

Status: Point in time view as at 01/04/1998.

Changes to legislation: Finance Act 1998 is up to date with all changes known to be in force on or before 07 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULES

SCHEDULE 1

Section 16.

RATES OF DUTY WHERE POLLUTION REDUCED

VALID FROM 31/07/1998

Meaning of “the 1994 Act”

1 In this Schedule “the 1994 Act” means the ^{M1}Vehicle Excise and Registration Act 1994.

Marginal Citations

M1 1994 c. 22.

VALID FROM 31/07/1998

Certificates as to reduced pollution

2 The following section shall be inserted after section 61A of the 1994 Act—

“61B Certificates as to reduced pollution.

- (1) The Secretary of State may by regulations make provision—
- (a) for the making of an application to the Secretary of State for the issue in respect of an eligible vehicle of a reduced pollution certificate;
 - (b) for the manner in which any determination of whether to issue such a certificate on such an application is to be made;
 - (c) for the examination of an eligible vehicle, for the purposes of the determination mentioned in paragraph (b), by such persons, and in such manner, as may be prescribed;
 - (d) for a fee to be paid for such an examination;
 - (e) for a reduced pollution certificate to be issued in respect of an eligible vehicle if, and only if, it is found, on a prescribed examination, that the reduced pollution requirements are satisfied with respect to it;
 - (f) for the form and content of such a certificate;
 - (g) for such a certificate to be valid for such period as the Secretary of State may determine;

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- (h) for the revocation, cancellation or surrender of such a certificate before the end of any such period;
 - (i) for the Secretary of State to be entitled to require the return to him of such a certificate that has been revoked;
 - (j) for the fact that such a certificate is, or is not, in force in respect of a vehicle to be treated as having conclusive effect for the purposes of this Act as to such matters as may be prescribed;
 - (k) for the Secretary of State to be entitled, in prescribed cases, to require the production of such a certificate before making a determination for the purposes of section 7(5); and
 - (l) for appeals against any determination not to issue such a certificate.
- (2) For the purposes of this Act, the reduced pollution requirements are satisfied with respect to a vehicle at any time if, as a result of adaptations of the prescribed description having been made to the vehicle after the prescribed date, the prescribed requirements are satisfied at that time with respect to the rate and content of the vehicle's emissions.
- (3) Without prejudice to the generality of subsection (1), for the purpose of enabling the Secretary of State to determine whether the reduced pollution requirements are satisfied at any time with respect to a vehicle in respect of which a reduced pollution certificate is in force, regulations under this section—
- (a) may authorise such person as may be prescribed to require the vehicle to be re-examined in accordance with the regulations;
 - (b) may provide for a fee to be paid for such a re-examination;
 - (c) may provide for the refund of such a fee if it is found, on the prescribed re-examination, that the reduced pollution requirements are satisfied with respect to the vehicle.
- (4) In this section “eligible vehicle” means—
- (a) a bus, as defined in paragraph 3(2) of Schedule 1;
 - (b) a vehicle to which paragraph 6 of Schedule 1 applies;
 - (c) a haulage vehicle, as defined in paragraph 7(2) of Schedule 1, other than a showman's vehicle; or
 - (d) a goods vehicle, other than one falling within paragraph 9(2) or 11(2) of Schedule 1.
- (5) In this section “prescribed” means prescribed by regulations made by the Secretary of State.”

VALID FROM 01/01/1999

Buses

- 3 (1) In sub-paragraph (1) of paragraph 3 of Schedule 1 to the 1994 Act (annual rates of vehicle excise duty for buses), after “bus” there shall be inserted “ with respect to which the reduced pollution requirements are not satisfied ”.
- (2) After that sub-paragraph there shall be inserted the following sub-paragraph—

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“(1A) The annual rate of vehicle excise duty applicable to a bus with respect to which the reduced pollution requirements are satisfied is the general rate specified in paragraph 1(2).”

(3) In sub-paragraph (6) of that paragraph, for “which falls” there shall be substituted “which—

- (a) is not a vehicle with respect to which the reduced pollution requirements are satisfied; and
- (b) falls”.

Commencement Information

I1 Sch. 1 partly in force; Sch. 1 paras. 1, 2, 15-17 in force at Royal Assent see Sch. 1 para. 17(2); Sch. 1 paras. 3-14 in force for specified purposes at 1.1.1999 by S.I. 1998/3092, art. 2

VALID FROM 01/01/1999

Special vehicles

4 In paragraph 4(7) of that Schedule (annual rates of vehicle excise duty for special vehicles), for “which falls” there shall be substituted “which—

- (a) is not a vehicle with respect to which the reduced pollution requirements are satisfied; and
- (b) falls”.

Commencement Information

I2 Sch. 1 partly in force; Sch. 1 paras. 1, 2, 15-17 in force at Royal Assent see Sch. 1 para. 17(2); Sch. 1 paras. 3-14 in force for specified purposes at 1.1.1999 by S.I. 1998/3092, art. 2

VALID FROM 01/01/1999

Recovery vehicles

5 In paragraph 5(6) of that Schedule (annual rates of vehicle excise duty for recovery vehicles), for “which falls” there shall be substituted “which—

- (a) is not a vehicle with respect to which the reduced pollution requirements are satisfied; and
- (b) falls”.

Commencement Information

I3 Sch. 1 partly in force; Sch. 1 paras. 1, 2, 15-17 in force at Royal Assent see Sch. 1 para. 17(2); Sch. 1 paras. 3-14 in force for specified purposes at 1.1.1999 by S.I. 1998/3092, art. 2

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VALID FROM 01/01/1999

Vehicles used for exceptional loads

- 6 (1) In paragraph 6 of that Schedule (annual rates of vehicle excise duty for vehicles used for exceptional loads), in sub-paragraph (2), for “the heavy tractive unit rate” there shall be substituted “ the rate specified in sub-paragraph (2A). ”
- (2) After that sub-paragraph there shall be inserted the following sub-paragraph—
- “(2A) The rate referred to in sub-paragraph (2) is—
- (a) in the case of a vehicle with respect to which the reduced pollution requirements are not satisfied, £5,170; and
- (b) in the case of a vehicle with respect to which those requirements are satisfied, £4,670.”
- (3) Sub-paragraph (3A) of that paragraph shall cease to have effect.

Commencement Information

- I4** Sch. 1 partly in force; Sch. 1 paras. 1, 2, 15-17 in force at Royal Assent see Sch. 1 para. 17(2); Sch. 1 paras. 3-14 in force for specified purposes at 1.1.1999 by S.I. 1998/3092, art. 2

VALID FROM 01/01/1999

Haulage vehicles

- 7 (1) In paragraph 7 of that Schedule (annual rates of vehicle excise duty for haulage vehicles), in sub-paragraph (1)(b), for “the general haulage vehicle rate” there shall be substituted “ the rate specified in sub-paragraph (3A) ”.
- (2) In sub-paragraph (3) of that paragraph, for “which falls” there shall be substituted “which—
- (a) is not a vehicle with respect to which the reduced pollution requirements are satisfied; and
- (b) falls”.
- (3) After that sub-paragraph there shall be inserted the following sub-paragraph—
- “(3A) The rate referred to in sub-paragraph (1)(b) is—
- (a) in the case of a vehicle with respect to which the reduced pollution requirements are not satisfied, £350; and
- (b) in the case of a vehicle with respect to which those requirements are satisfied, the general rate specified in paragraph 1(2).”
- (4) Sub-paragraphs (4), (5) and (6) of that paragraph shall cease to have effect.

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Commencement Information

- I5** Sch. 1 partly in force; Sch. 1 paras. 1, 2, 15-17 in force at Royal Assent see Sch. 1 para. 17(2); Sch. 1 paras. 3-14 in force for specified purposes at 1.1.1999 by S.I. 1998/3092, art. 2

VALID FROM 01/01/1999

Rigid goods vehicles

- 8 (1) In sub-paragraph (1) of paragraph 9 of that Schedule (annual rates of vehicle excise duty for rigid goods vehicles), after “which” there shall be inserted “ is not a vehicle with respect to which the reduced pollution requirements are satisfied and which ”.
- (2) In sub-paragraph (3) of that paragraph, for the words from “which has” to the end of the sub-paragraph there shall be substituted “which—
- (a) is not a vehicle with respect to which the reduced pollution requirements are satisfied,
 - (b) has a revenue weight exceeding 44,000 kilograms, and
 - (c) is not an island goods vehicle,
- shall be £5,170. ”
- (3) In sub-paragraph (4) of that paragraph, for “which falls” there shall be substituted “which—
- (a) is not a vehicle with respect to which the reduced pollution requirements are satisfied; and
 - (b) falls”.
- (4) Sub-paragraph (5) of that paragraph shall cease to have effect.

Commencement Information

- I6** Sch. 1 partly in force; Sch. 1 paras. 1, 2, 15-17 in force at Royal Assent see Sch. 1 para. 17(2); Sch. 1 paras. 3-14 in force for specified purposes at 1.1.1999 by S.I. 1998/3092, art. 2

- 9 After that paragraph there shall be inserted the following paragraphs—
- “9A (1) This paragraph applies to a rigid goods vehicle which—
- (a) is a vehicle with respect to which the reduced pollution requirements are satisfied;
 - (b) is not a vehicle for which the annual rate of vehicle excise duty is determined under paragraph 9(2); and
 - (c) has a revenue weight exceeding 3,500 kilograms.
- (2) Subject to sub-paragraph (3), the annual rate of vehicle excise duty applicable to a rigid goods vehicle to which this paragraph applies shall be determined in accordance with the table set out in paragraph 9B by reference to—
- (a) the revenue weight of the vehicle, and
 - (b) the number of axles on the vehicle.

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- (3) The annual rate of vehicle excise duty applicable to a rigid goods vehicle to which this paragraph applies which has a revenue weight exceeding 44,000 kilograms shall be £4,670.

9B That table is as follows—

Commencement Information

I7 Sch. 1 partly in force; Sch. 1 paras. 1, 2, 15-17 in force at Royal Assent see Sch. 1 para. 17(2); Sch. 1 paras. 3-14 in force for specified purposes at 1.1.1999 by S.I. 1998/3092, art. 2

- 10 In paragraph 10 of that Schedule (the trailer supplement), in sub-paragraph (1), for “paragraph 9” there shall be substituted “ paragraphs 9 and 9A ”.

Commencement Information

I8 Sch. 1 partly in force; Sch. 1 paras. 1, 2, 15-17 in force at Royal Assent see Sch. 1 para. 17(2); Sch. 1 paras. 3-14 in force for specified purposes at 1.1.1999 by S.I. 1998/3092, art. 2

VALID FROM 01/01/1999

Tractive units

- 11 (1) In sub-paragraph (1) of paragraph 11 of that Schedule (annual rates of vehicle excise duty for tractive units), after “which” there shall be inserted “ is not a vehicle with respect to which the reduced pollution requirements are satisfied and which ”.
- (2) In sub-paragraph (3) of that paragraph, for the words from “which has” to the end of the sub-paragraph there shall be substituted “which—
- (a) is not a vehicle with respect to which the reduced pollution requirements are satisfied,
 - (b) has a revenue weight exceeding 44,000 kilograms, and
 - (c) is not an island goods vehicle,
- shall be £5,170. ”
- (3) In sub-paragraph (4) of that paragraph, for “which falls” there shall be substituted “which—
- (a) is not a vehicle with respect to which the reduced pollution requirements are satisfied; and
 - (b) falls”.
- (4) Sub-paragraph (5) of that paragraph shall cease to have effect.

Commencement Information

I9 Sch. 1 partly in force; Sch. 1 paras. 1, 2, 15-17 in force at Royal Assent see Sch. 1 para. 17(2); Sch. 1 paras. 3-14 in force for specified purposes at 1.1.1999 by S.I. 1998/3092, art. 2

- 12 After that paragraph there shall be inserted the following paragraphs—

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- “11A(1) This paragraph applies to a tractive unit which—
- (a) is a vehicle with respect to which the reduced pollution requirements are satisfied;
 - (b) is not a vehicle for which the annual rate of vehicle excise duty is determined under paragraph 11(2); and
 - (c) has a revenue weight exceeding 3,500 kilograms.
- (2) Subject to sub-paragraph (3), the annual rate of vehicle excise duty applicable to a tractive unit to which this paragraph applies shall be determined, in accordance with the table set out in paragraph 11B, by reference to—
- (a) the revenue weight of the tractive unit,
 - (b) the number of axles on the tractive unit, and
 - (c) the types of semi-trailers, distinguished according to the number of their axles, which are to be drawn by it.
- (3) The annual rate of vehicle excise duty applicable to a tractive unit to which this paragraph applies which has a revenue weight exceeding 44,000 kilograms shall be £4,670.”

“11B That table is as follows—

Commencement Information

110 Sch. 1 partly in force; Sch. 1 paras. 1, 2, 15-17 in force at Royal Assent see Sch. 1 para. 17(2); Sch. 1 paras. 3-14 in force for specified purposes at 1.1.1999 by S.I. 1998/3092, art. 2

VALID FROM 31/07/1998

Other amendments

VALID FROM 01/01/1999

- 13 In section 15 of the 1994 Act (vehicles becoming chargeable to duty at higher rate), after subsection (2) there shall be inserted the following subsection—
- “(2A) For the purposes of subsection (1) a vehicle is also used so as to subject it to a higher rate if—
- (a) the rate of vehicle excise duty paid on a vehicle licence taken out for the vehicle was the rate applicable to a vehicle of the same description with respect to which the reduced pollution requirements are satisfied, and
 - (b) while the licence is in force, the vehicle is used at a time when those requirements are not satisfied with respect to it.”

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Commencement Information

III Sch. 1 partly in force; Sch. 1 paras. 1, 2, 15-17 in force at Royal Assent see Sch. 1 para. 17(2); Sch. 1 paras. 3-14 in force for specified purposes at 1.1.1999 by S.I. 1998/3092, art. 2

VALID FROM 01/01/1999

- 14 In section 16 of the 1994 Act (exceptions from charge at higher rate in case of tractive units), at the beginning of subsection (1) there shall be inserted "Subject to subsection (9)" and after subsection (7) there shall be inserted the following subsections—
- “(8) This subsection applies to a tractive unit (“the relevant tractive unit”) in relation to which subsection (2), (4) or (6) applies if—
- (a) the rate of duty paid on taking out the licence for the relevant tractive unit is the rate applicable to a tractive unit of the appropriate description with respect to which the reduced pollution requirements are satisfied; and
- (b) while the licence is in force, the relevant tractive unit is used at a time when the reduced pollution requirements are not satisfied with respect to it.
- (9) Where subsection (8) applies, subsection (1) does not prevent duty becoming payable under section 15 at the rate applicable to a tractive unit of the appropriate description with respect to which the reduced pollution requirements are not satisfied.
- (10) In this section “the appropriate description” means the description mentioned in paragraph (b) of whichever of subsections (2), (4) and (6) applies in relation to the relevant tractive unit.”

Commencement Information

III Sch. 1 partly in force; Sch. 1 paras. 1, 2, 15-17 in force at Royal Assent see Sch. 1 para. 17(2); Sch. 1 paras. 3-14 in force for specified purposes at 1.1.1999 by S.I. 1998/3092, art. 2

- 15 In section 45 of the 1994 Act (offences relating to false or misleading declarations and information), in subsections (3A) and (3B), after “section 61A” there shall be inserted “ or 61B ”.
- 16 (1) Paragraph 22 of Schedule 2 to that Act (exemption in relation to vehicle testing) shall be amended as follows.
- (2) In sub-paragraph (1)—
- (a) in paragraph (a), for “or a vehicle weight test” there shall be substituted “ , a vehicle weight test or a reduced pollution test ”; and
- (b) in paragraph (b), for “a compulsory test or a vehicle weight test” there shall be substituted “ any such test ”.
- (3) In sub-paragraph (2), after “vehicle weight test” there shall be inserted “ , a reduced pollution test ”.

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- (4) In sub-paragraph (2A), after “compulsory test”, in each place it occurs, there shall be inserted “ or a reduced pollution test ”.
- (5) In sub-paragraph (3), after “compulsory test” there shall be inserted “ , or a reduced pollution test, ”.
- (6) After sub-paragraph (6A) there shall be inserted the following sub-paragraph—

“(6AA) In this paragraph “a reduced pollution test” means any examination of a vehicle for which provision is made by regulations under section 61B of this Act.”
- (7) In sub-paragraph (6B), for “or vehicle weight test” there shall be substituted “ , a vehicle weight test or a reduced pollution test ”.
- (8) In sub-paragraphs (8) and (9), the word “or” shall be inserted at the end of paragraphs (a) and (c) and after paragraph (c) there shall be inserted the following paragraph—

“(d) a certificate issued by virtue of section 61B of this Act.”

VALID FROM 31/07/1998

Commencement

- 17 (1) Subject to sub-paragraph (2) below, the preceding provisions of this Schedule shall come into force in relation to licences issued on or after such day as the Secretary of State may by order made by statutory instrument appoint; and different days may be appointed under this sub-paragraph for different purposes.
- (2) Paragraphs 1, 2, 15 and 16 above come into force with the passing of this Act.

Subordinate Legislation Made

- P1** [Sch. 1 para. 17\(1\)](#) power partly exercised (9.12.1998): 1.1.1999 appointed for specified purposes by [S.I. 1998/3092](#), [art. 2](#)

SCHEDULE 2

Section 20.

ASSESSMENTS FOR EXCISE DUTY PURPOSES

VALID FROM 01/10/1998

Alcoholic Liquor Duties Act 1979 (c.4)

- 1 In section 8 of the Alcoholic Liquor Duties Act 1979 (remission of duty in respect of spirits used for medical or scientific purposes) the following subsections shall be inserted after subsection (2)—

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- “(3) Subsection (4) below applies if—
- (a) spirits are received and delivered in accordance with subsection (1) above,
 - (b) they are not used as proposed, and
 - (c) it is not shown to the satisfaction of the Commissioners that they can be accounted for by natural waste or other legitimate cause.
- (4) In such a case the Commissioners—
- (a) may assess as being excise duty due from the person concerned an amount equal to the duty that would have been chargeable on the spirits if, at the time of delivery from warehouse, they had been delivered for home use and otherwise than in accordance with subsection (1) above, and
 - (b) may notify him or his representative accordingly.”
- 2 In section 10 of the Alcoholic Liquor Duties Act 1979 (remission of duty on spirits for use in art or manufacture) the following subsections shall be inserted after subsection (2)—
- “(3) Subsection (4) below applies if—
- (a) spirits are received and delivered in accordance with subsection (1) above,
 - (b) they are not used as proposed, and
 - (c) it is not shown to the satisfaction of the Commissioners that they can be accounted for by natural waste or other legitimate cause.
- (4) In such a case the Commissioners—
- (a) may assess as being excise duty due from the person concerned an amount equal to the duty that would have been chargeable on the spirits if, at the time of delivery from warehouse, they had been delivered for home use and otherwise than in accordance with subsection (1) above, and
 - (b) may notify him or his representative accordingly.”
- 3 (1) Section 11 of the Alcoholic Liquor Duties Act 1979 (relief from duty on imported goods not for human consumption containing spirits) shall be amended as follows.
- (2) At the beginning there shall be inserted “ (1) ”.
- (3) At the end there shall be inserted—
- “(2) Subsection (3) below applies if—
- (a) the Commissioners make a direction under subsection (1) above, but
 - (b) it turns out that the goods were for human consumption.
- (3) In such a case the Commissioners—
- (a) may assess as being excise duty due from the relevant person an amount equal to the duty that would have been chargeable on the goods if the direction had not been made, and
 - (b) may notify him or his representative accordingly.

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(4) The reference in subsection (3) above to the relevant person is to the importer or (if different) the person who sought the direction.”

VALID FROM 01/10/1998

Hydrocarbon Oil Duties Act 1979 (c.5)

4 (1) Section 13AB of the Hydrocarbon Oil Duties Act 1979 (misuse of kerosene) shall be amended as follows.

(2) For subsection (1)(a) there shall be substituted—

“(a) in respect of the quantity of kerosene used the Commissioners may assess as being excise duty due from him an amount equal to duty on the same quantity of gas oil at the rate for rebated gas oil which is in force at the time of the contravention, and they may notify him or his representative accordingly;”.

(3) For subsection (2)(a) there shall be substituted—

“(a) in respect of the quantity of kerosene taken into the fuel supply the Commissioners may assess as being excise duty due from him an amount equal to duty on the same quantity of gas oil at the rate for rebated gas oil which is in force at the time of the contravention, and they may notify him or his representative accordingly;”.

VALID FROM 01/10/1998

Tobacco Products Duty Act 1979 (c. 7)

5 In section 8 of the Tobacco Products Duty Act 1979 (charge in cases of default) in subsection (2)—

(a) for “require him to pay duty” there shall be substituted “ assess an amount as duty due from him ”;

(b) at the end there shall be inserted , and they may notify him or his representative accordingly.

VALID FROM 01/09/2008

Finance (No. 2) Act 1992 (c.48)

6 (1) Section 2 of the Finance (No. 2) Act 1992 (power to provide for drawback of excise duty) shall be amended as follows.

(2) In subsection (3) (cancellation of drawback) paragraph (b) and the word “and” immediately preceding it shall be omitted.

(3) After subsection (3) there shall be inserted—

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- “(3A) If entitlement to drawback is cancelled under any provision contained in regulations by virtue of subsection (3) above the Commissioners—
- (a) may assess as being excise duty due from the prescribed person an amount equal to sums paid or credited to any person in respect of the drawback, and
 - (b) may notify the prescribed person or his representative accordingly.
- (3B) The reference in subsection (3A) above to the prescribed person is to such person as may be prescribed for the purposes of the subsection by regulations under this section.”

VALID FROM 01/10/1998

Finance Act 1994 (c.9)

- 7 In section 12 of the Finance Act 1994 (assessment to excise duty) after subsection (1) there shall be inserted—
- “(1A) Subject to subsection (4) below, where it appears to the Commissioners—
- (a) that any person is a person from whom any amount has become due in respect of any duty of excise; and
 - (b) that the amount due can be ascertained by the Commissioners, the Commissioners may assess the amount of duty due from that person and notify that amount to that person or his representative.”

8 (1) In section 12A of the Finance Act 1994 (other assessments relating to excise duty matters) subsection (3) (amount assessed deemed to be duty due) shall be amended as follows.

(2) At the end of paragraph (b) the word “or” shall be omitted and after that paragraph there shall be inserted—

“(bb) section 8, 10 or 11 of the Alcoholic Liquor Duties Act 1979.”.

(3) In paragraph (c) after “13,” there shall be inserted “ 13AB, ” and after that paragraph there shall be inserted—

 - “(d) section 8 of the Tobacco Products Duty Act 1979, or
 - (e) section 2 of the Finance (No. 2) Act 1992,”.

Commencement Information

I13 Sch. 2 para. 8 partly in force; Sch. 2 para. 8 not in force at Royal Assent see Sch. 2 para. 12; Sch. 2 para. 8(1)(2) in force and Sch. 2 para. 8(3) in force for specified purposes at 1.10.1998 by S.I. 1998/2243, art. 2(2)(b)

- 9 (1) In section 12B of the Finance Act 1994, subsection (2) (meaning of relevant time) shall be amended as follows.
- (2) After paragraph (e) there shall be inserted—
- “(ea) in the case of an assessment under section 8 or 10 of the Alcoholic Liquor Duties Act 1979, the time of delivery from warehouse;

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(eb) in the case of an assessment under section 11 of that Act, the time when the direction was made;”.

