-94.

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

"**PART I**

TABLES OF FLAT RATE CASH EQUIVALENTS

Table A

CARS WITH AN ORIGINAL MARKET VALUE UP TO £19,250 AND HAVING A CYLINDER CAPACITY

Cylinder capacity of car in cubic centimetres	***Age of car at end of relevant year of assessment***	
	Under 4 years	4 years or more
1,400 or less	£2,310	£1,580
More than 1,400 but not more than 2,000	£2,990	£2,030
More than 2,000	£4,800	£3,220

Table B

CARS WITH AN ORIGINAL MARKET VALUE UP TO £19,250 AND NOT HAVING A CYLINDER CAPACITY

Original market value of car	***Age of car at end of relevant year of assessment***	
	Under 4 years	4 years or more
Less than £6,000	£2,310	£1,580
£6,000 or more but less than £8,500	£2,990	£2,030
£8,500 or more but not more than £19,250	£4,800	£3,220

Table C

CARS WITH AN ORIGINAL MARKET VALUE OF MORE THAN £19,250

Original market value of car	***Age of car at end of relevant year of assessment***	
	Under 4 years	4 years or more
More than £19,250 but not more than £29,000	£6,210	£4,180
More than £29,000	£10,040	£6,660"

(2) This section shall have effect for the year 1993-94.

71 Car fuel: 1993-94.

(1) In section 158 of the Taxes Act 1988 (car fuel) for the Tables in subsection (2) (tables of cash equivalents) there shall be substituted—

"TABLE A

Cylinder capacity of car in cubic centimetres	***Cash equivalent***
1,400 or less	£600
More than 1,400 but not more than 2,000	£760
More than 2,000	£1,130

TABLE AB

Cylinder capacity of car in cubic centimetres	***Cash equivalent***
2,000 or less	£550
More than 2,000	£710

TABLE B

Original market value of car	***Cash equivalent***
Less than £6,000	£600
£6,000 or more but less than £8,500	£760
£8,500 or more	£1,130"

(2) In subsection (5) of that section (reductions in cash equivalents) the words "or 3" shall be omitted.

(3) This section shall have effect for the year 1993-94.

72 Car and car fuel benefits: 1994-95 onwards.

Schedule 3 to this Act (which contains provisions, having effect for the year 1994-95 and subsequent years of assessment, about cars available for private use and car fuel) shall have effect.

73 Vans.

Schedule 4 to this Act (which contains provisions about vans available for private use) shall have effect.

74 Heavier commercial vehicles.

(1) In the Taxes Act 1988, after section 159AB (inserted by Schedule 4 to this Act) there shall be inserted the following section—

"**159AC Heavier commercial vehicles available for private use.**

(1) This section applies where in any year—

(a) a heavier commercial vehicle is made available to an employee in circumstances such that, had that vehicle been a van, the benefit so provided would have been chargeable to tax under section 159AA, and

(b) the employee's use of the vehicle is not wholly or mainly private use.

(2) Section 154 shall not apply to—

(a) the benefit so provided, or

(b) any benefit in connection with the vehicle other than a benefit in connection with the provision of a driver for the vehicle.

(3) The employee shall not be taxable—

(a) under Schedule E in respect of the discharge of any liability of his in connection with the vehicle;

(b) under section 141 or 142 in respect of any non-cash voucher or credit-token to the extent that it is used by him—

(i) for obtaining money which is spent on goods or services in connection with the vehicle, or

(ii) for obtaining such goods or services;

(c) under section 153 in respect of any payment made to him in respect of expenses incurred by him in connection with the vehicle.

(4) In this section "heavier commercial vehicle" means a mechanically propelled road vehicle which is—

(a) of a construction primarily suited for the conveyance of goods or burden of any description, and

(b) of a design weight exceeding 3,500 kilograms;

and "design weight" here means the weight which the vehicle is designed or adapted not to exceed when in normal use and travelling on a road laden.

(5) In this section—

(a) "private use", in relation to a vehicle made available to an employee, means any use other than for his business travel, and

(b) "business travel" means travelling which the employee is necessarily obliged to do in the performance of the duties of his employment."

F11(2) . . . . . .

(3) This section shall have effect for the year 1993-94 and subsequent years of assessment.

Textual Amendments

F11 S. 74(2) repealed (27.7.1999 with effect for the year 1999-00 and subsequent years of assessment) by 1999 c. 16, s. 139, **Sch. 20 Pt. III(9)** Note

75 Sporting and recreational facilities.

(1) After section 197F of the Taxes Act 1988 there shall be inserted the following section—

" Sporting and recreational facilities

197G Sporting and recreational facilities.

(1) No charge to tax under Schedule E shall arise in respect of the provision to any person in employment with any employer, or to any member of the family or household of such a person, of—

(a) any benefit to which this section applies; or

(b) any non-cash voucher which is capable of being exchanged only for a benefit to which this section applies.

(2) This section applies, subject to subsections (3) to (5) below, to any benefit consisting in, or in a right or opportunity to make use of, any sporting or other recreational facilities provided so as to be available generally to, or for use by, the employees of the employer in question.

(3) Except in such cases as may be prescribed, this section does not apply to any benefit consisting in—

(a) an interest in, or the use of, any mechanically propelled vehicle;

(b) an interest in, or the use of, any holiday or other overnight accommodation or any facilities which include, or are provided in association with, a right or opportunity to make use of any such accommodation;

(c) a facility provided on domestic premises;

(d) a facility provided so as to be available to, or for use by, members of the public generally;

(e) a facility which is used neither wholly nor mainly by persons whose right or opportunity to use it derives from employment (whether with the same employer or with different employers); or

(f) a right or opportunity to make use of any facility falling within any of the preceding paragraphs.

(4) For the purposes of subsection (3)(e) above a person's right or opportunity to use any facility shall be taken to derive from employment if, and only if—

(a) it derives from his being or having been an employee of a particular employer or a member of the family or household of a person who is or has been such an employee; and

(b) the facility is one which is provided so as to be available generally to the employees of that employer.

(5) The Treasury may by regulations provide—

(a) that such benefits as may be prescribed shall not be benefits to which this section applies; and

(b) that such other benefits as may be prescribed shall be benefits to which this section applies only where such conditions as may be prescribed are satisfied in relation to the terms on which, and the persons to whom, they are provided.

(6) In this section—

"domestic premises" means any premises used wholly or mainly as a private dwelling or any land or other premises belonging to, or enjoyed with, any premises so used;

"non-cash voucher" has the same meaning as in section 141;

"prescribed" means prescribed by regulations made by the Treasury;

"vehicle" includes any ship, boat or other vessel, any aircraft and any hovercraft;

and section 168(2) and (4) shall apply for the purposes of this section as it applies for the purposes of Chapter II of this Part."

(2) This section shall apply for the year 1993-94 and subsequent years of assessment.

76 Removal expenses and benefits.

Schedule 5 to this Act (which relates to the payment of expenses, and the provision of benefits, in respect of removals) shall have effect.

Taxation of distributions etc.

77 Application of lower rate.

F12(1) . . . . . .

F12(2) . . . . . .

(3) In section 249 of that Act (issues of share capital treated as income)—

(a) in subsection (4)—

(i) for the words "basic rate", in each place where they occur, there shall be substituted " lower rate "; and

(ii) in paragraph (c), for "which is not chargeable at the lower rate and" there shall be substituted " to which (without prejudice to paragraph (a) above) section 207A shall be taken to apply as it applies to income chargeable under Schedule F, but shall be treated ";

and

(b) in subsection (6)(b), for "basic rate" there shall be substituted " lower rate ".

(4) In section 421(1) of that Act (taxation of borrower where loan under section 419 released)—

(a) in paragraph (a), after "tax" there shall be inserted " at the lower rate ";

(b) in paragraph (b), for "basic rate" there shall be substituted " lower rate "; and

(c) in paragraph (c), for the words from "which is not" to "that paragraph" there shall be substituted " to which (without prejudice to paragraph (b) above) section 207A shall be taken to apply as it applies to income chargeable under Schedule F, but, notwithstanding the preceding provisions of this subsection ".

(5) This section shall apply in relation to the year 1993-94 and subsequent years of assessment.

Textual Amendments

F12 S. 77(1)(2) repealed (29.4.1996 with effect in accordance with s. 73 and Sch. 6 of the amending Act) by 1996 c. 8, s. 205, **Sch. 41 Pt. V(1)** Note 1

F13 78 . . . . . .

Textual Amendments

F13 S. 78 repealed (31.7.1998 with effect in accordance with Sch. 3 of the repealing Act) by 1998 c. 36, s. 165, **Sch. 27 Pt. III(2)**, Note

79 Provisions supplemental to sections 77 and 78.

(1) Schedule 6 to this Act (which makes further provision for the purposes of and in connection with the provisions of sections 77 and 78 above) shall have effect.

(2) Subject to that Schedule, subsection (3) of section 687 of the Taxes Act 1988 (definition of pool for the purposes of payments under discretionary trusts) shall have effect, and be deemed always to have had effect, as if—

(a) the repeal of paragraph (b) which was made by Part V of Schedule 17 to the **M2**Finance Act 1989 in relation to accounting periods beginning after 31st March 1989 had been confined to the following words in that paragraph, that is to say, "under section 462(2) as applied by section 686(4) or"; and

(b) that subsection included the following paragraph—

"(j) the amount of any tax on an amount which is treated as income of the trustees by virtue of paragraph 12 of Schedule 10 to the **M3**Finance Act 1990 and is charged to tax at a rate equal to the sum of the basic rate and the additional rate by virtue of paragraph 19 of that Schedule;".

F14(3) . . . . . .

Textual Amendments

F14 S. 79(3) repealed (29.4.1996 with effect in accordance with s. 73 and Sch. 6 of the amending Act) by 1996 c. 8, s. 205, **Sch. 41 Pt. V(1)** Note 1

Marginal Citations

M2 1989 c. 26.
M3 1990 c. 29.

80 Transitional relief for charities etc.

(1) In any case where—

(a) a qualifying distribution is made on or after 6th April 1993 and before 6th April 1997 by a company resident in the United Kingdom;

(b) the recipient of the distribution is a section 505 body; and

(c) the section 505 body is entitled to the payment of a tax credit in respect of the distribution,

the section 505 body, on a claim made under this section to the Board, shall (in addition to its entitlement to payment of the tax credit) be entitled to be paid by the Board out of money provided by Parliament an amount determined in accordance with subsection (2) below.

