

*Status: Point in time view as at 31/07/1998.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 1996, SCHEDULE 39. (See end of Document for details)*

## SCHEDULES

### SCHEDULE 39

Section 201.

#### ENACTMENT OF CERTAIN INLAND REVENUE EXTRA-STATUTORY CONCESSIONS

#### PART I

#### INCOME TAX AND CORPORATION TAX

#### *Capital Allowances*

1 (1) The <sup>M1</sup>Capital Allowances Act 1990 (“the 1990 Act”) shall be amended as follows.

[<sup>F1</sup>(2) The following section shall be inserted after section 15 of the 1990 Act:

“ **Balancing charge after cessation of trade.**

(1) This section applies where:

- (a) a balancing charge falls to be made as provided in section 15 on any person in respect of a building or structure which is temporarily out of use but is deemed by virtue of subsection (1) of that section still to be an industrial building or structure; and
- (b) when the building or structure was last in use, it was in use as an industrial building or structure for the purposes of a trade which was carried on by that person but which has since been permanently discontinued.

(2) Where this section applies, the amount of the balancing charge shall be treated for the purposes of section 105 of the principal Act (allowable deductions) as a sum received by that person which is chargeable to tax under section 103 or 104(1) of the principal Act (charges on receipts after discontinuance), and accordingly any loss, expense, debit or capital allowance such as is referred to in section 105(1) may be deducted from the amount of the balancing charge.

(3) Nothing in subsection (2) above shall prevent any amounts allowable under any other provisions of the Tax Acts from being deducted from the amount of the balancing charge.

(4) Section 15(3) shall apply for the purposes of this section.”]

(3) Section 35 of the 1990 Act (contributions to expenditure, and hiring of cars) shall be amended by the insertion of the following subsection after subsection (2):

“(2A) Where subsection (2) has operated to reduce any expenditure on the hiring of a motor car, and subsequently either any rebate (by whatever name called) of

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the rentals is made or any transaction occurs with regard to any rentals that falls within section 94 of the principal Act (debts deducted and subsequently released), then the amount otherwise taxable in respect of the rebate or transaction shall be reduced in the same proportion as the expenditure on hiring was reduced.”

- (4) [<sup>F2</sup>The amendment made by subparagraph (2) above shall have effect where the balancing charge falls to be made on or after the day on which this Act is passed, and] the amendment made by subparagraph (3) above shall have effect in relation to rebates made and transactions occurring on or after the day on which this Act is passed.

#### Textual Amendments

- F1** Sch. 39 para. 1(2) repealed (31.7.1998 with effect in accordance with s. 38(2)(3) of the amending Act) by 1998 c. 36, s. 165, **Sch. 27 Pt. III(4)**, Note
- F2** Words in Sch. 39 para. 1(4) repealed (31.7.1998 with effect in accordance with s. 38(2)(3) of the amending Act) by 1998 c. 36, s. 165, **Sch. 27 Pt. III(4)**, Note

#### Marginal Citations

- M1** 1990 c. 1.

#### *Contributions to overseas pension schemes*

- 2 (1) Section 76 of the <sup>M2</sup>Finance Act 1989 (non-approved retirement benefits schemes) shall be amended as follows.
- (2) At the beginning of each of subsections (2), (3), (5) and (6), for “Expenses” there shall be substituted “ Subject to subsection (6A) below, expenses ”.
- (3) The following subsections shall be inserted after subsection (6):
- “(6A) Expenses to which subsection (6B) or (6C) below applies shall be treated as not falling within any of subsections (2), (3), (5) or (6) above.
- (6B) This subsection applies to expenses of paying any sum, or of providing benefits, pursuant to a superannuation fund which satisfies the requirements of section 615(6) of the Taxes Act 1988.
- (6C) This subsection applies to expenses of paying any sum, or of providing benefits, pursuant to a retirement benefits scheme which is established outside the United Kingdom and which the Board are satisfied corresponds to such a scheme as is mentioned in paragraphs (a), (b) or (c) of section 596(1) of the Taxes Act 1988, where the expenses are incurred for the benefit of:
- (a) employees whose emoluments are foreign emoluments within the meaning of section 192 of the Taxes Act 1988; or
- (b) employees who are not resident in the United Kingdom and whose duties are performed wholly outside the United Kingdom (and for this purpose duties performed in the United Kingdom the performance of which is merely incidental to the performance of other duties outside the United Kingdom shall be treated as performed outside the United Kingdom).”