(3) In paragraph (f) after “13,” there shall be inserted “ 13AB, ”.

(4) After paragraph (g) there shall be inserted—

“(ga) in the case of an assessment under section 8 of the Tobacco Products Duty Act 1979, the time when the Commissioners are satisfied of a failure to prove as mentioned in subsection (2)(a) or (b) of that section;

(gb) in the case of an assessment under section 2 of the Finance (No. 2) Act 1992, the time when the sums were paid or credited in respect of the drawback;”.

Commencement Information

I14 Sch. 2 para. 9 partly in force; Sch. 2 para. 9 not in force at Royal Assent see Sch. 2 para. 12; Sch. 2 para. 9(1)-(3) in force and Sch. 2 para. 9(4) in force for specified purposes at 1.10.1998 by S.I. 1998/2243, art. 2(2)(b)

10 In section 14 of the Finance Act 1994 (requirement for review of a decision) in subsection (1)(ba)—

(a) for “or” (occurring after “Management Act”) there shall be substituted “, section 8, 10 or 11 of the Alcoholic Liquor Duties Act 1979, ”;

(b) after “13,” there shall be inserted “ 13AB, ”;

(c) after “Hydrocarbon Oil Duties Act 1979,” there shall be inserted “ section 8 of the Tobacco Products Duty Act 1979, section 2 of the Finance (No. 2) Act 1992, ”.

Commencement Information

I15 Sch. 2 para. 10 partly in force; Sch. 2 para. 10 not in force at Royal Assent see Sch. 2 para. 12; Sch. 2 para. 10(a)(b) in force and Sch. 2 para. 10(c) in force for specified purposes at 1.10.1998 by S.I. 1998/2243, art. 2(2)(b)

11 In section 16 of the Finance Act 1994 (appeals to a tribunal) there shall be inserted after subsection (3)—

“(3A) Subsection (3) above shall not apply if the appeal arises out of an assessment under section 8, 10 or 11 of the Alcoholic Liquor Duties Act 1979.”

VALID FROM 01/10/1998

Commencement

12 This Schedule shall come into force on such day as the Commissioners of Customs and Excise may by order made by statutory instrument appoint; and different days may be appointed under this paragraph for different purposes.

Status: Point in time view as at 01/04/1998.

Changes to legislation: Finance Act 1998 is up to date with all changes known to be in force on or before 07 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Subordinate Legislation Made
P2 [Sch. 2 para. 12](#) power partly exercised (14.9.1998): 1.10.1998 appointed for specified provisions by S.I. 1998/2243, [art. 2](#)

VALID FROM 31/07/1998

SCHEDULE 3 Section 31.

ADVANCE CORPORATION TAX

.....

VALID FROM 31/07/1998

SCHEDULE 4 Section 35.

INTEREST PAYABLE UNDER THE TAX ACTS BY OR TO COMPANIES

.....

SCHEDULE 5 Section 38(1).

RENT AND OTHER RECEIPTS FROM LAND

PART I
 MAIN CHARGING PROVISIONS

Commencement Information
I16 [Sch. 5 Pts. I-III](#) in force and has effect as mentioned in s. 38.

1 In section 15(1) of the Taxes Act 1988 (the Schedule A charge), for Schedule A substitute—

“SCHEDULE A

1 (1) Tax is charged under this Schedule on the annual profits arising from a business carried on for the exploitation, as a source of rents or other receipts, of any estate, interest or rights in or over land in the United Kingdom.

Status: Point in time view as at 01/04/1998.

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- (2) To the extent that any transaction is entered into for the exploitation, as a source of rents or other receipts, of any estate, interest or rights in or over land in the United Kingdom, it is taken to be entered into in the course of such a business.
 - (3) All businesses and transactions carried on or entered into by a particular person or partnership, so far as they are businesses or transactions the profits of which are chargeable to tax under this Schedule, are treated for the purposes of this Schedule as, or as entered into in the course of carrying on, a single business.

There are qualifications to this rule in the case of—

 - (a) companies not resident in the United Kingdom (see subsection (1A) below); and
 - (b) insurance companies (see sections 432AA and 441B(2A)).
 - (4) The receipts referred to in the expression “as a source of rents or other receipts” include—
 - (a) payments in respect of a licence to occupy or otherwise to use land or the exercise of any other right over land, and
 - (b) rentcharges, ground annuals and feu duties and other annual payments reserved in respect of, or charged on or issuing out of, the land.
- 2**
- (1) This Schedule does not apply to profits arising from the occupation of land.
 - (2) This Schedule does not apply to—
 - (a) profits charged to tax under Case I of Schedule D under—
 - section 53(1) (farming and market gardening), or
 - section 55 (mines, quarries and other concerns);
 - (b) receipts or expenses taken into account as trading receipts or expenses under section 98 (tied premises);
 - (c) rent charged to tax under Schedule D under—
 - section 119 (rent, etc. payable in connection with mines, quarries and other concerns), or
 - section 120(1) (certain rent, etc. payable in respect of electric line wayleaves).
 - (3) The profits of a Schedule A business carried on by a company shall be computed without regard to items giving rise to—
 - credits or debits within Chapter II of Part IV of the ^{M25}Finance Act 1996 (loan relationships), or
 - exchange gains or losses within Chapter II of Part II of the ^{M26}Finance Act 1993 (foreign exchange gains and losses), or
 - qualifying payments within Chapter II of Part IV of the ^{M27}Finance Act 1994 (interest rate and currency contracts).

This Schedule does not affect the operation of those provisions.
- 3**
- (1) For the purposes of this Schedule a right to use a caravan or houseboat, where the use to which the caravan or houseboat may be put in pursuance of the right is confined to use at a single location in the United Kingdom, is treated as a right deriving from an estate or interest in land in the United Kingdom.

Status: Point in time view as at 01/04/1998.

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(2) In sub-paragraph (1)—

“caravan” has the meaning given by section 29(1) of the ^{M28}Caravan Sites and Control of Development Act 1960; and

“houseboat” means a boat or similar structure designed or adapted for use as a place of human habitation.

4 (1) In the case of a furnished letting, any sum payable for the use of furniture shall be taken into account in computing the profits chargeable to tax under this Schedule in the same way as rent.

Expenses in connection with the provision of furniture shall similarly be taken into account in the same way as expenses in connection with the premises.

(2) A furnished letting means where—

- (a) a sum is payable in respect of the use of premises, and
- (b) the tenant or other person entitled to the use of the premises is also entitled, in connection with that use, to the use of furniture.

(3) This paragraph does not apply if the receipts and expenses are taken into account in computing the profits of a trade consisting in, or involving, making furniture available for use in premises.

(4) In this paragraph—

- (a) any reference to a sum includes the value of consideration other than money, and references to a sum being payable shall be construed accordingly; and
- (b) “premises” includes a caravan or houseboat within the meaning of paragraph 3.”.

Marginal Citations

M25 1996 c.8.

M26 1993 c.34.

M27 1994 c.9.

M28 1960 c.62.

2 In section 15 of the Taxes Act 1988 (the Schedule A charge), after subsection (1) insert—

“(1A) In the case of a company which is not resident in the United Kingdom—

- (a) businesses carried on and transactions entered into by it the profits of which are within the charge to corporation tax under Schedule A, and
 - (b) businesses carried on and transactions entered into by it the profits of which are within the charge to income tax under Schedule A,
- are treated as separate Schedule A businesses.”.

3 For the heading to Part II of the Taxes Act 1988 substitute “ PROVISIONS RELATING TO THE SCHEDULE A CHARGE ”.

4 For section 21 of the Taxes Act 1988 (persons chargeable and computation of amounts chargeable) substitute—

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“21 Persons chargeable and basis of assessment.

- (1) Income tax under Schedule A shall be charged on and paid by the persons receiving or entitled to the income in respect of which the tax is directed by the Income Tax Acts to be charged.
- (2) Income tax under Schedule A is charged on the full amount of the profits arising in the year of assessment.
- (3) This section does not apply for the purposes of corporation tax.

21A Computation of amount chargeable.

- (1) Except as otherwise expressly provided, the profits of a Schedule A business are computed in the same way as the profits of a trade are computed for the purposes of Case I of Schedule D.
- (2) The following provisions apply in accordance with subsection (1)—
 - section 72 (apportionment);
 - the provisions of Chapter V of Part IV (computational provisions relating to the Schedule D charge), except as mentioned in subsection (4) below;
 - section 577 (business entertainment expenses);
 - section 577A (expenditure involving crime);
 - sections 579 and 580 (redundancy payments);
 - sections 588 and 589 (training courses for employees);
 - sections 589A and 589B (counselling services for employees);
 - section 73(2) of the ^{M29}Finance Act 1988 (consideration for restrictive undertakings);
 - section 43 of the ^{M30}Finance Act 1989 (deductions in respect of certain emoluments);
 - section 76 of that Act (expenses in connection with non-approved retirement benefit schemes);
 - sections 112 and 113 of that Act (expenditure in connection with provision of security asset or service);
 - sections 42 and 46(1) and (2) of the Finance Act 1998 (provisions as to computation of profits and losses).
- (3) Section 74(1)(d) of this Act (disallowance of provisions for future repairs) applies in relation to a Schedule A business as if the reference to premises occupied for the purposes of the trade were to premises held for the purposes of the Schedule A business.
- (4) The following provisions in Chapter V of Part IV of this Act do not apply, or are excepted from applying, in accordance with subsection (1)—
 - section 82 (interest paid to non-residents),
 - section 87 (treatment of premiums taxed as rent),
 - section 96 (farming and market gardening: relief for fluctuating profits), and
 - section 98 (tied premises: receipts and expenses treated as those of trade).

Status: Point in time view as at 01/04/1998.

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21B Application of other rules applicable to Case I of Schedule D.

The following provisions apply for the purposes of Schedule A in relation to a Schedule A business as they apply for the purposes of Case I of Schedule D in relation to a trade—

sections 103 to 106, 108, 109A and 110 (post-cessation receipts and expenses, etc.);

section 113 (effect for income tax purposes of change in the persons engaged in carrying on trade);

section 337(1) (effect of company beginning or ceasing to carry on trade);

section 401(1) (pre-trading expenditure);

section 44 of and Schedule 6 to the Finance Act 1998 (change of accounting basis).”.

Marginal Citations

M29 1988 c. 39.

M30 1989 c. 26.

5 After section 21B of the Taxes Act 1988 (inserted by paragraph 4 above) insert—

“21C The Schedule A charge and mutual business.

(1) The following provisions have effect for the purpose of applying the charge to tax under Schedule A in relation to mutual business.

(2) The transactions or relationships involved in mutual business are treated as if they were transactions or relationships between persons between whom no relationship of mutuality existed.

(3) Any surplus arising from the business is regarded as a profit (and any deficit as a loss) if it would be so regarded if the business were not mutual.

(4) The person—

(a) to whom the profit arises for corporation tax purposes, or

(b) who is regarded as receiving or entitled to the profit for income tax purposes,

is the person who would satisfy that description if the business were not mutual business.

(5) Nothing in this section affects the operation of section 488 (co-operative housing associations).”.

6 Section 25 of the Taxes Act 1988 (deductions from rent: general rules) shall cease to have effect.

7 (1) Section 26 of the Taxes Act 1988 (land managed as one estate) is amended as follows.

(2) In subsection (1)—

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- (a) in paragraph (a), omit the words “at a full rent (not being a tenant’s repairing lease)”, and
- (b) for the words from “not being” in paragraph (b) to the end of the subsection substitute “ as if the rent, so far as it relates to that part and would otherwise be treated as being at a lower rate, were at a rate per annum equal to the relevant annual value. ”

(3) In subsection (2), omit paragraph (a).

(4) After subsection (2) insert—

“(2A) Where subsection (1) above applies, the following rules apply in computing the profits on which the owner is charged under Schedule A—

- (a) disbursements and expenses relating to any of that part of the estate which comprises land the rent in respect of which is determined under that subsection (“the relevant part of the estate”) shall not be deductible from any receipts which are not so determined except to the extent that—
 - (i) the amount of the disbursements and expenses exceeds the amount of the rent so determined, and
 - (ii) the receipts against which the remainder is set are receipts in respect of land comprised in the estate;
 - (b) any excess for a chargeable period of the disbursements and expenses relating to the relevant part of the estate (including any excess carried forward under this paragraph) over the receipts for that period from which they are deductible in accordance with paragraph (a) above—
 - (i) shall be disregarded in computing any loss in respect of which relief may be given under section 379A or 392A, but
 - (ii) may be carried forward to the following chargeable period and treated in relation to the later period as if it were a disbursement or expense relating to the relevant part of the estate;
 - (c) disbursements and expenses relating to any land not comprised in the relevant part of the estate shall be deductible from the deemed receipts in respect of the land which is so comprised to the extent only that the deemed receipts exceed the aggregate of—
 - (i) the actual disbursements and expenses for that period relating to the relevant part of the estate, and
 - (ii) any amounts carried forward to that period under paragraph (b) above;
- and
- (d) any excess of the disbursements and expenses for that period relating to land not comprised in the relevant part of the estate over the amounts from which they are deductible shall be treated for the purposes of section 379A or 392A as a loss for that period in the Schedule A business in question.”.

8 In section 27 of the Taxes Act 1988 (maintenance funds for historic buildings), for subsection (3) substitute—

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“(3) Where by virtue of this section an election has effect in relation to an estate part of which is comprised in a settlement—

(a) there may be treated as deductible from the receipts arising from that part—

(i) any disbursements or expenses of the trustees of the settlement which relate to the other part of the estate and which would be so deductible if that part were also comprised in the settlement, and

(ii) any disbursements or expenses of the owner of the other part of the estate to the extent to which they cannot be deducted by him in the chargeable period in which they are incurred because of an insufficiency of any receipts for that period from which they are deductible apart from this subparagraph;

(b) any relief available to the trustees by virtue of section 379A(2)(b) shall instead be available to the owner of the other part of the estate.

This subsection has effect subject to subsection (2A) of section 26.”.

9 Section 28 of the Taxes Act 1988 (deductions from receipts other than rent) shall cease to have effect.

10 Section 29 of the Taxes Act 1988 (sporting rights) shall cease to have effect.

11 In section 30(1) of the Taxes Act 1988 (expenditure on sea walls)—

(a) for “for the purposes of sections 25, 28 and 31” substitute “ for the purpose of computing the profits of any Schedule A business carried on in relation to those premises ”; and

(b) for “in respect of dilapidation attributable to the year” substitute “ as an expense of the business for that year ”.

12 Section 31 of the Taxes Act 1988 (provisions supplementary to sections 25 to 30) shall cease to have effect.

13 Section 33 of the Taxes Act 1988 (agricultural land: allowance for excess expenditure on management) shall cease to have effect.

14 Sections 33A and 33B of the Taxes Act 1988 (connected persons) shall cease to have effect.

15 (1) Section 34 of the Taxes Act 1988 (treatment of premiums, etc. as rent or Schedule D profits) is amended as follows.

(2) For the sidenote substitute “Treatment of premiums, etc. as rent.”.

(3) In subsection (3) for the words from “from the rent” onwards substitute “ as an expense of any Schedule A business carried on by the landlord ”.

(4) In subsection (6) for the words from “no charge” onwards substitute “ no amount shall fall under that subsection to be treated as a receipt of any Schedule A business carried on by the landlord; but that other person shall be taken to have received as income an amount equal to the amount which would otherwise fall to be treated as rent and to be chargeable to tax as if he had received it in consequence of having, on his own account, entered into a transaction falling to be treated as mentioned in paragraph 1(2) of Schedule A. ”.

(5) After subsection (7) insert—

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- “(7A) An amount treated under this section as rent shall be taken into account in computing the profits of the Schedule A business in question for the chargeable period in which it is treated as received.”.
- (6) In subsection (8) for the words from “may, if that person satisfies the Board” to “at his option” substitute “ may, at his option, be paid ”.
- 16 (1) Section 35 of the Taxes Act 1988 (charge on assignment of lease granted at an undervalue) is amended as follows.
- (2) In the sidenote for “Schedule D charge” substitute “ Charge ”.
- (3) In subsection (2) for the words from “treated as profits or gains” onwards substitute “ deemed to have been received as income by the assignor and to have been received by him in consequence of his having entered into a transaction falling to be treated as mentioned in paragraph 1(2) of Schedule A. ”.
- (4) After that subsection insert—
- “(2A) An amount deemed under this section to have been received as income by the assignor—
- (a) is treated as received when the consideration mentioned in subsection (2) becomes payable, and
- (b) shall be taken into account in computing the profits of the Schedule A business in question for the chargeable period in which it is treated as received.”.
- 17 (1) Section 36 of the Taxes Act 1988 (charge on sale of land with right to reconveyance) is amended as follows.
- (2) In the sidenote for “Schedule D charge” substitute “ Charge ”.
- (3) In subsection (1)—
- (a) for “the vendor shall be chargeable to tax under Case VI of Schedule D on” substitute “ the following amount shall be deemed to have been received as income by the vendor and to have been received by him in consequence of his having entered into a transaction falling to be treated as mentioned in paragraph 1(2) of Schedule A, that is to say ”; and
- (b) for “on that excess” substitute “ the amount of the excess ”.
- (4) After subsection (4) insert—
- “(4A) An amount deemed under this section to have been received as income by the vendor—
- (a) is treated as received when the estate or interest is sold, and
- (b) shall be taken into account in computing the profits of the Schedule A business in question for the chargeable period in which it is treated as received.
- (4B) For the purposes of subsection (4A)(a) an estate or interest in land is treated as sold when any of the following occurs—
- (a) an unconditional contract for its sale is entered into,
- (b) a conditional contract for its sale becomes unconditional, or
- (c) an option or right of pre-emption is exercised requiring the vendor to enter into an unconditional contract for its sale.”.

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- 18 (1) Section 37 of the Taxes Act 1988 (deductions from premiums and rents received) is amended as follows.
- (2) In subsection (1) for paragraphs (a) and (b) substitute—
- “(a) any amount falls to be treated as a receipt of a Schedule A business by virtue of section 34 or 35, or
- (b) any amount would fall to be so treated but for the operation of subsection (2) or (3) below.”.
- (3) In subsection (2)—
- (a) in paragraph (b), for the words from “be” to “any amount” substitute “ be treated by virtue of section 34 or 35 as receiving any amount as income in the course of carrying on a Schedule A business ”; and
- (b) in the closing words, for “on which he is so chargeable” substitute “ which he shall be treated as having so received ”.
- (4) In subsection (3)—
- (a) for “chargeable under section 34 or 35” substitute “ treated by virtue of section 34 or 35 as having received any amount as income in the course of carrying on a Schedule A business and falls to be so treated ”; and
- (b) for “on which he is so chargeable” substitute “ which he shall be treated as having so received ”.
- (5) In subsection (4) for the words from “purposes” to “other premises” substitute “ purpose, in computing the profits of a Schedule A business, of making deductions in respect of the disbursements and expenses of that business ”.
- 19 For the heading before section 40 of the Taxes Act 1988 substitute “ *Supplementary provisions* ”.
- 20 (1) Section 40 of the Taxes Act 1988 (tax treatment of receipts and outgoings on sale of land) is amended as follows.
- (2) In subsection (1) for “become receivable or payable on his behalf” substitute “ been received or paid by him ”.
- (3) In subsection (3)(b), for the words from “had become receivable” to the end substitute “ had been received or paid directly by him immediately before the time to which the apportionment is made ”.
- (4) After subsection (4) insert—
- “(4A) An amount deemed under this section to have been received or paid shall be taken into account in computing the profits of the Schedule A business in question for the period in which it is treated as received or paid.”.
- (5) Omit subsection (5).
- 21 Section 41 of the Taxes Act 1988 (relief for rent not paid, etc.) shall cease to have effect.
- 22 In section 42A of the Taxes Act 1988 (non-residents and their representatives), omit subsection (8).
- 23 In section 65 of the Taxes Act 1988 (Case IV and V assessments: general)—
- (a) omit subsections (2A) and (2B), and

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- (b) in subsection (4), after “Subsections (1) to (3) above” insert “ and section 65A below ”.

24 For section 65A of the Taxes Act 1988 (Case V income from land overseas, etc.) substitute—

“65A Case V income from land outside UK: income tax.

- (1) This section applies where a person is chargeable to income tax under Case V of Schedule D in respect of income which—
- (a) arises from a business carried on for the exploitation, as a source of rents or other receipts, of any estate, interest or rights in or over land outside the United Kingdom, and
 - (b) is not income to which section 65(3) applies (income immediately derived from carrying on a trade, profession or vocation).
- (2) The provisions of Schedule A apply to determine whether income falls within subsection (1)(a) above as they would apply to determine whether the income fell within paragraph 1(1) of that Schedule if—
- (a) the land in question were in the United Kingdom, or
 - (b) a caravan or houseboat which is to be used at a location outside the United Kingdom were to be used at a location in the United Kingdom.
- (3) Any provision of the Taxes Acts which deems there to be a Schedule A business in the case of land in the United Kingdom applies where the corresponding circumstances arise with respect to land outside the United Kingdom so as to deem there to be a business within subsection (1)(a) above.
- (4) All businesses and transactions carried on or entered into by a particular person or partnership, so far as they are businesses or transactions the income from which is chargeable to tax under Case V of Schedule D in accordance with this section, are treated for the purposes of the charge to tax under Case V as, or as entered into in the course of carrying on, a single business (an “overseas property business”).
- (5) The income from an overseas property business shall be computed for the purposes of Case V of Schedule D in accordance with the rules applicable to the computation of the profits of a Schedule A business.
- Those rules apply separately in relation to—
- (a) an overseas property business, and
 - (b) any actual Schedule A business of the person chargeable,
- as if each were the only Schedule A business carried on by that person.
- (6) Sections 80 and 81 (expenses in connection with foreign trades and travel between trades etc.) do not apply in relation to the computation of the profits of an overseas property business.
- (7) Sections 503 and 504 of this Act and section 29 of the 1990 Act (provisions relating to furnished holiday accommodation) do not apply to the profits or losses of an overseas property business.
- (8) Where under this section rules expressed by reference to domestic concepts of law apply in relation to land outside the United Kingdom, they shall be

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interpreted so as to produce the result that most closely corresponds with the result produced for Schedule A purposes in relation to land in the United Kingdom.”.

25 After section 70 of the Taxes Act 1988 (corporation tax: basis of assessment, etc.) insert—

“70A Case V income from land outside UK: corporation tax.

