

Status: Point in time view as at 15/01/2001.

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SCHEDULES

SCHEDULE 24

Section 252.

PROVISIONS RELATING TO THE RAILWAYS ACT 1993

Interpretation

1 (1) In this Schedule—

“the Allowances Act” means the ^{M1}Capital Allowances Act 1990;

“the Board” means the British Railways Board;

“fixture” has the same meaning as it has in Chapter VI of Part II of the Allowances Act;

“franchise company” has the meaning given by section 85(8) of the ^{M2}Railways Act 1993;

“the Franchising Director” means the Director of Passenger Rail Franchising;

“the Gains Act” means the ^{M3}Taxation of Chargeable Gains Act 1992;

“predecessor”, in relation to any relevant transfer, means the body from which the property, rights or liabilities in question are transferred by virtue of the restructuring scheme in question;

“property”, “rights” and “liabilities” have the same meaning as they have in Part II of the Railways Act 1993;

“publicly owned railway company” has the same meaning as it has in the Railways Act 1993;

“relevant transfer” means a transfer of any property, rights or liabilities by virtue of a restructuring scheme;

“restructuring scheme” means a section 85 transfer scheme made by, or pursuant to a direction of, the Secretary of State, if and to the extent that the transfer scheme provides for the transfer of property, rights or liabilities from—

(a) the Board,

(b) a wholly owned subsidiary of the Board,

(c) a publicly owned railway company, or

(d) a company which is wholly owned by the Franchising Director,

to any other body falling within paragraphs (a) to (d) above;

“section 85 transfer scheme” means a scheme made under or by virtue of section 85 of the Railways Act 1993;

“subsidiary” has the meaning given by section 736 of the ^{M4}Companies Act 1985;

“successor company” has the same meaning as it has in Part II of the Railways Act 1993;

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“transfer date” shall be construed in accordance with section 85(6) of the Railways Act 1993;

“transfer scheme” means a scheme made under or by virtue of section 85 or 86 of the Railways Act 1993;

“transferee”, in relation to a relevant transfer, means the body to which the property, rights or liabilities in question are transferred by virtue of the restructuring scheme in question;

“wholly owned subsidiary” has the meaning given by section 736 of the ^{M5}Companies Act 1985.

- (2) Section 151(2) and (3) of the ^{M6}Railways Act 1993 (companies wholly owned by the Crown or the Franchising Director) shall have effect for the purposes of this Schedule as it has effect for the purposes of that Act.
- (3) Any reference in this Schedule to “assignment” shall be construed in Scotland as a reference to “assignment”.
- (4) This Schedule—
- (a) so far as it relates to income tax, shall be construed as one with the Income Tax Acts,
 - (b) so far as it relates to corporation tax, shall be construed as one with the Corporation Tax Acts, and
 - (c) so far as it relates to capital allowances, shall be construed as one with the Capital Allowances Acts.

Marginal Citations

M1	1990 c. 1.
M2	1993 c. 43.
M3	1992 c. 12.
M4	1985 c. 6.
M5	1985 c. 6.
M6	1993 c. 43.

Chargeable gains: transfer to be without gain or loss

- 2 (1) For the purposes of the Gains Act, where there is a relevant transfer, the disposal of property, rights and liabilities which is constituted by that transfer shall, subject to the following provisions of this Schedule, be taken, in relation to the transferee as well as the predecessor, to be for a consideration such that no gain or loss accrues to the predecessor.
- (2) Section 35(3)(d) of the Gains Act (list of provisions for transfers without gain or loss for purposes of provisions applying to assets held on 31st March 1982) shall have effect with the omission of the word “and” at the end of sub-paragraph (vii) and with the insertion, after sub-paragraph (viii), of the following sub-paragraph—
- “(ix) paragraphs 2(1), 7(2), 11(3) and (4) and 25(2) of Schedule 24 to the Finance Act 1994.”.
- (3) Section 171(1) of the Gains Act (which makes provision in relation to the disposal of assets from one member of a group of companies to another member of the group) shall not apply where the disposal in question is a relevant transfer.

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Chargeable gains: receipt of compensation or insurance policies

- 3 (1) Subsection (4) of section 23 of the Gains Act (adjustments where compensation or insurance money used for purchase of replacement asset) shall have effect in accordance with sub-paragraph (3) below in any case where—
- (a) there is a relevant transfer such that—
 - (i) any capital sum received by the predecessor by way of compensation for the loss or destruction of any asset, or under a policy of insurance of the risk of the loss or destruction of any asset, becomes available to the transferee; or
 - (ii) any right of the predecessor to receive such a sum is transferred to the transferee, and the transferee receives that sum; and
 - (b) the transferee acquires an asset in circumstances where—
 - (i) had there been no such relevant transfer, and
 - (ii) had the predecessor acquired the asset by the application of that sum, the predecessor would be treated for the purposes of that subsection as having so acquired the asset in replacement for the asset lost or destroyed.
- (2) Subsection (5) of that section (adjustments where a part of any compensation or insurance money is used for the purchase of a replacement asset) shall have effect in accordance with sub-paragraph (3) below in any case where—
- (a) there is a relevant transfer such that—
 - (i) any capital sum received by the predecessor by way of compensation for the loss or destruction of any asset, or under a policy of insurance of the risk of the loss or destruction of any asset, becomes available to the transferee; or
 - (ii) any right of the predecessor to receive such a sum is transferred to the transferee, and the transferee receives that sum; and
 - (b) the transferee acquires an asset in circumstances where—
 - (i) had there been no such relevant transfer, and
 - (ii) had the predecessor acquired the asset by the application of all of that sum except for a part which was less than the amount of the gain (whether all chargeable gain or not) accruing on the disposal of the asset lost or destroyed, the predecessor would be treated for the purposes of that subsection as having so acquired the asset in replacement for the asset lost or destroyed.
- (3) In a case falling within sub-paragraph (1) or (2) above, subsection (4) or, as the case may be, subsection (5) of section 23 of the Gains Act shall have effect as if the transferee and the predecessor were the same person, except that—
- (a) in a case falling within sub-paragraph (1)(a)(i) or (2)(a)(i) above—
 - (i) any claim under the subsection in question must be made by the predecessor and the transferee; and
 - (ii) any adjustment to be made in consequence of paragraph (a) of that subsection shall be made for the purposes only of the taxation of the predecessor; and
 - (b) in a case falling within sub-paragraph (1)(a)(ii) or (2)(a)(ii) above—
 - (i) any claim under the subsection in question must be made by the transferee; and

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- (ii) any adjustment to be made in consequence of paragraph (a) of that subsection shall be made for the purposes only of the taxation of the transferee.

Chargeable gains: section 30 of the Gains Act

- 4 (1) Nothing in Part II or III of the ^{M7}Railways Act 1993, and no instrument or agreement made, or other thing done, under or by virtue of either of those Parts, shall be regarded as a scheme or arrangement for the purposes of section 30 of the Gains Act (value-shifting).
- (2) In any case where—
- (a) an asset which is the subject of a relevant transfer or qualifying disposal has previously been the subject of a scheme or arrangements falling within subsection (1) of that section,
 - (b) in consequence, subsection (5) of that section (consideration on disposal to be treated as increased for certain purposes) would, apart from sub-paragraph (3) below, have had effect in relation to the consideration for the relevant transfer or qualifying disposal, and
 - (c) the consideration for the relevant transfer or qualifying disposal falls to be determined under paragraph 2 above or paragraph 7(2), 11(3) or 25(2) below, sub-paragraph (3) below shall apply.
- (3) Where this sub-paragraph applies—
- (a) the said subsection (5) shall not have effect in relation to the consideration for the relevant transfer or qualifying disposal; but
 - (b) on the first subsequent disposal of the asset which is neither a relevant transfer or qualifying disposal nor a group disposal—
 - (i) that subsection shall have effect in relation to the consideration for that disposal (whether or not it would otherwise have done so); and
 - (ii) the increase that falls to be made under that subsection shall be so calculated as to include any increase which would, but for paragraph (a) above, have fallen to be made in relation to the relevant transfer or qualifying disposal.
- (4) In this paragraph—
- “group disposal” means a disposal which falls to be treated by virtue of section 171(1) of the Gains Act as made for a consideration such that no gain or loss accrues to the person making the disposal;
- “qualifying disposal” means—
- (a) a disposal to which paragraph 7(2) below applies; or
 - (b) a disposal falling within paragraph 11(3) or 25(2) below.

