Finance Act 2000

2000 CHAPTER 17

U.K.

An Act to grant certain duties, to alter other duties, and to amend the law relating to the National Debt and the Public Revenue, and to make further provision in connection with Finance. [28th July 2000]

Most Gracious Sovereign,

WE, Your Majesty's most dutiful and loyal subjects, the Commons of the United Kingdom in Parliament assembled, towards raising the necessary supplies to defray Your Majesty's public expenses, and making an addition to the public revenue, have freely and voluntarily resolved to give and grant unto Your Majesty the several duties hereinafter mentioned; and do therefore most humbly beseech Your Majesty that it may be enacted, and be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

PART I U.K.

EXCISE DUTIES

Alcoholic liquor duties

1 Rate of duty on beer. U.K.

(1) In section 36(1) of the [M1]Alcoholic Liquor Duties Act 1979 (rate of duty on beer), for "£11.50" substitute " £11.89 ".

(2) This section shall be deemed to have come into force on 1st April 2000.

Marginal Citations

M1 1979 c. 4.

2 Rates of duty on cider. U.K.

(1) In section 62(1A) of the [M2]Alcoholic Liquor Duties Act 1979 (rates of duty on cider)—

(a) in paragraph (a) (rate of duty per hectolitre in the case of sparkling cider of a strength exceeding 5.5 per cent.), for “£161.20" substitute “ £166.70 ”;

(b) in paragraph (b) (rate of duty per hectolitre in the case of cider of a strength exceeding 7.5 per cent. which is not sparkling cider), for “£37.92" substitute “ £39.21 ”; and

(c) in paragraph (c) (rate of duty per hectolitre in any other case), for “£25.27" substitute “ £26.13 ”.

(2) This section shall be deemed to have come into force on 1st April 2000.

Marginal Citations

M2 1979 c. 4.

3 Rates of duty on wine and made-wine. U.K.

(1) For Part I of the Table of rates of duty in Schedule 1 to the [M3]Alcoholic Liquor Duties Act 1979 (wine and made-wine) substitute—

“PART I U.K.

WINE OR MADE-WINE OF A STRENGTH NOT EXCEEDING 22 PER CENT.

Description of wine or made-wine	***Rates of duty per hectolitre***
	£
Wine or made-wine of a strength not exceeding 4 per cent.	47.58
Wine or made-wine of a strength exceeding 4 per cent. but not exceeding 5.5 per cent.	65.42
Wine or made-wine of a strength exceeding 5.5 per cent. but not exceeding 15 per cent. and not being sparkling	154.37
Sparkling wine or sparkling made-wine of a strength exceeding 5.5 per cent. but less than 8.5 per cent.	166.70
Sparkling wine or sparkling made-wine of a strength of 8.5 per cent. or of a strength exceeding 8.5 per cent. but not exceeding 15 per cent.	220.54

Wine or made-wine of a strength exceeding 15 per cent. but not exceeding 22 per cent.	205.82”

(2) This section shall be deemed to have come into force on 1st April 2000.

Marginal Citations
M3 1979 c. 4.

Hydrocarbon oil duties

4 Rates of duty and rebate on hydrocarbon oil. U.K.

(1) In section 6(1A) of the [M4]Hydrocarbon Oil Duties Act 1979 (rates of duty on hydrocarbon oil)—
 (a) in paragraph (a) (light oil), for “£0.5288" substitute “ £0.5468 ”;
 (b) in paragraph (b) (ultra low sulphur diesel), for “£0.4721" substitute “ £0.4882 ”; and
 (c) in paragraph (c) (heavy oil which is not ultra low sulphur diesel), for “£0.5021" substitute “ £0.5182 ”.

(2) In section 11(1) of that Act (rebate on heavy oil)—
 (a) in paragraph (a) (fuel oil), for “£0.0265" substitute “ £0.0274 ”; and
 (b) in each of paragraphs (b) and (ba) (gas oil which is not ultra low sulphur diesel and ultra low sulphur diesel), for “£0.0303" substitute “ £0.0313 ”.

(3) In section 13A(1A) of that Act (rebate on unleaded petrol)—
 (a) in paragraph (a) (higher octane unleaded petrol), for “£0.0367" substitute “ £0.0379 ”; and
 (b) in paragraph (b) (other unleaded petrol), for “£0.0567" substitute “ £0.0586 ”.

(4) In section 14(1) of that Act (rebate on light oil for use as furnace fuel), for “£0.0265" substitute “ £0.0274 ”.