- (1) This section applies where a company is chargeable to corporation tax under Case V of Schedule D in respect of income which—
 - (a) arises from a business carried on for the exploitation, as a source of rents or other receipts, of any estate, interest or rights in or over land outside the United Kingdom, and
 - (b) is not income to which section 70(2) applies (income from a trade or vocation).
- (2) The provisions of Schedule A apply to determine whether income falls within subsection (1)(a) above as they would apply to determine whether the income fell within paragraph 1(1) of that Schedule if—
 - (a) the land in question were in the United Kingdom, or
 - (b) a caravan or houseboat which is to be used at a location outside the United Kingdom were to be used at a location in the United Kingdom.
- (3) Any provision of the Taxes Acts which deems there to be a Schedule A business in the case of land in the United Kingdom applies where the corresponding circumstances arise with respect to land outside the United Kingdom so as to deem there to be a business within subsection (1)(a) above.
- (4) All businesses and transactions carried on or entered into by a particular company or partnership, so far as they are businesses or transactions the income from which is chargeable to tax under Case V of Schedule D in accordance with this section, are treated for the purposes of the charge to tax under Case V as, or as entered into in the course of carrying on, a single business (an “overseas property business”).
- (5) The income from an overseas property business shall be computed for the purposes of Case V of Schedule D in accordance with the rules applicable to the computation of the profits of a Schedule A business.

Those rules apply separately in relation to—

 - (a) an overseas property business, and
 - (b) any actual Schedule A business of the company chargeable,

as if each were the only Schedule A business carried on by that company.
- (6) Sections 503 and 504 of this Act and section 29 of the 1990 Act (provisions relating to furnished holiday accommodation) do not apply to the profits or losses of an overseas property business.
- (7) Where under this section rules expressed by reference to domestic concepts of law apply in relation to land outside the United Kingdom, they shall be interpreted so as to produce the result that most closely corresponds with the

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result produced for Schedule A purposes in relation to land in the United Kingdom.”.

PART II

TREATMENT OF LOSSES

Commencement Information

I17 Sch. 5 Pts. I-III in force and has effect as mentioned in s. 38.

26 In Chapter I of Part X of the Taxes Act 1988 (loss relief: income tax), for the heading before section 379A (Schedule A losses) substitute “*Losses from Schedule A business or overseas property business*”.

27 After that section insert—

“379B Losses from overseas property business.

The provisions of section 379A apply in relation to an overseas property business as they apply in relation to a Schedule A business.”.

28 In Chapter II of Part X of the Taxes Act 1988 (loss relief: corporation tax), before section 393 insert—

“*Losses from Schedule A business or overseas property business*

Schedule A losses.

392A(1) Where a company incurs a Schedule A loss in an accounting period, the loss shall be set off for the purposes of corporation tax against the company’s total profits for that period.

(2) To the extent that a company’s Schedule A loss cannot be set off under subsection (1), it shall, if the company continues to carry on the Schedule A business in the succeeding accounting period, be carried forward to that period and be treated for the purposes of this section as a Schedule A loss of that period.

(3) Where an investment company ceases to carry on a Schedule A business but continues to be an investment company, any Schedule A loss that cannot be used under the preceding provisions shall be carried forward to the succeeding accounting period and be treated for the purposes of section 75 as if it had been disbursed as expenses of management for that period.

(4) In this section—

- (a) a “Schedule A loss” means a loss incurred by a company in a Schedule A business carried on by it; and
- (b) “investment company” has the same meaning as in Part IV.

(5) The preceding provisions of this section apply to a Schedule A business only to the extent that it is carried on—

- (a) on a commercial basis, or

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- (b) in the exercise of statutory functions.
- (6) For the purposes of subsection (5)(a)—
 - (a) a business or part is not carried on on a commercial basis unless it is carried on with a view to making a profit, but if it is carried on so as to afford a reasonable expectation of profit it is treated as carried on with a view to making a profit; and
 - (b) if there is a change in the manner in which a business or part is carried on, it is treated as having been carried on throughout an accounting period in the way in which it was being carried on by the end of the period.
- (7) In subsection (5)(b) “statutory functions” means functions conferred by or under any enactment (including an enactment contained in a local or private Act).

Losses from overseas property business.

- 392B) Where in any accounting period a company incurs a loss in an overseas property business (whether carried on by it solely or in partnership)—
- (a) the loss shall be carried forward to the succeeding accounting period and set against any profits of the business for that period,
 - (b) if there are no profits of the business for that period, or if the profits for that period are exceeded by the amount of the loss, the loss or the remainder of it shall be carried forward again and set against any profits of the business for the next succeeding accounting period,
- and so on.
- (2) Subsections (5) to (7) of section 392A apply in relation to relief under subsection (1) above and an overseas property business as they apply in relation to relief under section 392A(1) to (3) and a Schedule A business.”.

29 For section 403 of the Taxes Act 1988 (losses, etc. which may be surrendered by way of group relief) substitute—

“403 Amounts which may be surrendered by way of group relief.

- (1) If in an accounting period (the “surrender period”) the surrendering company has—
 - (a) trading losses, excess capital allowances or a non-trading deficit on its loan relationships, or
 - (b) charges on income, Schedule A losses, or management expenses which are available for group relief,

the amount may, subject to the provisions of this Chapter, be set off for the purposes of corporation tax against the total profits of the claimant company for its corresponding accounting period.
- (2) Trading losses, excess capital allowances and a non-trading deficit on the company’s loan relationships are eligible for surrender as group relief even if the surrendering company has other profits of the surrender period against which they could be set.

Status: Point in time view as at 01/04/1998.

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Further provision about relief in respect of amounts eligible for surrender under this subsection is contained in sections 403ZA to 403ZC.

- (3) Charges on income, Schedule A losses and management expenses are available for surrender as group relief only to the extent that in aggregate they exceed the surrendering company's gross profits for the surrender period.

Any excess surrendered shall be taken to consist first of charges on income, then Schedule A losses, and finally management expenses.

Further provision about relief in respect of amounts available for surrender under this subsection is contained in section 403ZD.

- (4) This section has effect subject to—
section 404 (limitation of group relief in relation to certain dual resident companies), and
sections 492(8) and 494A (oil extraction activities: availability of group relief against ring fence profits).

403ZA Amounts eligible for group relief: trading losses.

- (1) For the purposes of section 403 a trading loss means a loss incurred by the surrendering company in the surrender period in carrying on a trade, computed as for the purposes of section 393A(1).
- (2) That section does not apply to a trading loss which would be excluded from section 393A(1) by—
(a) section 393A(3) (foreign trades and certain trades not carried on with a view to gain), or
(b) section 397 (farming and market gardening: restriction on loss relief).
- (3) Where a company owned by a consortium—
(a) has in any relevant accounting period incurred a trading loss, and
(b) has profits (of whatever description) of that accounting period against which that loss could be set off under section 393A(1),
the amount of the loss available to a member of the consortium on a consortium claim shall be determined on the assumption that the company has made a claim under section 393A(1) requiring the loss to be so set off.
- (4) Where the company mentioned in subsection (3) is a group/consortium company, the amount of the loss available under that subsection shall be determined before any reduction is made under section 405(1) to (3).

403ZB Amounts eligible for group relief: excess capital allowances.

- (1) For the purposes of section 403 excess capital allowances means capital allowances falling to be made to the surrendering company for the surrender period which—
(a) are to be given by discharge or repayment of tax, and
(b) are to be available primarily against a specified class of income,
to the extent to which their amount exceeds the company's income of the relevant class arising in that period.

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- (2) In determining the amount of the allowances falling to be made for the surrender period, no account shall be taken of any allowances carried forward from an earlier period.
- (3) The amount of the company's income of the relevant class means its amount before deduction of—
 - (a) losses of any other period, or
 - (b) capital allowances.

403ZC Amounts eligible for group relief: non-trading deficit on loan relationships.

- (1) For the purposes of section 403 a non-trading deficit on its loan relationships means a deficit of the surrendering company to which section 83 of the ^{M31}Finance Act 1996 applies.
- (2) Section 403 applies to such a deficit only to the extent that a claim is duly made under section 83(2) of the Finance Act 1996 for it to be treated as eligible for group relief.

403ZD Other amounts available by way of group relief.

- (1) References in section 403 to charges on income, Schedule A losses and management expenses shall be construed as follows.
- (2) Charges on income means the aggregate of the amounts paid by the surrendering company in the surrender period by way of charges on income.
- (3) A Schedule A loss means a loss incurred by the surrendering company in the surrender period in a Schedule A business carried on by the company.

It does not include—

- (a) an amount treated as such a loss by section 392A(2) (losses carried forward from earlier period), or
- (b) a loss which would be excluded from section 392A by subsection (5) of that section (certain businesses not carried on with a view to gain).
- (4) Management expenses means the aggregate of the amounts disbursed by the surrendering company for the surrender period which are deductible under section 75(1) (expenses of management of investment company).

It does not include an amount deductible only by virtue of section 75(3) or 392A(3) (amounts carried forward from earlier periods).

- (5) References in this section to section 75 do not include that section as applied by section 76 to companies carrying on life assurance business.

403ZE Computation of gross profits.

- (1) For the purposes of section 403 the surrendering company's gross profits of the surrender period means its profits for that period—
 - (a) without any deduction in respect of such losses, allowances and other amounts as are mentioned in paragraph (a) or (b) of subsection (1) of that section, and

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- (b) without any deduction falling to be made—
 - (i) in respect of losses, allowances or other amounts of any other period (whether or not of a description within subsection (1) of that section), or
 - (ii) by virtue of section 75(3) or 392A(3) (other amounts carried forward).
- (2) References in this section to section 75 do not include that section as applied by section 76 to companies carrying on life assurance business.”.

Marginal Citations

M31 1996 c.8.

- 30 In Chapter V of Part XII of the Taxes Act 1988 (oil extraction activities), after section 494 insert—

“494A Computation of amount available for surrender by way of group relief.

- (1) In section 403(3) (availability of charges, Schedule A losses and management expenses for surrender as group relief) the reference to the gross profits of the surrendering company for an accounting period does not include the company’s relevant ring fence profits for that period.
- (2) If for that period—
 - (a) there are no charges on income paid by the company that are allowable under section 338, or
 - (b) the only charges on income so allowable are charges to which section 494(3) above applies,all the company’s ring fence profits are relevant ring fence profits.
- (3) In any other case the company’s relevant ring fence profits are so much of its ring fence profits as exceeds the amount of the charges on income paid by the company as—
 - (a) are allowable under section 338 for that period, and
 - (b) are not charges to which section 494(3) above applies.”.

- 31 In Chapter VI of Part XVII of the Taxes Act 1988 (tax avoidance: miscellaneous provisions), after section 768C insert—

“768D Change in ownership of company carrying on property business.

- (1) This section applies where there is a change in the ownership of a company carrying on a Schedule A business and—
 - (a) in the case of an investment company, either—
 - (i) paragraph (a), (b) or (c) of section 768B(1) applies, or
 - (ii) section 768C applies;
 - (b) in the case of a company which is not an investment company, paragraph (a) or (b) of section 768(1) applies.

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- (2) Where this section applies the following provisions have effect to prevent relief being given under section 392A by setting a Schedule A loss incurred by the company before the change of ownership against profits arising after the change.
- (3) The accounting period in which the change of ownership occurs is treated for that purpose as two separate accounting periods, the first ending with the change and the second consisting of the remainder of the period.
- (4) The profits or losses of the period in which the change occurs are apportioned to those two periods—
 - (a) in the case of an investment company—
 - (i) where paragraph (a), (b) or (c) of section 768B(1) applies, in accordance with Parts II and III of Schedule 28A, or
 - (ii) where section 768C applies, in accordance with Parts V and VI of that Schedule, and
 - (b) in the case of a company which is not an investment company, according to the length of the periods, unless in any case the specified method of apportionment would work unjustly or unreasonably in which case such other method shall be used as appears just and reasonable.
- (5) Relief under section 392A(1) against total profits of the same accounting period is available only in relation to each of those periods considered separately.
- (6) A loss made in any accounting period beginning before the change of ownership may not be set off under section 392A(2) against, or deducted by virtue of section 392A(3) from—
 - (a) in the case of—
 - (i) an investment company where paragraph (a), (b) or (c) of section 768B(1) applies, or
 - (ii) a company which is not an investment company, profits of an accounting period ending after the change of ownership;
 - (b) in the case of an investment company where section 768C applies, from so much of those profits as represents the relevant gain within the meaning of that section.
- (7) Subsections (8) and (9) of section 768 (time limits for assessment; information powers) apply for the purposes of this section as they apply for the purposes of that section.
- (8) In this section—
 - (a) any reference to a case where paragraph (a) or (b) of section 768(1) applies includes the case where that paragraph would apply if the reference there to a trade carried on by the company were to a Schedule A business carried on by it;
 - (b) “investment company” has the same meaning as in Part IV.
- (9) The provisions of this section apply in relation to an overseas property business as they apply in relation to a Schedule A business.”.

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- 32 In section 769 of the Taxes Act 1988 (rules for ascertaining change of ownership)—
- (a) in subsections (1), (2)(d) and (5) for “and 768C” substitute “, 768C and 768D”;
 - (b) in subsection (3) for “or 768A” substitute “, 768A or 768D”; and
 - (c) in subsection (4) for “or 768C” substitute “, 768C or 768D”.

PART III

MINOR AND CONSEQUENTIAL AMENDMENTS

Commencement Information

I18 Sch. 5 Pts. I-III in force and has effect as mentioned in s. 38.

Taxes Management Act 1970 (c. 9)

- 33 In section 41A of the ^{M32}Taxes Management Act 1970 (determination procedure), for subsection (9)(b) substitute—
- “(b) any amount within section 403(1) of the Taxes Act 1988 (amounts which may be surrendered by way of group relief) other than trading losses.”.

Marginal Citations

M32 1970 c. 9.

Income and Corporation Taxes Act 1988 (c.1)

- 34 In section 87(1) of the Taxes Act 1988 (treatment of taxable premiums in case of land used in connection with trade, profession or vocation), for paragraphs (a) and (b) substitute—
- “(a) any amount falls to be treated as a receipt of a Schedule A business by virtue of section 34 or 35, or
 - (b) any amount would fall to be so treated but for the operation of section 37(2) or (3);”.
- 35 In section 118 of the Taxes Act 1988 (limited partnerships: restriction on relief)—
- (a) in the opening words of subsection (1), and
 - (b) in subsection (2), in the definition of “the aggregate amount”,
- for “403(1) to (3) and (7)” substitute “ 403 ”.
- 36 In section 400 of the Taxes Act 1988 (loss relief: effect of write-off of government investment), in subsection (2) after paragraph (b) insert—
- “(bb) any losses which—
 - (i) under section 392A(2) or 392B are carried forward to the next accounting period, or

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- (ii) under section 392A(3) are treated as management expenses disbursed in the next accounting period;”.
- 37 (1) Section 404 of the Taxes Act 1988 (limitation of group relief in relation to dual resident investment companies) is amended as follows.
- (2) In subsection (2), for paragraph (a) substitute—
- “(a) in which the trading loss or Schedule A loss is incurred; or
 (aa) in which the non-trading deficit on the company’s loan relationships arises; or”.
- (3) In subsection (6), omit paragraph (c).
- 38 In section 413(6) of the Taxes Act 1988 (interpretation: meaning of company being owned by consortium), for “403(10)” substitute “ 403ZA(3) ”.
- 39 In Chapter I of Part XII of the Taxes Act 1988 (insurance companies), after section 432A insert—

“432AA Schedule A business or overseas property business.

- (1) An insurance company is treated as carrying on separate Schedule A businesses, or overseas property businesses, in accordance with the following rules.
- (2) The exploitation of land held as an asset of the company’s long term business fund is treated as a separate business from the exploitation of land not so held.
- (3) The exploitation of land held as an asset of the company’s overseas life assurance fund is treated as a separate business from the exploitation of other land held as an asset of its long term business fund.
- (4) The exploitation of land held as an asset linked to any of the following categories of business is regarded as a separate business—
- (a) pension business;
- (b) life reinsurance business;
- (c) basic life assurance and general annuity business;
- (d) long term business other than life assurance business.
- (5) Accordingly, the exploitation of land held as an asset of the company’s long term business fund otherwise than as mentioned in subsection (3) or (4) is treated as a separate business from any other.
- (6) In this section “land” means any estate, interest or rights in or over land.

432AB Losses from Schedule A business or overseas property business.

- (1) This section applies to any loss arising in a Schedule A business or overseas property business.
- (2) A loss arising from any category of business mentioned in section 432A(2) shall be apportioned under that section in the same way as income.
- (3) So far as a loss is referable to basic life assurance and general annuity business, it shall be treated as if it were an amount of expenses of

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management under section 76 disbursed for the accounting period in which the loss arose.

- (4) Where a company is treated under section 432AA as carrying on—
- (a) more than one Schedule A business, or
 - (b) more than one overseas property business,
- then, in relation to either kind of business, the reference in subsection (3) above to a loss referable to basic life assurance and general annuity business shall be construed as a reference to any aggregate net loss after setting the losses from those businesses which are so referable against any profits from those businesses that are so referable.
- (5) The provisions of section 392A or 392B (loss relief) do not apply to a loss referable to life assurance business or any category of life assurance business.
- (6) Where a company is treated under section 432AA as carrying on—
- (a) more than one Schedule A business, or
 - (b) more than one overseas property business,
- and, in relation to either kind of business, there are losses and profits referable to business which is not life assurance business, those losses shall be set against those profits before being used under section 392A or 392B.”.

40 (1) Section 434E of the Taxes Act 1988 (capital allowances: investment assets held for purposes of life assurance business) is amended as follows.

(2) For subsection (1) substitute—

“(1) In this section “investment asset” means an asset which—

- (a) is held by a company for the purposes of its life assurance business otherwise than for the management of that business, and
- (b) is not let in the course of a Schedule A business or overseas property business.”.

(3) Omit subsection (3).

(4) In subsection (6) for “section 145(3) shall not apply” substitute “ neither section 145(3) nor section 403(1) shall apply ”.

41 In section 441B of the Taxes Act 1988 (treatment of UK land linked to a company’s overseas life assurance business), after subsection (2) insert—

“(2A) For the purposes of subsection (2) above a Schedule A business for the exploitation of any land to which this section applies shall be treated as a separate business from any other such business.”.

42 For section 503 of the Taxes Act 1988 (letting of furnished holiday accommodation treated as a trade) substitute—

“503 Letting of furnished holiday accommodation treated as a trade for certain purposes.

(1) For the purposes specified in subsection (2)—

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- (a) a Schedule A business which consists in, or so far as it consists in, the commercial letting of furnished holiday accommodation in the United Kingdom shall be treated as if it were a trade the profits of which are chargeable to tax under Case I of Schedule D, and
- (b) all such lettings made by a particular person or partnership or body of persons shall be treated as one trade.

The “commercial letting of furnished holiday accommodation” is defined below in section 504.

- (2) Subsection (1) above applies for the purposes of—
 - (a) Chapters I and II of Part X (loss relief for income tax and corporation tax), and
 - (b) sections 623(2)(c), 644(2)(c) and 833(4)(c) (income regarded as relevant earnings for pension purposes or as earned income).
- (3) Chapter I of Part X (loss relief for income tax) as applied by this section has effect with the following adaptations—
 - (a) no relief shall be given to an individual under section 381 (relief for losses in early years of trade) in respect of a year of assessment if any of the accommodation in respect of which the trade is carried on in that year was first let by that person as furnished accommodation more than three years before the beginning of that year of assessment;
 - (b) section 384 (restrictions on right of set-off) has effect with the omission of subsections (6) to (8) and the words after paragraph (b) in subsection (10) (which relate to certain losses attributable to capital allowances);
 - (c) section 390 (treatment of interest as loss) has effect as if the reference to a trade the profits of which are chargeable to tax under Case I of Schedule D were a reference to the Schedule A business so far as it is treated as a trade.
- (4) Where there is a letting of accommodation only part of which is holiday accommodation, such apportionments shall be made for the purposes of this section as are just and reasonable.
- (5) Relief shall not be given for the same loss, or the same portion of a loss, both under a provision of Part X as applied by this section and under any other provision of the Tax Acts.”.

43 In section 579 of the Taxes Act 1988, omit subsection (4) and in subsection (5) (twice) for “subsections (2), (3) and (4)” substitute “ subsections (2) and (3) ”.

44 In section 787(3) of the Taxes Act 1988 (restriction of relief for payments of interest) for “section 403(7)” substitute “ section 83(2)(b) of the Finance Act 1996 (claim to treat non-trading deficit as eligible for group relief) ”.

45 In section 832(1) of the Taxes Act 1988 (interpretation), at the appropriate place insert—

““overseas property business” has the meaning given by section 65A(4) or 70A(4);”.

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- 46 In Schedule 26 to the Taxes Act 1988 (allowance of reliefs against amounts apportioned in respect of profits of controlled foreign companies), in paragraph 1(3) (a) for “section 393A(1)” substitute “ section 392A(1) or 393A(1) ”.

Capital Allowances Act 1990 (c.1)

- 47 For section 9 of the Capital Allowances Act 1990 (manner of making allowances and charges under Part I: industrial buildings) substitute—

“9 Manner of making allowances and charges.

- (1) An allowance or charge to which a person is entitled or is liable under this Part is made in taxing that person’s trade.

What is meant by that is explained—

for income tax, in section 140(2), and
for corporation tax, in section 144(2).

- (2) If the interest of that person in the building or structure is subject to a lease at the relevant time, subsection (1) and the provisions referred to in it have effect—

- (a) as if any Schedule A business carried on by that person at any time in the chargeable period for which the allowance or charge is made were the trade in the taxing of which the allowance or charge is to be made;
- (b) where that person is not carrying on such a business at any time in that period, as if he were carrying on such a business and the business were the trade in the taxing of which the allowance or charge is to be made.

- (3) The “relevant time” for the purposes of subsection (2) is—

- (a) in relation to an initial allowance, the time when the expenditure is incurred or any subsequent time before the building or structure is used for any purpose;
- (b) in relation to a writing-down allowance, the end of the chargeable period for which the allowance is made;
- (c) in relation to a balancing allowance or charge, the time immediately before the event giving rise to the allowance or charge.

- (4) This section applies where the building or structure in question is used by a licensee of the person entitled to the relevant interest as if that interest were subject to a lease.”.

- 48 In section 15 of the Capital Allowances Act 1990 (temporary disuse of industrial buildings or structures), omit subsections (2), (2A) and (3).

- 49 After that section insert—

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“15ZA Temporary disuse: manner of making allowances and charges in certain cases.

- (1) This section applies in certain cases where an allowance or charge falls to be made to or on a person in a period during which the building or structure—
 - (a) is temporarily out of use, but
 - (b) is deemed under section 15(1) still to be an industrial building or structure.

- (2) If on the last occasion upon which the building or structure was in use as an industrial building or structure—
 - (a) it was in use for the purposes of a trade which has since been permanently discontinued, or
 - (b) the relevant interest in the building or structure was subject to a lease which has since come to an end,

the allowance or charge shall be made under section 9 (manner of making allowances and charges) as if the relevant interest were subject to a lease at the relevant time.

- (3) If in a case where this section applies—
 - (a) a balancing charge falls to be made on a person, 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 has been permanently discontinued,

the same deductions may be made from the amount of the balancing charge as may be made under section 105 of the principal Act (deductions allowed in case of post-cessation receipts) from an amount chargeable to tax under section 103 or 104(1) of that Act.

This does not affect the making of any deduction allowed under any other provision of the Tax Acts.

- (4) References in this section to the permanent discontinuance of a trade do not include an event treated as a permanent discontinuance under section 113 or 337(1) of the principal Act (change in persons carrying on trade; circumstances in which company treated as beginning or ceasing to carry on trade).