Commencement Information

II Sch. 24 para. 4 in force retrospectively (5.11.1993 as to para. 4(1) and otherwise 11.1.1994) as mentioned in s. 252(2)(3).

Marginal Citations

M7 1993 c. 43.

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Chargeable gains: section 41 of the Gains Act

- 5 Subsection (1) of section 174 of the Gains Act (which applies section 41 of that Act to cases where assets have been acquired without gain or loss) shall have effect, without prejudice to paragraph 2 above or paragraph 7(2), 11(3) or (4) or 25(2) below, where there has been—
- (a) a relevant transfer,
 - (b) a disposal to which paragraph 7(2) below applies, or
 - (c) a disposal falling within paragraph 11(3) or (4) or 25(2) below,
- as if the asset to which the transfer or disposal relates had thereby been transferred and acquired in relevant circumstances, within the meaning of that subsection.

Chargeable gains: roll-over relief

- 6 (1) Subject to the following provisions of this paragraph, where any asset, or any interest in an asset, is the subject of a relevant transfer, sections 152 to 160 of the Gains Act (roll-over relief on replacement of business assets) shall have effect as if—
- (a) the asset or interest had been acquired by the transferee—
 - (i) at the time at which, and for the consideration for which, the predecessor acquired it; and
 - (ii) for the purpose of the asset's use in a trade carried on by the transferee (and not wholly or partly for the purpose of realising a gain from the disposal of the asset or interest), but only to the extent that the predecessor's acquisition was for the purpose of the asset's use in a trade carried on by him (and not wholly or partly for the purpose of realising a gain from the disposal of the asset or interest);
 - (b) throughout the period during which the asset or interest was owned by the predecessor, it had been owned by the transferee; and
 - (c) to the extent that the predecessor—
 - (i) used the asset, or
 - (ii) in the case of an asset falling within head A of Class 1 in section 155 of that Act, used and occupied the asset,during that period for the purposes of a trade carried on by him, the transferee had used or, as the case may be, used and occupied the asset for the purposes of a trade carried on by him.
- (2) In any case where—
- (a) a held-over gain would, but for the provisions of section 154 of the Gains Act (depreciating assets), have been carried forward to a depreciating asset, and
 - (b) that asset is the subject of a relevant transfer,
- that section shall have effect as if the gain had accrued to, and the claim for it to be held over had been made by, the transferee and as if the predecessor's acquisition of the depreciating asset had been the transferee's acquisition of that asset.
- (3) Where an asset, or an interest in an asset, is the subject of a relevant transfer, the predecessor shall not be entitled at any time after the coming into force of the relevant transfer to make any claim under section 152 or 153 of the Gains Act in respect of his acquisition of the asset or interest.
- (4) Where an asset, or an interest in an asset, is the subject of a relevant transfer, the transferee shall not, by virtue of any provision of this Schedule, be treated for the

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purposes of sections 152 to 154 of the Gains Act as having applied the whole or any part of the consideration for any disposal—

- (a) in acquiring the asset or interest by virtue of the relevant transfer; or
- (b) in acquiring the asset or interest as postulated in sub-paragraph (1)(a) above, if the predecessor has made a claim under section 152 or 153 of that Act in respect of his acquisition of the asset or interest.

- (5) Without prejudice to paragraph 1(4)(b) above, expressions used in sub-paragraph (2) above and in section 154 of the Gains Act have the same meaning in that sub-paragraph as they have in that section.

*Chargeable gains: agreements and instruments by
virtue of section 91(1)(c) of the Railways Act 1993*

- 7 (1) Sub-paragraph (2) below applies to any disposal effected pursuant to an obligation imposed by a section 85 transfer scheme by virtue of section 91(1)(c) of the ^{M8}Railways Act 1993 (obligations to enter into agreements or execute instruments) if the person making the disposal is—
- (a) the Board,
 - (b) a wholly owned subsidiary of the Board,
 - (c) a publicly owned railway company, or
 - (d) a company which is wholly owned by the Franchising Director,
- and the person to whom the disposal is made is either a person falling within paragraphs (a) to (d) above or the Franchising Director.
- (2) A disposal to which this sub-paragraph applies shall be taken for the purposes of corporation tax on chargeable gains, in relation to the person to whom the disposal is made as well as the person making the disposal, to be effected for a consideration such that no gain or loss accrues to the person making the disposal.
- (3) Section 171(1) of the Gains Act (transfers within a group) shall not apply where the disposal in question is one to which sub-paragraph (2) above applies.
- (4) Section 17 of that Act (disposals and acquisitions treated as made at market value) shall not have effect in relation to a disposal or the corresponding acquisition if—
- (a) the disposal is effected pursuant to an obligation imposed by a section 85 transfer scheme by virtue of section 91(1)(c) of the ^{M9}Railways Act 1993,
 - (b) the person making the disposal is either a person falling within paragraphs (a) to (d) of sub-paragraph (1) above or the Franchising Director, and
 - (c) the person making the corresponding acquisition is neither a person falling within those paragraphs nor the Franchising Director,
- unless the person making the disposal is connected with the person to whom the disposal is made.
- (5) In this paragraph, “the corresponding acquisition”, in the case of any disposal, means the acquisition made by the person to whom the disposal is made.

Marginal Citations

M8 1993 c. 43.

M9 1993 c. 43.

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Chargeable gains: group transactions

- 8
- (1) For the purposes of section 179 of the Gains Act (company ceasing to be a member of a group), where any company (“the degrouped company”) ceases, by virtue of a qualifying transaction, to be a member of a group of companies, the degrouped company shall not, by virtue of that qualifying transaction, be treated under that section as having sold, and immediately reacquired, any asset acquired from a company which was at the time of acquisition a member of that group.
 - (2) Where sub-paragraph (1) above applies in relation to any asset, section 179 of the Gains Act shall have effect on the first subsequent occasion on which the degrouped company ceases to be a member of a group of companies (the “subsequent group”), otherwise than by virtue of a qualifying transaction, as if both the degrouped company and the company from which the asset was acquired had been members of the subsequent group at the time of acquisition.
 - (3) Where, disregarding any preparatory transactions, a company would be regarded for the purposes of section 179 of the Gains Act (and, accordingly, of this paragraph) as ceasing to be, or becoming, a member of a group of companies by virtue of a qualifying transaction, it shall be regarded for those purposes as so doing by virtue of the qualifying transaction and not by virtue of any preparatory transactions.
 - (4) In this paragraph—
 - “preparatory transaction” means anything done under or by virtue of Part II of the Railways Act 1993 for the purpose of initiating, advancing or facilitating the qualifying transaction in question;
 - “qualifying transaction” means—
 - (a) a relevant transfer;
 - (b) any other transfer or disposal under or by virtue of section 85, 88(6) or (7) or 89 of the Railways Act 1993.
 - (5) Expressions used in this paragraph and in section 179 of the Gains Act have the same meaning in this paragraph as they have in that section.

Chargeable gains: disposal of debts

- 9
- (1) Where by virtue of any relevant transfer—
 - (a) any debt owed to the predecessor is transferred to the transferee, and
 - (b) the predecessor would, apart from this sub-paragraph, be the original creditor in relation to that debt for the purposes of section 251 of the Gains Act (disposal of debts),that Act shall have effect as if the transferee and not the predecessor were the original creditor for those purposes.
 - (2) Where, by virtue of any relevant transfer, any obligations of the predecessor under a guarantee of the repayment of a loan are transferred to the transferee, the transferee shall be treated for the purposes of section 253(4) of the Gains Act (relief for guarantors) as a person who gave the guarantee.
 - (3) In any case where—
 - (a) by virtue of any relevant transfer, a debt owed to the predecessor is transferred to the transferee,
 - (b) that debt is either—

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- (i) a right to the repayment of any amount outstanding as principal on a loan which is a qualifying loan for the purposes of either of sections 253^{F1} . . . of the Gains Act (relief for irrecoverable debts owed by traders and payments under guarantees), or
 - (ii) a right to recover any amount paid under a guarantee of the repayment of such a loan or of a loan which would be such a loan but for section 253(1)(c) of that Act (exclusion of debts not on security), and
 - (c) no allowable loss in respect of the amount mentioned in paragraph (b)(i) or (ii) above has been claimed by the predecessor under either of sections 253^{F1} . . . of that Act before the coming into force of the relevant transfer,
- those sections shall have effect with the modifications set out in sub-paragraph (4) below.