(2) The amount referred to in subsection (1) above is an amount equal to—

(a) one-fifteenth of the amount or value of the distribution if the distribution is made on or after 6th April 1993 and before 6th April 1994;

(b) one-twentieth of that amount or value if the distribution is made on or after 6th April 1994 and before 6th April 1995;

(c) one-thirtieth of that amount or value if the distribution is made on or after 6th April 1995 and before 6th April 1996;

(d) one-sixtieth of that amount or value if the distribution is made on or after 6th April 1996 and before 6th April 1997.

(3) For the purposes of this section each of the following is a section 505 body—

(a) any charity (as defined in section 506(1) of the Taxes Act 1988);

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

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

(4) Any entitlement of a section 505 body to a payment under the preceding provisions of this section shall be subject to a power of the Board to determine (whether before or after any payment is made) that, having regard to the operation in relation to the qualifying distribution in question of section 235, 237 or 703 of the Taxes Act 1988 (distributions of exempt funds, bonus issues and tax avoidance provisions), that body is to be treated as if it had had no entitlement to that payment or to so much of it as they may determine.

(5) No claim may be made under this section later than two years after the end of the chargeable period of the section 505 body in which the distribution is made.

(6) An appeal may be brought against any decision of the Board under this section by giving written notice to the Board within thirty days of receipt of written notice of the decision.

(7) An appeal under this section shall lie to the Special Commissioners, and the provisions of the [M4]Taxes Management Act 1970 relating to appeals under the Tax Acts shall apply to an appeal under this section as they apply to those appeals.

(8) Any payment of an amount under this section shall be treated for the purposes of section 252 of the Taxes Act 1988 (rectification of excessive set-off etc. of ACT or tax credit) as a payment of tax credit.

Marginal Citations

M4 1970 c. 9.

[F15]81 . . . . . .

Textual Amendments

F15 S. 81 repealed (31.7.1998 with effect in accordance with Sch. 3 of the repealing Act) by 1998 c. 36, s. 165, **Sch. 27 Pt. III(2)**, Note

Chargeable gains

82 Annual exempt amount for 1993-94.

For the year 1993-94 section 3 of the [M5]Taxation of Chargeable Gains Act 1992 (annual exempt amount) shall have effect as if the amount specified in subsection (2) were £5,800, and accordingly subsection (3) of that section (indexation) shall not apply for that year.

Marginal Citations

M5 1992 c. 12.

83 Annual exempt amount: indexation for 1994-95 onwards.

(1) In section 3(3) of the [M6]Taxation of Chargeable Gains Act 1992 (indexation of annual exempt amount) for "December" (in each place) there shall be substituted " September ".

(2) This section shall have effect for the year 1994-95 and subsequent years of assessment.

Marginal Citations

M6 1992 c. 12.

84 Re-organisations etc. involving debentures.

(1) In section 117 of the Taxation of Chargeable Gains Act 1992 (meaning of qualifying corporate bond), after subsection (6) there shall be inserted the following subsection—

"(6A) For the purposes of this section "corporate bond" also includes, except in relation to a person who acquires it on or after a disposal in relation to which section 115 has or has had effect in accordance with section 116(10)(c), any debenture issued on or after 16th March 1993 which is not a security (as defined in section 132) but—

(a) is issued in circumstances such that it would fall by virtue of section 251(6) to be treated for the purposes of section 251 as such a security; and

(b) would be a corporate bond if it were a security as so defined."

(2) In section 251 of that Act (general provisions in relation to debts), after subsection (5) there shall be inserted the following subsection—

"(6) For the purposes of this section a debenture issued by any company on or after 16th March 1993 shall be deemed to be a security (as defined in section 132) if—

(a) it is issued on a reorganisation (as defined in section 126(1)) or in pursuance of its allotment on any such reorganisation;

(b) it is issued in exchange for shares in or debentures of another company and in a case unaffected by section 137 where one or more of the conditions mentioned in paragraphs (a) to (c) of section 135(1) is satisfied in relation to the exchange;

(c) it is issued under any such arrangements as are mentioned in subsection (1)(a) of section 136 and in a case unaffected by section 137 where section 136 requires shares or debentures in another company to be treated as exchanged for, or for anything that includes, that debenture; or

(d) it is issued in pursuance of rights attached to any debenture issued on or after 16th March 1993 and falling within paragraph (a), (b) or (c) above."

(3) This section shall have effect in relation to any chargeable period ending on or after 16th March 1993 but, in relation to any accounting period of a company which began before 6th April 1992, this section shall have effect as if the references in this section, and in the amendments made by this section, to provisions of the Taxation of Chargeable Gains Act 1992 were references to such of the provisions of the [M7]Capital Gains Tax Act 1979 and the [M8]Finance Act 1984 as correspond to those provisions and have effect in relation to that accounting period.

Marginal Citations

M7 1979 c. 14.

M8 1984 c. 43.

85 Personal equity plans.

After subsection (3) of section 151 of the Taxation of Chargeable Gains Act 1992 (personal equity plans) there shall be inserted the following subsection—

"(4) Regulations under this section may include provision which, for cases where a person subscribes to a plan by transferring or renouncing shares or rights to shares—

(a) modifies the effect of this Act in relation to their acquisition and their transfer or renunciation; and

(b) makes consequential modifications of the effect of this Act in relation to anything which (apart from the regulations) would have been regarded on or after their acquisition as an indistinguishable part of the same asset."

86 Roll-over relief.

(1) In section 155 of the [M9]Taxation of Chargeable Gains Act 1992 (classes of assets for the purposes of roll-over relief), after Class 5 there shall be inserted—

"**CLASS 6**

Ewe and suckler cow premium quotas (that is, rights in respect of any ewes or suckler cows to receive payments by way of any subsidy entitlement to which is determined by reference to limits contained in a Community instrument)."

(2) The Treasury may by order made by statutory instrument amend that section so as to add one or more further classes of assets to the classes specified in that section.

(3) A statutory instrument containing an order under subsection (2) above shall be subject to annulment in pursuance of a resolution of the House of Commons.

(4) Subsection (1) above shall apply where the disposal of the old assets (or an interest in them) or the acquisition of the new assets (or an interest in them) is on or after 1st January 1993; but, in relation to any accounting period of a company which began before 6th April 1992, subsection (1) above shall have effect as if the inserted class were numbered 5 and were inserted after Class 4 in section 118 of the [M10]Capital Gains Tax Act 1979.

Marginal Citations

M9 1992 c. 12.

M10 1979 c. 14.

87 Relief on retirement or re-investment.

(1) Schedule 7 to this Act (which amends the provisions of the Taxation of Chargeable Gains Act 1992 with respect to retirement relief and makes new provision in relation to relief on the re-investment of certain gains) shall have effect.

(2) This section and that Schedule shall have effect in relation to any disposal made on or after 16th March 1993.

88 Restriction on set-off of pre-entry losses.

(1) After section 177 of the Taxation of Chargeable Gains Act 1992 there shall be inserted the following section—

"**177A Restriction on set-off of pre-entry losses.**

Schedule 7A to this Act (which makes provision in relation to losses accruing to a company before the time when it becomes a member of a group of companies and losses accruing on assets held by any company at such a time) shall have effect."

(2) The Schedule set out in Schedule 8 to this Act shall be inserted after Schedule 7 to that Act.

(3) This section and that Schedule—

(a) shall apply for the calculation of the amount to be included in respect of chargeable gains in a company's total profits for any accounting period ending on or after 16th March 1993; but

(b) shall so apply only in relation to the deduction from chargeable gains accruing on or after 16th March 1993 of amounts in respect of, or of amounts carried forward in respect of—

(i) pre-entry losses accruing before it became a member of the relevant group to a company whose membership of that group began or begins at a time on or after 1st April 1987; and

(ii) losses accruing on the disposal of any assets so far as it is by reference to such a company that the assets fall to be treated as being or having been pre-entry assets or assets incorporating a part referable to pre-entry assets.

(4) In relation to accounting periods beginning before 6th April 1992 this section and that Schedule shall have effect as if—

(a) the section and Schedule inserted by subsections (1) and (2) above were inserted in the [M11]Capital Gains Tax Act 1979; and

(b) references in the Schedule so inserted to provisions of the [M12]Taxation of Chargeable Gains Act 1992 were references to such of the provisions of that Act of 1979 or of any other enactment as correspond to the provisions referred to and have effect in relation to that accounting period.

Marginal Citations

M11 1979 c. 14.

M12 1992 c. 12.

89 De-grouping charges.

(1) In section 179(4) of the Taxation of Chargeable Gains Act 1992 (time at which de-grouping charges accrue), for the words from "as follows" onwards there shall be substituted "at whichever is the later of the following, that is to say—

(a) the time immediately after the beginning of the accounting period of that company in which or, as the case may be, at the end of which the company ceases to be a member of the group; and

(b) the time when under subsection (3) above it is treated as having reacquired the asset;

and subsection (2) of section 409 of the Taxes Act (group relief) shall require any apportionment under that subsection to be made accordingly but shall not require any reference in this subsection to an accounting period to have effect for any of the purposes specified in subsection (3) of that section as a reference to any accounting period other than a true accounting period. "

(2) This section shall have effect in relation to accounting periods ending after the day appointed for the purposes of section 180(1)(b) of that Act.

[F16]**90** . . . . . .

Textual Amendments

F16 S. 90 repealed (28.7.2000 with effect as mentioned in Sch. 40 Pt. II(12), note 10 of the amending Act) by 2000 c. 17, s. 156, **Sch. 40 Pt. II(12)**

91 Deemed disposals of unit trusts by insurance companies.

(1) Section 212 of the Taxation of Chargeable Gains Act 1992 (annual deemed disposal by insurance companies of unit trusts) shall have effect in relation to accounting periods beginning on or after 1st January 1993; and neither that section nor section 46 of the [M13]Finance Act 1990 (which is consolidated in that section) shall have effect in relation to any earlier accounting period in relation to which either of them would have applied apart from this subsection.

(2) In relation to any accounting period beginning on or after 1st January 1993—

(a) section 432A of the Taxes Act 1988 shall have effect with the omission of subsection (10) (which disapplies the apportionment rules in that section in the case of a deemed disposal under section 212 of that Act of 1992); and

(b) that section 212 shall have effect with the omission, in subsection (2), of the words from "and in relation to" onwards and of subsections (3), (4) and (6) (which provide for a different apportionment rule in the case of the deemed disposal).

(3) In subsection (7) of that section 212, in the words after paragraph (b) (application of definitions in the Taxes Act 1988), for "and 214" there shall be substituted " to 214A ".