- (5) This section applies where the building or structure in question is used by a licensee of the person entitled to the relevant interest as if that interest were subject to a lease.”.

50 Section 15A of the Capital Allowances Act 1990 (balancing charge after cessation of trade) shall cease to have effect.

51 In section 29 of the Capital Allowances Act 1990 (commercial letting of furnished holiday accommodation to be treated as trade for the purposes of Part II)—

- (a) in subsection (1) omit “Subject to subsection (1A) below,”; and
- (b) omit subsection (1A).

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- 52 In sections 30(4) and 31(10) of the Capital Allowances Act 1990 (postponed allowances not regarded as carried forward) for “403(3)” substitute “ 403ZB(2) ”.
- 53 In section 52 of the Capital Allowances Act 1990 (expenditure incurred by holder of interest in land), in subsection (1)(a) for the words from “either for the purposes” to “in the course of a trade” substitute “ for the purposes of a trade carried on by him ”.
- 54 (1) Section 53 of the Capital Allowances Act 1990 (expenditure incurred by equipment lessor) is amended as follows.
- (2) In subsection (1)(b) omit “or for leasing otherwise than in the course of a trade”.
- (3) For subsection (1)(bb) substitute—
- “(bb) the equipment lessee is within the charge to tax in the United Kingdom on the profits of the trade for the purposes of which he has entered into that agreement, and”.
- (4) In subsection (1B)(a) for “ “course of a trade” ” substitute “ “by the equipment lessee” ”.
- 55 (1) Section 61 of the Capital Allowances Act 1990 (machinery and plant on lease) is amended as follows.
- (2) Omit subsection (6).
- (3) In subsection (7) for “403(3)” substitute “ 403 ”.
- 56 In section 67 of the Capital Allowances Act 1990 (expenditure on thermal insulation), omit subsections (2), (3) and (3A).
- 57 In section 73 of the Capital Allowances Act 1990 (manner of making allowances and charges under Part II: machinery and plant)—
- (a) in subsection (1), for “subsections (1A) and (2)” substitute “ subsection (2) ”;
- (b) omit subsection (1A); and
- (c) in subsection (2), omit “and section 67(3)”.
- 58 For section 92 of the Capital Allowances Act 1990 (manner of making allowances and charges under Part III: dwelling-houses let on assured tenancies), substitute—
- “92 Manner of making allowances and charges.**
- (1) An allowance or charge to which a person is entitled or is liable under this Part is made in taxing that person’s trade.
- What is meant by that is explained—
- for income tax, in section 140(2), and

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for corporation tax, in section 144(2).

(2) Subsection (1) (and the provisions referred to in it) apply—

- (a) as if any Schedule A business carried on by that person were the trade in the taxing of which the allowance or charge is to be made; or
- (b) where that person is not carrying on such a business, as if he were carrying on such a business and that business were the trade in the taxing of which the allowance or charge is to be made.”.

59 For section 132 of the Capital Allowances Act 1990 (manner of making allowances and charges under Part V: agricultural buildings, etc.), substitute—

“132 Manner of making allowances and charges.

(1) An allowance or charge to which a person is entitled or is liable under this Part is made in taxing that person’s trade.

What is meant by that is explained—

for income tax, in section 140(2), and
for corporation tax, in section 144(2).

(2) In the case of an allowance or charge which falls to be made to a person for a chargeable period in which he is not carrying on a trade, subsection (1) applies—

- (a) as if any Schedule A business carried on by that person at that time were the trade in the taxing of which the allowance or charge is to be made; or
- (b) where that person is not carrying on such a business at that time, as if he were carrying on such a business and the business were the trade in the taxing of which the allowance or charge is to be made.”.

60 In section 159(1A) of the Capital Allowances Act 1990 (capital expenditure and capital sums: references to trade to include Schedule A business), omit the words from “or to any such activities” to the end.

61 In section 161 of the Capital Allowances Act 1990 (provisions relating to interpretation and application of that Act), for subsection (2A) substitute—

“(2A) This Act applies in relation to an overseas property business as it applies to a Schedule A business.”.

Taxation of Chargeable Gains Act 1992 (c.12)

62 In section 241(3) of the Taxation of Chargeable Gains Act 1992 (commercial letting of furnished holiday accommodation to be treated as trade for certain purposes), for paragraph (a) substitute—

- “(a) any Schedule A business (within the meaning of the Taxes Act) which consists in the commercial letting of furnished holiday accommodation in the United Kingdom shall be treated as a trade, and”.

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- 63 (1) Schedule 8 to the Taxation of Chargeable Gains Act 1992 (leases) is amended as follows.
- (2) In paragraph 5 (exclusion of premiums taxed under Schedule A, etc.)—
- (a) in sub-paragraphs (1) and (2), for “income tax has become chargeable under section 34 of the Taxes Act on any amount” substitute “ any amount is brought into account by virtue of section 34 of the Taxes Act as a receipt of a Schedule A business (within the meaning of that Act) ”; and
- (b) in sub-paragraph (3), for “income tax has become chargeable under section 36 of the Taxes Act (sale of land with right of re-conveyance) on any amount” substitute “ any amount is brought into account by virtue of section 36 of the Taxes Act (sale of land with right of re-conveyance) as a receipt of a Schedule A business (within the meaning of that Act) ”.
- (3) In paragraph 6(2), for the words from “on which tax is paid” onwards substitute “ brought into account by virtue of section 35 of the Taxes Act (charge on assignment of a lease granted at an undervalue) as a receipt of a Schedule A business (within the meaning of that Act) ”.
- (4) In paragraph 7, for the words from “income tax” to “so chargeable” substitute “ any amount is brought into account by virtue of section 34(2) and (3) of the Taxes Act as a receipt of a Schedule A business (within the meaning of that Act) which is or is treated as carried on by any person, that person ”.
- (5) For paragraph 7A substitute—
- “7A References in paragraphs 5 to 7 above to an amount brought into account as a receipt of a Schedule A business include references to an amount brought into account as a receipt of an overseas property business.”.

Finance Act 1996 (c. 8)

- 64 (1) Schedule 8 to the Finance Act 1996 (loan relationships: claims relating to deficits) is amended as follows.
- (2) In paragraph 1 (claim to set off deficit against other profits for the same period), in sub-paragraph (3)(b) for paragraph (i) substitute—
- “(i) under section 392A(1) or 393A(1) of the Taxes Act 1988 (losses set against profits for the same or preceding accounting periods); or”.
- (3) In paragraph 2 (claim to treat deficit as eligible for group relief) for sub-paragraph (2) substitute—
- “(2) Section 403 of the Taxes Act 1988 (amounts which may be surrendered by way of group relief) applies in accordance with section 403ZC(2) of that Act.”.

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VALID FROM 31/07/1998

PART IV

TRANSITIONAL PROVISIONS FOR CORPORATION TAX

Introduction

- 65 (1) This Part of this Schedule makes provision with respect to the application of the provisions of Parts I to III of this Schedule for corporation tax purposes.
- (2) In this Part of this Schedule—
“before commencement” and “after commencement” mean, respectively, before 1st April 1998 and on or after that date; and
“the new rules” means the provisions of the Tax Acts relating to Schedule A taxation or, as the case may be, to the taxation under Case V of Schedule D of income from land outside the United Kingdom, as they have effect after commencement.

Receipts and expenses not to be counted twice

- 66 (1) To the extent that receipts or expenses have been taken into account before commencement, they shall not be taken into account again under the new rules after commencement.
- (2) Nothing in section 43 of the ^{M33}Finance Act 1989 (computation of profits: effect of delayed payment of emoluments) shall be construed as affecting the rule in subparagraph (1) above.

Marginal Citations

M33 1989 c. 26.

Receipts and expenses not to be left out of account

- 67 To the extent that receipts or expenses would under the new rules have been brought into account before commencement, and were not so brought into account, they shall be brought into account immediately after commencement.

Expenses not to be carried back to before commencement

- 68 Expenses which were incurred before commencement but were not taken into account before commencement shall not, by virtue of section 25(3) or 31(3) of the Taxes Act 1988, be carried back and taken into account before commencement.

Effect of transfer of underlying rights

- 69 If any estate, interest or rights in or over land is or are transferred from one person to another, the references in paragraphs 66 to 68 to receipts or expenses

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being taken into account shall be construed as references to their being taken into account in relation to either of those persons.

Bad debt relief

- 70 (1) Where relief under section 41 of the Taxes Act 1988 (relief for rent, etc. not paid) has been given in respect of an amount before commencement, any receipt after commencement shall be taken into account under the new rules.
- (2) Any writing off of an amount after commencement shall be taken into account under the new rules, even where it relates to a receipt brought into account before commencement.

Meaning of “taken into account”

- 71 For the purposes of paragraphs 66 to 70 an amount is “taken into account” if—
- (a) it is brought into account for tax purposes, or
 - (b) it would have been so brought into account if the person concerned were chargeable to tax.

Unrelieved Case VI losses

- 72 (1) A loss to which this paragraph applies which a company would, apart from this Schedule, have been entitled to carry forward under section 396 of the Taxes Act 1988 (Case VI losses) shall be treated after commencement as a loss of an earlier period within section 392A or 392B of that Act and accordingly available to be set off under those provisions.
- (2) This paragraph applies to a loss sustained in a business or transaction of a kind that after commencement would be treated as carried on or entered into in the course of a Schedule A business or overseas property business carried on by the company.

Source ceasing in transitional accounting period

- 73 (1) The provisions of Parts I to III of this Schedule do not apply in relation to a source which ceases in the course of a company’s transitional accounting period to be a source within the charge to tax under Schedule A or Case V or VI of Schedule D in relation to that company and any other person.
- (2) This paragraph does not apply if the company acquired the source in that accounting period or in the preceding twelve months.

Superseded provisions relating to finance leasing

- 74 (1) In Schedule 12 to the ^{M34}Finance Act 1997 (leasing arrangements: finance leases and loans), the following provisions (which apply concepts from Case I of Schedule D in relation to rent taxed under Schedule A) shall cease to have effect in accordance with this paragraph.
- (2) Paragraphs 3(6), 6(9)(b), 8(1) to (7) and 20(b) do not apply in relation to periods of account beginning on or after 1st April 1998.

A “period of account” means a period for which accounts are made up.

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(3) Paragraph 8(8) does not apply if the time mentioned in that provision is on or after 1st April 1998.

(4) Paragraph 8(9) does not apply if the time mentioned in paragraph (a) of that provision is on or after 1st April 1998.

Marginal Citations

M34 1997 c. 16.

Computation of amounts available for surrender as group relief

75 In computing under section 403 of the Taxes Act 1988 the amounts available for surrender as group relief in a company’s transitional accounting period, the amounts referable to the period before commencement shall be computed separately from the amounts referable to the period after commencement.

Meaning of “transitional accounting period”

76 For the purposes of paragraphs 73 and 75 a “transitional accounting period” means an accounting period beginning before, and ending on or after, 1st April 1998.

VALID FROM 31/07/1998

SCHEDULE 6

Section 44.

ADJUSTMENT ON CHANGE OF ACCOUNTING BASIS

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VALID FROM 31/07/1998

SCHEDULE 7

Section 46(3).

REMOVAL OF UNNECESSARY REFERENCES TO GAINS

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SCHEDULE 8

Section 57.

SUB-CONTRACTORS IN THE CONSTRUCTION INDUSTRY

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VALID FROM 31/07/1998

SCHEDULE 9

Section 58(2).

PAYMENTS AND OTHER BENEFITS IN CONNECTION
WITH TERMINATION OF EMPLOYMENT ETC

.....

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SCHEDULE 10

Section 61(2).

ORDINARY COMMUTING AND PRIVATE TRAVEL

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SCHEDULE 11

Section 62.

TRANSITIONAL PROVISIONS FOR PROFIT-RELATED PAY

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SCHEDULE 12 Section 70.

EIS AND VCTs: MEANING OF QUALIFYING TRADE

.....

VALID FROM 31/07/1998

SCHEDULE 13 Section 74(1).

CHANGES TO EIS ETC

.....

VALID FROM 31/07/1998

SCHEDULE 14 Section 86.

LIFE POLICIES, LIFE ANNUITIES AND CAPITAL REDEMPTION POLICIES

.....

VALID FROM 31/07/1998

SCHEDULE 15 Section 92.

APPROVED RETIREMENT BENEFITS SCHEMES

.....

VALID FROM 31/07/1998

SCHEDULE 16 Section 108.

TRANSFER PRICING ETC: NEW REGIME

The Schedule inserted after Schedule 28A to the Taxes Act 1988 is as follows:—

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“SCHEDULE 28AA

PROVISION NOT AT ARM'S LENGTH

Basic rule on transfer pricing etc.

- 1 (1) This Schedule applies where—
 - (a) provision (“the actual provision”) has been made or imposed as between any two persons (“the affected persons”) by means of a transaction or series of transactions, and
 - (b) at the time of the making or imposition of the actual provision—
 - (i) one of the affected persons was directly or indirectly participating in the management, control or capital of the other; or
 - (ii) the same person or persons was or were directly or indirectly participating in the management, control or capital of each of the affected persons.
- (2) Subject to paragraphs 8, 10 and 13 below, if the actual provision—
 - (a) differs from the provision (“the arm's length provision”) which would have been made as between independent enterprises, and
 - (b) confers a potential advantage in relation to United Kingdom taxation on one of the affected persons, or (whether or not the same advantage) on each of them,
the profits and losses of the potentially advantaged person or, as the case may be, of each of the potentially advantaged persons shall be computed for tax purposes as if the arm's length provision had been made or imposed instead of the actual provision.
- (3) For the purposes of this Schedule the cases in which provision made or imposed as between any two persons is to be taken to differ from the provision that would have been made as between independent enterprises shall include the case in which provision is made or imposed as between any two persons but no provision would have been made as between independent enterprises; and references in this Schedule to the arm's length provision shall be construed accordingly.

Principles for construing rules in accordance with OECD principles

- 2 (1) This Schedule shall be construed (subject to paragraphs 8 to 11 below) in such manner as best secures consistency between—
 - (a) the effect given to paragraph 1 above; and
 - (b) the effect which, in accordance with the transfer pricing guidelines, is to be given, in cases where double taxation arrangements incorporate the whole or any part of the OECD model, to so much of the arrangements as does so.
- (2) In this paragraph “the OECD model” means—
 - (a) the rules which, at the passing of this Act, were contained in Article 9 of the Model Tax Convention on Income and on Capital published by the Organisation for Economic Co-operation and Development; or
 - (b) any rules in the same or equivalent terms.
- (3) In this paragraph “the transfer pricing guidelines” means—
 - (a) all the documents published by the Organisation for Economic Co-operation and Development, at any time before 1st May 1998, as part of their Transfer

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Pricing Guidelines for Multinational Enterprises and Tax Administrations;
and

- (b) such documents published by that Organisation on or after that date as may for the purposes of this Schedule be designated, by an order made by the Treasury, as comprised in the transfer pricing guidelines.

Meaning of “transaction” and “series of transaction”s

- 3 (1) In this Schedule “transaction” includes arrangements, understandings and mutual practices (whether or not they are, or are intended to be, legally enforceable).
- (2) References in this Schedule to a series of transactions include references to a number of transactions each entered into (whether or not one after the other) in pursuance of, or in relation to, the same arrangement.
- (3) A series of transactions shall not be prevented by reason only of one or more of the matters mentioned in sub-paragraph (4) below from being regarded for the purposes of this Schedule as a series of transactions by means of which provision has been made or imposed as between any two persons.
- (4) Those matters are—
- (a) that there is no transaction in the series to which both those persons are parties;
- (b) that the parties to any arrangement in pursuance of which the transactions in the series are entered into do not include one or both of those persons; and
- (c) that there is one or more transactions in the series to which neither of those persons is a party.
- (5) In this paragraph, “arrangement” means any scheme or arrangement of any kind (whether or not it is, or is intended to be, legally enforceable).

Participation in the management, control or capital of a person

- 4 (1) For the purposes of this Schedule a person is directly participating in the management, control or capital of another person at a particular time if, and only if, that other person is at that time—
- (a) a body corporate or a partnership; and
- (b) controlled by the first person.
- (2) For the purposes of this Schedule a person (“the potential participant”) is indirectly participating in the management, control or capital of another person at a particular time if, and only if—
- (a) he would be taken to be directly so participating at that time if the rights and powers attributed to him included all the rights and powers mentioned in sub-paragraph (3) below that are not already attributed to him for the purposes of sub-paragraph (1) above; or
- (b) he is, at that time, one of a number of major participants in that other person’s enterprise.
- (3) The rights and powers referred to in sub-paragraph (2)(a) above are—
- (a) rights and powers which the potential participant is entitled to acquire at a future date or which he will, at a future date, become entitled to acquire;

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- (b) rights and powers of persons other than the potential participant to the extent that they are rights or powers falling within sub-paragraph (4) below;
 - (c) rights and powers of any person with whom the potential participant is connected; and
 - (d) rights and powers which for the purposes of sub-paragraph (2)(a) above would be attributed to a person with whom the potential participant is connected if that connected person were himself the potential participant.
- (4) Rights and powers fall within this sub-paragraph to the extent that they—
- (a) are required, or may be required, to be exercised in any one or more of the following ways, that is to say—
 - (i) on behalf of the potential participant;
 - (ii) under the direction of the potential participant; or
 - (iii) for the benefit of the potential participant;and
 - (b) are not confined, in a case where a loan has been made by one person to another, to rights and powers conferred in relation to property of the borrower by the terms of any security relating to the loan.
- (5) In sub-paragraphs (3)(b) to (d) and (4) above, the references to a person's rights and powers include references to any rights or powers which he either—
- (a) is entitled to acquire at a future date, or
 - (b) will, at a future date, become entitled to acquire.
- (6) In paragraph (d) of sub-paragraph (3) above, the reference to rights and powers which would be attributed to a connected person if he were the potential participant includes a reference to rights and powers which, by applying that paragraph wherever one person is connected with another, would be so attributed to him through a number of persons each of whom is connected with at least one of the others.
- (7) For the purposes of this paragraph a person (“the potential major participant”) is a major participant in another person's enterprise at a particular time if at that time—
- (a) that other person (“the subordinate”) is a body corporate or partnership; and
 - (b) the 40 per cent. test is satisfied in the case of each of two persons who, taken together, control the subordinate and of whom one is the potential major participant.
- (8) For the purposes of this paragraph the 40 per cent. test is satisfied in the case of each of two persons wherever each of them has interests, rights and powers representing at least 40 per cent. of the holdings, rights and powers in respect of which the pair of them fall to be taken as controlling the subordinate.
- (9) For the purposes of this paragraph—
- (a) the question whether a person is controlled by any two or more persons taken together, and
 - (b) any question whether the 40 per cent. test is satisfied in the case of a person who is one of two persons,
- shall be determined after attributing to each of the persons all the rights and powers attributed to a potential participant for the purposes of sub-paragraph (2)(a) above.
- (10) References in this paragraph—
- (a) to rights and powers of a person, or

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(b) to rights and powers which a person is or will become entitled to acquire, include references to rights or powers which are exercisable by that person, or (when acquired by that person) will be exercisable, only jointly with one or more other persons.

- (11) For the purposes of this paragraph two persons are connected with each other if—
- (a) one of them is an individual and the other is his spouse, a relative of his or of his spouse, or the spouse of such a relative; or
 - (b) one of them is a trustee of a settlement and the other is—
 - (i) a person who in relation to that settlement is a settlor; or
 - (ii) a person who is connected with a person falling within sub-paragraph (i) above.
- (12) In sub-paragraph (11) above—
- “relative” means brother, sister, ancestor or lineal descendant; and
 - “settlement” and “settlor” have the same meanings as in Chapter IA of Part XV.

Advantage in relation to United Kingdom taxation

- 5 (1) For the purposes of this Schedule (but subject to sub-paragraph (2) below) the actual provision confers a potential advantage on a person in relation to United Kingdom taxation wherever, disregarding this Schedule, the effect of making or imposing the actual provision, instead of the arm’s length provision, would be one or both of the following, that is to say—
- (a) that a smaller amount (which may be nil) would be taken for tax purposes to be the amount of that person’s profits for any chargeable period; or
 - (b) that a larger amount (or, if there would not otherwise have been losses, any amount of more than nil) would be taken for tax purposes to be the amount for any chargeable period of any losses of that person.
- (2) Subject to paragraph 11(2) below, the actual provision shall not be taken for the purposes of this Schedule to confer a potential advantage in relation to United Kingdom taxation on either of the persons as between whom it is made or imposed if—
- (a) the three conditions set out in sub-paragraphs (3) to (5) below are all satisfied in the case of each of those two persons; and
 - (b) the further condition set out in sub-paragraph (6) below is satisfied in the case of each of those persons who is an insurance company.
- (3) The first condition is satisfied in the case of any person if—
- (a) that person is within the charge to income tax or corporation tax in respect of profits arising from the relevant activities;
 - (b) that person is not entitled to any exemption from income tax or corporation tax in respect of, or of a part of, the income or profits arising from the relevant activities in respect of which he is within that charge; and
 - (c) where that person is within the charge to income tax in respect of profits arising from those activities, he is resident in the United Kingdom in the chargeable periods in which he is so within that charge.
- (4) The second condition is satisfied in the case of any person if he is neither—

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- (a) a person with an entitlement, in pursuance of any double taxation arrangements or under section 790(1), to be given credit in any chargeable period for any foreign tax on or in respect of profits arising from the relevant activities; nor
 - (b) a person who would have such an entitlement in any such period if there were any such profits or if they exceeded a certain amount.
- (5) The third condition is satisfied in the case of any person if the amounts taken into account in computing the profits or losses arising from the relevant activities to that person in any chargeable period in which he is within the charge to income tax or corporation tax in respect of profits arising from those activities do not include any income the amount of which is reduced in accordance with section 811(1) (deduction for foreign tax where no credit allowable).
- (6) The further condition is satisfied in the case of an insurance company if the profits arising from the relevant activities in respect of which the company is within the charge to corporation tax do not include—
- (a) any profits in the computation of which acquisition expenses have been brought into account in accordance with section 86 of the ^{M70}Finance Act 1989 (expenses of acquiring insurance business); or
 - (b) any profits in relation to which the rate of corporation tax is fixed by section 88 or 88A of that Act (lower rate on certain profits of insurance companies).