(4) Those modifications are—

- (a) that the loan or, as the case may be, the guarantee shall be treated as if it had been made or given by the transferee, and
- (b) that any payment made under the guarantee by the predecessor shall be treated as if it had been made by the transferee,

and those sections shall accordingly have effect as if there had been no assignment of the right to recover the principal of the loan or of any right to recover an amount paid under the guarantee.

(5) In any case where—

- (a) a debt falling within sub-paragraph (3)(b) above is transferred by virtue of a relevant transfer, and
- (b) before the coming into force of the relevant transfer, the predecessor has claimed a loss in respect of the amount mentioned in sub-paragraph (3)(b) (i) or (ii) above under section 253^{F1} . . . of the Gains Act,

the relevant transfer shall not be treated as an assignment of the debt for the purposes of those sections and sub-paragraph (2) above shall not have effect in relation to the transferee, so far as relating to the amount mentioned in paragraph (b) above.

(6) In any case where—

- (a) any right to the recovery of an amount falling within subsection (3) of section 253 of the Gains Act (relief in respect of certain irrecoverable loans) is transferred by virtue of a relevant transfer,
- (b) an allowable loss determined by reference to that amount has been treated under that subsection as accruing to the predecessor, and
- (c) the whole or any part of that amount is at any time recovered by the transferee or by a company in the same group of companies as the transferee,

that Act shall have effect as if a chargeable gain equal to so much of the allowable loss as corresponds to the amount recovered had accrued to the transferee or, as the case may be, to the company in the same group as the transferee.

(7) In any case where—

- (a) any right to the recovery of an amount falling within subsection (4) of section 253 of the Gains Act is transferred by virtue of a relevant transfer,
- (b) an allowable loss determined by reference to that amount has been treated under that subsection as accruing to the predecessor, and

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- (c) the whole or any part of the amount mentioned in subsection (4)(a), or the whole or any part of the amount of the payment mentioned in subsection (4)(b), of that section is at any time recovered by the transferee or by a company in the same group of companies as the transferee,
that Act shall have effect as if a chargeable gain equal to so much of the allowable loss as corresponds to the amount recovered had accrued to the transferee or, as the case may be, to the company in the same group as the transferee.
- (8) In any case where—
- (a) any right to recovery of the relevant outstanding amount, as defined in subsection (11) of section 254 of the Gains Act, is transferred by virtue of a relevant transfer,
- (b) an allowable loss determined by reference to that amount has been treated under subsection (2) of that section (relief for debts on qualifying corporate bonds) as accruing to the predecessor, and
- (c) the whole or any part of that amount is at any time recovered by the transferee or by a company in the same group of companies as the transferee,
that Act shall have effect as if a chargeable gain equal to so much of the allowable loss as corresponds to the amount recovered had accrued to the transferee or, as the case may be, to the company in the same group as the transferee.
- (9) In any case where sub-paragraph (6), (7) or (8) above applies in relation to an allowable loss, subsections (7) and (8) of section 253 of the Gains Act^{F1} . . . (which deem a chargeable gain to arise where an amount treated as an allowable loss is recovered by another company in the same group) shall not apply in relation to that allowable loss.
- (10) Expressions used in this paragraph and in section 253^{F1} . . . of the Gains Act have the same meaning in this paragraph as they have in that section.

Textual Amendments

- F1** Words in [Sch. 24 para. 9](#) repealed (the repeals coming into force in accordance with the provisions of Pt. IV Ch. II (ss. 80-105) of the repealing Act) by [1996 c.8, ss. 105, 205](#), [Sch. 41 Pt. V\(3\)](#), Note

Chargeable gains: assets held before 6th April 1965

- 10 Schedule 2 to the Gains Act (assets held on 6th April 1965) shall have effect in relation to any assets which vest in the transferee by virtue of a relevant transfer as if—
- (a) the predecessor and the transferee were the same person; and
- (b) those assets, to the extent that they were in fact acquired or provided by the predecessor, were acquired or, as the case may be, provided by the transferee.

Chargeable gains: miscellaneous disposals and acquisitions

- 11 (1) In this paragraph, “relevant disposal” means—
- (a) a disposal by virtue of a section 85 transfer scheme, other than a restructuring scheme, to the extent that the scheme provides for the transfer of property, rights and liabilities of—

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- (i) the Board,
 - (ii) a wholly owned subsidiary of the Board,
 - (iii) a publicly owned railway company, or
 - (iv) a company which is wholly owned by the Franchising Director,
- to a franchise company or to the Franchising Director;
- (b) a disposal pursuant to a direction under section 88(6) or (7) or 89 of the ^{M10}Railways Act 1993;
 - (c) a disposal by or pursuant to an agreement or instrument made or executed, transaction effected or direction given under or by virtue of paragraph 2, 3 or 14(2) of Schedule 8 to that Act, in a case where the transfer scheme in question is a section 85 transfer scheme, other than a restructuring scheme; or
 - (d) a disposal pursuant to a requirement imposed under paragraph 7(2)(b) of that Schedule, in a case where the transfer to which that Schedule applies is a transfer by virtue of a section 85 transfer scheme.
- (2) Subject to sub-paragraph (3) below, section 17 of the Gains Act (disposals and acquisitions treated as made at market value) shall not have effect—
- (a) in relation to a relevant disposal or the corresponding acquisition,
 - (b) in relation to an acquisition by a franchise company, in a case where the corresponding disposal is a disposal by the Franchising Director by virtue of a section 85 transfer scheme, or
 - (c) in relation to a disposal of a historical record or artefact in accordance with directions under section 125 of the ^{M11}Railways Act 1993 (railway heritage),
- unless, in a case falling within paragraph (a) or (b) above, the person making the disposal is connected with the person making the acquisition.
- (3) Where there is a relevant disposal of an asset of—
- (a) the Board,
 - (b) a subsidiary of the Board,
 - (c) a publicly owned railway company, or
 - (d) a company wholly owned by the Franchising Director,
- to the Franchising Director or a company wholly owned by the Crown, the disposal shall be taken for the purposes of the Gains Act, in relation to the person making the disposal and, if the disposal is made to a company wholly owned by the Crown, the person to whom the disposal is made, to be for a consideration such that no gain or loss accrues on the disposal.
- (4) Where there is a disposal of a historical record or artefact in accordance with directions under section 125 of the ^{M12}Railways Act 1993 and the disposal is either—
- (a) for a consideration not exceeding the sums which are allowable as a deduction under section 38 of the Gains Act (consideration for, and incidental costs of, original acquisition etc), or
 - (b) for no consideration,
- the disposal shall be taken for the purposes of the Gains Act, in relation to the person to whom the disposal is made as well as the person making the disposal, to be for a consideration such that no gain or loss accrues on the disposal.
- (5) In this paragraph—
- “the corresponding acquisition”, in the case of any disposal, means the acquisition made by the person to whom the disposal is made;

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“the corresponding disposal” in the case of any acquisition, means the disposal to the person by whom the acquisition is made.

Marginal Citations

M10 1993 c. 43.

M11 1993 c. 43.

M12 1993 c. 43.

Transfers of trading stock

- 12 (1) This paragraph applies in any case where—
- (a) by virtue of a relevant transfer, any trading stock belonging to a trade carried on by the predecessor (“the predecessor’s trade”) vests in the transferee, and
 - (b) the trading stock is acquired by the transferee as trading stock for the purposes of a trade which he carries on or which he begins to carry on after the relevant transfer (“the transferee’s trade”).
- (2) Where this paragraph applies, the trading stock in question shall, for the purposes (whether in relation to the predecessor or the transferee) of computing for the purposes of the Corporation Tax Acts the [^{F2}profits] of the predecessor’s trade and the transferee’s trade,—
- (a) be taken to have been both disposed of by the predecessor and acquired by the transferee in the course of those trades and (subject to that) at the time when the transfer comes into force; and
 - (b) be valued in each case as if that disposal and acquisition had been for a consideration which in relation to the predecessor would have resulted in neither a profit nor a loss being brought into account in respect of the disposal in the accounting period of the predecessor which is current at that time.
- (3) In this paragraph “trading stock” has the same meaning as in section 100 of the Taxes Act 1988.