(4) After section 213(1) of that Act of 1992 (spreading of gains and losses), there shall be inserted the following subsection—

"(1A) Subsection (1) above shall not apply to chargeable gains or allowable losses except so far as they are gains or losses which—

(a) are referable to basic life assurance and general annuity business; or

(b) would (apart from that subsection) be taken into account in computing the profits of any business treated as a separate business under section 458 of the Taxes Act;

and that subsection shall apply separately in relation to the gains and losses falling within paragraph (a) above and those falling within paragraph (b) above for the purpose of determining what chargeable gains or allowable losses so referable are to be treated as accruing under that subsection and what chargeable gains or allowable losses to be so taken into account are to be treated as so accruing."

(5) Section 214 of that Act of 1992 shall have effect with the omission of subsections (3) to (5) (run-off relief), and after that section there shall be inserted the following section—

"214A Further transitional provisions.

(1) This section applies where within two years after the end of an accounting period beginning on or after 1st January 1993 ("the relevant period")—

(a) an insurance company makes a claim for the purposes of this section in relation to that period; and

(b) that period is one of the company's first eight accounting periods after the end of 1992.

(2) Where this section applies, section 213 shall have effect as if—

(a) the amount of the chargeable gains which—

(i) apart from that section and this section, would be treated as accruing on disposals deemed by virtue of section 212 to have been made at the end of the relevant period, and

(ii) satisfy the condition specified in paragraph (a) of section 213(1A),

were reduced by the protected proportion of that amount; and

(b) an amount equal to the appropriate part of that reduction were (subject to section 213) a chargeable gain satisfying that condition and accruing at the end of each of the accounting periods in which the reduction is to be taken into account.

(3) For the purposes of subsection (2) above the protected proportion, in relation to the relevant period, of the amount mentioned in paragraph (a) of that subsection shall be an amount equal to the amount calculated in accordance with the following formula—

$$\left(A + \frac{\text{B}\times C}{D}\right) x \frac{E}{F} x \frac{G}{8}$$

(4) In subsection (3) above—

A is so much of the amount mentioned in subsection (2)(a) above as represents chargeable gains on section 212 assets which at the end of the relevant period were linked solely to the basic life assurance and general annuity business of the company in question;

B is so much of the amount so mentioned as represents chargeable gains on linked section 212 assets which at the end of that period were partially linked to that business;

C is the amount of such of the closing liabilities at the end of that period of the company's basic life assurance and general annuity business as were liabilities in respect of benefits to be determined by reference to the value of linked section 212 assets which were then partially linked to that business;

D is the amount of all the closing liabilities of the company at the end of that period which were long term business liabilities in respect of benefits to be so determined;

E is the amount of such of the closing liabilities of the company on the relevant date as were relevant linked liabilities in respect of benefits determined by reference to linked section 212 assets;

F is the amount of all the closing liabilities on the relevant date of the company's basic life assurance and general annuity business which were liabilities in respect of such benefits; and

G is the number of accounting periods in the first nine accounting periods of the company after the end of 1992 which remain after the end of the relevant period or, as the case may be, which would so remain apart from any cessation of the carrying on of any business of the company;

and for the purposes of this subsection the relevant date is, subject to subsection (7) below, the time of the first disposal which is deemed to have been made by the company in question under section 212.

(5) For the purposes of this section and subject to subsection (6) below—

(a) a reduction made under subsection (2) above in relation to the accounting period of any company shall be taken into account in every succeeding accounting period of that company which is included in the first nine accounting periods of that company after the end of 1992; and

(b) in relation to any accounting period in which a reduction is to be taken into account, the appropriate part of the reduction is—

(i) if that is the only accounting period in which it falls to be taken into account, the whole of the reduction; and

(ii) in any other case, the amount of the reduction divided by the number of the accounting periods after the period in which the reduction is made in which the reduction falls to be taken into account or, as the case may be, would so fall apart from any cessation of the carrying on of any business of the company.

(6) Subject to subsection (7) below, where a company ceases to carry on long term business before the end of the first nine accounting periods after the end of 1992, the appropriate part of any reduction in relation to the accounting period ending with the cessation shall be such as to secure that the whole of the reduction has been taken into account under subsection (2)(b) above.

(7) Where at any time on or after 1st January 1993 there is a transfer of the whole or part of the long term business of an insurance company ("the transferor") to another company ("the transferee") in accordance with a scheme sanctioned by a court under section 49 of the [M14]Insurance Companies Act 1982, this section shall have effect so that—

(a) the relevant date for the purposes of subsection (4) above shall be determined in relation to any disposal deemed to have been made after the transfer—

(i) by the transferee, or

(ii) in a case where the transfer is of part of the transferor's long term business, by the transferee or the transferor,

as if there had been no deemed disposals under section 212 before the transfer; and

(b) any reduction which (on the assumption that the transferor had continued to carry on the transferred business) would have fallen to be taken into account under subsection (2)(b) above shall be taken into account instead in relation to the transferee.

(8) Where the transfer is of part only of the transferor's long term business, subsection (7)(b) above shall apply only to such part of any reduction to which it would otherwise apply as is appropriate.

(9) Any question arising as to the operation of subsection (8) above shall be determined by the Special Commissioners who shall determine the question in the same manner as they determine appeals; but both the transferor and

transferee shall be entitled to appear and be heard or to make representations in writing.

(10) This section shall have effect in relation to any cases in which there is such a transfer as is mentioned in subsection (7) above as if the accounting periods to be taken into account in any calculation for the purposes of this section of the number of accounting periods of the transferee after the end of 1992, and the only accounting periods in relation to which any reduction is to be taken into account under paragraph (b) of that subsection, were—

(a) the accounting periods of the transferor which began on or after 1st January 1993 and ended on or before the day of the transfer (including any which, by reference to a transfer in relation to which the transferor is a transferee, are taken into account in accordance with this subsection as accounting periods of the transferor); and

(b) the accounting periods of the transferee ending after the day of the transfer,

and this section shall have effect in relation to such a reduction as if the first accounting period of the transferee to end after the day of the transfer began with the day after the transfer.

(11) For the purposes of this section assets shall be taken to be partially linked to a company's basic life assurance and general annuity business if they are not linked solely to that business and are neither—

(a) linked solely to any pension business or long term business of that company other than life assurance business; nor

(b) assets of the company's overseas life assurance fund;

and subsection (1) of section 214 shall apply for the purposes of this section as it applies for the purposes of that section.

(12) Subject to subsection (10) above, the references in this section, in relation to any company, to the first eight accounting periods of a company after the end of 1992 are references to the first accounting period of that company to begin on or after 1st January 1993 and to the succeeding seven accounting periods of that company, and references to the first nine accounting periods of a company after the end of 1992 shall be construed accordingly."

(6) In section 214(6)(a) of that Act of 1992 (replacement relief), after "1989" there shall be inserted " and before the time when it is first deemed under section 212 to have made a disposal of any assets ".

Marginal Citations

M13 1990 c. 29.

M14 1982 c. 50.

Corporation tax: currency

[F17 92 The basic rule: sterling to be used.

(1) Where a company carries on a business, the profits or losses of the business for an accounting period shall for the purposes of corporation tax be computed and expressed in sterling; but this is subject to section 93 below.

(2) In this section—

"losses" includes management expenses and any allowances falling to be made under section 28 or 61(1) of the M15Capital Allowances Act 1990;

"profits" includes gains, income and any charges falling to be made under section 28 or 61(1) of that Act.]

Textual Amendments

F17 Ss. 92-94 substituted (28.7.2000 with effect as mentioned in 105(2)-(5) of the amending Act) for ss. 92-95 by 2000 c. 17, **s. 105(1)**

Marginal Citations

M15 1990 c. 1.

[F18 93 Use of currency other than sterling.

(1) This section applies where in an accounting period a company carries on a business and either the first condition or the second condition is fulfilled.

(2) The first condition is that—

(a) the accounts of the company as a whole are prepared in a currency other than sterling in accordance with normal accounting practice; and

(b) in the case of a company which is not resident in the United Kingdom, the company makes a return of accounts for its branch in the United Kingdom prepared in such a currency in accordance with such practice.

(3) The second condition is that—

(a) the accounts of the company as a whole are prepared in sterling but, so far as relating to the business, they are prepared, using the closing rate/net investment method, from financial statements prepared in a currency other than sterling; or

(b) in the case of a company which is not resident in the United Kingdom, the company makes a return of accounts for its branch in the United Kingdom prepared in sterling but, so far as relating to the business, it is prepared, using that method, from financial statements prepared in such a currency.

(4) The profits or losses of the business for an accounting period shall for the purposes of corporation tax be found by—

(a) taking the amount of all the profits and losses of the business for the period computed and expressed in the relevant foreign currency;

(b) taking account of any of the following which are so computed and expressed—

(i) any management expenses brought forward under section 75(3) of the Taxes Act 1988 from an earlier accounting period;

(ii) any losses of the business brought forward under section 392B or 393 of that Act from such a period; and

(iii) any non-trading deficits on loan relationships brought forward under section 83 of the [M16]Finance Act 1996 from the previous accounting period; and

(c) taking the sterling equivalent of the amount found by applying paragraphs (a) and (b) above.

(5) In the application of section 22B, 34, 35, 38C, 38D or 79A of the [M17]Capital Allowances Act 1990 for the purposes of subsection (4)(a) or (b) above, it shall be assumed that any sterling amount mentioned in any of those sections is its equivalent expressed in the relevant foreign currency.

(6) Where in an accounting period—

(a) a company carries on different parts of a business through different branches (whether within or outside the United Kingdom); and

(b) this section would apply differently in relation to different parts if they were separate businesses,

those parts shall be treated for the purposes of this section as if they were separate businesses for that period.

(7) In this section, unless the context otherwise requires—

"accounts", in relation to a company, means—

(a) the annual accounts of the company prepared in accordance with Part VII of the [M18]Companies Act 1985 or Part VIII of the [M19]Companies (Northern Ireland) Order 1986; or

(b) if the company is not required to prepare such accounts, the accounts which it is required to keep under the law of its home State; or

(c) if the company is not so required to keep accounts, such of its accounts as most closely correspond to accounts which it would have been required to prepare if the provisions of that Part applied to it;

"branch" includes any collection of assets and liabilities;

"the closing rate/net investment method" means the method so called as described under the title "Foreign currency translation" in the Statement of Standard Accounting Practice issued in April 1983 by the Institute of Chartered Accountants in England and Wales;

"home State", in relation to a company, means the country or territory under whose laws the company is incorporated;

"losses" has the same meaning as in section 92 above except that it does not include allowable losses within the meaning of the [M20]Taxation of Chargeable Gains Act 1992;

"profits" has the same meaning as in section 92 above except that it does not include chargeable gains within the meaning of that Act;

"the relevant foreign currency" means the currency other than sterling or, where the first condition is fulfilled and two different such currencies are involved, the currency in which the return of accounts is prepared;

"return of accounts", in relation to a branch in the United Kingdom, means a return of such accounts of the branch as may be required by the Inland

Revenue under paragraph 3 of Schedule 18 to the Finance Act 1998 (company tax returns, assessments and related matters).**]**

Textual Amendments

F18 Ss. 92-94 substituted (28.7.2000 with effect as mentioned in 105(2)-(5) of the amending Act) for ss. 92-95 by 2000 c. 17, **s. 105(1)**

Marginal Citations

M16 1996 c. 8.
M17 1990 c. 1.
M18 1985 c. 6.
M19 S.I. 1986/1032 (N.I.6).
M20 1992 c. 12.