Elimination of double counting

- 6 (1) This paragraph applies where—
- (a) only one of the affected persons (“the advantaged person”) is a person on whom a potential advantage in relation to United Kingdom taxation is conferred by the actual provision; but
 - (b) the other affected person (“the disadvantaged person”) is a person in relation to whom the condition set out in sub-paragraph (3) of paragraph 5 above either—
 - (i) is satisfied, or
 - (ii) were any such exemption as is mentioned in paragraph (b) of that sub-paragraph to be disregarded, would be satisfied.
- (2) Subject to sub-paragraphs (3) to (6) and paragraph 7 below, on the making of a claim by the disadvantaged person for the purposes of this paragraph—
- (a) the disadvantaged person shall be entitled to have his profits and losses computed for tax purposes as if the arm’s length provision had been made or imposed instead of the actual provision; and
 - (b) notwithstanding any limit in the Tax Acts on the time within which any adjustment may be made, all such adjustments shall be made in his case as may be required to give effect to the assumption that the arm’s length provision was made or imposed instead of the actual provision.
- (3) A claim made by the disadvantaged person for the purposes of this paragraph—
- (a) shall not be made unless a computation has been made in the case of the advantaged person on the basis that the arm’s length provision was made or imposed instead of the actual provision; and

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- (b) must be consistent with the computation made on that basis in the case of the advantaged person.
- (4) For the purposes of sub-paragraph (3) above a computation shall be taken to have been made in the case of the advantaged person on the basis that the arm's length provision was made or imposed instead of the actual provision if, and only if—
- (a) the computations made for the purposes of any return by the advantaged person have been made on that basis by virtue of this Schedule; or
 - (b) a relevant notice given to the advantaged person takes account of a determination in pursuance of this Schedule of an amount falling to be brought into account for tax purposes on that basis.
- (5) Subject to section 111(3)(b) of the Finance Act 1998 (which provides for the extension of the period for making a claim), a claim for the purposes of this paragraph shall not be made except within one of the following periods—
- (a) in a case where a return has been made by the advantaged person on the basis mentioned in sub-paragraph (3)(a) above, the period of two years beginning with the day of the making of the return; and
 - (b) in any case where a relevant notice taking account of such a determination as is mentioned in sub-paragraph (4)(b) above has been given to the advantaged person, the period of two years beginning with the day on which that notice was given.
- (6) Subject to section 111(3)(b) of the Finance Act 1998, where—
- (a) a claim for the purposes of this paragraph is made by the disadvantaged person in relation to a return made on the basis mentioned in sub-paragraph (3)(a) above, and
 - (b) a relevant notice taking account of such a determination as is mentioned in sub-paragraph (4)(b) above is subsequently given to the advantaged person,
- the disadvantaged person shall be entitled, within the period mentioned in sub-paragraph (5)(b) above, to make any such amendment of the claim as may be appropriate in consequence of the determination contained in that notice.
- (7) In this paragraph—
- “relevant notice” means—
- (a) a notice under section 28A(5) or 28B(5) of the Management Act stating the conclusions of an officer of the Board in relation to any self-assessment, partnership statement, claim or election;
 - (b) a closure notice under paragraph 32 of Schedule 18 to the Finance Act 1998 in relation to an enquiry into a company tax return;
 - (c) a notice of an assessment under section 29 of the Management Act;
 - (d) a notice of any discovery assessment or discovery determination under paragraph 41 of Schedule 18 to the Finance Act 1998 (including any notice of an assessment by virtue of paragraph 52 of that Schedule);
 - (e) a notice under section 30B(1) of the Management Act amending a partnership statement;
- “return” means any return required to be made under the Management Act or Schedule 18 to the Finance Act 1998 for income tax or corporation tax purposes or any voluntary amendment of such a return; and

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“voluntary amendment”, in relation to a return, means any amendment in accordance with the Management Act or Schedule 18 to the Finance Act 1998, other than one made in response to the giving of a relevant notice.

Adjustment of disadvantaged person’s double taxation relief

- 7 (1) Subject to sub-paragraph (4) below, where—
- (a) a claim is made for the purposes of paragraph 6 above, and
 - (b) the disadvantaged person is entitled, on that claim, to make a computation, or to have an adjustment made in his case, on the basis that the arm’s length provision was made or imposed instead of the actual provision,
- the assumptions specified in sub-paragraph (2) below shall apply, in the disadvantaged person’s case, as respects any credit for foreign tax which the disadvantaged person has been or may be given in pursuance of any double taxation arrangements or under section 790(1).
- (2) Those assumptions are—
- (a) that the foreign tax paid or payable by the disadvantaged person does not include any amount of foreign tax which would not be or have become payable were it to be assumed for the purposes of that tax that the arm’s length provision had been made or imposed instead of the actual provision; and
 - (b) that the amount of the relevant profits of the disadvantaged person in respect of which he is given credit for foreign tax does not include the amount (if any) by which his relevant profits are treated as reduced in accordance with paragraph 6 above.
- (3) Sub-paragraph (4) below applies if—
- (a) a claim is made for the purposes of paragraph 6 above;
 - (b) the disadvantaged person is entitled, on that claim, to make a computation, or to have an adjustment made in his case, on the basis that the arm’s length provision was made or imposed instead of the actual provision;
 - (c) the application of that basis in the computation of the disadvantaged person’s profits or losses for any chargeable period involves a reduction in the amount of any income; and
 - (d) that income is also income that falls to be treated as reduced in accordance with section 811(1).
- (4) Where this sub-paragraph applies—
- (a) the reduction mentioned in sub-paragraph (3)(c) above shall be treated as made before any reduction under section 811(1); and
 - (b) tax paid, in the place in which any income arises, on so much of that income as is represented by the amount of the reduction mentioned in sub-paragraph (3)(c) above shall be disregarded for the purposes of section 811(1).
- (5) Where, in a case in which a claim has been made for the purposes of paragraph 6 above, any adjustment is required to be made for the purpose of giving effect to any of the preceding provisions of this paragraph—
- (a) it may be made in any case by setting the amount of the adjustment against any relief or repayment to which the disadvantaged person is entitled in pursuance of that claim; and

Status: Point in time view as at 01/04/1998.

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- (b) nothing in the Tax Acts limiting the time within which any assessment is to be or may be made or amended shall prevent that adjustment from being so made.
- (6) References in this paragraph to relevant profits of the disadvantaged person are references to profits arising to the disadvantaged person from the carrying on of the relevant activities.

Foreign exchange gains and losses and financial instruments

- 8 (1) Subject to sub-paragraph (2) below, this Schedule shall not require the amounts brought into account in any person's case under—
 - (a) Chapter II of Part II of the ^{M71}Finance Act 1993 (foreign exchange gains and losses), or
 - (b) Chapter II of Part IV of the ^{M72}Finance Act 1994 (financial instruments),
 to be computed in that person's case on the assumption that the arm's length provision had been made or imposed instead of the actual provision.
- (2) Sub-paragraph (1) above—
 - (a) shall not affect so much of sections 136 and 136A of the ^{M73}Finance Act 1993 (application of arm's length test) as has effect by reference to whether the whole or any part of a loan falls to be treated in accordance with this Schedule as an amount on which interest has been charged or, as the case may be, has been charged at a higher rate; and
 - (b) accordingly, shall not prevent the assumption mentioned in that sub-paragraph from determining for the purposes of sections 136(8) and (9) and 136A(6) and (7) of that Act how much (if any) of any loan falls to be so treated.

Special rules for sales etc. of oil

- 9 (1) Subject to paragraph 10 below, this paragraph applies to provision made or imposed by or in relation to the terms of a sale of oil if—
 - (a) the oil sold is oil which has been, or is to be, extracted under rights exercisable by a company ("the producer") which (although it may be the seller) is not the buyer; and
 - (b) at the time of the sale not less than 20 per cent. of the producer's ordinary share capital is owned directly or indirectly by one or more of the following, that is to say, the buyer and the companies (if any) that are linked to the buyer.
- (2) Where this paragraph applies to provision made or imposed by or in relation to the terms of a sale of oil, this Schedule shall have effect as respects that provision as if the buyer, the seller and (if it is not the seller) the producer were all controlled by the same person at the time of the making or imposition of that provision.
- (3) For the purposes of this paragraph two companies are linked if—
 - (a) one is under the control of the other; or
 - (b) both are under the control of the same person or persons.
- (4) For the purposes of this paragraph—
 - (a) any question whether ordinary share capital is owned directly or indirectly by a company shall be determined as for section 838;

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- (b) rights to extract oil shall be taken to be exercisable by a company even if they are exercisable by that company only jointly with one or more other companies; and
 - (c) a sale of oil shall be deemed to take place at the time of the completion of the sale or when possession of the oil passes, whichever is the earlier.
- (5) In this paragraph “oil” includes any mineral oil or relative hydrocarbon, as well as natural gas.

Transactions and deemed transactions involving oil

- 10 This Schedule does not apply in relation to provision made or imposed by means of any transaction or deemed transaction in the case of which the price or consideration is determined in accordance with any of subsections (1) to (4) of section 493 (transactions and deemed transactions involving oil treated as made at market value).

Special provision for companies carrying on ring fence trades

- 11 (1) This paragraph applies where any person (“the taxpayer”) carries on as, or as part of, a trade any activities (“the ring fence trade”) which, in accordance with section 492(1) either—
- (a) fall to be treated for any tax purposes as a separate trade, distinct from all other activities carried on by him as part of the trade; or
 - (b) would so fall if the taxpayer did carry on any other activities as part of that trade.
- (2) Subject to paragraph 10 above and sub-paragraph (4) below, where provision made or imposed as between the taxpayer and another person by means of a transaction or series of transactions—
- (a) falls, in relation to the taxpayer, to be regarded as made or imposed in the course of, or with respect to, the ring fence trade; but
 - (b) falls, in relation to the other person, to be regarded as made or imposed in the course of, or with respect to, activities of that other person which do not fall within section 492(1),
- this Schedule shall have effect in relation to that provision with the omission of paragraph 5(2) above.
- (3) Subject to paragraph 10 above and sub-paragraph (4) below, this Schedule shall have effect as respects any provision made or imposed by the taxpayer as between the ring fence trade and any other activities carried on by him as if—
- (a) that trade and those activities were carried on by two different persons;
 - (b) that provision were made or imposed as between those two persons by means of a transaction;
 - (c) a potential advantage in relation to United Kingdom taxation were conferred by that provision on each of those two persons;
 - (d) those two persons were both controlled by the same person at the time of the making or imposition of that provision; and
 - (e) paragraphs 5 to 7 above were omitted.
- (4) This Schedule shall apply in accordance with this paragraph in relation to any provision mentioned in sub-paragraph (2) or (3) above only where the effect of its application in relation to that provision is either—

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- (a) that a larger amount (including, if there would not otherwise have been profits, an amount of more than nil) is taken for tax purposes to be the amount of the profits of the ring fence trade for any chargeable period; or
- (b) that a smaller amount (including nil) is taken for tax purposes to be the amount for any chargeable period of any losses of that trade.

Appeals

- 12 (1) In so far as the question in dispute on any appeal falling within sub-paragraph (2) below—
- (a) is or involves a determination of whether this Schedule has effect as respects any provision made or imposed as between any two persons, or of how it so has effect, and
 - (b) is not a question that would fall to be determined by the Special Commissioners apart from this sub-paragraph,
- that question shall be determined by them.
- (2) The appeals falling within this sub-paragraph are—
- (a) any appeal under section 31 of, or Schedule 1A to, the Management Act;
 - (b) any appeal under paragraph 34(3) of Schedule 18 to the Finance Act 1998 against an amendment of a company's return; and
 - (c) any appeal under paragraph 48 of that Schedule against a discovery assessment or a discovery determination.
- (3) Sub-paragraph (4) below applies where—
- (a) any such question as is mentioned in sub-paragraph (1) above falls to be determined by the Special Commissioners for the purposes of any proceedings before them; and
 - (b) that question relates to any provision made or imposed as between two persons each of whom is a person in relation to whom the condition set out in paragraph 5(3) above is satisfied.
- (4) Where this sub-paragraph applies—
- (a) each of the persons as between whom the actual provision was made or imposed shall be entitled to appear and be heard by the Special Commissioners, or to make representations to them in writing;
 - (b) the Special Commissioners shall determine that question separately from any other questions in those proceedings; and
 - (c) their determination on that question shall have effect as if made in an appeal to which each of those persons was a party.
- (5) In this paragraph—
- “discovery assessment” means a discovery assessment under paragraph 41 of Schedule 18 to the Finance Act 1998 (including one by virtue of paragraph 52 of that Schedule); and
 - “discovery determination” means a discovery determination under paragraph 41 of that Schedule.

Saving for the provisions relating to capital allowances and capital gains

- 13 Nothing in this Schedule shall be construed as affecting—

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- (a) the computation of the amount of any capital allowance or balancing charge made under the 1990 Act; or
- (b) the computation in accordance with the 1992 Act of the amount of any chargeable gain or allowable loss;

and nothing in this Schedule shall require the profits or losses of any person to be computed for tax purposes as if, in his case, instead of income or losses falling to be brought into account in connection with the taxation of income, there were gains or losses falling to be brought into account in accordance with the 1992 Act.

General interpretation etc.

14 (1) In this Schedule—

“the actual provision” and “the affected persons” shall be construed in accordance with paragraph 1(1) above;

“the arm”’s length provision’ shall be construed in accordance with paragraph 1(2) and (3) above;

“double taxation arrangements” means arrangements having effect by virtue of section 788;

“foreign tax” means any tax under the law of a territory outside the United Kingdom or any amount which falls for the purposes of any double taxation arrangements to be treated as if it were such tax;

“insurance company” has the same meaning as in Chapter I of Part XII;

“losses” includes amounts which are not losses but in respect of which relief may be given in accordance with any of the following enactments—

- (a) section 75(3) (excess of management expenses);
- (b) section 468L(5) (allowance for interest distributions of a unit trust);
- (c) Part X (loss relief and group relief);
- (d) section 83 of and Schedule 8 to the ^{M74}Finance Act 1996 or paragraph 4 of Schedule 11 to that Act (deficits on loan relationships);

“profits” includes income;

“the relevant activities”, in relation to a person who is one of the persons as between whom any provision is made or imposed, means such of his activities as—

- (i) comprise the activities in the course of which, or with respect to which, that provision is made or imposed; and
- (ii) are not activities carried on either separately from those activities or for the purposes of a different part of that person’s business;

“transaction” and “series of transactions” shall be construed in accordance with paragraph 3 above.

(2) Without prejudice to paragraphs 9(2) and 11(3) above, references in this Schedule to a person controlling a body corporate or a partnership shall be construed in accordance with section 840.

(3) In determining for the purposes of this Schedule whether a person has an entitlement, in pursuance of any double taxation arrangements or under section 790(1), to be given credit for foreign tax, any requirement that a claim is made before such a credit is given shall be disregarded.

(4) Any adjustments required to be made by virtue of this Schedule may be made by way of discharge or repayment of tax, by the modification of any assessment or otherwise.

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- (5) This Schedule shall have effect as if—
- (a) a unit trust scheme were a company that is a body corporate;
 - (b) the rights of the unit holders under such a scheme were shares in the company that the scheme is deemed to be;
 - (c) rights and powers of a person in the capacity of a person entitled to act for the purposes of the scheme were rights and powers of the scheme; and
 - (d) provision made or imposed as between any person in such a capacity and another person were made or imposed as between the scheme and that other person.”

Marginal Citations

- M70 1989 c. 26.
- M71 1993 c. 34.
- M72 1994 c. 9.
- M73 1993 c. 34.
- M74 1996 c. 8.

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- M70 1989 c. 26.
- M71 1993 c. 34.
- M72 1994 c. 9.
- M73 1993 c. 34.
- M74 1996 c. 8.

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SCHEDULE 17

Section 113.

CONTROLLED FOREIGN COMPANIES

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VALID FROM 31/07/1998

SCHEDULE 18

Section 117(1).

COMPANY TAX RETURNS, ASSESSMENTS AND RELATED MATTERS

Modifications etc. (not altering text)

- C1 Sch. 18 restricted (31.7.1998) by 1988 c. 1, s. 754B(10) (as inserted (31.7.1998 with effect as mentioned in Sch. 17 para. 37 of 1998 c. 36) by 1998 c. 36, s. 113, Sch. 17 para. 11)

VALID FROM 31/07/1998

SCHEDULE 19

Section 117(3).

COMPANY TAX RETURNS, ETC.: MINOR AND CONSEQUENTIAL AMENDMENTS

VALID FROM 31/07/1998

SCHEDULE 20

Section 121.

APPLICATION OF TAPER RELIEF

VALID FROM 31/07/1998

SCHEDULE 21

Section 121.

AMENDMENTS IN CONNECTION WITH TAPER RELIEF

Status: Point in time view as at 01/04/1998.

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VALID FROM 31/07/1998

SCHEDULE 22

Section 131.

TRANSITIONAL PROVISION AND CONSEQUENTIAL AMENDMENTS FOR SECTION 131

Introductory

1 The ^{M125}Taxation of Chargeable Gains Act 1992 shall be amended as follows.

Marginal Citations

M125 1992 c. 12.

Transitional for settlements created before 17th March 1998

2 (1) In the words at the end of sub-paragraph (1) of paragraph 2 of Schedule 5 (which specifies the provisions to which that sub-paragraph is subject), after “(4) to (6)” there shall be inserted “ and paragraph 2A ”.

(2) After that paragraph there shall be inserted the following paragraph—

“ Settlements created before 17th March 1998

2A (1) In determining for the purposes of section 86(1)(d) whether the settlor has an interest at any time during any year of assessment in a settlement created before 17th March 1998, paragraphs (da) and (db) of paragraph 2(3) above, and the reference to those paragraphs in paragraph 2(3)(e), shall be disregarded unless—

- (a) that year is a year in which one of the four conditions set out in the following provisions of this paragraph becomes fulfilled as regards the settlement; or
- (b) one of those conditions became fulfilled as regards that settlement in any previous year of assessment ending on or after 5th April 1998.

(2) The first condition is (subject to sub-paragraph (3) below) that on or after 17th March 1998 property or income is provided directly or indirectly for the purposes of the settlement—

- (a) otherwise than under a transaction entered into at arm’s length, and
- (b) otherwise than in pursuance of a liability incurred by any person before that date.

(3) For the purposes of the first condition, where the settlement’s expenses relating to administration and taxation for a year of assessment exceed its income for the year, property or income provided towards meeting those expenses shall be ignored if the value of the property or income so provided does not exceed the difference between the amount of those expenses and the amount of the settlement’s income for the year.

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- (4) The second condition is that—
- (a) the trustees become on or after 17th March 1998 neither resident nor ordinarily resident in the United Kingdom, or
 - (b) the trustees, while continuing to be resident and ordinarily resident in the United Kingdom, become on or after 17th March 1998 trustees who fall to be regarded for the purposes of any double taxation relief arrangements as resident in a territory outside the United Kingdom.
- (5) The third condition is that on or after 17th March 1998 the terms of the settlement are varied so that any person falling within sub-paragraph (7) below becomes for the first time a person who will or might benefit from the settlement.
- (6) The fourth condition is that—
- (a) on or after 17th March 1998 a person falling within sub-paragraph (7) below enjoys a benefit from the settlement for the first time, and
 - (b) the person concerned is not one who (looking only at the terms of the settlement immediately before 17th March 1998) would be capable of enjoying a benefit from the settlement on or after that date.
- (7) Each of the following persons falls within this sub-paragraph—
- (a) any grandchild of the settlor or of the settlor's spouse;
 - (b) the spouse of any such grandchild;
 - (c) a company controlled by a person or persons falling within paragraph (a) or (b) above;
 - (d) a company controlled by any such person or persons together with any person or persons (not so falling) each of whom is for the purposes of paragraph 2(1) above a defined person in relation to the settlement;
 - (e) a company associated with a company falling within paragraph (c) or (d) above.
- (8) For the purposes of sub-paragraph (7) above the question whether a company is controlled by a person or persons shall be construed in accordance with section 416 of the Taxes Act; but in deciding that question for those purposes no rights or powers of (or attributed to) an associate or associates of a person shall be attributed to him under section 416(6) if he is not a participator in the company.
- (9) For the purposes of sub-paragraph (7) above the question whether one company is associated with another shall be construed in accordance with section 416 of the Taxes Act; but where in deciding that question for those purposes it falls to be decided whether a company is controlled by a person or persons, no rights or powers of (or attributed to) an associate or associates of a person shall be attributed to him under section 416(6) if he is not a participator in the company.
- (10) In this paragraph—
'child' includes a step-child;

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'grandchild' means a child of a child;
 'participator' has the meaning given by section 417(1) of the Taxes Act."

- (3) In construing section 86(1)(e) as regards any year of assessment and in relation to a settlement which—
- (a) was created before 17th March 1998, and
 - (b) is a settlement in which the settlor has an interest during that year by virtue only of the fulfilment for the purposes of the paragraph inserted by sub-paragraph (2) above of one of the conditions set out in that paragraph,
- no account shall be taken of disposals made before the relevant day (whether for the purpose of arriving at gains or for the purpose of arriving at losses).
- (4) In sub-paragraph (3) above "the relevant day" means—
- (a) for the year 1997-98, 17th March 1998; and
 - (b) for any other year of assessment, the 6th April which is the first day of that year.

Consequential amendments of paragraphs 4 and 5 of Schedule 5 to the 1992 Act

- 3 (1) In paragraphs 4(1)(a) and 5(1)(a) of Schedule 5 (disapplication of section 86 in certain cases where beneficiaries die), for "(d)" there shall be substituted "(db)".
- (2) In paragraph 4(4) of that Schedule (disapplication of section 86 in certain cases where a beneficiary ceases to be married)—
- (a) in paragraph (b), for "or (d)" there shall be substituted ", (d) or (db)"; and
 - (b) for "or child" there shall be substituted ", child or grandchild".

Consequential amendment of paragraph 9 of Schedule 5 to the 1992 Act

- 4 (1) In sub-paragraph (7) of paragraph 9 of Schedule 5 (persons listed for the purpose of the conditions the fulfilment of which makes a pre-19th March 1991 settlement a qualifying settlement)—
- (a) after paragraph (d) there shall be inserted the following paragraphs—
 - "(da) any grandchild of a settlor or of a settlor's spouse;
 - (db) the spouse of any such grandchild;" and
 - (b) in paragraph (e), for "(d)" there shall be substituted "(db)".
- (2) For sub-paragraph (11) of that paragraph there shall be substituted the following sub-paragraph—
- "(11) In this paragraph—
- 'child' includes a step-child;
 - 'grandchild' means a child of a child;
 - 'participator' has the meaning given by section 417(1) of the Taxes Act."

(3) Sub-paragraph (1) above shall be disregarded for the purpose of determining whether either of the conditions set out in sub-paragraphs (5) and (6) of that paragraph became fulfilled at any time before 17th March 1998.

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Consequential amendment of Schedule 5A

- 5 (1) In paragraph 2(1) of Schedule 5A (returns in relation to dealings involving settlements created before 19th March 1991), in paragraph (a) for “19th March 1991” there shall be substituted “17th March 1998”.
- (2) This paragraph has effect in relation to transfers on or after 17th March 1998.

VALID FROM 31/07/1998

SCHEDULE 23

Section 132.