Textual Amendments

F2 Words in [Sch. 24 para. 12\(2\)](#) substituted (31.7.1998) by [1998 c. 36, s. 46\(3\)](#), [Sch. 7 para. 9](#)

Transfer of rights to receipts

- 13 Where, by virtue of any relevant transfer, there is transferred any right of the predecessor to receive any amount which is for the purposes of corporation tax—
- (a) an amount brought into account as a trading receipt of the predecessor for any accounting period ending before the time when the transfer comes into force, or
 - (b) an amount falling to be so brought into account if it is assumed, where it is not the case, that the accounting period of the predecessor current on the day before the transfer comes into force ends immediately before that time,
- the transfer shall not require any modification of the way in which that amount has been and is to be treated in relation to the predecessor for those purposes or entitle

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any amount due or paid in respect of that right to be treated as a trading receipt of the transferee for any accounting period.

Transfer of liabilities

- 14 (1) If the whole or any part of the amount of a liability transferred by virtue of a relevant transfer falls, for the purposes of corporation tax,—
- (a) to be brought into account as deductible in computing the predecessor's profits, or any description of the predecessor's profits, for any accounting period ending before the time when the transfer comes into force, or
 - (b) to be so brought into account if it is assumed, where it is not the case, that the accounting period of the predecessor current on the day before the transfer comes into force ends immediately before that time,
- then the transfer shall not require any modification of the way in which that amount or, as the case may be, that part of that amount has been or is to be treated in relation to the predecessor for those purposes or entitle any amount due or paid in respect of that liability or, as the case may be, the corresponding part of that liability to be deductible in computing the transferee's profits, or any description of the transferee's profits, for any accounting period.
- (2) If and to the extent that the amount of any liability which, in consequence of any relevant transfer, falls to be discharged by the transferee is an amount which would (but for that and any other transfer) have fallen to be deductible in computing the predecessor's profits, or any description of the predecessor's profits, for any accounting period beginning with the coming into force of the transfer or at any subsequent time, that amount shall, to that extent,—
- (a) not be so deductible; but
 - (b) subject to sub-paragraph (3) below, be deductible in computing the transferee's profits to the same extent as if the transferee had become subject to the obligation in pursuance of which the liability arises or has arisen at the same time and for the same consideration, and otherwise on the same terms and in the same circumstances, as the predecessor;
- and for the purposes of this sub-paragraph it shall be assumed, where it is not the case, that the accounting period of the predecessor current on the day before the transfer comes into force ends immediately before the coming into force of that transfer.
- (3) For the purposes of corporation tax, where any relevant transfer has the effect that any liability falls to any extent to be discharged by the transferee instead of by the predecessor, the amounts deductible in computing the transferee's profits, or any description of the transferee's profits, for any accounting period shall not include any amount in respect of so much of that liability as falls to be so discharged unless it is an amount which (but for that and any other transfer) would have fallen to be deductible in computing the predecessor's profits, or any description of the predecessor's profits, for any accounting period beginning or ending after the coming into force of that transfer.
- (4) The preceding provisions of this paragraph shall apply in relation to the deduction of charges on income against the total profits of the predecessor or transferee for any period as they apply in relation to the deduction of any amount in the computation for that period of the profits of the predecessor or, as the case may be, of the transferee.

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- (5) For the purposes of Chapter II of Part VI of the Taxes Act 1988 (definition of distributions), where in the case of any relevant transfer any consideration given or treated as given in respect of a security relating to—
- (a) any liability, or
 - (b) the use of the principal to which any liability, being a liability to interest or an equivalent liability, relates,
- would fall (apart from this sub-paragraph) to be regarded for those purposes as new consideration received by the predecessor, that consideration shall be treated instead, to the extent that it relates to so much of the liability as falls in consequence of the transfer to be discharged by the transferee, as if it were new consideration received by the transferee.

Trading losses

- 15 (1) Subject to the following provisions of this paragraph, where as a result of a relevant transfer, the predecessor falls to be regarded for the purposes of section 343 of the Taxes Act 1988 (company reconstructions without change of ownership) as ceasing to carry on a trade and the transferee falls to be regarded for the purposes of that section as beginning to carry on that trade—
- (a) the transferee shall not, by virtue of those matters, be entitled to any relief under section 393(1) (trading losses) of that Act to which it would, apart from this paragraph, have been entitled by virtue of section 343(3) of that Act; and
 - (b) after the coming into force of the relevant transfer, the loss in question shall continue to be regarded for the purposes of the Corporation Tax Acts as a loss incurred in the trade for the time being carried on by the predecessor to the same extent as it would have been so regarded apart from the relevant transfer (and shall be eligible for relief accordingly).
- (2) The following provisions of this paragraph apply in any case where—
- (a) a restructuring scheme makes express provision for the transfer from the predecessor to the transferee of the right to obtain tax relief in respect of such an amount of the predecessor's unrelieved trading losses or unrelieved transferred losses as may be specified in, or determined in accordance with, the scheme; and
 - (b) after the relevant date the transferee carries on, or begins to carry on, any trade (whether or not the trade, or a part of the trade, carried on by the predecessor);
- and any reference in this paragraph to a transferred loss is a reference to the amount mentioned in paragraph (a) above.
- (3) The transferee shall be entitled to relief under section 393(1) of the Taxes Act 1988 for the transferred loss, as for a loss sustained by the transferee in carrying on its trade, but the transferred loss may only be set off against trading income of the transferee which arises in an accounting period throughout which the transferee is a public sector railway company.
- (4) Where the transferee ceases to be a public sector railway company, it shall be assumed for the purposes of giving relief by virtue of sub-paragraph (3) above that—
- (a) on the occasion of the cessation (unless a true accounting period of the transferee ends then) an accounting period of the transferee ends and a

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new one begins, the new accounting period to end with the end of the true accounting period; and

- (b) the amount of the trading income for the true accounting period of the transferee against which the relief may be allowed is apportioned to the component accounting periods;

and any apportionment under this sub-paragraph shall be on a time basis according to the respective lengths of the component accounting periods except that, if it appears that that method would work unreasonably or unjustly, such other method shall be used as appears just and reasonable.

- (5) Relief by virtue of sub-paragraph (3) above in respect of a transferred loss shall be given against the trading income of any accounting period of the transferee before relief is given against that income in respect of losses incurred by the transferee after the relevant date.
- (6) As from the relevant date—
 - (a) the amount of the predecessor's unrelieved transferred losses (if any) shall be regarded for the purposes of this paragraph as reduced by an amount equal to the transferred loss; and
 - (b) if the transferred loss exceeds the amount of the predecessor's unrelieved transferred losses before the reduction under paragraph (a) above, or if there are no such losses, the predecessor's unrelieved trading losses shall be regarded for the purposes of the Corporation Tax Acts as reduced by the amount of that excess or, as the case may be, by an amount equal to the transferred loss.
- (7) Without prejudice to the generality of sub-paragraphs (1) and (3) above, if the conditions in subsection (1) of section 343 of the Taxes Act 1988 become satisfied at any time on or after the relevant date in relation to any trade (or, where subsection (8) of that section applies, any part of a trade which falls to be treated for the purposes of that section as a separate trade), the company which is the successor, within the meaning of that section, shall not become entitled to relief by virtue of subsection (3) of that section in respect of any amount for which the company which is the predecessor, within the meaning of that section, would have been entitled to relief by virtue of sub-paragraph (3) above had it continued to carry on the trade (or the part of the trade which falls to be treated as a separate trade).
- (8) Subject to sub-paragraph (9) below, the provisions of a restructuring scheme providing for the determination of the amount which is to be that of any transferred loss may include provision—
 - (a) for such a determination to be made by the Secretary of State in such manner as may be described in the scheme;
 - (b) for any amount determined to be calculated by reference to such factors, or to the opinion of such person, as may be so described; and
 - (c) for a determination under those provisions to be capable of being modified, on one or more occasions, in such manner and in such circumstances as may be so described.
- (9) The consent of the Treasury shall be required for the making or modification of a determination of any such amount as is mentioned in sub-paragraph (8) above; and the consent of the transferee shall also be required for any such modification after the coming into force of the relevant transfer.