VALID FROM 24/07/2002

[F19 93A Use of other currency: accounts partly from statements in foreign currency

(1) This section applies where in an accounting period a company carries on a business and either the first condition or the second condition is fulfilled.

(2) The first condition is that—

(a) the accounts of the company as a whole are prepared in sterling but, so far as relating to part of the business, they are prepared, using the closing rate/ net investment method, from financial statements and records prepared in a currency other than sterling; or

(b) in the case of a company which is not resident in the United Kingdom, the company makes a return of accounts for its branch in the United Kingdom prepared in sterling but, so far as relating to part of the business, it is prepared, using that method, from financial statements and records prepared in a currency other than sterling.

(3) The second condition is that—

(a) the accounts of the company as a whole are prepared in a currency other than sterling (“the first currency”) in accordance with generally accepted accounting practice but, so far as relating to part of the business, they are prepared, using the closing rate/net investment method, from financial statements and records prepared in a currency (“the second currency”) which is neither sterling nor the first currency; or

(b) in the case of a company which is not resident in the United Kingdom, the company makes a return of accounts for its branch in the United Kingdom prepared in a currency other than sterling (“the first currency”) in accordance with generally accepted accounting practice, but, so far as relating to part of the business, it is prepared, using the closing rate/ net investment method, from financial statements and records prepared in a currency (“the second currency”) which is neither sterling nor the first currency.

(4) The profits or losses of the part of the business for an accounting period shall for the purposes of corporation tax be found by—

(a) taking the amount of all the profits and losses of the part of the business for the period computed and expressed in the relevant foreign currency; and

(b) taking—

(i) in a case where the first condition is fulfilled, the sterling equivalent, or

(ii) in a case where the second condition is fulfilled, the equivalent in the first currency,

of the amount found by applying paragraph (a) above.

(5) In a case where the second condition is fulfilled, effect shall be given to subsection (4) above before effectis given to section 93(4) above.

(6) In the application for the purposes of subsection (4)(a) above of—

(a) section 578A(2) or (3) of the Taxes Act 1988, or

(b) section 43(3), 74(2), 75(1), 76(2), (3) or (4), 99(1), (2) or (3) or 208(1) of the Capital Allowances Act,

it shall be assumed that any sterling amount mentioned in any of those sections is its equivalent expressed in the relevant foreign currency.

(7) Where for any accounting period—

(a) the accounts of the company, so far as relating to a part of its business, are prepared, using the closing rate/net investment method, from financial statements and records prepared in a currency which is not sterling and, where the second condition is fulfilled, is not the first currency, or

(b) in the case of a company which is not resident in the United Kingdom, its return of accounts for its branch in the United Kingdom, so far as relating to a part of the company's business, is prepared, using that method, from such financial statements and records,

then, if different such financial statements and records are prepared in different currencies, the company shall be treated for the purposes of this section as having a separate part of a separate business for each such different currency (and this section shall accordingly apply separately in relation to each such part).

(8) In this section, "part of a business" includes any collection of assets and liabilities.

(9) In this section, unless the context otherwise requires—

"accounts" has the same meaning as in section 93 above;

"the closing rate/net investment method" means the method so called as described under the title "Foreign currency translation" in the Statement of Standard Accounting Practice issued in April 1983 by the Institute of Chartered Accountants in England and Wales;

"losses" has the same meaning as in section 92 above, except that it does not include allowable losses within the meaning of the Taxation of Chargeable Gains Act 1992;

"profits" has the same meaning as in section 92 above, except that it does not include chargeable gains within the meaning of that Act;

"the relevant foreign currency" means the currency in which the financial statements and records mentioned in subsection (2) or, as the case may be, (3) above are prepared;

"return of accounts" has the same meaning as in section 93 above.**]**

Textual Amendments

F19 S. 93A inserted (24.7.2002 with effect as mentioned in s. 80(2) of the amending Act) by 2002 c. 23, s. 80, **Sch. 24 para. 4** (with Sch. 23 para. 25)

Modifications etc. (not altering text)

C3 Ss. 92-94AB applied (24.7.2002 with effect as mentioned in s. 80(2) of the amending Act) by 2002 c. 23, s. 80, **Sch. 24 para. 7(2)** (with Sch. 23 para. 25)

VALID FROM 24/07/2002

[F20 94AA Rules for ascertaining currency equivalents: general

(1) Where any receipt or expense, or the value of any asset, liability or derivative contract, of a company—

(a) is to be taken into account in making a computation under subsection (1) of section 92 above for an accounting period, and

(b) is denominated in a currency other than sterling,

it shall be translated into its sterling equivalent by reference to a rate determined in accordance with subsection (4) below.

(2) Where the amount of any receipt or expense, or the value of any asset, liability or derivative contract, of a company—

(a) falls to be brought into account for the purposes of the accounts mentioned in paragraph (a), or the return of accounts mentioned in paragraph (b), of subsection (2) of section 93 above,

(b) is denominated in a currency other than the relevant foreign currency, within the meaning of that section, and

(c) accordingly falls to be translated into the relevant foreign currency,

the amount or value shall for the purposes of that section be translated from the currency mentioned in paragraph (b) above into the relevant foreign currency by reference to a rate determined in accordance with subsection (4) below.

(3) Where, for any purpose of any provision of section 93A(4) or (6) above, any profit or loss denominated in one currency falls to be translated into its equivalent expressed in another currency, the translation shall be made by reference to a rate determined in accordance with subsection (4) below.

(4) The rate is—

(a) the rate used in the preparation of the accounts of the company for the accounting period in question, if that rate is an arm's length exchange rate for the relevant day, or

(b) in any other case, the London closing exchange rate for the relevant day.

(5) The reference in subsection (4)(a) above to the exchange rate used in the preparation of the accounts of the company includes a reference to any exchange rate implied by a derivative contract whose underlying subject matter is currency.

(6) Nothing in this section affects the operation of Chapter 4 of Part 17 of the Taxes Act 1988 (controlled foreign companies).

(7) Nothing in paragraph 88 of Schedule 18 to the Finance Act 1998 (company tax returns, assessments and related matters) shall be taken to prevent an amount being translated under this section for an accounting period by reference to an exchange rate which was not the exchange rate used to translate that amount for the purposes of the Corporation Tax Acts for another accounting period (whether of the same or a different company).

(8) In this section—

"accounts" has the same meaning as in section 93 above;

"arm's length exchange rate" means such exchange rate as might reasonably be expected to be agreed between persons dealing at arm's length;

"derivative contract" shall be construed in accordance with Schedule 26 to the Finance Act 2002;

"the relevant day"—

(a) where the rate used in the preparation of the accounts is an exchange rate for a particular day, means that day; and

(b) where the rate used in the preparation of the accounts is an average rate for a number of days, means each of those days;

"underlying subject matter", in relation to a derivative contract, shall be construed in accordance with Schedule 26 to the Finance Act 2002.**]**

Textual Amendments

F20 S. 94AA substituted (24.7.2002 with effect as mentioned in s. 80(2) of the amending Act) for s. 94 by 2002 c. 23, s. 80, **Sch. 24 para. 5** (with Sch. 23 para. 25)

Modifications etc. (not altering text)

C4 Ss. 92-94AB applied (24.7.2002 with effect as mentioned in s. 80(2) of the amending Act) by 2002 c. 23, s. 80, **Sch. 24 para. 7(2)** (with Sch. 23 para. 25)

VALID FROM 24/07/2002

[F21 94AB Rules for ascertaining sterling equivalent for section 93(4) or (5)

(1) Where the amount of any receipt or expense, or the value of any asset, liability or derivative contract, of a company falls to be translated into its sterling equivalent for the purposes of section 93(4) or (5) above, the translation shall be made by reference to a rate which is an arm's length exchange rate for the appropriate day.

(2) For the purposes of subsection (1) above, the "appropriate day" is the day the rate for which would have been used if the accounts, or return of accounts, of the company were translated into sterling in accordance with generally accepted accounting practice in relation to foreign currency translation.

(3) Nothing in this section affects the operation of Chapter 4 of Part 17 of the Taxes Act 1988 (controlled foreign companies).

(4) Nothing in paragraph 88 of Schedule 18 to the Finance Act 1998 (company tax returns, assessments and related matters) shall be taken to prevent an amount being translated under this section for an accounting period by reference to an exchange

rate which was not the exchange rate used to translate that amount for the purposes of the Corporation Tax Acts for another accounting period (whether of the same or a different company).

(5) In this section—

"accounts" has the same meaning as in section 93 above;

"arm's length exchange rate" has the same meaning as in section 94AA;

"derivative contract" shall be construed in accordance with Schedule 26 to the Finance Act 2002.**]**

Textual Amendments

F21 S. 94AB inserted (24.7.2002 with effect as mentioned in s. 80(2) of the amending Act) by 2002 c. 23, s. 80, **Sch. 24 para. 6** (with Sch. 23 para. 25)

Modifications etc. (not altering text)

C5 Ss. 92-94AB applied (24.7.2002 with effect as mentioned in s. 80(2) of the amending Act) by 2002 c. 23, s. 80, **Sch. 24 para. 7(2)**

[F22 94 Rules for ascertaining currency equivalents.

(1) Any receipt or expense which is to be taken into account in making a computation under subsection (1) of section 92 above for an accounting period, and is denominated in a currency other than sterling, shall be translated into its sterling equivalent—

(a) if either of the conditions mentioned in subsection (2) below is fulfilled, by reference to the rate used in the preparation of the accounts of the company as a whole for that period;

(b) if neither of those conditions is fulfilled, by reference to the London closing exchange rate for the relevant day.

(2) The conditions are—

(a) that the rate is an arm's length exchange rate for the relevant day;

(b) that the rate is an average arm's length exchange rate for a period ending with that day, or for a period not exceeding three months which includes that day, and the arm's length exchange rate for any day in that period (except the first) is not significantly different from that for the preceding day.

(3) Subject to subsections (5) and (7) below, any amount found by applying paragraphs (a) and (b) of subsection (4) of section 93 above shall be translated into its sterling equivalent by reference to the London closing exchange rate for the relevant day.