(5) This section shall be deemed to have come into force at 6 o’clock in the evening of 21st March 2000.

Marginal Citations
M4 1979 c. 5.

VALID FROM 01/10/2000

5 Ultra low sulphur petrol. U.K.

(1) In section 1 of the [M5]Hydrocarbon Oil Duties Act 1979 (definitions of oil), after subsection (3) insert—

“(3A) “Ultra low sulphur petrol” means unleaded petrol (other than higher octane unleaded petrol)—

(a) the sulphur content of which does not exceed 0.005 per cent. by weight or is nil, and
(b) the aromatics content of which does not exceed 35 per cent. by volume.

(3B) "Unleaded petrol" means petrol that contains not more than 0.013 grams of lead per litre of petrol; and petrol is "leaded petrol" if it is not unleaded.

(3C) "Higher octane unleaded petrol" means unleaded petrol—
(a) whose research octane number is not less than 96 and whose motor octane number is not less than 86; or
(b) which is delivered for home use as petrol that satisfies the condition in paragraph (a) above; or
(c) which is delivered for home use as petrol that is suitable to be used as fuel for engines for which leaded petrol is suitable by virtue of being leaded; or
(d) which is delivered for home use under such a description, or in such a manner, as tends, in the circumstances, to suggest that it is—
(i) petrol satisfying the condition in paragraph (a) above, or
(ii) petrol that is suitable to be used as fuel for engines for which leaded petrol is suitable by virtue of being leaded.".

(2) In section 2 of that Act (provisions supplementary to section 1), after subsection (1) insert—

"(1A) Subsection (1) above applies, in particular, to the method of testing unleaded petrol for ascertaining its research octane number or motor octane number.".

(3) In section 6 of that Act (excise duty on hydrocarbon oil), for subsection (1A) (rates of duty) substitute—

"(1A) The rates at which the duty shall be charged are—
(a) £0.4782 a litre in the case of ultra low sulphur petrol;
(b) £0.5468 a litre in the case of light oil other than ultra low sulphur petrol;
(c) £0.4882 a litre in the case of ultra low sulphur diesel; and
(d) £0.5182 a litre in the case of heavy oil other than ultra low sulphur diesel.".

(4) In section 13A of that Act (rebate on unleaded petrol)—
(a) in subsection (1) after "unleaded petrol" insert " , other than ultra low sulphur petrol, "; and
(b) omit subsections (1B), (1C) and (2).

Any directions given under subsection (1C) and in force immediately before the commencement of this section shall have effect as if given under section 2(1) of that Act.

(5) In section 27(1) of that Act (interpretation), at the appropriate places insert—

""ultra low sulphur petrol" has the meaning given by section 1(3A) above;";

"“unleaded petrol” and “leaded petrol” have the meaning given by section 1(3B) above.";

and

"“higher octane unleaded petrol” has the meaning given by section 1(3C) above;".

(6) This section shall come into force on such day as the Commissioners of Customs and Excise may appoint by order made by statutory instrument.

Subordinate Legislation Made

P1 S. 5(6) power exercised (29.9.2000): 1.10.2000 appointed by S.I. 2000/2674, **art. 2**

Marginal Citations

M5 1979 c. 5.

VALID FROM 28/07/2000

6 Mixing of rebated light oils. U.K.

(1) Schedule 2A to the [M6]Hydrocarbon Oil Duties Act 1979 (mixing of rebated oils) is amended in accordance with Schedule 1 to this Act.

(2) The amendments in that Schedule come into force on the day appointed under section 5(6).

Marginal Citations

M6 1979 c. 5.

VALID FROM 28/07/2000

7 Power to amend definitions of types of hydrocarbon oil. U.K.

In the [M7]Hydrocarbon Oil Duties Act 1979, after section 2 insert—

“2A Power to amend definitions.

(1) The Treasury may by order made by statutory instrument amend the definitions for the purposes of this Act of—

“ultra low sulphur petrol";

“unleaded petrol" and “leaded petrol";

“higher octane unleaded petrol"; and

"ultra low sulphur diesel".

(2) An order under this section may contain such incidental, supplementary and transitional provision as appears to the Treasury to be appropriate.

(3) No order shall be made under this section unless a draft of it has been laid before and approved by a resolution of the House of Commons.".

Marginal Citations
M7 1979 c. 5.