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- (10) Where there is a determination, or a modification of a determination, for any purposes of this paragraph, all necessary adjustments shall be made by making assessments or by repayment or discharge of tax, and shall be so made notwithstanding any limitation on the time within which assessments may be made.
- (11) For the purposes of this paragraph, a transferee is at any time a “public sector railway company” if, and only if, it is at that time—
- (a) the Board;
 - (b) a wholly owned subsidiary of the Board;
 - [^{F3}(b) a wholly owned subsidiary of the Strategic Rail Authority;]
 - (c) a publicly owned railway company; or
 - (d) a company wholly owned by the Crown.
- (12) In this paragraph—
- “the relevant date” means the date on which the transfer mentioned in sub-paragraph (2)(a) above takes effect;
- “trading income” has the same meaning as it has in section 393 of the Taxes Act 1988;
- “unrelieved trading losses” means any losses—
- (a) which were incurred by the predecessor in carrying on a trade in accounting periods ending before the relevant date, or
 - (b) for which the predecessor has, by virtue of section 343(3) of the Taxes Act 1988, become entitled to relief under section 393(1) of that Act,
- and which would, apart from the restructuring scheme mentioned in sub-paragraph (2)(a) above, have fallen to be set off under the said section 393(1) against trading income of the predecessor arising in the accounting period in which the relevant date falls;
- “unrelieved transferred losses” means so much of a transferred loss as would, apart from the restructuring scheme mentioned in sub-paragraph (2) (a) above, have fallen to be set off under section 393(1) of the Taxes Act 1988, as it applies by virtue of sub-paragraph (3) above, against trading income of the predecessor arising in the accounting period in which the relevant date falls.
- (13) It shall be assumed for the purposes of the definitions of “unrelieved trading losses” and “unrelieved transferred losses” in sub-paragraph (12) above (if it is not in fact the case) that the trading income mentioned in those definitions is at least equal to the aggregate amount of the losses in question of each of those descriptions.

Textual Amendments

- F3** Sch. 24 para. 15(11)(ba) inserted (15.1.2001) by 2000 c. 38, s. 252, Sch. 27 para. 50(2); S.I. 2000/3376, art. 2

No reduction in allowable losses on extinguishment of certain liabilities

- 16 Where any of the liabilities of a successor company are extinguished by virtue of section 106(1) of the ^{M13}Railways Act 1993, section 400 of the Taxes Act 1988 (reduction of allowable losses on write-off of government investment) shall not have effect in relation to any amount of government investment in a body corporate

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which, apart from this paragraph, would thereby fall to be regarded as written-off for the purposes of that section.

Marginal Citations

M13 1993 c. 43.

Group relief

- 17 (1) The existence of the powers of the Secretary of State or the Franchising Director under Part II of the Railways Act 1993 shall not be regarded as constituting arrangements falling within subsection (1) or (2) of section 410 of the Taxes Act 1988 (arrangements for the transfer of a company to another group or consortium).
- (2) Nothing in Part II of the Railways Act 1993, and no direction given by the Secretary of State under or by virtue of any provision of that Part, shall be regarded as constituting option arrangements for the purposes of paragraph 5B of Schedule 18 to the Taxes Act 1988.
- (3) Arrangements relating to the transfer, pursuant to any provision of Part II of the Railways Act 1993, of shares of a subsidiary of the Board to—
- (a) the Secretary of State,
 - (b) the Franchising Director,
 - (c) a publicly owned railway company,
 - (d) a company which is wholly owned by the Crown, or
 - (e) a person acting on behalf of a person falling within any of paragraphs (a) to (d) above,
- shall not, so far as so relating, be regarded as constituting arrangements falling within subsection (1)(b)(i) or (ii) of section 410 of the Taxes Act 1988.
- (4) Arrangements relating to the transfer, by virtue of a section 85 transfer scheme, of the whole or any part of a trade carried on by the Board or a wholly owned subsidiary of the Board to—
- (a) a publicly owned railway company, or
 - (b) a company wholly owned by the Franchising Director,
- shall not, so far as so relating, be regarded as constituting arrangements falling within section 410(1)(b)(iii) of the Taxes Act 1988.
- (5) Arrangements relating to the transfer, pursuant to any provision of Part II of the Railways Act 1993, of shares of a subsidiary of the Board, or shares of a company owned by a consortium, to—
- (a) the Secretary of State,
 - (b) the Franchising Director,
 - (c) a publicly owned railway company,
 - (d) a company which is wholly owned by the Crown, or
 - (e) a person acting on behalf of a person falling within any of paragraphs (a) to (d) above,
- shall not, so far as so relating, be regarded as constituting arrangements falling within section 410(2)(b)(ii) of the Taxes Act 1988.

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- (6) None of sub-paragraphs (3) to (5) above shall have effect in relation to any arrangements if—
- (a) notwithstanding the provisions of those sub-paragraphs, the arrangements to any extent fall within section 410(1) or (2) of the Taxes Act 1988; or
 - (b) the arrangements form part of a series of subsisting arrangements which to any extent—
 - (i) relate to the transfer of any shares or assets of, or the whole or any part of the trade carried on by, a company to which the first-mentioned arrangements relate, and
 - (ii) notwithstanding the provisions of sub-paragraphs (3) to (5) above, fall within section 410(1) or (2) of the Taxes Act 1988.
- (7) Section 413(6)(a) of the Taxes Act 1988 (company owned by a consortium) shall have effect for the purposes of sub-paragraph (5) above as it has effect for the purposes of Chapter IV of Part X of that Act.
- (8) In this paragraph—
“arrangements” has the same meaning as in section 410 of the Taxes Act 1988;
“shares” includes stock.

Securities issued under section 98 or 106 of the Railways Act 1993

- 18 (1) Subject to sub-paragraph (2) below, any shares issued by a relevant company in pursuance of section 98 or 106 of the ^{M14}Railways Act 1993 (initial share holding in, and extinguishment of certain liabilities of, successor companies) shall be treated for the purposes of the Corporation Tax Acts as if they had been issued wholly in consideration of a subscription paid to that company (and attributable equally between those shares) of an amount equal—
- (a) in the case of shares issued under section 98 of that Act, to the value, as at the transfer date, of the property, rights and liabilities vested in that company in accordance with the transfer scheme mentioned in subsection (1) of that section, or
 - (b) in the case of shares issued under section 106 of that Act, to the amount of the liabilities extinguished by the order under subsection (1) of that section, reduced, in either case, by the principal sum payable under any debentures issued by the company in pursuance of the section in question.
- (2) Where two or more classes of share are issued by a relevant company in pursuance of section 98 or, as the case may be, section 106 of the Railways Act 1993—
- (a) the issued shares of each of those classes shall be valued, as at the day on which, in consequence of section 98(4) or, as the case may be, section 106(5) of that Act, no more shares can be directed to be issued by the company under the section in question;
 - (b) the amount of the consideration mentioned in sub-paragraph (1) above shall be apportioned between those classes of share in proportion to the aggregate value of the issued shares of each of those classes, as determined pursuant to paragraph (a) above; and
 - (c) the portion attributed to any class of share pursuant to paragraph (b) above shall be divided by the number of issued shares of that class, the resulting

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amount being referred to in the following provisions of this sub-paragraph as the “appropriate price” for a share of that class;

and each of the issued shares of any of those classes shall be treated for the purposes of the Corporation Tax Acts as if it had been issued wholly in consideration of a subscription paid to the relevant company of an amount equal to the appropriate price for a share of that class.

- (3) Any debenture issued by a relevant company in pursuance of section 98 or 106 of the ^{M15}Railways Act 1993 shall be treated for the purposes of the Corporation Tax Acts as if it had been issued—
- (a) wholly in consideration of a loan made to that company of an amount equal to the principal sum payable under the debenture; and
 - (b) wholly and exclusively for the purposes of the trade or business carried on by that company.
- (4) If any debenture issued as mentioned in sub-paragraph (3) above includes provisions for the payment of a sum expressed as interest in respect of a period which falls wholly or partly before the issue of the debenture, any payment made in pursuance of that provision in respect of that period shall be treated for the purposes of the Corporation Tax Acts as if the debenture had been issued at the commencement of that period and, accordingly, as interest on the principal sum payable under the debenture.
- (5) The value required to be determined for the purposes of sub-paragraph (1)(a) or (2) (a) above is market value, as defined in section 272 of the Gains Act.
- (6) In this paragraph—
- “company” means a body corporate;
- “relevant company” means a company which is—
- (a) a successor company; or
 - (b) in the application of this paragraph in relation to shares or debentures issued pursuant to section 106 of the ^{M16}Railways Act 1993, the company, or one of the companies, wholly owning (within the meaning of that section) the successor company whose liabilities are extinguished by the order under subsection (1) of that section.

Marginal Citations

M14 1993 c. 43.

M15 1993 c. 43.

M16 1993 c. 43.