TRANSITIONAL PROVISION IN CONNECTION WITH SECTION 132

Pre-6th April 1999 gains and losses of settlements that become qualifying

- 1 (1) This paragraph applies to a settlement in the case of any person who is a settlor in relation to that settlement if that settlement—
- (a) is one created before 19th March 1991;
 - (b) is not a qualifying settlement in the year 1998-99; and
 - (c) is a qualifying settlement in the year 1999-00 without having been a protected settlement in relation to that settlor immediately after the beginning of 6th April 1999.
- (2) Subject to sub-paragraph (3) below, section 86 of the 1992 Act (attribution of gains to settlor of non-resident or dual resident trusts) shall have effect in relation to any settlement to which this paragraph applies—
- (a) as if any relevant gains or relevant losses accruing to the trustees of the settlement on or after 17th March 1998 and before 6th April 1999 were gains or losses accruing to those trustees on 6th April 1999; and
 - (b) where it is not the case, as if the trustees fulfilled the condition as to residence in the year 1999-00.
- (3) Where (apart from sub-paragraph (2)(b) above) the trustees of a settlement to which this paragraph applies do not fulfil the condition as to residence in the year 1999-00, section 86 of the 1992 Act shall have effect (without prejudice to any charge imposed otherwise than by virtue of that section) as if the only gains and losses accruing to the trustees of that settlement in that year were those which are treated as accruing to those trustees on 6th April 1999 by virtue of sub-paragraph (2)(a) above.
- (4) The gains and losses that are relevant gains or relevant losses for the purposes of this paragraph are those which (apart from this paragraph) accrue to the trustees of a settlement to which this paragraph applies in any year of assessment in which those trustees fulfil the condition as to residence.

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Pre-6th April 1999 gains and losses where there is a transfer to another settlement

- 2 (1) This paragraph applies, subject to sub-paragraph (5) below, to any chargeable gain or loss accruing on the disposal of any asset by the trustees of a settlement ("the transferor settlement") if—
- (a) that settlement was created before 19th March 1991;
 - (b) the disposal on which the gain or loss accrues is one made—
 - (i) on or after 17th March 1998 and before 6th April 1999; and
 - (ii) in a year of assessment in which the trustees of the transferor settlement fulfil the condition as to residence but the settlement is not a qualifying settlement;
 - (c) a person who is a settlor in relation to the transferor settlement ("the chargeable settlor")—
 - (i) is domiciled in the United Kingdom at some time in the year 1999-00 and in the year of assessment in which the disposal is made;
 - (ii) is either resident in the United Kingdom during any part of each of those years or ordinarily resident in the United Kingdom during each of those years; and
 - (iii) is alive at the end of the year 1999-00;
 - (d) the asset disposed of is property originating from the chargeable settlor;
 - (e) the property comprised in another settlement ("the transferee settlement") at any time after the disposal and before 6th April 1999 is or includes (whether in consequence of the disposal or otherwise) the asset disposed of or any relevant property;
 - (f) the transferor settlement has a relevant connection with the transferee settlement; and
 - (g) the gain or loss in question is not one treated under paragraph 1 above as accruing on 6th April 1999 to the trustees of the transferor settlement.
- (2) If, in the case of the chargeable settlor, section 86 of the 1992 Act applies (apart from this paragraph) for the year 1999-00 in relation to the transferee settlement, that section shall apply for that year in relation to that settlement as if any chargeable gain or loss to which this paragraph applies—
- (a) were a gain or loss accruing on 6th April 1999 to the trustees of the transferee settlement; and
 - (b) so accrued on the disposal by those trustees of any asset that was property originating from the chargeable settlor.
- (3) Where sub-paragraph (2) above does not apply, section 86 of the 1992 Act shall have effect in relation to the chargeable settlor as if—
- (a) in the year 1999-00 the conditions specified in paragraphs (a) to (d) and (f) of subsection (1) of that section were fulfilled in his case in relation to the transferee settlement;
 - (b) any gain or loss to which this paragraph applies—
 - (i) were a gain or loss accruing on 6th April 1999 to the trustees of the transferee settlement; and
 - (ii) so accrued on the disposal by them of an asset that was property originating from the chargeable settlor;
- and

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- (c) any chargeable gains and losses accruing to the trustees of the transferee settlement which are not gains or losses to which this paragraph applies were to be disregarded for the purposes of that section.
- (4) Where (but for this sub-paragraph) the same gain or loss would fall to be treated by virtue of sub-paragraph (2) or (3) above as a gain or loss accruing to the trustees of more than one settlement—
 - (a) that gain or loss shall be apportioned between those settlements in such manner as may be just and reasonable; and
 - (b) only such part of the gain or loss as on that apportionment is attributable to a particular settlement shall be treated in accordance with that sub-paragraph as accruing to that settlement.
- (5) This paragraph does not apply to any chargeable gain or loss accruing on any disposal if, for the year of assessment in which that disposal is made, section 86 of the 1992 Act would, on the relevant assumption, have been prevented by virtue of paragraph 3, 4 or 5 of Schedule 5 to that Act—
 - (a) from applying in the case of the chargeable settlor in relation to the transferor settlement; or
 - (b) from applying in his case in relation to the transferee settlement.
- (6) The relevant assumption for the purposes of sub-paragraph (5) above is that section 86 of the 1992 Act would have applied in the case of the chargeable settlor apart from paragraphs 3 to 5 of Schedule 5 to that Act.
- (7) In this paragraph “relevant property”, in relation to any disposal made by the trustees of the transferor settlement, means any property (not being the asset disposed of) which—
 - (a) is or represents property or income originating from the chargeable settlor;
 - (b) has been comprised in, or has arisen to, the transferor settlement at any time after the time of that disposal; and
 - (c) is property or income of the trustees of the transferee settlement acquired or otherwise deriving, directly or indirectly, from the trustees of the transferor settlement.
- (8) For the purposes of this paragraph the transferor settlement has, in relation to a disposal by its trustees, a relevant connection with the transferee settlement if—
 - (a) immediately before the time of the disposal, the beneficiaries of the transferor settlement are or include persons who are defined persons in relation to that settlement at that time;
 - (b) the transferor settlement is not a protected settlement at that time in relation to the chargeable settlor;
 - (c) at the beginning of 6th April 1999, the beneficiaries of the transferee settlement are or include persons who—
 - (i) have attained the age of eighteen; and
 - (ii) have been defined persons in relation to the transferor settlement;and
 - (d) the property comprised in the transferee settlement in respect of which some or all of the persons mentioned in paragraph (c) above are beneficiaries of that settlement at the beginning of 6th April 1999 is or includes anything which, in relation to either that settlement or the

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transferor settlement, is property or income originating from the chargeable settlor.

- (9) For the purposes of this paragraph a person is a defined person in relation to a settlement at a time if he would fall at that time to be treated, by reference to the chargeable settlor, as a defined person in relation to that settlement for the purposes of paragraph 2 of Schedule 5 to the 1992 Act.
- (10) Sub-paragraph (3)(c) above is without prejudice to any charge imposed otherwise than by virtue of this paragraph.

Pre-6th April 1999 gains and losses where there is a transfer to a foreign institution

- 3 (1) This paragraph applies, subject to sub-paragraphs (4) and (6) below, to a chargeable gain or loss accruing on the disposal of any asset by the trustees of a settlement ("the transferor settlement") if—
- (a) that settlement was created before 19th March 1991;
 - (b) the disposal on which the gain or loss accrues is one made—
 - (i) on or after 17th March 1998 and before 6th April 1999; and
 - (ii) in a year of assessment in which the trustees of the transferor settlement fulfil the condition as to residence but the settlement is not a qualifying settlement;
 - (c) a person who is a settlor in relation to the transferor settlement ("the chargeable settlor")—
 - (i) is domiciled in the United Kingdom at some time in the year 1999-00 and in the year of assessment in which the disposal is made;
 - (ii) is either resident in the United Kingdom during any part of each of those years or ordinarily resident in the United Kingdom during each of those years; and
 - (iii) is alive at the end of the year 1999-00;
 - (d) the asset disposed of is property originating from the chargeable settlor;
 - (e) the property comprised in a foreign institution ("the transferee institution") at any time after the disposal and before 6th April 1999 is or includes (whether in consequence of the disposal or otherwise) the asset disposed of or any relevant property;
 - (f) the transferor settlement has a relevant connection with the transferee institution; and
 - (g) the gain or loss in question is neither—
 - (i) a gain or loss treated under paragraph 1 above as accruing on 6th April 1999 to the trustees of any settlement; nor
 - (ii) a gain or loss to which paragraph 2 above applies.
- (2) If, in the case of the chargeable settlor, section 86 of the 1992 Act applies (apart from this paragraph) for the year 1999-00 in relation to the transferor settlement, that section shall apply for that year in relation to that settlement as if any chargeable gain or loss to which this paragraph applies—
- (a) were a gain or loss accruing on 6th April 1999 to the trustees of the transferor settlement; and
 - (b) so accrued on the disposal by them of an asset that was property originating from the chargeable settlor.

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- (3) Where sub-paragraph (2) above does not apply, section 86 of the 1992 Act shall have effect in relation to the chargeable settlor as if—
- (a) (where it is not the case) the transferor settlement existed in the year 1999-00;
 - (b) that settlement were a settlement in relation to which all the conditions specified in paragraphs (a) to (d) and (f) of subsection (1) of that section were fulfilled in the case of the chargeable settlor in that year;
 - (c) any gain or loss to which this paragraph applies—
 - (i) were a gain or loss accruing on 6th April 1999 to the trustees of the transferor settlement; and
 - (ii) so accrued on the disposal by them of an asset that was property originating from the chargeable settlor;
- and
- (d) any chargeable gains and losses which are not gains or losses to which this paragraph applies were to be disregarded for the purposes of that section.
- (4) This paragraph does not apply to any chargeable gain or loss accruing on any disposal if, for the year of assessment in which that disposal is made, section 86 of the 1992 Act would, on the relevant assumption, have been prevented by virtue of paragraph 3, 4 of 5 of Schedule 5 to that Act from applying in the case of the chargeable settlor in relation to the transferor settlement.
- (5) The relevant assumption for the purposes of sub-paragraph (4) above is that section 86 of the 1992 Act would have applied in the case of the chargeable settlor apart from paragraphs 3 to 5 of Schedule 5 to that Act.
- (6) This paragraph does not apply to any chargeable gain or loss accruing on any disposal if the chargeable settlor stands in such a relationship to the foreign institution that if—
- (a) that institution were a settlement,
 - (b) property of the institution were property comprised in the settlement, and
 - (c) income arising to the institution were income arising under the settlement,
- paragraph 4 or 5 of Schedule 5 to the 1992 Act would (assuming that nothing else did) prevent section 86 of that Act from applying in the case of the chargeable settlor in relation to that settlement for the year of assessment in which that disposal is made.
- (7) In this paragraph “relevant property”, in relation to any disposal made by the trustees of the transferor settlement, means any property which—
- (a) is or represents property or income originating from the chargeable settlor;
 - (b) has been comprised in, or has arisen to, the transferor settlement at any time after the time of that disposal; and
 - (c) is property or income of the transferee institution acquired or otherwise deriving, directly or indirectly, from the trustees of the transferor settlement.
- (8) For the purposes of this paragraph the transferor settlement has, in relation to a disposal by its trustees, a relevant connection with the transferee institution if—
- (a) immediately before the time of the disposal, the beneficiaries of the transferor settlement are or include persons who are defined persons in relation to that settlement at that time;

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- (b) the transferor settlement is not a protected settlement at that time in relation to the chargeable settlor; and
 - (c) the transferee institution is—
 - (i) one in which a relevant defined person is a participator at the beginning of 6th April 1999;
 - (ii) one which is under the control of a company in which, or two or more companies in any of which, a relevant defined person is a participator at that time; or
 - (iii) one whose relevant property or relevant income includes property or income in which a relevant defined person has an interest at that time.
- (9) For the purposes of this paragraph a person is a relevant defined person at any time if he—
- (a) has attained the age of eighteen; and
 - (b) has been, by reference to the chargeable settlor, a defined person in relation to the transferor settlement.
- (10) For the purposes of this paragraph a person has an interest in any property or income of a foreign institution at any time if—
- (a) there are any circumstances whatever in which that property or income is or will or may become applicable for his benefit or payable to him;
 - (b) there are any circumstances whatever in which income which is or may arise from that property or income is or will or may become applicable for his benefit or payable to him;
 - (c) he enjoys a benefit directly or indirectly from that property or income or from any income arising from that property or income.
- (11) For the purposes of this paragraph a person is a defined person in relation to a settlement at a time if he would fall at that time to be treated, by reference to the chargeable settlor, as a defined person in relation to that settlement for the purposes of paragraph 2 of Schedule 5 to the 1992 Act.
- (12) In this paragraph—
- “foreign institution” means any company or other institution resident outside the United Kingdom;
 - “participator” has the meaning given (for the purposes of Part XI of the Taxes Act 1988 (close companies)) by section 417(1) of that Act;
 - “relevant income”, in relation to a foreign institution, means any income of that institution which, if that institution were a settlement, would be treated for the purposes of Schedule 5 to the 1992 Act as originating from the chargeable settlor;
 - “relevant property”, in relation to a foreign institution, means any property of that institution which, if that institution were a settlement, would be treated for the purposes of Schedule 5 to the 1992 Act as originating from the chargeable settlor.
- (13) Sub-paragraph (3)(d) above is without prejudice to any charge imposed otherwise than by virtue of this paragraph.

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Rule to prevent a double charge

- 4
- (1) This paragraph applies, in the case of a person who is a settlor in relation to any settlement (“the relevant settlement”), to so much (if any) of the amount falling in his case within section 86(1)(e) of the 1992 Act for the year 1999-00 as (apart from this paragraph) would be treated by virtue only of the preceding provisions of this Schedule, as gains accruing to him in that year.
 - (2) Where there is an excess of the relevant chargeable amounts for the transitional period over the amount of the section 87 pool on 17th March 1998, only so much (if any) of the amount to which this paragraph applies as exceeds that excess shall fall in accordance with this Schedule to be, or (as the case may be) to be included in, the amount treated as accruing to the settlor in the year 1999-00.
 - (3) In sub-paragraph (2) above, the reference to the relevant chargeable amounts for the transitional period is (subject to sub-paragraph (5) below) a reference to the aggregate of the amounts on which beneficiaries of the relevant settlement are charged to tax under section 87 or 89(2) of the 1992 Act for any year of assessment ending after 17th March 1998 and before 6th April 1999 in respect of capital payments received by them.
 - (4) In sub-paragraph (2) above, the reference to the section 87 pool on 17th March 1998 is (subject to sub-paragraph (5) below) a reference to the amount (if any) which, in accordance with subsection (2) of section 87 of the 1992 Act, would have fallen in relation to the relevant settlement to be carried forward from the year 1997-98 to be included in the amount of the trust gains for the year 1998-99 if—
 - (a) the year 1997-98 had ended with 16th March 1998; and
 - (b) the year 1998-99 had begun with 17th March 1998.
 - (5) Where the property comprised in the relevant settlement has at any time included property not originating from the settlor, only so much (if any) of any capital payment or of any amount that would have been carried forward in accordance with section 87(2) of the 1992 Act as, on a just and reasonable apportionment, is properly referable to property originating from the settlor shall be taken into account for the purposes of sub-paragraphs (3) and (4) above.
 - (6) Where any reduction falls to be made by virtue of sub-paragraph (2) above in the amount to be attributed in accordance with this Schedule to any settlor for the year 1999-00, the reduction to be treated as made for that year in accordance with section 87(3) of the 1992 Act in the case of the settlement in question shall not be made until—
 - (a) the reduction (if any) falling to be made by virtue of that sub-paragraph has been made in the case of every settlor to whom any amount is so attributed; and
 - (b) effect has been given to any reduction required to be made under paragraph 5(1) below.
 - (7) In this paragraph “the transitional period” means the period beginning with 17th March 1998 and ending with 5th April 1999.
- 5
- (1) Where in the case of any settlement there is (after the making of any reduction or reductions in accordance with paragraph 4(2) above) any amount or amounts falling in accordance with this Schedule to be attributed for the year 1999-00 to settlors of the settlement, the amount or (as the case may be) aggregate amount falling in accordance with this Schedule to be so attributed shall be applied in reducing the

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amount which (after any reductions in accordance with section 86A(6A) of that Act) is carried forward to that year in accordance with section 87(2) of that Act.

- (2) Where an amount or aggregate amount has been applied, in accordance with sub-paragraph (1) above, in reducing the amount which in the case of any settlement is carried forward to the year 1999-00 in accordance with section 87(2) of the 1992 Act, that amount (or, as the case may be, so much of it as does not exceed the amount which it is applied in reducing) shall be deducted from the amount used for that year in the case of that settlement for making the reduction under section 87(3) of that Act.

Interpretation of Schedule

- 6 (1) In this Schedule—
- “the 1992 Act” means the ^{M126}Taxation of Chargeable Gains Act 1992;
- “qualifying settlement”, in relation to any year of assessment, means a settlement that is a qualifying settlement in that year for the purposes of section 86 of and Schedule 5 to the 1992 Act;
- “settlor”, in relation to a settlement, has the same meaning as in Schedule 5 to the 1992 Act.
- (2) In this Schedule “protected settlement”, in relation to any time and any settlor, means (subject to sub-paragraph (3) below)—
- (a) a settlement that is a protected settlement at that time, within the meaning given by sub-paragraph (10A) of paragraph 9 of Schedule 5 to the 1992 Act, or
- (b) a settlement that would be such a settlement at that time if that settlor were the only settlor of the settlement.
- (3) For the purposes of construing, in accordance with sub-paragraph (2) above, the references in paragraphs 2(8) and 3(8) above to a protected settlement, paragraph 9(10A)(a) of Schedule 5 to the 1992 Act shall be deemed to have effect with the omission of the words “or who were under that age at the end of the immediately preceding year of assessment”.
- (4) References in this Schedule to the condition as to residence are references to the condition set out in section 86(2) of the 1992 Act.
- (5) For the purposes of this Schedule a person is a beneficiary of a settlement if—
- (a) there are any circumstances whatever in which property which is or may become comprised in the settlement is or will or may become applicable for his benefit or payable to him;
- (b) there are any circumstances whatever in which income which arises or may arise from property comprised in the settlement is or will or may become applicable for his benefit or payable to him;
- (c) he enjoys a benefit directly or indirectly from any property comprised in the settlement or any income arising from any such property;
- and references in this paragraph to the property comprised in the settlement in respect of which a person is a beneficiary shall be construed accordingly.
- (6) For the purposes of this paragraph, paragraph 8 of Schedule 5 to the 1992 Act shall apply for determining if property is property originating from any person as it applies for the purposes of that Schedule.

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(7) Expressions used in this Schedule and in the 1992 Act have the same meanings in this Schedule as in that Act.

Marginal Citations

M126 1992 c. 12.

VALID FROM 31/07/1998

SCHEDULE 24

Section 137.

RESTRICTIONS ON SETTING LOSSES AGAINST PRE-ENTRY GAINS

VALID FROM 31/07/1998

SCHEDULE 25

Section 142.

PROPERTY OF HISTORIC INTEREST ETC

Meaning of “the 1984 Act”

1 In this Schedule “the 1984 Act” means the ^{M128}Inheritance Tax Act 1984.

Marginal Citations

M128 1984 c. 51.

Claims for designation

2 (1) In section 30 of the 1984 Act (conditionally exempt transfers), after subsection (3B) there shall be inserted the following subsection—

“(3BA) A claim under subsection (1) above must be made no more than two years after the date of the transfer of value to which it relates or, in the case of a claim with respect to a potentially exempt transfer, the date of the death, or (in either case) within such longer period as the Board may allow.”

(2) This paragraph has effect in relation to any transfer of value or death on or after 17th March 1998.

3 (1) In section 78 of the 1984 Act (conditionally exempt occasions), after subsection (1) there shall be inserted the following subsection—

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“(1A) A claim under subsection (1) above must be made no more than two years after the date of the transfer or other event in question or within such longer period as the Board may allow.”

- (2) This paragraph has effect in relation to transfers of property made, and other events occurring, on or after 17th March 1998.

Property capable of designation

- 4 (1) In section 31 of the 1984 Act, in subsection (1) (property capable of designation under that section), for paragraph (a) there shall be substituted the following paragraphs—

- “(a) any relevant object which appears to the Board to be pre-eminent for its national, scientific, historic or artistic interest;
(aa) any collection or group of relevant objects which, taken as a whole, appears to the Board to be pre-eminent for its national, scientific, historic or artistic interest;”.

- (2) In subsections (2) and (3) of that section, for “(1)(a)”, wherever occurring, there shall be substituted “(1)(a) or (aa)”.

- (3) For subsection (5) of that section, there shall be substituted the following subsection—

“(5) In this section—

‘national interest’ includes interest within any part of the United Kingdom; and

‘relevant object’ means—

- (a) a picture, print, book, manuscript, work of art or scientific object, or
(b) anything not falling within paragraph (a) above that does not yield income;

and in determining under subsection (1)(a) or (aa) above whether an object or a collection or group of objects is pre-eminent, regard shall be had to any significant association of the object, collection or group with a particular place.”

- (4) This paragraph has effect in relation to the making of any designation on a claim made on or after the day on which this Act is passed.

Access to designated property

- 5 (1) In section 31 of the 1984 Act (designation of property and requisite undertakings), after subsection (4F) there shall be inserted the following subsection—

“(4FA) For the purposes of this section, the steps agreed for securing reasonable access to the public must ensure that the access that is secured is not confined to access only where a prior appointment has been made.”

- (2) This paragraph has effect in relation to the giving of any undertaking on or after the day on which this Act is passed.

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Publication of information about designated property

- 6 (1) In section 31 of the 1984 Act (designation of property and requisite undertakings), after the subsection (4FA) of that section inserted by paragraph 5 above there shall be inserted the following subsection—

“(4FB) Subject to subsection (3) above, where the steps that may be set out in any undertaking include steps for securing reasonable access to the public to any property, the steps that may be agreed and set out in that undertaking may also include steps involving the publication of—

- (a) the terms of any undertaking given or to be given for any of the purposes of this Act with respect to the property; or
- (b) any other information relating to the property which (apart from this subsection) would fall to be treated as confidential;

and references in this Act to an undertaking for access to any property shall be construed as including references to so much of any undertaking as provides for the taking of steps involving any such publication.”

- (2) This paragraph has effect in relation to the giving of any undertaking on or after the day on which this Act is passed.

Undertakings on death, disposal of property, etc.

- 7 (1) In section 32 of the 1984 Act (chargeable events in relation to conditionally exempt transfers), in subsection (2), for “subsection (5)(b)” there shall be substituted “subsection (5AA)”.

- (2) In subsection (5) of that section, for paragraph (b) there shall be substituted the following paragraph—

“(b) the condition specified in subsection (5AA) below is satisfied with respect to the property.”

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

“(5AA) The condition referred to in subsection (5)(b) above is satisfied if—

- (a) the requisite undertaking described in section 31 above is given with respect to the property by such person as the Board think appropriate in the circumstances of the case, or
- (b) (where the property is an area of land within section 31(1)(d) above) the requisite undertakings described in that section are given with respect to the property by such person or persons as the Board think appropriate in the circumstances of the case.”

- (4) In section 32A of the 1984 Act (chargeable events in relation to associated properties), in subsection (6), for the words from “unless” to “case; and” there shall be substituted—

“unless—

- (a) the requisite undertaking described in section 31 above is given with respect to the property (or part) not disposed of by such person as the Board think appropriate in the circumstances of the case, or
- (b) (where any of the property or part not disposed of is an area of land within section 31(1)(d) above) the requisite undertakings described in that section are given with respect to that property (or that part)

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by such person or persons as the Board think appropriate in the circumstances of the case;

and ”.

(5) In subsection (8) of that section, for paragraph (b) there shall be substituted the following paragraph—

“(b) the condition specified in subsection (8A) below is satisfied with respect to the property (or part) concerned.”