(4) The following—

(a) any receipt or expense which is to be taken into account in making a calculation for the purposes of subsection (4)(a) or (b) of section 93 above, and is denominated in a currency other than the relevant foreign currency; and

(b) any such sterling amount as is referred to in subsection (5) of that section,

shall be translated into its equivalent expressed in the relevant foreign currency by reference to the London closing exchange rate for the relevant day.

(5) Where section 93 above applies by virtue of the first condition mentioned in that section, then, as regards the business or part of the business, the company—

(a) may elect, by a notice given to an officer of the Board, that as from the first day of the accounting period in which the notice is given, an average arm's length exchange rate shall be used for the purposes of subsection (3) above instead of the rate there mentioned; and

(b) may withdraw such an election, by a notice so given, as from the first day of the first accounting period beginning on or after the date of the notice.

(6) Where an election under subsection (5) above is withdrawn, no further election may be made under that subsection so as to take effect before the third anniversary of the day on which the withdrawal takes effect.

(7) Where—

(a) section 93 above applies by virtue of the second condition mentioned in that section; and

(b) the accounts of the company, so far as relating to the business or part of the business, are prepared by reference to an average arm's length exchange rate,

that exchange rate shall be used for the purposes of subsection (3) above instead of the rate there mentioned.

(8) In this section—

"accounts" has the same meaning as in section 93 above;

"arm's length exchange rate" means such exchange rate as might reasonably be expected to be agreed between persons dealing at arm's length;

"average arm's length exchange rate", in relation to a period, means the rate which represents an appropriate average of arm's length exchange rates for the period;

"the relevant day" means—

(a) for the purposes of subsections (1), (2) and (4)(a) above, the day on which the company becomes entitled to the receipt or incurs (or is treated as incurring) the expense;

(b) for the purposes of subsection (3) above, the last day of the accounting period in question;

(c) for the purposes of subsection (4)(b) above, the day on which the company incurs the capital expenditure.

(9) Nothing in this section affects the operation of Chapter IV of Part VII of the Taxes Act 1988 (controlled foreign companies) or Chapter II of this Part.

(10) Nothing in paragraph 88 of Schedule 18 to the [M21]Finance Act 1998 (company tax returns, assessments and related matters) shall be taken to prevent any amount which is taken to be conclusively determined for the purposes of the Corporation Tax Acts from being translated under this section by reference to an exchange rate which was not used to determine the amount which can no longer be altered.**]**

Textual Amendments

F22 Ss. 92-94 substituted (28.7.2000 with effect as mentioned in 105(2)-(5) of the amending Act) for ss. 92-95 by 2000 c. 17, **s. 105(1)**

Modifications etc. (not altering text)

C6 Ss. 92-94AB applied (24.7.2002 with effect as mentioned in s.80(2) of the amending Act) by 2002 c. 23, s. 80, **Sch.24**, para. 7(2) (with Sch. 23, para. 25)

Marginal Citations
M21 1998 c. 36.

[F28 96 Foreign companies: trading currency.

(1) In Schedule 24 to the Taxes Act 1988 (assumptions for calculating chargeable profits, creditable tax and corresponding United Kingdom tax of foreign companies) the following paragraph shall be inserted after paragraph 4—

"4A (1) Sub-paragraph (2) below applies where—

(a) the company carries on a trade, and

(b) the currency used in the accounts of the company for an accounting period is a currency other than sterling.

(2) It shall be assumed that by virtue of regulations under section 93 of the Finance Act 1993 (corporation tax: currency to be used) the basic profits or losses of the trade for the accounting period are to be computed and expressed for the purposes of corporation tax in the currency used in the accounts of the company for the period.

(3) References in this paragraph to the accounts of a company—

(a) are to the accounts which the company is required by the law of its home State to keep, or

(b) if the company is not required by the law of its home State to keep accounts, are to the accounts of the company which most closely correspond to the individual accounts which companies formed and registered under the M22Companies Act 1985 are required by that Act to keep;

and for the purposes of this paragraph the home State of a company is the country or territory under whose law the company is incorporated.

(4) The reference in sub-paragraph (2) above to the basic profits or losses of the trade for the accounting period shall be construed in accordance with section 93 of the Finance Act 1993."

(2) This section applies in relation to any accounting period beginning on or after the day appointed under section 165(7)(b) below.**]**

Textual Amendments
F28 S. 96 repealed (*retrospectively*) by 1995 c. 4, s. 162, **Sch. 29 Pt. VIII(18)**, Note

Marginal Citations
M22 1985 c. 6.

Overseas life insurance companies

97 Modification of Taxes Act 1988.

(1) The following shall be inserted after section 444A of the Taxes Act 1988—

" Provisions applying in relation to overseas life insurance companies

444B Modification of Act in relation to overseas life insurance companies.

Schedule 19AC (which makes modifications of this Act in relation to overseas life insurance companies) shall have effect."

(2) Schedule 9 to this Act (which inserts Schedule 19AC into that Act and makes further provision) shall have effect.

98 Modification of section 440 of Taxes Act 1988.

(1) The following section shall be inserted after section 444B of the Taxes Act 1988—

"**444C Modification of section 440.**

(1) Where the company mentioned in section 440(1) is an overseas life insurance company, section 440 shall have effect with the modifications in subsections (2) and (3) below.

(2) Subsection (4) shall be treated as if—
- (a) paragraph (c) were omitted;
- (b) in paragraphs (a), (b), (d) and (e), the words "UK assets" were substituted for the word "assets"; and
- (c) at the end there were inserted the following paragraphs—
  - (f) section 11C assets;
  - (g) non-UK assets."

(3) The following subsection shall be treated as inserted at the end of the section—

(6) For the purposes of this section—
- (a) UK assets are—
  - (i) section 11(2)(b) assets;
  - (ii) section 11(2)(c) assets; or
  - (iii) assets which by virtue of section 11B are attributed to the branch or agency in the United Kingdom through which the company carries on life assurance business;
- (b) section 11C assets are assets—
  - (i) (in a case where section 11C (other than subsection (9)) applies) of the relevant fund, other than UK assets; or
  - (ii) (in a case where that section including that subsection applies) of the relevant funds, other than UK assets;
- (c) non-UK assets are assets which are not UK assets or section 11C assets;

and any expression used in this subsection to which a meaning is given by section 11A has that meaning."

(4) Where one or each of the companies mentioned in section 440(2) is an overseas life insurance company, section 440(2)(b) and (4) shall have effect as if for "categories", in each place where the word occurs, there were substituted "paragraphs".

(5) Where the transferor company mentioned in section 440(2) is an overseas life insurance company, section 440 shall have effect, as regards the time immediately before the acquisition, with the modifications in subsections (2) and (3) above.

(6) Where the acquiring company mentioned in section 440(2) is an overseas life insurance company, section 440 shall have effect, as regards the time immediately after the acquisition, with the modifications in subsections (2) and (3) above."

(2) This section shall apply—

(a) so far as section 440(1) is concerned, as regards events falling on or after the first day of the relevant accounting period of the company concerned;

(b) so far as section 440(2) is concerned, as regards events falling on or after the first day of the relevant accounting period of the transferor company or on or after the first day of the relevant accounting period of the acquiring company (whichever of those days falls later).

(3) For the purposes of subsection (2) above a company's relevant accounting period is its first accounting period to begin after 31st December 1992.

F29 99 . . . . . .

Textual Amendments

F29 S. 99 repealed (1.5.1995 with effect in accordance with Sch. 8 para. 57 of the repealing Act) by 1995 c. 4, s. 162, **Sch. 29 Pt. VIII(5)**, Note 2

100 Income from investments attributable to BLAGAB, etc.

F30(1) . . . . . .

(2) In section 475 of that Act (tax-free Treasury securities: exclusion of interest on borrowed money), in subsection (6)—

F30(a) . . . . . .

(b) for the words "of the life assurance fund", in each place where they occur, there shall be substituted the words " attributable to basic life assurance and general annuity business ".

(3) This section shall apply in relation to accounting periods beginning after 31st December 1992.

Textual Amendments

F30 S. 100(1)(2)(a) repealed (1.5.1995 with effect in accordance with Sch. 8 para. 57 of the repealing Act) by 1995 c. 4, s. 162, **Sch. 29 Pt. VIII(5)**, Note 2

101 Modification of Finance Act 1989.

(1) The following section shall be inserted after section 89 of the [M23]Finance Act 1989—

"**89A Modification of sections 83 and 89 in relation to overseas life insurance companies.**

Schedule 8A to this Act (which makes modifications of sections 83 and 89 in relation to overseas life insurance companies) shall have effect."

(2) Schedule 10 to this Act (which inserts Schedule 8A into that Act) shall have effect.

Marginal Citations

M23 1989 c. 26.

102 Modification of Taxation of Chargeable Gains Act 1992.

(1) The following section shall be inserted after section 214A of the [M24]Taxation of Chargeable Gains Act 1992—

"**214B Modification of Act in relation to overseas life insurance companies.**

Schedule 7B (which makes modifications of this Act in relation to overseas life insurance companies) shall have effect."

(2) Schedule 11 to this Act (which inserts Schedule 7B into that Act) shall have effect.

Marginal Citations

M24 1992 c. 12.

103 Amendment of definition and repeals.

(1) In section 431(2) of the Taxes Act 1988 (definitions), in the definition of "overseas life insurance company" for the words "having its head office outside" there shall be substituted the words " not resident in ".

(2) The following provisions of that Act shall cease to have effect—

(a) section 445 (charge to tax on investment income of overseas life insurance company);

(b) section 446(1) (qualifying distributions part of profits of pension business of overseas life insurance company);

(c) section 447(1), (2) and (4) (set-off of income tax and tax credits against corporation tax assessed under section 445);

(d) section 448 (qualifying distributions and tax credits);

(e) section 449 (double taxation agreements);

(f) section 724(5) to (8) (special provisions of accrued income scheme for overseas life insurance companies);

(g) section 811(2)(c) (provision about deduction of foreign tax not to affect overseas life insurance company charged under section 445);

(h) paragraph 1(9) of Schedule 19AB (payments on account of tax credits in case of pension business: special provision for overseas life insurance companies).

(3) Subject to subsection (4) below, this section shall apply in relation to accounting periods beginning after 31st December 1992.

F31(4) . . . . . .