Leased assets

- 19 (1) For the purposes of section 781 of the Taxes Act 1988 (assets leased to traders and others), where the interest of the lessor or the lessee under a lease, or any other interest in an asset, vests in any person by virtue of a relevant transfer—
- (a) the transfer shall (notwithstanding anything in section 783(4) of that Act) be treated as made without any capital sum having been obtained in respect of that interest by the predecessor or the transferee; and

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- (b) in a case where the interest is an interest under a lease, payments made by the predecessor under the lease before the coming into force of the transfer shall be treated as if they had been made under that lease by the transferee.
- (2) No charge shall arise under section 781(1) of the Taxes Act 1988 by virtue of section 783(2) of that Act in a case where the capital sum mentioned in section 781(1)(b)(i) or (ii) of that Act is the consideration obtained (or treated by section 783(4) of that Act as obtained) by the Board on a disposal pursuant to a direction under Part II of the ^{M17}Railways Act 1993 of securities of a subsidiary of the Board.
- (3) The grant of a lease of an asset—
- (a) by a person to an associate of his, pursuant to an obligation imposed by a restructuring scheme by virtue of section 91(1)(c) of the ^{M18}Railways Act 1993,
 - (b) by a person to an associate of his, pursuant to paragraph 2 of Schedule 8 to that Act in connection with a restructuring scheme, or
 - (c) by the Board, any of the Board's wholly owned subsidiaries, a publicly owned railway company or a company wholly owned by the Franchising Director to an associate of the grantor, pursuant to a direction under that Act,
- shall be treated for the purposes of section 781 of the Taxes Act 1988 (notwithstanding anything in section 783(4) of that Act) as made without any capital sum having been obtained by the grantor.
- (4) No charge shall arise under section 781(1) of the Taxes Act 1988 in a case where the capital sum mentioned in section 781(1)(b)(i) or (ii) of that Act is the consideration obtained (or treated by section 783(4) of that Act as obtained) on a disposal of, or of an interest in, rolling stock by—
- (a) the Board,
 - (b) a wholly owned subsidiary of the Board,
 - (c) a publicly owned railway company,
 - (d) a company wholly owned by the Franchising Director, or
 - (e) a body which, at the time when it acquired the rolling stock, fell within paragraph (b), (c) or (d) above,
- in any case where before, at or after the time when the disposal is made the lessee's interest in a lease of the rolling stock has belonged to an associate of the person making the disposal.
- (5) Section 782 of the Taxes Act 1988 (leased assets: special cases) shall not apply to payments made by—
- (a) the Board,
 - (b) a wholly owned subsidiary of the Board,
 - [^{F4}(ba) the Strategic Rail Authority,
 - (bb) a wholly owned subsidiary of the Strategic Rail Authority,]
 - (c) a publicly owned railway company,
 - (d) a company wholly owned by the Franchising Director,
 - (e) a successor company, or
 - (f) a franchise company,
- under a lease of an asset which at any time before the creation of the lease was used by a body falling within paragraphs (a) to (d) above for the purposes of a trade carried on by that body and which was, when so used, owned by that body.

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- (6) Section 781 of the Taxes Act 1988 shall not, by virtue of sub-paragraph (5) above, apply to any payments to which, by virtue of section 782 of that Act, it would not have applied apart from that sub-paragraph.
- (7) In this paragraph—
- “asset” has the meaning given by section 785 of the Taxes Act 1988;
 - “associate” shall be construed in accordance with section 783(10) of that Act;
 - “capital sum” has the meaning given by section 785 of that Act;
 - “lease” has the meaning given by section 785 of that Act;
 - “rolling stock” has the meaning given by section 83(1) of the^{M19}Railways Act 1993;
 - “securities” has the meaning given by section 142 of the Financial Services Act 1986.

Textual Amendments

F4 Sch. 24 para.19(5)(ba)(bb) inserted (15.1.2001) by 2000 c. 38, s. 252, Sch. 27 para. 50(3); S.I. 2000/3376, art. 2

Marginal Citations

M17 1993 c. 43.

M18 1993 c. 43.

M19 1993 c. 43.

Continuity in relation to capital allowances etc where trade transferred

- 20 (1) Subject to the following provisions of this Schedule, where, apart from this paragraph—
- (a) the predecessor would be treated for the purposes of the Corporation Tax Acts as having ceased, by virtue of the coming into force of a relevant transfer, to carry on any trade, and
 - (b) the transferee would be treated as having begun, on the coming into force of that transfer, to carry it on,
- then the trade shall not be treated as permanently discontinued, nor a new trade as set up, for the purposes of the allowances and charges provided for by the Capital Allowances Acts, but sub-paragraphs (2) to (4) below shall apply.
- (2) Subject to sub-paragraphs (3) and (4) below, in a case falling within sub-paragraph (1) above—
- (a) there shall be made to or on the transferee in accordance with the Capital Allowances Acts all such allowances and charges as would, if the predecessor had continued to carry on the trade, have fallen to be made to or on the predecessor; and
 - (b) the amount of any such allowance or charge shall be computed as if—
 - (i) the transferee had been carrying on the trade since the predecessor began to do so; and

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- (ii) everything done to or by the predecessor had been done to or by the transferee (but so that the relevant transfer itself, so far as it relates to any assets in use for the purpose of the trade, shall not be treated as giving rise to any such allowance or charge).
- (3) For the purposes of the Corporation Tax Acts, only such amounts (if any) as may be specified in or determined in accordance with the restructuring scheme providing for a relevant transfer shall be allocated to the transferee in respect of expenditure by reference to which capital allowances may be made by virtue of sub-paragraph (2) above in relation to anything to which the transfer relates.
- (4) Sub-paragraph (2) above shall affect the amounts falling to be taken into account in relation to the predecessor as expenditure by reference to which capital allowances may be made only so far as necessary to give effect to a reduction of any such amount by a sum equal to so much of that amount as is allocated to the transferee as mentioned in sub-paragraph (3) above.
- (5) Subject to sub-paragraph (6) below, the provisions of a restructuring scheme providing for the determination of any amount which for the purposes of sub-paragraph (3) above is to be allocated, in the case of any relevant transfer, to the transferee may include provision—
 - (a) for such a determination to be made by the Secretary of State in such manner as may be described in the scheme;
 - (b) for any amount determined to be calculated by reference to such factors or to the opinion of such person as may be so described; and
 - (c) for a determination under those provisions to be capable of being modified, on one or more occasions, in such manner and in such circumstances as may be so described.
- (6) The consent of the Treasury shall be required for the making or modification of a determination of any such amount as is mentioned in sub-paragraph (5) above; and the consent of the transferee shall also be required for any such modification after the coming into force of the relevant transfer.
- (7) This sub-paragraph applies in any case where assets which are the subject of a relevant transfer became vested in the predecessor by virtue of a transfer made by a company; and in any such case—
 - (a) if the predecessor held a direct or indirect interest in the company at the time of the transfer by the company, that interest shall be treated for the purposes of sub-paragraph (2)(b)(ii) above as if it had instead been held by the transferee;
 - (b) if the company held a direct or indirect interest in the predecessor at the time of the transfer by the company, the interest which the company held in the predecessor shall be treated for the purposes of sub-paragraph (2)(b)(ii) above as if it had instead been the corresponding interest in the transferee; and
 - (c) if there was a person who, at the time of the transfer by the company, held—
 - (i) a direct or indirect interest in the predecessor, and
 - (ii) a direct or indirect interest in the company,the interest which that person held at that time in the predecessor shall be treated for the purposes of sub-paragraph (2)(b)(ii) above as if it had instead been the corresponding interest in the transferee.

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- (8) Neither section 343 of the Taxes Act 1988 (company reconstructions without change of ownership) nor section 77 of the Allowances Act (successions to trades: connected persons) shall have effect in a case falling within sub-paragraph (1) above.
- (9) In determining whether sub-paragraph (1) above has effect in relation to a relevant transfer in a case where—
- (a) the predecessor continues to carry on any trade or part of a trade after the coming into force of the transfer, or
 - (b) the transferee was carrying on any trade before the coming into force of the transfer,
- the trade or part of a trade which is continued or, as the case may be, was being carried on shall for the purposes of that sub-paragraph be treated in relation to any trade or part of a trade which is transferred by virtue of the transfer as a separate trade and shall accordingly be disregarded.
- (10) Where there is a determination, or a modification of a determination, for any purposes of this paragraph, all necessary adjustments shall be made by making assessments or by repayment or discharge of tax, and shall be so made notwithstanding any limitation on the time within which assessments may be made.