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

“(8A) The condition referred to in subsection (8)(b) above is satisfied if—

- (a) the requisite undertaking described in section 31 above is given with respect to the property (or part) by such person as the Board think appropriate in the circumstances of the case, or
- (b) (where any of the property or part is an area of land within section 31(1)(d) above) the requisite undertakings described in that section are given with respect to the property (or part) by such person or persons as the Board think appropriate in the circumstances of the case.”

(7) For subsection (9) of that section there shall be substituted the following subsection—

“(9) If the whole or part of any property is disposed of by sale and—

- (a) the requisite undertaking described in section 31 above is given with respect to the property (or part) by such person as the Board think appropriate in the circumstances of the case, or
- (b) (where any of the property or part is an area of land within section 31(1)(d) above) the requisite undertakings described in that section are given with respect to the property (or part) by such person or persons as the Board think appropriate in the circumstances of the case,

the disposal is a chargeable event only with respect to the whole or part actually disposed of (if it is a chargeable event with respect to such whole or part apart from this subsection).”

(8) In Schedule 5 to the 1984 Act, for paragraph 5 (undertaking capable of preventing disposal from being chargeable in cases where death occurred before 7th April 1976) there shall be substituted the following paragraph—

“5 (1) The further undertaking referred to in paragraph 1 above is the requisite undertaking described in section 31(2) of this Act given with respect to the object in question by such person as the Board think appropriate in the circumstances of the case.

(2) Subsection (3) of section 31 of this Act shall apply in relation to documents which are designated as objects to which section 31 of the ^{M129}Finance Act 1975 applies as that subsection applies in relation to documents designated under section 31(1)(a) of this Act.

(3) The further undertaking referred to in paragraph 3 above is—

- (a) the requisite undertaking described in subsection (4) of section 31 of this Act given with respect to the property in

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question by such person as the Board think appropriate in the circumstances of the case, or

- (b) (where applicable) the requisite undertakings described in subsections (4) and (4A) of that section given with respect to the property in question by such person or persons as the Board think appropriate in the circumstances of the case.”

- (9) This paragraph has effect in relation to the giving of any undertaking on or after the day on which this Act is passed.

Marginal Citations

M129 1975 c. 7.

Variation of undertakings

- 8 (1) After section 35 of the 1984 Act there shall be inserted the following section—

“35A Variation of undertakings.

- (1) An undertaking given under section 30, 32 or 32A above or paragraph 5 of Schedule 5 to this Act may be varied from time to time by agreement between the Board and the person bound by the undertaking.
- (2) Where a Special Commissioner is satisfied that—
- (a) the Board have made a proposal for the variation of such an undertaking to the person bound by the undertaking,
 - (b) that person has failed to agree to the proposed variation within six months after the date on which the proposal was made, and
 - (c) it is just and reasonable, in all the circumstances, to require the proposed variation to be made,
- the Commissioner may direct that the undertaking is to have effect from a date specified by him as if the proposed variation had been agreed to by the person bound by the undertaking.
- (3) The date specified by the Special Commissioner must not be less than sixty days after the date of his direction.
- (4) A direction under this section shall not take effect if, before the date specified by the Special Commissioner, a variation different from that to which the direction relates is agreed between the Board and the person bound by the undertaking.”

- (2) After section 79 of the 1984 Act there shall be inserted the following section—

“79A Variation of undertakings.

- (1) An undertaking given under section 78 or 79 above may be varied from time to time by agreement between the Board and the person bound by the undertaking.
- (2) Where a Special Commissioner is satisfied that—

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- (a) the Board have made a proposal for the variation of such an undertaking to the person bound by the undertaking,
- (b) that person has failed to agree to the proposed variation within six months after the date on which the proposal was made, and
- (c) it is just and reasonable, in all the circumstances, to require the proposed variation to be made,
- the Commissioner may direct that the undertaking is to have effect from a date specified by him as if the proposed variation had been agreed to by the person bound by the undertaking.
- (3) The date specified by the Special Commissioner must not be less than sixty days after the date of his direction.
- (4) A direction under this section shall not take effect if, before the date specified by the Special Commissioner, a variation different from that to which the direction relates is agreed between the Board and the person bound by the undertaking.”
- (3) In Schedule 4 to the 1984 Act (maintenance funds for historic buildings), in paragraph 3, after sub-paragraph (3) there shall be inserted the following sub-paragraph—
- “(3A) Section 35A of this Act shall apply in relation to an undertaking given under sub-paragraph (3) above as it applies in relation to an undertaking given under section 30 of this Act.”
- (4) Subject to paragraph 10 below, this paragraph has effect in relation to undertakings given on or after the day on which this Act is passed.
- 9 (1) In section 258 of the ^{M130}Taxation of Chargeable Gains Act 1992 (disposal of works of art), after subsection (8) there shall be inserted the following subsection—
- “(8A) Section 35A of the 1984 Act (variation of undertakings) shall have effect in relation to an undertaking given under this section as it has effect in relation to an undertaking given under section 30 of that Act.”
- (2) Subject to paragraph 10 below, this paragraph has effect in relation to undertakings given on or after the day on which this Act is passed.
- Marginal Citations**
M130 1992 c. 12.
- 10 (1) Section 35A of the 1984 Act applies in relation to a relevant undertaking given with respect to any property before the day on which this Act is passed except in a case where there has been a chargeable event with respect to that property at any time after the giving of the undertaking but before that day.
- (2) In its application to such a relevant undertaking, section 35A of the 1984 Act applies with the modifications set out in sub-paragraphs (3) and (4) below.
- (3) The first modification is the substitution, for paragraph (a) of subsection (2), of the following paragraph—
- “(a) the Board have made a proposal to the person bound by such an undertaking for the undertaking to be varied so as to include (where

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it does not already do so) an extended access requirement or a publication requirement (or both those requirements),”.

(4) The second modification is the insertion, after subsection (4), of the following subsections—

“(5) For the purposes of subsection (2)(a) above—

- (a) an extended access requirement is a requirement for the taking of steps ensuring that the access to the public that is secured is not confined to access only where a prior appointment has been made; and
- (b) a publication requirement is a requirement for the taking of steps involving the publication of any matter mentioned in paragraph (a) or (b) of section 31(4FB) above.

(6) In determining for the purposes of subsection (2)(a) above whether an undertaking already includes an extended access requirement, there shall be disregarded so much of the undertaking as includes provision for the property with respect to which the undertaking was given to be made available temporarily for the purposes of special exhibitions.”

(5) In this paragraph “relevant undertaking” means any of the following—

- (a) an undertaking given under section 30, 32, 32A, 78 or 79 of the 1984 Act;
- (b) an undertaking given under paragraph 3(3) of Schedule 4 to the 1984 Act or paragraph 5(2) of Schedule 5 to that Act;
- (c) an undertaking given under section 76, 78, 81 or 82 of the ^{M131}Finance Act 1976;
- (d) an undertaking given under section 34(2) of the ^{M132}Finance Act 1975;
- (e) an undertaking given under section 258 of the ^{M133}Taxation of Chargeable Gains Act 1992.

(6) In this paragraph “chargeable event”, in relation to any property means—

- (a) an event which under section 32 or 32A of the 1984 Act is a chargeable event with respect to that property; or
- (b) an event which under either of those sections would be such an event if (where it is not the case) the undertaking in question had been given under section 30 of that Act.

Marginal Citations

M131 1976 c. 40.

M132 1975 c. 7.

M133 1992 c. 12.

*Status: Point in time view as at 01/04/1998.**Changes to legislation: Finance Act 1998 is up to date with all changes known to be in force on or before 07 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

VALID FROM 31/07/1998

SCHEDULE 26

Section 160.

NATIONAL LOANS

Commencement Information**I19** Sch. 26 has effect in accordance with Sch. 26 para. 3.

VALID FROM 31/07/1998

SCHEDULE 27

REPEALS

PART I

EXCISE DUTIES

(1)

DRAWBACK OF DUTY ON BEER

Chapter	Short title	Extent of repeal
1979 c. 4.	The Alcoholic Liquor Duties Act 1979.	Section 42.
1991 c. 31.	The Finance Act 1991.	In Schedule 2, paragraph 9.
1993 c. 34.	The Finance Act 1993.	In section 4(2), paragraphs (c) and (d).

These repeals have effect in accordance with section 5(2) of this Act.

(2)

HYDROCARBON OIL DUTY

Chapter	Short title	Extent of repeal
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Status: Point in time view as at 01/04/1998.

Changes to legislation: Finance Act 1998 is up to date with all changes known to be in force on or before 07 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

1979 c. 5.	The Hydrocarbon Oil Duties Act 1979.	In section 6(1)(b), the words from “and delivered” to “above”.
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This repeal has effect in accordance with section 6(3) of this Act.

(3)

VEHICLE EXCISE DUTY: RATES WHERE POLLUTION REDUCED

Chapter	Short title	Extent of repeal
1994 c. 22.	The Vehicle Excise and Registration Act 1994.	In Schedule 1, paragraphs 6(3A), 7(4), (5) and (6), 9(5) and 11(5).
1995 c. 4.	The Finance Act 1995.	In Schedule 4, paragraph 12.

These repeals have effect in accordance with paragraph 17(1) of Schedule 1 to this Act.

(4)

VEHICLE EXCISE AND REGISTRATION: NIL LICENCES

Chapter	Short title	Extent of repeal
1994 c. 22.	The Vehicle Excise and Registration Act 1994.	In section 22(2A)(a), the word “and” immediately before paragraph (b).

(5)

ASSESSMENTS FOR EXCISE DUTY PURPOSES

Chapter	Short title	Extent of repeal
1992 c. 48.	The Finance (No. 2) Act 1992.	In section 2(3), paragraph (b) and the word “and” immediately preceding it.
1994 c. 9.	The Finance Act 1994.	At the end of section 12A(3) (b) the word “or”.

These repeals have effect in accordance with an order made under paragraph 12 of Schedule 2 to this Act.

Status: Point in time view as at 01/04/1998.

Changes to legislation: Finance Act 1998 is up to date with all changes known to be in force on or before 07 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

PART II

VALUE ADDED TAX

Chapter	Short title	Extent of repeal
1994 c. 23.	The Value Added Tax Act 1994.	In section 36(1)(a), the words "for a consideration in money".

This repeal has effect in accordance with section 23(7) of this Act.

PART III

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

(1)

RELIEF FOR QUALIFYING MAINTENANCE PAYMENTS

Chapter	Short title	Extent of repeal
1988 c. 1.	The Income and Corporation Taxes Act 1988.	In section 347B(5A), the words after paragraph (b).

This repeal has effect for the year 1999-00 and subsequent years of assessment.

(2)

ADVANCE CORPORATION TAX

Chapter	Short title	Extent of repeal
1968 c. 2.	The Provisional Collection of Taxes Act 1968.	In section 1(1), the words "(including advance corporation tax)".
1970 c. 9.	The Taxes Management Act 1970.	Section 10(4). In section 87, in subsection (1), the words "13 or", in subsection (2), paragraph (a), in subsection (6), the words "13 or" and, in subsection (7), the words "advance corporation tax and".

Status: Point in time view as at 01/04/1998.

Changes to legislation: Finance Act 1998 is up to date with all changes known to be in force on or before 07 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

1988 c. 1.	The Income and Corporation Taxes Act 1988.	Section 87A(4), (4B) and (7). Section 94(8). In section 98, in the second column of the Table, the words "Schedule 13;" and "Schedule 13A, paragraphs 11, 12 and 13;" Section 14(1) and (3) to (5). In section 75(2), the words "group income". In section 116(2), paragraph (d). Sections 238 to 241. Sections 245, 245A, 245B and 246. In section 247— (a) subsections (1), (2) and (3), (b) in subsection (5), the words "and shall not apply to a dividend" onwards, (c) in subsection (6), paragraph (a) and the words "advance corporation tax ought to have been paid or", "as the case may be", "paying or", "receiving or" and "the advance corporation tax had been duly paid or", (d) in subsection (7), the words "paying or" and "receiving or", and (e) in subsection (10), the words "dividends or", and "and references to "group income" shall be construed accordingly". In section 248, in subsections (2) and (3), the words "dividends or other". In section 252(1), paragraph (a). In section 253, in subsection (1), paragraph (b)
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Status: Point in time view as at 01/04/1998.

Changes to legislation: Finance Act 1998 is up to date with all changes known to be in force on or before 07 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

		<p>and the words “and to Schedule 13”, subsection (2) and, in subsection (3)(a), the words “advance corporation tax or”.</p> <p>Section 255.</p> <p>Section 434(3), (6) and (8).</p> <p>Section 434C.</p> <p>In section 490(1), the words “(including group income)”.</p> <p>Sections 497 to 499.</p> <p>Section 703(4) to (6).</p> <p>In section 704, in paragraph A, sub-paragraph (d).</p> <p>Section 705(6) to (8).</p> <p>Section 797(4) and (5).</p> <p>In section 802(2)(a), the words “and group income”.</p> <p>In section 813(6), paragraph (b).</p> <p>Section 826(2A), (7), (7AA) and (7CA).</p> <p>In section 832(1), the definitions of “franked payment”, “group income”, “the rate of advance corporation tax” and “surplus of franked investment income”.</p> <p>Schedules 13 and 13A.</p> <p>In Schedule 24, in paragraph 6, sub-paragraph (1)(a) and, in sub-paragraph (2), the words “dividends or”, and paragraph 7.</p> <p>In Schedule 26, paragraph 2.</p> <p>In Schedule 29, paragraphs 10(4)(c) and (7).</p>
1989 c. 26.	The Finance Act 1989.	<p>Section 97.</p> <p>Section 98.</p> <p>Section 99(2).</p> <p>Section 149(3)(c).</p>

Status: Point in time view as at 01/04/1998.

Changes to legislation: Finance Act 1998 is up to date with all changes known to be in force on or before 07 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

1990 c. 29.	The Finance Act 1990.	Section 45(6).
1992 c. 12.	The Taxation of Chargeable Gains Act 1992.	In Schedule 10, paragraph 14(15).
1993 c. 34.	The Finance Act 1993.	Section 78. Section 81. In Schedule 6, paragraphs 12 and 16. In Schedule 14, paragraphs 4(1) and 10(1), (3), (5) and (6).
1994 c. 9.	The Finance Act 1994.	In Schedule 16, paragraphs 2, 3(1) to (4), (11) and (13) and 20(3).
1995 c. 4.	The Finance Act 1995.	In Schedule 8, paragraphs 18, 19(3) and 22. In Schedule 24, paragraphs 9 and 12(1), (2), (4) and (5).
1996 c. 8.	The Finance Act 1996.	Section 139. In Schedule 14, paragraphs 1(2) and 48(2). In Schedule 23, paragraphs 1 to 3, 5 and 7 to 9. Schedule 25.
1997 c. 58.	The Finance (No. 2) Act 1997.	Section 50(2). In Schedule 3, paragraph 3(3), (4), (6) and (7). In Schedule 4, paragraphs 8, 9, 18 and 23.

These repeals have effect in accordance with Schedule 3 to this Act.

(3)

INTEREST ON GILT-EDGED SECURITIES

Chapter	Short title	Extent of repeal
1970 c. 9.	The Taxes Management Act 1970.	In the Table in section 98, in the entry in the second column relating to the Taxes Act 1988, the words "regulations under section 51B;"

Status: Point in time view as at 01/04/1998.

Changes to legislation: Finance Act 1998 is up to date with all changes known to be in force on or before 07 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

1988 c. 1.	The Income and Corporation Taxes Act 1988.	Section 51B. In Schedule 19AB, in paragraph 3(1C) (as inserted by Schedule 34 to the Finance Act 1996), paragraph (c) and the word “or” immediately preceding it.
1995 c. 4.	The Finance Act 1995.	Section 78.
1996 c. 8.	The Finance Act 1996.	In Schedule 6, paragraph 4.
1997 c. 58.	The Finance (No. 2) Act 1997.	In section 37— (a) subsection (6); and (b) in subsection (11), the word “51B”.
These repeals have effect in accordance with section 37(3) of this Act.		
(4)		
RENTS AND OTHER RECEIPTS FROM LAND		
Chapter	Short title	Extent of repeal
1970 c. 9.	The Taxes Management Act 1970.	In section 42(7), the reference to section 579(4) of the Taxes Act 1988. In the second column of the Table in section 98, the reference to section 41(2) of the Taxes Act 1988.
1988 c. 1.	The Income and Corporation Taxes Act 1988.	Section 15(2). In section 24— (a) in subsection (6), paragraph (c) and the word “and” preceding it; (b) subsection (7). Section 25. In section 26— (a) in subsection (1)(a), the words “at a full rent (not being a tenant's repairing lease)”; (b) subsection (2)(a). Sections 28 and 29.

Status: Point in time view as at 01/04/1998.

Changes to legislation: Finance Act 1998 is up to date with all changes known to be in force on or before 07 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

		Section 31.
		Section 33.
		Sections 33A and 33B.
		Section 40(5).
		Section 41.
		Section 42A(8).
		Section 65(2A) and (2B).
		In section 82(6), the words from “and shall be treated” to the end.
		Section 87(10).
		In section 96(11), the words from “or to any profits” to the end.
		Section 401(1B).
		Section 404(6)(c).
		Section 434E(3).
		Section 488(3).
		Section 494(4) and (5).
		In section 577(1) and (9), the words “Schedule A or”.
		In section 577A(1) and (1A), the words “Schedule A or”.
		Section 579(4).
		Section 588(4A).
		Section 589A(9A).
		Schedule 1.
1990 c. 1.	The Capital Allowances Act 1990.	Section 15(2), (2A) and (3).
		Section 15A.
		Section 28A(2).
		In section 29— (a) in subsection (1), the words “Subject to subsection (1A) below,”; (b) subsection (1A).
		In section 53(1)(b), the words “or for leasing otherwise than in the course of a trade”.

Status: Point in time view as at 01/04/1998.

Changes to legislation: Finance Act 1998 is up to date with all changes known to be in force on or before 07 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

		Section 61(6).
		Section 67(2), (3) and (3A).
		In section 73— (a) subsection (1A); and (b) in subsection (2), the words “and section 67(3)”.
		In section 159(1A), the words from “or to any such activities” to the end.
		In Schedule 1, paragraph 8(3).
1990 c. 29.	The Finance Act 1990.	In Schedule 14, paragraph 2(a) and (b).
1991 c. 31.	The Finance Act 1991.	In Schedule 15, paragraphs 13 and 26.
1992 c. 48.	The Finance (No. 2) Act 1992.	Sections 57 and 58.
1995 c. 4.	The Finance Act 1995.	Section 39.
		Section 41.
		In Schedule 6, paragraphs 1, 4 to 7, 9 to 16, 20 to 25, 29, 30, 32 and 34 to 37.
1996 c. 8.	The Finance Act 1996.	In Schedule 14, paragraph 32(4).
		In Schedule 20, paragraph 30.
		In Schedule 39, in paragraph 1— (a) sub-paragraph (2); (b) in sub-paragraph (4), the words from the beginning to “passed, and”.
1997 c. 16.	The Finance Act 1997.	In Schedule 12, paragraphs 3(6), 6(9)(b), 8, 13(7) and 20(b).
		In Schedule 15, paragraphs 2(2), 5(1) and (2) and 6.
1997 c. 58.	The Finance (No. 2) Act 1997.	In Schedule 7, paragraph 3.
These repeals have effect in accordance with section 38(2) and (3) of this Act.		

Status: Point in time view as at 01/04/1998.

Changes to legislation: Finance Act 1998 is up to date with all changes known to be in force on or before 07 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

(5)

LAND MANAGED AS ONE ESTATE ETC.

Chapter	Short title	Extent of repeal
1988 c. 1.	The Income and Corporation Taxes Act 1988.	Sections 26 and 27.
1998 c. 36.	The Finance Act 1998.	In Schedule 5, paragraphs 6 and 7.

These repeals have effect in accordance with section 39 of this Act.

(6)

COMPUTATION OF PROFITS OF TRADE, PROFESSION OR VOCATION

Chapter	Short title	Extent of repeal
1988 c. 1.	The Income and Corporation Taxes Act 1988.	In the heading to Chapter VI of Part IV, the words “AND CHANGE OF BASIS OF COMPUTATION”. In the sidenote to section 104, the words “or change of basis”. Section 104(4), (5) and (7). Section 105(4).

These repeals apply to a change of accounting basis taking effect on or after 6th April 1999.

(7)

CONSTRUCTION WORKERS SUPPLIED BY AGENCIES

Chapter	Short title	Extent of repeal
1988 c. 1.	The Income and Corporation Taxes Act 1988.	In section 134, subsection (5)(c) and the word “or” immediately preceding it.
1995 c. 4.	The Finance Act 1995.	In Schedule 27, paragraph 1(1).

These repeals have effect in accordance with section 55(3) of this Act.

Status: Point in time view as at 01/04/1998.

Changes to legislation: Finance Act 1998 is up to date with all changes known to be in force on or before 07 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

(8)

SUB-CONTRACTORS IN THE CONSTRUCTION INDUSTRY

Chapter	Short title	Extent of repeal
1988 c. 1.	The Income and Corporation Taxes Act 1988.	In section 566(2)(c), the words "by inspectors".

(9)

PAYMENTS AND OTHER BENEFITS IN CONNECTION
WITH TERMINATION OF EMPLOYMENT ETC.

Chapter	Short title	Extent of repeal
1970 c. 9.	The Taxes Management Act 1970.	Section 35.
		In the second column of the Table in section 98, the entry relating to section 148(7) of the Taxes Act 1988.
1988 c. 1.	The Income and Corporation Taxes Act 1988.	Section 188.
1988 c. 39.	The Finance Act 1988.	Section 74.
1990 c. 1.	The Capital Allowances Act 1990.	In Schedule 1, paragraph 8(39).
1996 c. 8.	The Finance Act 1996.	In Schedule 21, paragraph 24.

These repeals apply where section 58 of this Act applies.

(10)

TRAVELLING EXPENSES

Chapter	Short title	Extent of repeal
1988 c. 1.	The Income and Corporation Taxes Act 1988.	In section 158— (a) in subsection (6), the words "Subject to subsection (7) below,"; (b) subsection (7). Section 198A.
1997 c. 16.	The Finance Act 1997.	Section 62(1) to (3).

These repeals have effect for the year 1998-99 and subsequent years of assessment.

Status: Point in time view as at 01/04/1998.

Changes to legislation: Finance Act 1998 is up to date with all changes known to be in force on or before 07 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

(11)

FOREIGN EARNINGS DEDUCTION

Chapter	Short title	Extent of repeal
1988 c. 1.	The Income and Corporation Taxes Act 1988.	In section 19(1), in Case I of Schedule E, the words from “and to section 193(1)” to the end. Section 193(1). In Schedule 12, paragraphs 3(2A) and 7.
1988 c. 39.	The Finance Act 1988.	Section 67.
1991 c. 31.	The Finance Act 1991.	Section 45.

These repeals have effect in relation to emoluments in relation to which subsections (1) to (4) of section 63 have effect: see subsections (5) and (6) of that section.