Textual Amendments

F31 S. 103(4) repealed (29.4.1996 with effect in accordance with the provisions of Chapter II of Pt. IV of the repealing Act) by 1996 c. 8, s. 205, **Sch. 41 Pt. V(3)** Note

Approved share option schemes

104 Calculation of consideration.

After section 149 of the M25Taxation of Chargeable Gains Act 1992 there shall be inserted the following section—

"**149A Approved share option schemes.**

(1) This section applies where—

(a) an option is granted on or after 16th March 1993,

(b) the option consists of a right to acquire shares in a body corporate and is obtained as mentioned in section 185(1) of the Taxes Act (approved share option schemes), and

(c) section 17(1) would (apart from this section) apply for the purposes of calculating the consideration for the grant of the option.

(2) The grantor of the option shall be treated for the purposes of this Act as if section 17(1) did not apply for the purposes of calculating the consideration and, accordingly, as if the amount or value of the consideration was its actual amount or value.

(3) Where the option is granted wholly or partly in recognition of services or past services in any office or employment, the value of those services shall not be taken into account in calculating the actual amount or value of the consideration.

(4) The preceding provisions of this section shall not affect the treatment for the purposes of this Act of the person to whom the option is granted."

Marginal Citations

M25 1992 c. 12.

105 Expenditure on shares.

(1) In section 120(6) of the Taxation of Chargeable Gains Act 1992 (increase in expenditure by reference to tax charged in relation to shares)—

(a) for the words "section 185(6)" there shall be substituted the words " the applicable provision ", and

(b) at the end there shall be inserted "; and in this subsection "the applicable provision" means—

(a) subsection (6) of section 185 of the Taxes Act (as that subsection had effect before the coming into force of section 39(5) of the [M26]Finance Act 1991), or

(b) subsection (6A) of that section."

(2) The amendments made by subsection (1) above shall be deemed always to have had effect.

(3) In section 32A(5) of the [M27]Capital Gains Tax Act 1979 (expenditure: amounts to be included as consideration)—

(a) for the words "section 185(6)" there shall be substituted the words " the applicable provision ", and

(b) at the end there shall be inserted "; and in this subsection "the applicable provision" means—

(a) subsection (6) of section 185 of the Taxes Act (as that subsection had effect before the coming into force of section 39(5) of the [M28]Finance Act 1991), or

(b) subsection (6A) of that section."

(4) The [M29]amendments made by subsection (3) above shall be deemed to have come into force on 1st January 1992 (but shall have effect subject to the repeals made by the Taxation of Chargeable Gains Act 1992).

Commencement Information

I1 S. 105 in force at Royal Assent. the amendments made by s. 105(1) are deemed always to have had effect, see s. 105(2); the amendments made by S. 105(3) are deemed to have come into force on 1.1.1992, see s. 105(4)

Marginal Citations

M26 1991 c. 31.
M27 1979 c. 14.
M28 1991 c. 31.
M29 1992 c. 12.

Indexation: miscellaneous

106 Earnings cap etc: no indexation in 1993-94.

The figure £75,000 shall be deemed to be the figure found for the year 1993-94, for the purposes of section 590C of the Taxes Act 1988, by virtue of section 590C(4) and (5) (indexation of earnings cap for retirement benefits schemes and certain other figures).

107 Indexation of allowances etc. for 1994-95 onwards.

(1) The Taxes Act 1988 shall be amended as mentioned in subsections (2) to (6) below.

(2) In section 1—

(a) in subsection (4) (indexation of income tax bands) for "December" (in each place) there shall be substituted " September ";

(b) subsection (5) (no change required for PAYE before 18th May) shall be omitted.

(3) In section 257C—

(a) in subsection (1) (indexation of personal allowance and married couple's allowance) for "December" (in each place) there shall be substituted " September ";

(b) subsection (2) (no change required for PAYE before 18th May) shall be omitted.

(4) In section 590C (earnings cap for retirement benefits schemes) in subsection (5) (indexation) for "December" (in each place) there shall be substituted " September ".

(5) In section 590C the following subsection shall be inserted after subsection (5)—

"(5A) If the retail prices index for the month of September preceding a year of assessment falling within subsection (4) above is not higher than it was for the previous September, the figure for that year shall be the same as the figure for the previous year of assessment."; and accordingly, in subsection (4) of that section for "subsection (5)" there shall be substituted " subsections (5) and (5A) ".

(6) In each of the provisions to which this subsection applies (provisions which refer to section 590C(4) and (5)) for "and (5)" there shall be substituted " to (5A) "; and this subsection applies to sections 590B(11), 592(8E), 594(7), 599(12) and 640A(4).

(7) In Schedule 6 to the [M30]Finance Act 1989 (retirement benefits schemes) in paragraphs 20(6) and 22(5) (which refer to section 590C(4) and (5) of the Taxes Act 1988) for "and (5)" there shall be substituted " to (5A) ".

(8) This section shall have effect for the year 1994-95 and subsequent years of assessment.

Marginal Citations

M30 1989 c. 26.

Miscellaneous provisions about reliefs

108 Counselling services for employees.

In Chapter VI of Part XIII of the Taxes Act 1988, after section 589 there shall be inserted the following sections—

"**589A Counselling services for employees.**

(1) This section applies where—

(a) qualifying counselling services are provided to a person (the employee) in connection with the termination of the holding by him of any office or employment, and

(b) the termination takes place on or after 16th March 1993.

(2) This section also applies where—

(a) subsection (1)(a) above applies, and

(b) the termination takes place before 16th March 1993 but relevant expenditure is incurred on or after that date.

(3) Relevant expenditure is expenditure incurred in—

(a) providing the qualifying counselling services to the employee,

(b) paying or reimbursing fees for the provision to the employee of the qualifying counselling services, or

(c) paying or reimbursing any allowable travelling expenses incurred in connection with the provision of the qualifying counselling services to the employee.

(4) No charge to tax under Schedule E shall arise in respect of—

(a) the provision of the qualifying counselling services to the employee,

(b) the payment or reimbursement of fees for the provision to the employee of the qualifying counselling services, or

(c) the payment or reimbursement of any allowable travelling expenses incurred in connection with the provision of the qualifying counselling services to the employee.

(5) Where this section applies by virtue of subsection (2) above, subsection (4) above shall apply only to the extent that the expenditure incurred in providing the services or paying or reimbursing the fees or expenses is incurred on or after 16th March 1993.

(6) Subsection (4) above shall apply whether or not the person who provides the services or pays or reimburses the fees or expenses is the person under whom the employee holds or held the office or employment mentioned in subsection (1) above.

(7) Subsections (8) to (10) below apply where any relevant expenditure is incurred by the person under whom the employee holds or held the office or employment mentioned in subsection (1) above (the employer).

(8) If and so far as the expenditure would not, apart from this subsection, be so deductible, it shall be deductible in computing for the purposes of Schedule D

the profits or gains of the trade, profession or vocation of the employer for the purposes of which the employee is or was employed.

(9) If the employer carries on a business and the expenses of management of the business are eligible for relief under section 75, subsection (8) above shall have effect as if for the words from "in computing" onwards there were substituted "as expenses of management for the purposes of section 75".

(10) Where this section applies by virtue of subsection (2) above, subsections (8) and (9) above shall apply only to the extent that the expenditure is incurred on or after 16th March 1993.

589B Qualifying counselling services etc.

(1) Subsections (2) to (4) below apply for the purposes of section 589A.

(2) Subject to subsection (3) below, services are qualifying counselling services if—

(a) the purpose, or main purpose, of their provision is to enable the employee to adjust to the termination of his holding of the office or employment mentioned in section 589A(1) or is to enable him to find other gainful employment (including self-employment) or is to enable him to do both,

(b) the services consist wholly of any or all of the following, namely, giving advice and guidance, imparting or improving skills, and providing or making available the use of office equipment or similar facilities,

(c) the employee has been employed by the employer full-time throughout the period of two years ending at the time when the services begin to be provided to him or, if it is earlier, at the time he ceases to be employed by the employer,

(d) the opportunity to receive the services, on similar terms as to payment or reimbursement of any expenses incurred in connection with their provision, is available either generally to holders or past holders of offices or employment under the employer or to a particular class or classes of such holders or past holders, and

(e) the services are provided in the United Kingdom.

(3) Where paragraphs (a) to (d) of subsection (2) above are satisfied in relation to particular services but the services are provided partly in and partly outside the United Kingdom, the extent to which the services are qualifying counselling services shall be determined on a just and reasonable basis.

(4) In relation to services, allowable travelling expenses are those which would be deductible under section 198—

(a) on the assumption that receipt of the services is one of the duties of the employee's office or employment, and

(b) if the employee has in fact ceased to be employed by the employer, on the assumption that he continues to be employed by him.

(5) Any reference in this section or section 589A to an employee being employed by an employer is a reference to the employee holding office or employment under the employer."

109 Pre-trading expenditure.

(1) In subsection (1) of section 401 of the Taxes Act 1988 (which gives relief for expenditure incurred within the five years before the beginning of any trade, profession or vocation), for "five" there shall be substituted " seven ".

(2) After subsection (1) of that section there shall be inserted the following subsection—

"(1A) Where—

(a) a company pays any charge on income at a time before it begins to carry on any trade, and

(b) the payment is made wholly and exclusively for the purposes of that trade,

that payment, to the extent that it is not deducted otherwise than by virtue of this section from any profits, shall be treated for the purposes of corporation tax as paid on the day on which the trade is first carried on by the company."

(3) In section 338(5)(b) of that Act (payments not to be treated as charges on income), after "trade" there shall be inserted " which is or is to be ".

(4) Subsections (1) and (2) above shall have effect where the time when the person begins to carry on the trade, profession or vocation falls after 31st March 1993, and subsection (3) above shall have effect in relation to payments made after that date.

110 Waste disposal expenditure.

(1) In section 91A(6) of the Taxes Act 1988 (relevant licence for the purposes of restoration payments), after paragraph (b) there shall be inserted "or

(c) any authorisation under the [M31]Radioactive Substances Act 1960 or the [M32]Radioactive Substances Act 1993 for the disposal of radioactive waste or any nuclear site licence under the [M33]Nuclear Installations Act 1965."

(2) In section 91B of that Act (preparation expenditure for waste disposal), after subsection (10) there shall be inserted the following subsection—

"(10A) For the purposes of this section any expenditure incurred for the purposes of a trade by a person about to carry it on shall be treated as if it had been incurred by that person on the first day on which he does carry it on and in the course of doing so."

(3) This section shall have effect in relation to any case where the trade in question is begun after 31st March 1993.

Marginal Citations

M31 1960 c. 34.
M32 1993 c. 12.
M33 1965 c. 57.

111 Business expansion scheme: loan linked investments.

(1) After section 299 of the Taxes Act 1988 there shall be inserted the following section—

"**299A Loan linked investments.**

(1) An individual shall not be entitled to relief in respect of any shares in a company issued on or after 16th March 1993 if—

(a) there is a loan made by any person, at any time in the relevant period, to that individual or any associate of his; and

(b) the loan is one which would not have been made, or would not have been made on the same terms, if that individual had not subscribed for those shares or had not been proposing to do so.