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- (4) The amendments made by this paragraph shall have effect in relation to expenses incurred on or after the day on which this Act is passed.

**Marginal Citations**

M2 1989 c. 26.

**PART II**

CHARGEABLE GAINS

*Treatment of compensation and insurance money*

- 3 (1) Section 23 of the <sup>M3</sup>Taxation of Chargeable Gains Act 1992 (receipt of compensation and insurance money not treated as a disposal) shall be amended as follows.
- (2) The following subsections shall be substituted for subsection (6):
- “(6) If a building (“the old building”) is destroyed or irreparably damaged, and all or part of a capital sum received by way of compensation for the destruction or damage, or under a policy of insurance of the risk of the destruction or damage, is applied by the recipient in constructing or otherwise acquiring a replacement building situated on other land (“the new building”), then for the purposes of subsections (4) and (5) above each of the old building and the new building shall be regarded as an asset separate from the land on which it is or was situated and the old building shall be treated as lost or destroyed.
- (7) For the purposes of subsection (6) above:
- (a) references to a building include references to any permanent or semi-permanent structure in the nature of a building; and
  - (b) the reference to a sum applied in acquiring the new building does not include a reference to a sum applied in acquiring the land on which the new building is situated; and
  - (c) all necessary apportionments shall be made of any expenditure, compensation or consideration, and the method of apportionment shall be such as is just and reasonable.
- (8) This section shall apply in relation to a wasting asset with the following modifications:
- (a) paragraphs (b) and (c) of subsection (1) above, and subsection (2) above, shall not apply; and
  - (b) in subsections (1) and (3) above, the amount of the expenditure from which the deduction is to be made shall be the amount which would have been allowable under Chapter III of this Part if the asset had been disposed of immediately after the application of the capital sum.”
- (3) The amendments made by this paragraph shall have effect in relation to capital sums received on or after 6th April 1996.

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**Marginal Citations**

**M3** 1992 c. 12.

*Assets of negligible value*

- 4 (1) Section 24 of the Taxation of Chargeable Gains Act 1992 (disposals where assets lost or destroyed, or become of negligible value) shall be amended by the substitution of the following subsection for subsection (2):
- “(2) Where the owner of an asset which has become of negligible value makes a claim to that effect:
- (a) this Act shall apply as if the claimant had sold, and immediately reacquired, the asset at the time of the claim or (subject to paragraphs (b) and (c) below) at any earlier time specified in the claim, for a consideration of an amount equal to the value specified in the claim.
  - (b) An earlier time may be specified in the claim if:
    - (i) the claimant owned the asset at the earlier time; and
    - (ii) the asset had become of negligible value at the earlier time; and either
    - (iii) for capital gains tax purposes the earlier time is not more than two years before the beginning of the year of assessment in which the claim is made; or
    - (iv) for corporation tax purposes the earlier time is on or after the first day of the earliest accounting period ending not more than two years before the time of the claim.
  - (c) Section 93 of and Schedule 12 to the <sup>M4</sup>Finance Act 1994 (indexation losses and transitional relief) shall have effect in relation to an asset to which this section applies as if the sale and reacquisition occurred at the time of the claim and not at any earlier time.”
- (2) The amendment made by this paragraph shall have effect in relation to claims made on or after 6th April 1996.