(12)

PAYE: APPLICATION TO NON-CASH BENEFITS

Chapter	Short title	Extent of repeal
1988 c. 1.	The Income and Corporation Taxes Act 1988.	In section 203H, subsection (2). In section 203K, subsections (1) to (3).

1. The repeal of section 203H(2) of the Taxes Act 1988 has effect in accordance with section 68(4)(b) of this Act.

2. The repeal of section 203K(1) to (3) of that Act has effect in relation to assets provided and non-cash vouchers received at any time on or after 6th April 1998 and in relation to any use of a credit-token on or after that date.

(13)

THE ENTERPRISE INVESTMENT SCHEME AND VENTURE CAPITAL TRUSTS

Chapter	Short title	Extent of repeal
1988 c. 1.	The Income and Corporation Taxes Act 1988.	In section 842AA(14), the word “preferential”, in the second place where it occurs.

Status: Point in time view as at 01/04/1998.

Changes to legislation: Finance Act 1998 is up to date with all changes known to be in force on or before 07 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

1994 c. 9.	The Finance Act 1994.	<p>In Schedule 15B, in paragraph 6(1), the word “preferential”, in the second place where it occurs.</p> <p>In Schedule 28B, in paragraph 5(5), the word “and” at the end of the definition of “associate”.</p> <p>In Schedule 15, paragraph 25(d).</p>
<p>1. The repeals in section 842AA of, and Schedule 15B to, the Taxes Act 1988 have effect in accordance with section 73 of this Act.</p> <p>2. The repeal in the Finance Act 1994 has effect in accordance with section 71(5) of this Act.</p>		
<p>(14)</p>		
<p>OTHER CHANGES TO EIS ETC.</p>		
<p>Chapter</p> <p>1988 c. 1.</p>	<p>Short title</p> <p>The Income and Corporation Taxes Act 1988.</p>	<p>Extent of repeal</p> <p>In section 289(7), the word “preferential”, in the second place where it occurs.</p> <p>Section 290A.</p> <p>In section 291(2), the words “and sections 291A and 291B”.</p> <p>In section 291A(5), the words “and the reference to a trade previously carried on includes part of such a trade”.</p> <p>In section 293, in subsection (6), the words “it is shown that”, and subsection (7).</p> <p>In section 297(1), the words “Subject to section 298(7) below”.</p> <p>In section 299, subsections (7) and (8)(a).</p> <p>In section 306(3A), the words “but section 289B(5) shall not apply for the purposes of this subsection”.</p>

Status: Point in time view as at 01/04/1998.

Changes to legislation: Finance Act 1998 is up to date with all changes known to be in force on or before 07 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

<p>1992 c. 12.</p>	<p>The Taxation of Chargeable Gains Act 1992.</p>	<p>In section 310(2), the words “or payment”.</p> <p>In section 312, in subsection (1), the definition of “new consideration”, in subsection (1A), the words “(disregarding section 289B(5))” and, in subsection (1B)(c), the words “dealt in on the Unlisted Securities Market or”.</p> <p>In section 150, in subsection (8), the word “eligible” and, in subsection (8A)(a), the word “preferential”, in the second place where it occurs.</p> <p>In section 150A, in subsections (1) and (2), the word “eligible” and, in subsection (8A)(a), the word “preferential”, in the second place where it occurs.</p> <p>In section 150B(1), the word “eligible”.</p> <p>In Schedule 5B, paragraph 3(2).</p>
<p>1. The repeals in sections 293(6) and 310(2) of the Taxes Act 1988 and in section 150(8) of the Taxation of Chargeable Gains Act 1992 have effect in relation to events occurring on or after 6th April 1998.</p> <p>2. The repeal of section 299(7) of the Taxes Act 1988, and the repeals in sections 150A(1) and (2) and 150B(1) of the Taxation of Chargeable Gains Act 1992, have effect in relation to disposals made on or after that date.</p> <p>3. The repeals in sections 150(8A) and 150A(8A) of the Taxation of Chargeable Gains Act 1992 have effect in relation to new shares (within the meaning of the provision in question) issued on or after that date.</p> <p>4. The other repeals have effect in relation to shares issued on or after that date.</p>		
<p>(15)</p>		
<p>INDIVIDUAL SAVINGS ACCOUNTS</p>		
<p>Chapter</p>	<p>Short title</p>	<p>Extent of repeal</p>

Status: Point in time view as at 01/04/1998.

Changes to legislation: Finance Act 1998 is up to date with all changes known to be in force on or before 07 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

1988 c. 1.	The Income and Corporation Taxes Act 1988.	In section 333(3)(b), the words “and minimum periods for which investments are to be held”.
1992 c. 12.	The Taxation of Chargeable Gains Act 1992.	In section 151— (a) in subsection (2), the words “(personal equity plans)”; and (b) in subsection (2A), the words “personal equity plans:”.
(16)		
RELIEF FOR LOSSES ON UNLISTED SHARES IN TRADING COMPANIES		
Chapter	Short title	Extent of repeal
1988 c. 1.	The Income and Corporation Taxes Act 1988.	In section 576(5), in the definition of “trading group”, the words “or not resident in the United Kingdom”.
The above repeal has effect in relation to shares issued on or after 6th April 1998.		
(17)		
CARRY FORWARD OF NON-TRADING DEFICIT ON LOAN RELATIONSHIPS		
Chapter	Short title	Extent of repeal
1988 c. 1.	The Income and Corporation Taxes Act 1988.	In section 797(3B)(b), the words “or in accordance with subsection (3) of that section”. In section 797A(5), paragraph (c) and the word “and” preceding it. In Schedule 28A— (a) in paragraph 6(db), the words “(dc) or”; (b) paragraph 11(2)(a); (c) in paragraph 13(1)(eb), the words “(ec) or”.
These repeals have effect in accordance with section 82(3) of this Act.		

Status: Point in time view as at 01/04/1998.

Changes to legislation: Finance Act 1998 is up to date with all changes known to be in force on or before 07 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

(18)

CAPITAL ALLOWANCES

Chapter	Short title	Extent of repeal
1990 c. 1.	The Capital Allowances Act 1990.	Section 76(3).
1997 c. 58.	The Finance (No. 2) Act 1997.	Section 42(6) and (7).

1. The repeal of section 76(3) of the Capital Allowances Act 1990 has effect in relation to every chargeable period ending on or after 12th May 1998.

2. The repeal of section 42(6) and (7) of the Finance (No. 2) Act 1997 has effect in accordance with section 84(3) of this Act.

(19)

LIFE POLICIES, LIFE ANNUITIES AND CAPITAL REDEMPTION POLICIES

Chapter	Short title	Extent of repeal
1988 c. 1.	The Income and Corporation Taxes Act 1988.	In section 547, in subsection (1)(a), the words from “(including” to “1964)” and subsection (3).

These repeals have effect in accordance with Schedule 14 to this Act.

(20)

RETIREMENT BENEFIT SCHEMES

Chapter	Short title	Extent of repeal
1988 c. 1.	The Income and Corporation Taxes Act 1988.	In section 591C(3), the words “in his capacity as such”.

(21)

PERSONAL PENSION SCHEMES

Commencement Information

I20 Sch. 27 Pt. III(21) wholly in force; Sch. 27 Pt. III(21) in force for specified purposes at Royal Assent, see s. 96(4); Sch. 27 Pt. III(21) in force insofar as not already in force at 1.10.2000 by S.I. 2000/2319, art. 2

Status: Point in time view as at 01/04/1998.

Changes to legislation: Finance Act 1998 is up to date with all changes known to be in force on or before 07 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Chapter	Short title	Extent of repeal
1970 c. 9.	The Taxes Management Act 1970.	In section 98, in the Table, the entry relating to section 652 of the Taxes Act 1988.
1988 c. 1.	The Income and Corporation Taxes Act 1988.	Section 652.
<p>Subsection (4) of section 96 of this Act applies in relation to these repeals as it applies in relation to subsections (2) and (3)(b) of that section.</p> <p style="text-align: center;">(22)</p> <p style="text-align: center;">ACCRUED INCOME</p>		
Chapter	Short title	Extent of repeal
1988 c. 1.	The Income and Corporation Taxes Act 1988.	In section 717— (a) in subsection (1), the words “or (4)”; (b) subsections (4) and (5).
<p style="text-align: center;">(23)</p> <p style="text-align: center;">DEALERS IN SECURITIES ETC</p>		
Chapter	Short title	Extent of repeal
1988 c. 1.	The Income and Corporation Taxes Act 1988.	Section 470(1) and (3). Section 471. Section 472. In section 473(2), the words after paragraph (b).
1989 c. 26.	The Finance Act 1989.	Section 80.
1996 c. 8.	The Finance Act 1996.	In Schedule 21, paragraphs 12 and 13.
<p>1. The repeal of section 471 of the Taxes Act 1988, the words after paragraph (b) in section 473(2) of that Act and paragraph 12 of Schedule 21 to the Finance Act 1996 has effect in accordance with section 101(3) of this Act.</p> <p>2. The repeal of section 472 of the Taxes Act 1988 and paragraph 13 of Schedule 21 to the Finance Act 1996 has effect in accordance with section 101(4) of this Act.</p>		

Status: Point in time view as at 01/04/1998.

Changes to legislation: Finance Act 1998 is up to date with all changes known to be in force on or before 07 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

(24)

DISTRIBUTIONS AND MANUFACTURED DIVIDENDS: MISCELLANEOUS AMENDMENTS

Chapter	Short title	Extent of repeal
1988 c. 1.	The Income and Corporation Taxes Act 1988.	In section 737D(2), the words “manufactured dividend”. In Schedule 23A— (a) in paragraph 2, in sub-paragraph (3), paragraph (a), sub-paragraphs (4) and (5) and, in sub-paragraph (6), paragraph (b) and the word “and” immediately preceding it; (b) in paragraph 2A, in sub-paragraph (1), the words “together with an amount equal to the notional ACT” and sub-paragraph (3).

These repeals have effect in accordance with section 102 of this Act.

(25)

TRANSFER PRICING ETC

Chapter	Short title	Extent of repeal
1970 c. 9.	The Taxes Management Act 1970.	In the Table in section 98— (a) in the first column, the entry relating to section 772(1) and (3) of the Taxes Act 1988; and (b) in the second column, the entry relating to section 772(6) of that Act.
1990 c. 1.	The Capital Allowances Act 1990.	In Schedule 1, paragraph 8(32).
1990 c. 29.	The Finance Act 1990.	In Schedule 14, paragraph 12.

These repeals have effect in accordance with section 108(5) of this Act.

Status: Point in time view as at 01/04/1998.

Changes to legislation: Finance Act 1998 is up to date with all changes known to be in force on or before 07 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

(26)

DIRECTIONS BY THE BOARD

Chapter	Short title	Extent of repeal
1993 c. 34.	The Finance Act 1993	In section 135(1), paragraph (d), and the word “and” immediately preceding that paragraph. In section 136— (a) paragraph (d) of subsection (1) and the word “and” immediately preceding that paragraph; and (b) in each of subsections (5) and (9), the words after paragraph (b). In section 136A, in each of subsections (3) and (7), the words after paragraph (b). In section 137(1), paragraph (d), and the word “and” immediately preceding that paragraph.
1994 c. 9.	The Finance Act 1994.	In section 167(2), paragraph (b), and the word “and” immediately preceding that paragraph.

These repeals have effect in accordance with section 109(4) of this Act.

(27)

CONTROLLED FOREIGN COMPANIES

Chapter	Short title	Extent of repeal
1988 c. 1.	The Income and Corporation Taxes Act 1988.	In section 747(1), the words “the Board have reason to believe that” and “and the Board so direct,”. Section 748(2). In section 751(1)(b), the words “not being the subject of an earlier direction under section 747(1)”.

Status: Point in time view as at 01/04/1998.

Changes to legislation: Finance Act 1998 is up to date with all changes known to be in force on or before 07 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

<p>1996 c. 8.</p>	<p>The Finance Act 1996.</p>	<p>Section 753. Section 754(4). Section 755. In Schedule 24, paragraph 4(2A), in paragraph 9, in sub-paragraph (1) the words “Subject to sub-paragraph (2) below” and sub-paragraphs (2), (5) and (6) and paragraphs 11 and 11A(3) and (6). In Schedule 26, in paragraph 1, in sub-paragraph (1), paragraph (c) and the word “and” immediately preceding it, and the words “or, as the case may be, of the excess of it referred to in paragraph (c) above” and sub-paragraphs (4) and (6). In Schedule 36, in paragraph 3, sub-paragraph (6)(b) and the word “and” immediately preceding it and sub-paragraph (7).</p>
<p>These repeals have effect in accordance with paragraph 37 of Schedule 17 to this Act.</p>		
<p>(28)</p> <p>COMPANY TAX RETURNS ETC.</p>		
<p>Chapter</p> <p>1970 c. 9.</p>	<p>Short title</p> <p>The Taxes Management Act 1970.</p>	<p>Extent of repeal</p> <p>Section 10. Section 11. Sections 11AA to 11AE. In section 12(2), the words “or section 11”. In section 12B(1), the words “, 11”. In section 19A(1), the words “, 11AB(1)”. In section 28A—</p>

Status: Point in time view as at 01/04/1998.

Changes to legislation: Finance Act 1998 is up to date with all changes known to be in force on or before 07 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (a) in subsection (1), the words “or 11AB(1)”;
- (b) in subsection (7B), paragraph (b) and the word “and” preceding it;
- (c) subsection (7C).

Sections 28AA and 28AB.

Sections 28D, 28E and 28F.

In section 29—

- (a) in subsection (3)(b), the words “in the case of a return under section 8 or 8A,”;
- (b) subsection (10).

In section 30—

- (a) in subsection (2)(a), the words “or 825”;
- (b) subsection (2A);
- (c) in subsection (3), the words “or corporation tax”;
- (d) subsections (3A) and (4A).

Section 33(5)(c).

In section 33A(1), the words “under section 9 or 11AA of this Act”.

Sections 41A, 41B and 41C.

In section 42—

- (a) in subsections (2), (9) and (11)(a), the words “, 11”;
- (b) subsections (4) and (4A);
- (c) in subsection (5), the words from “and the reference in subsection (4)” to the end;
- (d) subsection (13)(c).

In section 46(2), the words “and in particular save as provided by section 29 of this Act”.

In section 65(3), the words from “for the recovery of” to the end of paragraph (b).

Section 94.

Section 96.

Status: Point in time view as at 01/04/1998.

Changes to legislation: Finance Act 1998 is up to date with all changes known to be in force on or before 07 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

1987 c. 51.	The Finance (No.2) Act 1987.	In section 97A, paragraph (b) and the word "or" preceding it. Sections 82 and 83. Section 88.
1988 c. 1.	The Income and Corporation Taxes Act 1988.	In section 7— (a) in subsection (2), the words "by an assessment made"; (b) subsections (5) to (7). In section 11(3), the words "by an assessment made". In section 419(4), the words "by discharge or repayment". In Schedule 13A— (a) in paragraph 14(1), the words from "(which correspond" to "Management Act)"; (b) in paragraph 14(8), the words from "against an amendment" to the end. Schedule 17A. In Schedule 29, in paragraph 10— (a) in sub-paragraph (3), the words "and (3A)"; and (b) sub-paragraph (7).
1988 c. 39.	The Finance Act 1988.	Section 121.
1990 c. 1.	The Capital Allowances Act 1990.	Section 145A. Schedule A1.
1990 c. 29.	The Finance Act 1990.	Section 91. Section 95. Section 98(3). Section 100. Section 102. Schedules 15 and 16.
1993 c. 34.	The Finance Act 1993.	In Schedule 14, paragraphs 1, 2 and 6.
1994 c. 9.	The Finance Act 1994.	Sections 181 to 183.

Status: Point in time view as at 01/04/1998.

Changes to legislation: Finance Act 1998 is up to date with all changes known to be in force on or before 07 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

		Section 195.
		Section 197.
		In Schedule 19, paragraphs 8(1), 10, 14 to 16, 17(3) and 19.
1995 c. 4.	The Finance Act 1995.	Section 104(5).
		Section 107(5) and (6).
1996 c. 8.	The Finance Act 1996.	Section 121(5).
		Section 170.
		In Schedule 19, in paragraph 2, the words “11AB(1),”.
		In Schedule 20, paragraph 28(5).
		In Schedule 24, paragraphs 2 to 4, 6, 7, 8(2) and 13.
		In Schedule 34, paragraph 1(8).
1997 c. 58.	The Finance (No.2) Act 1997.	In Schedule 4, paragraph 3.
1998 c. 36.	The Finance Act 1998.	In Schedule 3, paragraph 5.
		In Schedule 5, paragraph 33.
<p>These repeals have effect in relation to accounting periods ending on or after the self-assessment appointed day within the meaning of section 117 of this Act.</p>		
(29)		
CHARGEABLE GAINS: APPLICABLE RATE		
Chapter	Short title	Extent of repeal
1992 c. 12.	The Taxation of Chargeable Gains Act 1992.	In section 4(1), the words “and section 5”.
		Section 5.
1993 c. 34.	The Finance Act 1993.	In Schedule 6, paragraph 23.
<p>These repeals have effect in accordance with section 120(2) of this Act.</p>		

Status: Point in time view as at 01/04/1998.

Changes to legislation: Finance Act 1998 is up to date with all changes known to be in force on or before 07 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

(30)

CHARGEABLE GAINS: OFFSHORE SETTLEMENTS

Chapter	Short title	Extent of repeal
1992 c. 12.	The Taxation of Chargeable Gains Act 1992.	In section 87(1), the words from “if the settlor” to the end of the subsection. In section 88(1), paragraph (c) and the word “and” immediately preceding it. In Schedule 5, paragraph 9(2) and (8).

1. The repeals in sections 87 and 88 of the Taxation of Chargeable Gains Act 1992 have effect in accordance with section 130 of this Act.

2. The repeal of paragraph 9(2) of Schedule 5 to that Act has effect in accordance with section 132(2) of this Act.

3. The repeal of paragraph 9(8) of that Schedule has effect in accordance with section 131(4) of this Act.

(31)

RETIREMENT RELIEF

Chapter	Short title	Extent of repeal
1992 c. 12.	The Taxation of Chargeable Gains Act 1992.	Sections 163 and 164. In section 165, in subsection (3), paragraphs (a) and (b) and, in subsection (6), the words “and (in appropriate cases) Schedule 6”. In section 241(3), the words “and Schedule 6”. In section 260(5), the words from “or, if part of the gain” to the end. Schedule 6. In Schedule 7, paragraph 8.
1993 c. 34.	The Finance Act 1993.	In Schedule 7, paragraphs 1(2) and 2.

Status: Point in time view as at 01/04/1998.

Changes to legislation: Finance Act 1998 is up to date with all changes known to be in force on or before 07 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

1994 c. 9.	The Finance Act 1994.	Section 92.
1996 c. 8.	The Finance Act 1996.	Section 176. In Schedule 20, paragraph 66. In Schedule 21, paragraph 44. In Schedule 39, paragraph 7.

The above repeals have effect in relation to disposals in the year 2003-04 and subsequent years of assessment.

(32)

ABOLITION OF CERTAIN CGT RELIEFS

Chapter	Short title	Extent of repeal
1992 c. 12.	The Taxation of Chargeable Gains Act 1992.	In Part V, Chapter IA. Sections 254 and 255.

1. The repeal of Chapter IA of Part V of the Taxation of Chargeable Gains Act 1992 has effect in relation to acquisitions made on or after 6th April 1998.

2. The other repeals have effect in relation to loans made on or after 17th March 1998.

PART IV

INHERITANCE TAX

Chapter	Short title	Extent of repeal
1984 c. 51.	The Inheritance Tax Act 1984.	Section 26. In section 76— (a) paragraph (d) of subsection (1) and the word "or" immediately preceding it; and (b) subsection (2).
1986 c. 41.	The Finance Act 1986.	Section 102(5)(g).
1992 c. 12.	The Taxation of Chargeable Gains Act 1992.	Section 258(1). Section 260(2)(b)(ii).

Status: Point in time view as at 01/04/1998.

Changes to legislation: Finance Act 1998 is up to date with all changes known to be in force on or before 07 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

1. The repeal of section 26 of the Inheritance Tax Act 1984 has effect in accordance with section 143(1) of this Act and the repeals in section 76 of that Act have effect in accordance with section 143(5) of this Act.

2. The other repeals have effect in relation to any disposal on or after 17th March 1998.

PART V

OTHER TAXES

(1)

INSURANCE PREMIUM TAX

Chapter	Short title	Extent of repeal
1994 c. 9.	The Finance Act 1994.	In section 52A(9), the definition of “tour operator” and “travel agent”.

This repeal has effect in accordance with section 147 of this Act.

(2)

STAMP DUTY

Chapter	Short title	Extent of repeal
1920 c. 67.	The Government of Ireland Act 1920.	Section 29.

(3)

ABOLITION OF GAS LEVY

Chapter	Short title	Extent of repeal
1981 c. 3.	The Gas Levy Act 1981.	The whole Act.
1986 c. 44.	The Gas Act 1986.	In section 60— (a) in subsection (1), paragraph (b) and the word “and” immediately preceding it; and (b) subsection (4). Schedule 6.
1990 c. 29.	The Finance Act 1990.	Section 123.

Status: Point in time view as at 01/04/1998.

Changes to legislation: Finance Act 1998 is up to date with all changes known to be in force on or before 07 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

1992 c. 48.	The Finance (No. 2) Act 1992.	Section 78.
1993 c. 34.	The Finance Act 1993.	Section 209.
1995 c. 45.	The Gas Act 1995.	In Schedule 5, in paragraph 11, sub-paragraph (b) and the word “and” immediately preceding it.
<p>1. Subject to note 2 below, these repeals do not have effect in relation to gas levy for the year 1997-98 or any previous year.</p> <p>2. The repeal of section 209(3) of the Finance Act 1993 does not affect any case in which the cessation of liability to gas levy was before the end of the year 1997-98.</p>		
<p>(4)</p> <p>DUMPING AND SUBSIDIES</p>		
Chapter	Short title	Extent of repeal
1969 c. 16.	The Customs Duties (Dumping and Subsidies) Act 1969.	The whole Act.
1978 c. 42.	The Finance Act 1978.	In section 6, subsections (5), (6), (7) and (9). Schedule 1. In Schedule 12, paragraph 26.
1979 c. 2.	The Customs and Excise Management Act 1979.	In paragraph 12 of Schedule 4, in Part I of the Table, the entries for the Customs Duties (Dumping and Subsidies) Act 1969.
<p>PART VI</p> <p>MISCELLANEOUS</p>		
<p>(1)</p> <p>TREASURY BILLS</p>		
Chapter	Short title	Extent of repeal
1992 c. 48.	The Finance (No. 2) Act 1992.	Section 79.

Status: Point in time view as at 01/04/1998.

Changes to legislation: Finance Act 1998 is up to date with all changes known to be in force on or before 07 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

This repeal has effect in accordance with section 159 of this Act.

(2)

SECURITIES

Chapter	Short title	Extent of repeal
1993 c. 34.	The Finance Act 1993.	Section 211.

This repeal has effect in accordance with an order made under paragraph 3 of Schedule 26 to this Act.

Status:

Point in time view as at 01/04/1998.

Changes to legislation:

Finance Act 1998 is up to date with all changes known to be in force on or before 07 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.