Capital allowances in certain cases where paragraph 20 does not apply

- 21 (1) The Capital Allowances Acts shall have effect in accordance with this paragraph in relation to any property if—
- (a) it is property to which a relevant transfer relates; and
 - (b) paragraph 20 above does not apply in relation to its transfer to the transferee; and in this paragraph “the relevant scheme”, in relation to property to which a relevant transfer relates, means the restructuring scheme that provides for that transfer.
- (2) In any case where—
- (a) subsection (6) of section 21 of the Allowances Act (transfer of industrial buildings or structures to be deemed to be sale at market price) applies on the relevant transfer in relation to the property, and
 - (b) the relevant scheme contains provision for the sale of that property which is deemed to occur by virtue of that subsection to be deemed for the purposes of the Capital Allowances Acts to be at a price specified in or determined in accordance with the scheme,
- that deemed sale shall be treated as a sale at the price so specified or determined (instead of at the price determined by virtue of that subsection or any other provision of those Acts), sections 157 and 158 of the Allowances Act shall not apply and that provision of the scheme shall have an equivalent effect in relation to the expenditure which the transferee is to be treated as having incurred in making the corresponding purchase.
- (3) Where the property is plant or machinery which would, for the purposes of the Capital Allowances Acts, be treated on the coming into force of the relevant transfer as disposed of by the predecessor to the transferee and the relevant scheme contains provision for the disposal value of that property to be deemed for the purposes of

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those Acts to be of such amount as may be specified in or determined in accordance with the scheme—

- (a) that provision shall have effect, instead of section 26(1) or 59 of the Allowances Act, for determining an amount as the disposal value of the property or, as the case may be, as the price at which any fixture is to be treated as sold;
 - (b) the transferee shall be deemed to have incurred expenditure of that amount on the provision of that property; and
 - (c) in the case of a fixture, the expenditure which falls to be treated as incurred by the transferee shall be deemed for the purposes of section 54 of that Act to be incurred by the giving of a consideration consisting in a capital sum of that amount.
- (4) Sub-paragraphs (5) and (6) of paragraph 20 above shall apply in relation to any determination of any amount in accordance with any provision made by a restructuring scheme for the purposes of this paragraph as they apply for the purposes of a determination such as is mentioned in those sub-paragraphs.
- (5) Where there is a determination, or a modification of a determination, for any purposes of this paragraph, all necessary adjustments shall be made by making assessments or by repayment or discharge of tax, and shall be so made notwithstanding any limitation on the time within which assessments may be made.

Capital allowances: actual consideration to be the disposal value in certain other cases

- 22 (1) In this paragraph, “relevant disposal” means—
- (a) a disposal by virtue of a section 85 transfer scheme, other than a restructuring scheme, to the extent that the scheme provides for the transfer of property, rights and liabilities of—
 - (i) the Board,
 - (ii) a wholly owned subsidiary of the Board,
 - (iii) a publicly owned railway company, or
 - (iv) a company which is wholly owned by the Franchising Director,to a franchise company or to the Franchising Director;
 - (b) a disposal pursuant to a direction under section 89 of the ^{M20}Railways Act 1993;
 - (c) a disposal in accordance with directions under section 125 of that Act;
 - (d) a disposal by or pursuant to an agreement or instrument made or executed, transaction effected or direction given under or by virtue of paragraph 2, 3 or 14(2) of Schedule 8 to that Act, in a case where the transfer scheme in question is a section 85 transfer scheme, other than a restructuring scheme; or
 - (e) a disposal pursuant to a requirement imposed under paragraph 7(2)(b) of that Schedule, in a case where the transfer to which that Schedule applies is a transfer by virtue of a section 85 transfer scheme.
- (2) A relevant disposal of the relevant interest in—
- (a) an industrial building or structure, or
 - (b) a qualifying hotel or a commercial building or structure,

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shall be treated for the purposes of Part I of the Allowances Act, and the other provisions of that Act which are relevant to that Part, as a sale of that relevant interest; and sections 157 and 158 of that Act (sales between connected persons or without change of control) shall not have effect in relation to that sale.

- (3) Where there is a relevant disposal of machinery or plant, the amount which, in consequence of that disposal, is to be brought into account as the disposal value of that machinery or plant for the purposes of section 24 of the Allowances Act (balancing adjustments) shall, subject to section 26(2) and (3) of that Act (disposal value of machinery or plant not to exceed capital expenditure incurred on its provision) be taken—
- (a) if consideration is given in respect of the relevant disposal, to be an amount equal to the amount or value of that consideration, or
 - (b) if no such consideration is given, to be nil,
- notwithstanding any other provision of the Capital Allowances Acts.
- (4) Where, in consequence of a relevant disposal, a fixture is treated by section 57(2) of the Allowances Act as ceasing to belong to a person at any time, the amount which, in consequence of that disposal, is to be brought into account as the disposal value of the fixture for the purposes of section 24 of that Act shall, subject to section 26(2) and (3) of that Act, be taken—
- (a) if consideration is given in respect of the relevant disposal, to be an amount equal to that portion of the amount or value of that consideration which falls (or, if the person to whom the relevant disposal is made were entitled to an allowance, would fall) to be treated for the purposes of Part II of that Act as expenditure incurred by that person on the provision of the fixture, or
 - (b) if no such consideration is given, to be nil,
- notwithstanding any other provision of the Capital Allowances Acts.

Marginal Citations

M20 1993 c. 43.

Sale and lease-back: limitation on tax reliefs

- 23 (1) Section 779 of the Taxes Act 1988 (sale and lease back) shall not apply by virtue of subsection (1) or (2) of that section in any case where the liability of the transferor, or of the person associated with the transferor, is—
- (a) a liability under an access agreement, within the meaning of Part I of the ^{M21}Railways Act 1993;
 - (b) a liability under an agreement or instrument made or executed—
 - (i) pursuant to an obligation imposed by a restructuring scheme by virtue of section 91(1)(c) of that Act; or
 - (ii) pursuant to paragraph 2 of Schedule 8 to that Act;
 - (c) a liability under an exempt lease; or
 - (d) a liability to pay exempt rent or to make other exempt payments.
- (2) A lease is “exempt” for the purposes of sub-paragraph (1)(c) above if—
- (a) the transfer mentioned in subsection (1) of section 779 of the Taxes Act 1988 is—

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- (i) a transfer by virtue of a restructuring scheme;
 - (ii) a transfer pursuant to an obligation imposed by a restructuring scheme by virtue of section 91(1)(c) of the ^{M22}Railways Act 1993; or
 - (iii) a transfer pursuant to paragraph 2 of Schedule 8 to that Act; and
 - (b) the lease is granted after that transfer and otherwise than pursuant to—
 - (i) an obligation imposed by a restructuring scheme by virtue of section 91(1)(c) of the ^{M23}Railways Act 1993; or
 - (ii) paragraph 2 of Schedule 8 to that Act.
- (3) Rent or other payments are “exempt” for the purposes of paragraph (d) of subparagraph (1) above if—
 - (a) the rent or other payments would, apart from that paragraph, be rent or other payments to which section 779 of the Taxes Act 1988 applies by virtue of subsection (1) or (2) of that section;
 - (b) the transfer mentioned in subsection (1) or, as the case may be, subsection (2) (a) of that section is—
 - (i) a transfer by virtue of a restructuring scheme;
 - (ii) a transfer pursuant to an obligation imposed by a restructuring scheme by virtue of section 91(1)(c) of the ^{M24}Railways Act 1993; or
 - (iii) a transfer pursuant to paragraph 2 of Schedule 8 to that Act; and
 - (c) the transaction or series of transactions mentioned in subsection (1)(b) or, as the case may be, subsection (2)(b) of the said section 779 is effected after that transfer.
- (4) In this paragraph “transferor”, “lease” and “rent” have the same meaning as they have in section 779 of the Taxes Act 1988 and “associated” shall be construed in accordance with subsection (11) of that section.

Marginal Citations

- M21** 1993 c. 43.
- M22** 1993 c. 43.
- M23** 1993 c. 43.
- M24** 1993 c. 43.

Sales of land with right to reconveyance

- 24 No charge to tax shall arise by virtue of section 36 of the Taxes Act 1988 (charge on sale of land with right to reconveyance) where the sale in question is constituted by a disposition to a franchise company—
- (a) by virtue of a transfer scheme;
 - (b) pursuant to an obligation imposed by a transfer scheme by virtue of section 91(1)(c) of the ^{M25}Railways Act 1993; or
 - (c) pursuant to paragraph 2 of Schedule 8 to that Act.

Marginal Citations

- M25** 1993 c. 43.