**Marginal Citations**

**M4** 1994 c. 9.

*Settled Property*

- 5 (1) Section 72 of the Taxation of Chargeable Gains Act 1992 (termination of life interest on death of person entitled) shall be amended as follows.
- (2) In subsections (1), (2) and (5), for the words “a life” wherever they occur, there shall be substituted “an ” and, in subsection (5), the word “life”, in the third place where it occurs, shall be omitted.
- (3) For subsections (3) and (4) there shall be substituted the following subsections:
- “(3) This section shall apply on the death of the person entitled to any annuity payable out of, or charged on, settled property or the income of settled

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property as it applies on the death of a person whose interest in possession in the whole or any part of settled property terminates on his death.

(4) Where, in the case of any entitlement to an annuity created by a settlement some of the settled property is appropriated by the trustees as a fund out of which the annuity is payable, and there is no right of recourse to, or to the income of, settled property not so appropriated, then without prejudice to subsection (5) below, the settled property so appropriated shall, while the annuity is payable, and on the occasion of the death of the person entitled to the annuity, be treated for the purposes of this section as being settled property under a separate settlement.”

(4) The amendments made by this paragraph shall have effect in relation to deaths occurring on or after 6th April 1996.

6 (1) Section 73 of the <sup>M5</sup>Taxation of Chargeable Gains Act 1992 (death of life tenant: exclusion of chargeable gain) shall be amended as follows.

(2) In subsection (1), for the words from “termination” to “that interest” there shall be substituted “ death of a person entitled to an interest in possession in the settled property ”.

(3) In subsection (2), the word “life” shall be omitted.

(4) In subsection (3), for the words from “subsection (5)” to “subsection (2) above” there shall be substituted “ subsections (3) to (5) of that section shall apply for the purposes of this section ”.

(5) The amendments made by this paragraph shall have effect in relation to deaths occurring on or after 6th April 1996.

#### Marginal Citations

M5 1992 c. 12.

#### *Retirement Relief*

[<sup>F37</sup> (1) Paragraph 14 of Schedule 6 to the Taxation of Chargeable Gains Act 1992 shall be amended as follows.

(2) In subparagraph (2), the word “original” shall be inserted before “ qualifying period ”.

(3) The following subparagraphs shall be inserted at the end:

“(7) In relation to the expression “the original qualifying period”, the questions whether a disposal is a qualifying disposal and whether the period relating to that disposal is a qualifying period shall be determined without regard to the requirement that the length of the period be at least one year.

(8) This paragraph shall not apply if the extended qualifying period resulting from the operation of subparagraphs (1) to (7) would be a period of less than one year.”

(4) The amendments made by this paragraph shall have effect in relation to disposals made on or after 6th April 1996.]

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### Textual Amendments

- F3** Sch. 39 para. 7 repealed (31.7.1998 with effect as mentioned in Sch. 27 Pt. III(31), Note of the amending Act) by 1998 c. 36, s. 165, Sch. 27 Pt. III(31)

#### *Relief for loans to traders*

- 8 (1) Section 253 of the Taxation of Chargeable Gains Act 1992 (relief for loans to traders) shall be amended as follows.
- (2) In subsection (3):
- (a) for the words from the beginning until “is satisfied that” there shall be substituted “ Where a person who has made a qualifying loan makes a claim and at that time ”; and
  - (b) for the words “when the claim was made” there shall be substituted “ at the time of the claim or (subject to subsection (3A) below) any earlier time specified in the claim. ”
- (3) The following subsection shall be inserted after subsection (3):
- “(3A) For the purposes of subsection (3) above, an earlier time may be specified in the claim if:
- (a) the amount to which that subsection applies was also irrecoverable at the earlier time; and either
  - (b) for capital gains tax purposes the earlier time falls not more than two years before the beginning of the year of assessment in which the claim is made; or
  - (c) for corporation tax purposes the earlier time falls on or after the first day of the earliest accounting period ending not more than two years before the time of the claim.”
- (4) In subsection (4) for the words from the beginning until “is satisfied that” there shall be substituted “ Where a person who has guaranteed the repayment of a loan which is, or but for subsection (1)(c) above would be, a qualifying loan makes a claim and at that time ”.
- (5) The amendments made by this paragraph shall have effect in relation to claims made on or after 6th April 1996.