(2) References in this section to the making by any person of a loan to any individual or an associate of his include references—

(a) to the giving by that person of any credit to that individual or any associate of his; and

(b) to the assignment or assignation to that person of any debt due from that individual or any associate of his;

and the references in section 307(6)(ca) to the making of a loan shall be construed accordingly."

(2) In sections 289(12)(a) and 310(1) and (10)(a) of that Act (definition of "the relevant period" and information provisions), after "299,", in each case, there shall be inserted " 299A, ".

(3) In section 307(6) of that Act (reckonable date for the purposes of interest on relief that is withdrawn), after paragraph (c) there shall be inserted the following paragraph—

"(ca) in the case of relief withdrawn by virtue of section 299A in consequence of the making of any loan after the grant of the relief, the date of the making of the loan;".

(4) This section shall apply in relation to any case in which the claim for relief is made on or after 16th March 1993.

112 Employers' pension contributions.

(1) In section 592(4) of the Taxes Act 1988 (employers' contributions to exempt approved schemes), at the end there shall be inserted " but no other sum shall for those purposes be allowed to be deducted as an expense, or expense of management, in respect of the making, or any provision for the making, of any contributions under the scheme. "

(2) Subsection (1) above shall have effect in the case of any employer in relation to, as the case may be—

(a) any accounting period of that employer ending with a day after 5th April 1993; or

(b) any year of assessment the employer's basis period for which ends with a day after that date.

(3) Where—

(a) there is after 5th April 1993 an actual payment by an employer of a contribution under an exempt approved scheme,

(b) that payment would, apart from this subsection, be allowed to be deducted as an expense, or expense of management, of the employer in relation to any chargeable period in relation to which subsection (1) above has effect, and

(c) the total of previously allowed deductions exceeds the relevant maximum,

the amount allowed to be so deducted in respect of the payment mentioned in paragraph (a) above and of any other actual payments of contributions under the scheme which, having been made after 5th April 1993, fall within paragraph (b) above in relation to the same chargeable period shall be reduced by whichever is the smaller of the excess and the amount which reduces the deduction to nil.

(4) In relation to any such actual payment by an employer of a contribution under an exempt approved scheme as would be allowed to be deducted as mentioned in subsection (3) above in relation to any chargeable period-

(a) the reference in that subsection to the total of previously allowed deductions is a reference to the aggregate of every amount in respect of the making, or any provision for the making, of that or any other contributions under the scheme, which has been allowed to be deducted as an expense, or expense of management, of that person in relation to a previous chargeable period; and

(b) the reference to the relevant maximum is a reference to the amount which would have been that aggregate if the restriction on deductions imposed by virtue of subsection (1) above had been applied in relation to every previous chargeable period;

and for the purposes of this subsection an amount the deduction of the whole or any part of which falls to be taken into account as allowed in relation to more than one chargeable period shall be treated as if the amount allowed were a different amount in the case of each of those periods.

(5) For the purposes of this section any payment which is treated under subsection (6) of section 592 of the Taxes Act 1988 as spread over a period of years shall be treated as actually paid at the time when it is treated as paid in accordance with that subsection.

(6) After subsection (6) of section 592 of the Taxes Act 1988 there shall be inserted the following subsection—

"(6A) Where any sum is paid to the trustees of the scheme in or towards the discharge of any liability of an employer under section 58B of the [M34]Social Security Pensions Act 1975 or section 144 of the Pension Schemes Act 1993 (deficiencies in the assets of a scheme) or under Article 68B of the [M35]Social Security Pensions (Northern Ireland) Order 1975 or section 140 of the Pension Schemes (Northern Ireland) Act 1993 (which contain corresponding provision for Northern Ireland), the payment of that sum—

(a) shall be treated for the purposes of this section as an employer's contribution under the scheme; and

(b) notwithstanding (where it is the case) that the employer's trade, profession, vocation or business is permanently discontinued before the making of the payment, shall be allowed, in accordance with subsection (4) above, to be deducted as such a contribution to the same extent as it would have been allowed but for the discontinuance and as if it had been made on the last day on which the trade, profession, vocation or business was carried on."; and this subsection shall have effect in relation to any payment made on or after the day on which this Act is passed.

(7) In this section—

"basis period", in relation to any person, means a period on the profits or gains of which income tax for any year of assessment falls to be finally

computed under Case I or II of Schedule D in respect of the trade, profession or vocation of that person (being the later period in any case where the profits and gains of an earlier period are taken to be the profits and gains of a later period); and

"exempt approved scheme" has the meaning given by section 592(1) of the Taxes Act 1988.

Marginal Citations

M34 1975 c. 60.

M35 S.I. 1975/1503 (N.I. 15).

Capital allowances

113 Initial allowances: industrial buildings and structures.

(1) In Chapter I of Part I of the [M36]Capital Allowances Act 1990, after section 2 there shall be inserted the following section—

"**2A Initial allowances: contracts entered into between October 1992 and November 1993.**

(1) In relation to expenditure to which this section applies, section 1 shall have effect with the following modifications, that is to say—

(a) so much of that section as relates to the requirement that the site in question is at a material time in an enterprise zone, namely—

(i) paragraph (b) of subsection (1) and the reference to that paragraph in subsection (1A);

(ii) paragraph (b) of subsection (1A); and

(iii) subsection (11),

shall be omitted;

(b) for the reference in subsection (1) to 100 per cent. there shall be substituted a reference to 20 per cent.; and

(c) subsection (2) shall have effect with the omission of the words "and to a commercial building or structure".

(2) No initial allowance shall be made under this section in respect of any expenditure on the construction of a building or structure unless it is or is to be first used on or before 31st December 1994; and in a case where—

(a) an initial allowance is granted under this section in respect of any expenditure on the construction of a building or structure; and

(b) by the end of that day that building or structure has not come to be used,

that allowance shall be withdrawn and all such assessments and adjustments of assessments to tax shall be made as may be necessary in consequence of its being withdrawn.

(3) Subject to subsection (5) below, this section applies to any capital expenditure incurred under a contract which—

(a) is entered into either—

(i) in the period beginning with 1st November 1992 and ending with 31st October 1993; or

(ii) for the purpose of securing that obligations under a contract entered into in that period are complied with;

but

(b) is not entered into for the purpose of securing that obligations under a contract entered into before the beginning of that period are complied with.

(4) Subject to subsection (5) below, this section also applies to any additional VAT liability incurred in respect of expenditure falling within subsection (3) above.

(5) This section does not apply to—

(a) any expenditure incurred, or incurred under a contract entered into, at a time when the site of the building or structure is in an enterprise zone, being a time not more than 10 years after the site was first included in the zone;

(b) expenditure falling in relation to expenditure so incurred within section 1(1A); or

(c) expenditure to which section 2 applies.

(6) Subsection (5) above shall have effect subject to sections 10C and 17A."

(2) In section 4(9) of that Act, in the definition of "capital expenditure", for "or 10B" there shall be substituted " 10B or 10C ".

(3) In section 10(3A) of that Act (provisions not to apply in cases falling within section 10A)—

(a) after "apply" there shall be inserted " for the purpose of determining whether any expenditure is expenditure to which section 2A applies or "; and

(b) after "10A" there shall be inserted " or 10C ".

(4) After section 10B of that Act there shall be inserted the following section—

"**10C Purchases of buildings and structures: allowances under section 2A.**

(1) This section shall apply (subject to subsection (2) below) where—

(a) expenditure is incurred on the construction of a building or structure ("actual expenditure");

(b) some or all of that expenditure is expenditure to which section 2A applies or would be such expenditure if it were capital expenditure; and

(c) before the building or structure is used, the relevant interest in it is sold.

(2) In relation to any case in which the relevant interest is sold in pursuance of a contract entered into in the period beginning with 1st November 1992 and ending with 31st October 1993 by a person who—

(a) carries on a trade which consists, in whole or in part, in the construction of buildings or structures with a view to their sale; and

(b) has been entitled to that interest since before 1st November 1992,

section 2A(3) above shall have effect for the purposes of subsection (1)(b) above and subsections (6) and (11) below as if for the words from "capital expenditure" onwards there were substituted "capital expenditure incurred under a contract entered into either before 1st November 1993 or for the purpose of securing that obligations under a contract entered into before that date are complied with."

(3) Where this section applies—

(a) the actual expenditure shall be left out of account for the purposes of sections 1 to 8; but

(b) subject to subsections (9) to (11) below, the person who buys the relevant interest shall be deemed for those purposes to have incurred, on the date when the purchase price becomes payable, expenditure on the construction of the building or structure ("deemed expenditure") equal to the actual expenditure or to the net price paid by him for that interest, whichever is the less.

(4) The deemed expenditure shall be regarded as comprising a section 2A element and a residual element.

(5) The section 2A element of the deemed expenditure shall be calculated in accordance with the formula—

$$\mathrm{A} \mathrm{x} \frac{B}{C}$$

(6) In subsection (5) above—

A is the deemed expenditure;

B is so much of the actual expenditure as is expenditure to which section 2A applies or expenditure that would be such expenditure if it were capital expenditure; and

C is the actual expenditure.

(7) The residual element of the deemed expenditure shall be so much (if any) of the deemed expenditure as does not comprise the section 2A element.

(8) Notwithstanding the provisions of subsection (3)(b) above—

(a) the section 2A element of the deemed expenditure shall be treated for the purpose only of determining entitlement to allowances as expenditure to which that section applies; and

(b) the residual element of the deemed expenditure shall be treated for that purpose as expenditure which is not expenditure to which that section applies.

(9) Where the relevant interest in the building or structure is sold more than once before the building or structure is used, subsections (2) and (3)(b) above shall have effect only in relation to the last of those sales.

(10) Where the actual expenditure was incurred by a person carrying on a trade which consists, in whole or in part, in the construction of buildings or structures with a view to their sale and, before the building or structure is used,

he sells the relevant interest in it in the course of that trade or, as the case may be, of that part of that trade, then—

(a) if that sale is the only sale of the relevant interest before the building or structure is used, paragraph (b) of subsection (3) above shall have effect as if the words "the actual expenditure or to" and "whichever is the less" were omitted; and

(b) in any other case, that paragraph shall have effect as if the reference to the actual expenditure were a reference to the price paid on that sale.