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Modifications of restructuring scheme

- 25 (1) Subject to sub-paragraph (2) below, where the effect of a restructuring scheme is modified in pursuance of an agreement or direction under paragraph 2 or 3 of Schedule 8 to the ^{M26}Railways Act 1993, the Corporation Tax Acts and this Schedule shall have effect as if—
- (a) the scheme originally made had been the scheme as modified; and
 - (b) anything done by or in relation to the preceding holder had, so far as relating to the property, rights or liabilities affected by the modification, been done by or in relation to the subsequent holder.
- (2) A disposal of an asset—
- (a) which is effected in pursuance of an agreement or direction under paragraph 2 of Schedule 8 to the ^{M27}Railways Act 1993, and
 - (b) which is either the grant of a lease of land or the creation of other liabilities and rights over land,
- shall be taken for the purposes of corporation tax on chargeable gains, in relation to the person to whom the disposal is made as well as the person making the disposal, to be effected for a consideration such that no gain or loss accrues to the person making the disposal.
- (3) Section 171(1) of the Gains Act (transfers within a group) shall not apply where the disposal in question falls within sub-paragraph (2) above.
- (4) Any reference in sub-paragraph (1) or (2) above to an agreement or direction under paragraph 2 or 3 of Schedule 8 to the ^{M28}Railways Act 1993 includes a reference to such an agreement or direction as varied in accordance with a direction given by the Secretary of State under paragraph 14(2) of that Schedule.
- (5) For the purposes of sub-paragraph (1)(b) above—
- “the preceding holder” means the person who without the modification in question—
- (a) became, by virtue of the restructuring scheme in question, entitled or subject to the property, rights or liabilities affected by the modification, or
 - (b) remained, notwithstanding the restructuring scheme in question, entitled or subject to the property, rights or liabilities affected by the modification,
- as the case may be;
- “the subsequent holder” means the person who, in consequence of the modification in question, becomes, or resumes being, entitled or subject to the property, rights or liabilities affected by the modification.

Marginal Citations

M26 1993 c. 43.

M27 1993 c. 43.

M28 1993 c. 43.

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Income tax exemption for certain interest

- 26 Where liability for a loan made to the Board is vested in a successor company by virtue of a section 85 transfer scheme, the vesting shall not affect any direction given, or having effect as if given, by the Treasury under section 581 of the Taxes Act 1988 (income tax exemption for interest on foreign currency securities) in respect of the loan.

Employee benefits: transport vouchers

- 27 (1) This paragraph applies to any person (an “eligible person”)—
- (a) who on 11th January 1994 was in the employment of—
 - (i) the Board,
 - (ii) a wholly owned subsidiary of the Board, or
 - (iii) any other subsidiary of the Board which, at that date, was a passenger transport undertaking; and
 - (b) who at that date was provided, or was eligible to be provided, by reason of that employment, with a transport voucher falling within subsection (6) of section 141 of the Taxes Act 1988 (exclusion of subsection (1) of that section in relation to certain transport vouchers);
- but this sub-paragraph is subject to sub-paragraph (2) below.
- (2) This paragraph shall not apply, or shall cease to apply, to a person if, on or after 11th January 1994, any of the following conditions became or becomes satisfied in his case, that is to say—
- (a) he ceases, otherwise than—
 - (i) by virtue of anything done under or by virtue of, or pursuant to, the ^{M29}Railways Act 1993, or
 - (ii) by virtue of any other enactment or statutory instrument, in consequence of anything so done,to be in the employment of a person falling within sub-paragraph (i) or, as the case may be, sub-paragraph (ii) or (iii) of sub-paragraph (1)(a) above;
 - (b) he is not in the employment of any person engaged in the railway industry; or
 - (c) the continuity of the period of his employment is broken.
- (3) Subsection (6) of section 141 of the Taxes Act 1988 shall, if and so long as the conditions in sub-paragraph (4) below are satisfied, have effect in relation to a transport voucher provided for an eligible person, notwithstanding—
- (a) that the employer of the eligible person does not fall to be regarded as a passenger transport undertaking;
 - (b) that the arrangements under which the transport voucher is provided were not in operation on 25th March 1982; or
 - (c) that the passenger transport services which may be obtained by means of the transport voucher are provided, in whole or in part, otherwise than as mentioned in paragraphs (a) to (d) of that subsection;
- but this sub-paragraph is subject to sub-paragraph (2) above.
- (4) The conditions mentioned in sub-paragraph (3) above are—
- (a) that the eligible person is in the employment of an employer engaged in the railway industry;

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- (b) that the transport voucher is provided by reason of the eligible person's being in the employment of such an employer;
 - (c) that the transport voucher is intended to enable the eligible person or a relation of his to obtain passenger transport services; and
 - (d) that the current transport voucher benefits in the case of the eligible person are not significantly better than the former transport voucher benefits for comparable employees.
- (5) The Secretary of State may, with the consent of the Treasury, by order prescribe for any purposes of this paragraph circumstances—
- (a) in which a person who ceases, or ceased, as mentioned in sub-paragraph (2) (a) above to be in the employment there mentioned shall be treated—
 - (i) as if he had not ceased to be in that employment, or
 - (ii) as if he had not so ceased to be in that employment;
 - (b) in which a person shall be treated for a period during which he is not or was not in the employment of any person engaged in the railway industry as if he were or had been in the employment of such a person;
 - (c) in which a break in the continuity of a person's period of employment shall be disregarded; or
 - (d) in which a transport voucher shall be treated as if it were, or had been, provided for a person by reason of his being in the employment of an employer engaged in the railway industry.
- (6) The employers who are to be regarded for the purposes of this paragraph as “engaged in the railway industry” are those who carry on activities of a class or description specified for the purposes of this sub-paragraph in an order made by the Secretary of State with the consent of the Treasury; and the Secretary of State may so specify any class or description of activity which, in his opinion, falls within, or is related to or connected with, the railway industry.
- (7) Any power to make an order under this paragraph shall be exercisable by statutory instrument; and a statutory instrument containing such an order shall be subject to annulment pursuant to a resolution of the House of Commons.
- (8) In determining for the purposes of sub-paragraph (4)(d) above whether the current transport voucher benefits in the case of an eligible person are not significantly better than the former transport voucher benefits for comparable employees, regard shall be had, in particular, to—
- (a) the passenger transport services which may be, or (as the case may be) might have been, obtained by means of transport vouchers under the arrangements in question,
 - (b) whether, and (if so) the extent to which, free or concessionary travel is or (as the case may be) was available under those arrangements,
 - (c) the rate of any discount to the standard fare which is or (as the case may be) was available in the case of concessionary travel under those arrangements, and
 - (d) any limitations on the availability or use of transport vouchers under the arrangements in question.
- [^{F5}(9) Chapter I of Part XIV of the Employment Rights Act 1996, except section 218(6), shall apply for the purposes of this paragraph as it applies for the purposes of that Act.]

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(12) In this paragraph—

“the current transport voucher benefits”, in the case of an eligible person, means the totality of the benefits which, by reason of his employment by an employer engaged in the railway industry, are available in the year in question—

- (a) to the eligible person, and
- (b) to relations of his,

by way of transport voucher under the arrangements under which the transport voucher in question is provided;

“the former transport voucher benefits for comparable employees”, in the case of an eligible person, means the totality of the benefits which would, by reason of the employment by the Board of a person of similar status to the eligible person (“the comparable person”), have been available in the year 1993-94—

- (a) to the comparable person, and
- (b) to relations of his,

by way of transport voucher under arrangements in operation on 25th March 1982.

(13) Subject to paragraph 1(1) and [^{F6}sub-paragraph] (12) above, expressions used in this paragraph and in section 141 of the Taxes Act 1988 have the same meaning in this paragraph as they have in that section.

(14) This paragraph has effect—

- (a) in relation to transport vouchers received by an employee on or after 11th January 1994; and
- (b) in relation to expense incurred on or after that date in, or in connection with, the provision of—
 - (i) any transport voucher, or
 - (ii) the money, goods or services for which it is capable of being exchanged,

irrespective of when the transport voucher falls to be regarded as received by the employee in question.

Textual Amendments

- F5** Sch. 24 para. 27(9) substituted for paras. (9) to (11) (22.8.1996) by 1996 c. 18, ss. 240, 243, **Sch. 1 para. 62(a)** (with ss. 191-195, 202)
- F6** Words in Sch. 24 para. 27(13) substituted (22.8.1996) by 1996 c. 18, ss. 240, 243, **Sch. 1 para. 62(b)** (with ss. 191- 195, 202)

Marginal Citations

- M29** 1993 c. 43.

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