#### *Relief for debts on qualifying corporate bonds*

- 9 (1) Section 254 of the <sup>M6</sup>Taxation of Chargeable Gains Act 1992 (relief for debts on qualifying corporate bonds) shall be amended as follows.
- (2) In subsection (2):
- (a) for the words from the beginning until “is satisfied that” there shall be substituted “ Where a person who has made a qualifying loan makes a claim and at that time ”; and
  - (b) for the words “when the claim was made” there shall be substituted “ at the time of the claim or (subject to subsection (8A) below) any earlier time specified in the claim ”.
- (3) In subsections (6) and (7), the words “the inspector is satisfied that” shall be omitted.

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- (4) In subsection (8), the words “in the inspector’s opinion” shall be omitted.
- (5) The following subsection shall be inserted after subsection (8):
- “(8A) For the purposes of subsection (2) above, an earlier time may be specified in the claim if:
- (a) the condition which was fulfilled at the time of the claim was also fulfilled at the earlier time; and either
  - (b) for capital gains tax purposes the earlier time falls not more than two years before the beginning of the year of assessment in which the claim is made; or
  - (c) for corporation tax purposes the earlier time falls on or after the first day of the earliest accounting period ending not more than two years before the time of the claim.”
- (6) In subsection (11), the words “the inspector was satisfied that”, “by the inspector” and “he was satisfied that” shall be omitted.
- (7) The amendments made by this paragraph shall have effect in relation to claims made on or after 6th April 1996.

**Marginal Citations**

M6 1992 c. 12.

**PART III**

STAMP DUTY

*Lost or spoiled instruments*

- 10 (1) The <sup>M7</sup>Stamp Duties Management Act 1891 (“the Management Act”) shall be amended as follows.
- (2) In section 9 of the Management Act (procedure for obtaining allowance), subsection (7), paragraph (e), the words “which is inadvertently and undesignedly spoiled, and in lieu whereof another instrument made between the same parties and for the same purpose is executed and duly stamped, or” shall be omitted.
- (3) The following section shall be inserted after section 12 of the Management Act:

*“ Allowance for lost or spoiled instruments*

**12A Lost or spoiled instruments.**

- (1) This section applies where the Commissioners are satisfied that:
- (a) an instrument which was executed and duly stamped (“the original instrument”) has been accidentally lost or spoiled; and
  - (b) in place of the original instrument, another instrument made between the same persons and for the same purpose (“the replacement instrument”) has been executed; and

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- (c) an application for relief under this section is made to the Commissioners; and either
  - (d) where the original instrument has been lost, the applicant undertakes to deliver it up to the Commissioners to be cancelled if it is subsequently found; or
  - (e) where the original instrument has been spoiled:
    - (i) the application is made within two years after the date of the original instrument, or if it is not dated, within two years after the time when it was executed, or within such further time as the Commissioners may allow; and
    - (ii) no legal proceeding has been commenced in which the original instrument has been or could or would have been given or offered in evidence; and
    - (iii) the original instrument is delivered up to the Commissioners to be cancelled.
- (2) Where this section applies:
- (a) the replacement instrument shall not be chargeable with any duty, but shall be stamped with the duty with which it would otherwise have been chargeable in accordance with the law in force at the time when it was executed, and shall be deemed for all purposes to be duly stamped; and
  - (b) if any duty, interest, fine or penalty was paid in respect of the replacement instrument before the application was made, the Commissioners shall pay to such person as they consider appropriate an amount equal to the duty, interest, fine or penalty so paid.
- (3) For the purposes of this section the Commissioners may require the applicant to produce such evidence by statutory declaration or otherwise as they think fit.”
- (4) Subject to subparagraph (5) below, the amendments made by this paragraph shall have effect from the day on which this Act is passed.
- (5) The amendments made by this paragraph shall not apply in relation to an instrument which has been accidentally spoiled if an application for allowance under section 9 of the Management Act was made before the day on which this Act is passed.

**Marginal Citations**

**M7** 1891 c. 38.

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