(11) Where some of the actual expenditure is expenditure falling within subsection (1)(b) of section 10A and some or all of the remainder is expenditure to which section 2A applies or to which section 2A would apply if it were capital expenditure, section 10A and this section shall both have effect but as if—

(a) subsections (3), (9) and (10) of this section were omitted;

(b) references in this section to the deemed expenditure were references to the expenditure which, in accordance with subsections (2), (8) and (9) of section 10A, is the deemed expenditure for the purposes of that section; and

(c) the section 2A element of the deemed expenditure were comprised in the non-enterprise zone element of that expenditure."

(5) In section 17A of that Act (exclusion of expenditure incurred more than 20 years after a site is included in an enterprise zone), after "sections 1(1)(b)" there shall be inserted " 2A(5)(a) ".

(6) In section 18(14) of that Act (application of section 18(13) to certain buildings), for "qualifying hotels to which this Part applies by virtue of section 7" there shall be substituted " any qualifying hotel ".

(7) This section shall have effect in relation to every chargeable period which, or the basis period for which, ends after 31st October 1992.

Marginal Citations
M36 1990 c. 1.

114 Initial allowances: agricultural buildings etc.

(1) Schedule 12 to this Act (which makes provision, which broadly corresponds to that made in relation to industrial buildings and structures by section 113 above, for the making of initial allowances in respect of expenditure on the construction of agricultural buildings, fences and other works) shall have effect.

(2) This section and the amendments made by Schedule 12 to this Act shall have effect in relation to every chargeable period which, or the basis period for which, ends after 31st October 1992.

115 First year allowances: machinery and plant.

(1) In subsection (1) of section 22 of the [M37]Capital Allowances Act 1990 (first-year allowances), in the words after paragraph (b), after "which" there shall be inserted " , in

the case of expenditure to which this section applies by virtue only of subsection (3B) below, shall be of an amount equal to 40 per cent. of that expenditure and, in any other case, ".

(2) After subsection (3A) of that section there shall be inserted the following subsection—

"(3B) This section applies to—

(a) any expenditure which, disregarding any effect of section 83(2) on the time at which it is to be treated as incurred, is incurred by any person in the period beginning with 1st November 1992 and ending with 31st October 1993; and

(b) any additional VAT liability incurred in respect of expenditure to which this section applies by virtue of paragraph (a) above."

(3) In subsection (4)(c) of that section (no first-year allowance on the provision of machinery or plant for leasing), after "(6)" there shall be inserted " (6A) "; and after subsection (6) of that section there shall be inserted the following subsection—

"(6A) Paragraph (c) of subsection (4) above does not apply to expenditure to which this section applies by virtue only of subsection (3B) above; but (subject to section 43) no first-year allowance shall be made by virtue of subsection (3B) above in respect of any expenditure on the provision of machinery or plant for leasing if—

(a) it appears that the expenditure is such that section 42 would have effect with respect to it; or

(b) each of the following conditions is satisfied, that is to say—

(i) the expenditure is incurred on or after 14th April 1993;

(ii) the expenditure is expenditure in respect of which paragraph (c) of subsection (4) above would, if it applied, prevent the making of any first year allowance; and

(iii) the person to whom the machinery or plant is to be or is leased, or a person who (within the meaning of section 839 of the principal Act) is connected with that person, used the machinery or plant for any purpose at any time before its provision for leasing."

(4) Schedule 13 to this Act (which makes further amendments of that Act of 1990 in connection with the first-year allowances for which provision is made by this section) shall have effect.

(5) This section and the amendments made by Schedule 13 to this Act shall have effect (subject to paragraph 12(3) of that Schedule) in relation to every chargeable period which, or the basis period for which, ends after 31st October 1992.

Marginal Citations

M37 1990 c. 1.

116 Leasing.

(1) In the second sentence in section 40(4) of the [M38]Capital Allowances Act 1990 (shortening of "requisite period" while assets used for qualifying purpose), after "effect" there shall be inserted " for the purposes of sections 31(2) and 37(6) ".

(2) In section 42(1) of that Act (assets leased to non-residents), for paragraph (b) there shall be substituted the following paragraph—

"(b) does not use the machinery or plant exclusively for earning such profits or gains as are chargeable to tax (whether as profits or gains arising from a trade carried on in the United Kingdom or by virtue of section 830(4) of the principal Act),".

(3) In section 50 of that Act (interpretation of Chapter V), after subsection (3) there shall be inserted the following subsection—

"(3A) References in this Chapter to profits or gains chargeable to tax shall not include any of those arising to a person who, under arrangements specified in an Order in Council making any such provisions as are referred to in section 788 of the principal Act (double taxation arrangements), is afforded, or is entitled to claim, any relief from the tax chargeable thereon."

(4) This section shall have effect in relation to the use of machinery or plant for leasing under leases entered into on or after 16th March 1993.

Marginal Citations
M38 1990 c. 1.

117 Transactions between connected persons etc.

(1) Section 158 of the [M39]Capital Allowances Act 1990 (election exercisable in the case of transactions between connected persons etc.) shall be amended as follows.

(2) In paragraph (a) of subsection (2) (sum at which industrial building or structure is treated as sold)—

(a) after the word "structure,", in the first place where it occurs, there shall be inserted " a qualifying hotel or a commercial building or structure, "; and

(b) for the words "or structure", in the second place where they occur, there shall be substituted " structure or hotel ".

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

"(d) in the case of an asset representing allowable scientific research expenditure of a capital nature—

(i) if the expenditure is expenditure in respect of which an allowance is made under section 137, nil; and

(ii) in any other case, the amount of the expenditure."

(4) In subsection (3) (cases where election may not be made), for paragraph (a) there shall be substituted the following paragraph—

"(a) if the circumstances of the sale (including those of the parties to it) are such that an allowance or charge under Part I, III, IV, VI or VII which (apart from those circumstances) would or might fall, in consequence of the sale, to be made to or on any of those parties will not be capable of so falling;".

(5) This section shall have effect in relation to sales and other transfers on or after 16th March 1993 other than one which is in pursuance of—

(a) a contract entered into before that date; or

(b) a contract entered into for the purpose of securing that obligations under a contract entered into before that date are complied with.

Marginal Citations

M39 1990 c. 1.

Miscellaneous

118 Scottish trusts.

(1) Where—

(a) any of the income of a trust having effect under the law of Scotland is income to which a beneficiary of the trust would have an equitable right in possession if that trust had effect under the law of England and Wales, and

(b) the trustees of that trust are resident in the United Kingdom,

the rights of that beneficiary shall be deemed for the purposes of the Income Tax Acts to include such a right to that income notwithstanding that no such right is conferred according to the law of Scotland.

(2) This section shall have effect in relation to the income of any trust for the year 1993–94 or any subsequent year of assessment.

119 Controlled foreign companies.

(1) In section 750(1) of the Taxes Act 1988 (meaning of lower level of taxation for purposes of provisions relating to controlled foreign companies) for "one-half" there shall be substituted " three-quarters ".

(2) Subsection (1) above shall apply in relation to accounting periods beginning on or after 16th March 1993.

(3) Where a company is by virtue of section 749(1) or (2) of the Taxes Act 1988 regarded as resident in a territory outside the United Kingdom and (apart from this section)—

(a) an accounting period of the company would begin before 16th March 1993 and end on or after that date, and

(b) the company would not be considered to be subject, by virtue of section 750(1) of that Act, to a lower level of taxation in that accounting period in the territory in which it is regarded as resident,

for the purposes of Chapter IV of Part XVII of that Act that accounting period shall be treated as ending on 15th March 1993.

120 Pay and file: miscellaneous amendments.

Schedule 14 to this Act (which makes various amendments of the [M40]Taxes Management Act 1970, the Taxes Act 1988 and the [M41]Finance Act 1989 with a view to, or in connection with, the introduction of "pay and file") shall have effect.

Marginal Citations

M40 1970 c. 9.

M41 1989 c. 26.

121 Repayments and payments to friendly societies.

(1) The Treasury may by regulations provide, in relation to accounting periods beginning on or after 1st January 1994, for Schedule 19AB of the Taxes Act 1988 (payments on account of exempt pension business) to have effect, with such modifications and exceptions as may be specified in the regulations, in relation to any business to which this section applies as it has effect in relation to the pension business of an insurance company.

(2) This section applies to any business of a friendly society the profits arising from which are exempt from income tax and corporation tax under section 460(1), 461(1) or 461B(1) of the Taxes Act 1988 (life or endowment and other business), not being a business carried on by a friendly society all of whose profits are so exempt.

(3) Regulations under this section may make different provision for different cases.

(4) This section shall be without prejudice to section 463(1) of the Taxes Act 1988 (application of the Corporation Tax Acts to life or endowment business carried on by friendly societies).

Modifications etc. (not altering text)

C10 S. 121 modified (31.7.1997) by 1997 c. 58, s. 23, **Sch. 3 para. 12** (with s. 3(3))

122 Application of Income Tax Acts etc. to public departments.

(1) In subsection (2) of section 829 of the Taxes Act 1988 (restriction on application of Income Tax Acts to public departments), at the end there shall be inserted " unless it is tax which would not have been so borne but for a failure by a public office or department of the Crown to make a deduction required by virtue of subsection (1) above. "

(2) The provisions of Parts IX and X of the Taxes Management Act 1970 (interest and penalties) shall apply in relation to public offices and departments of the Crown for the purposes, so far as they so apply, of the other provisions of that Act and of the provisions of the Income Tax Acts mentioned in section 829(1) of the Taxes Act 1988.

(3) This section shall have effect in relation to the year 1993-94 and subsequent years of assessment.

123 Expenditure involving crime.

(1) The following section shall be inserted after section 577 of the Taxes Act 1988—

"**577A Expenditure involving crime.**

(1) In computing profits or gains chargeable to tax under Schedule A or Schedule D, no deduction shall be made for any expenditure incurred in making a payment the making of which constitutes the commission of a criminal offence.

(2) Such expenditure shall not be included in computing any expenses of management in respect of which relief may be given under the Tax Acts."

(2) This section shall apply in relation to expenditure incurred on or after 11th June 1993.

124 Expenses of Members of Parliament.

(1) Section 200 of the Taxes Act 1988 (expenses of Members of Parliament) shall become subsection (1) of that section and the following subsection shall be inserted after that subsection—

"(2) A sum which is paid to a Member of the House of Commons in accordance with any resolution of that House providing for Members of that House to be reimbursed in respect of the cost of, and any additional expenses incurred in, travelling between the United Kingdom and any European Community institution in Brussels, Luxembourg or Strasbourg shall not be regarded as income for any purpose of the Income Tax Acts."

(2) This section shall apply in relation to sums paid on or after 1st January 1992.

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

Status:
Point in time view as at 28/07/2000. This version of this chapter contains provisions that are not valid for this point in time.

Changes to legislation:
There are currently no known outstanding effects for the Finance Act 1993, Chapter I.