VALID FROM 28/07/2000

8 Penalties for misuse of rebated heavy oil. U.K.

(1) Section 13 of the [M8]Hydrocarbon Oil Duties Act 1979 (penalties for misuse of rebated heavy oil) is amended as follows.

(2) In subsection (1)—
- (a) for "or, as the case may be, his becoming so liable" substitute " or his becoming so liable (or, where his conduct includes both, each of them) ", and
- (b) omit the words from "; and the Commissioners" to the end.

(3) After subsection (1) insert—

"(1A) Where oil is used, or is taken into a road vehicle, in contravention of section 12(2) above, the Commissioners may—
- (a) assess an amount equal to the rebate on like oil at the rate in force at the time of the contravention as being excise duty due from any person who used the oil or was liable for the oil being taken into the road vehicle, and
- (b) notify him or his representative accordingly.".

(4) This section shall have effect in relation to liability arising on or after 1st May 2000.

Marginal Citations
M8 1979 c. 5.

VALID FROM 28/07/2000

9 Use of rebated heavy oil as fuel. U.K.

(1) Schedule 1 to the [M9]Hydrocarbon Oil Duties Act 1979 (which sets out the categories of excepted vehicle which may use rebated heavy oil as fuel) is amended as follows.

(2) Omit the following provisions—

(a) paragraph 2(1)(b) (which provides that off-road tractors are excepted vehicles) and the word “or" immediately preceding it, and
(b) paragraph 2(4) (which defines off-road tractors).

(3) This section shall have effect in relation to the use of rebated heavy oil as fuel on or after 1st May 2000.

Marginal Citations
M9 1979 c. 5.

VALID FROM 28/07/2000

10 Rebates, marking and reliefs. U.K.

(1) The [M10]Hydrocarbon Oil Duties Act 1979 is amended in accordance with subsections (2) to (4).

(2) In section 11 (rebate on heavy oil), after subsection (2) insert—

“(3) This subsection applies in any case where—
(a) oil is delivered for home use,
(b) regulations under section 24 below require, as a condition of allowing a rebate on the oil under subsection (1) above, that a marker prescribed by regulations under that section shall have been added to the oil, and
(c) the marker is present at the time of delivery for home use but in such a proportion that its presence falls to be disregarded by virtue of provision made by regulations under that section.

(4) In any case where subsection (3) above applies, a rebate may be allowed on the oil at the time it is delivered for home use if it appears to the Commissioners to be appropriate to allow it.

(5) Where a rebate is allowed under subsection (4) above, the rate at which the rebate is allowed—
(a) shall be such rate as appears to the Commissioners to be appropriate, but
(b) shall not be less than 95 per cent. of, and shall not exceed, the rate of rebate specified in the relevant paragraph of subsection (1) above.”.

(3) In section 20AA(2) (provision in connection with allowing reliefs)—
(a) in paragraph (a) (relief may take form of repayment or remission), after “repayment or remission" insert “ or an allowance to be set off against duty payable to the Commissioners by the person claiming relief ”; and
(b) after paragraph (g) insert—
“(ga) provide for oil on which relief is allowed to be treated for the purposes of this Act as oil on which a rebate has been allowed;”.

(4) In section 24 (regulations controlling use of duty-free and rebated oil), after subsection (4B) insert—

"(4C) In a case where subsection (4D) below applies, the power of the Commissioners under subsection (4A) above includes power, if it appears to them to be appropriate, to assess (and notify) an amount less than the amount of the rebate concerned.

(4D) This subsection applies in any case where—

(a) the Commissioners have power to assess (and notify) an amount under subsection (4A) above by virtue of a contravention of, or failure to comply with, a requirement such as is mentioned in paragraph 5 of Schedule 4 to this Act, and

(b) the marker whose addition is required by the requirement is present at the time of the contravention or failure but in such a proportion that its presence falls to be disregarded by virtue of provision made by regulations under this section for the purpose mentioned in paragraph 7 of that Schedule.".

(5) In paragraph 4 of Schedule 5 to the M11Finance Act 1994 (decisions under the M12Hydrocarbon Oil Duties Act 1979 of which a review may be required), after sub-paragraph (1) insert—

"(1A) Any decision which is made under or for the purposes of any regulations made under section 20AA of the M13Hydrocarbon Oil Duties Act 1979 and is a decision as to whether or not relief is to be allowed.".

Marginal Citations

M10 1979 c. 5.
M11 1994 c. 9.
M12 1979 c. 5.
M13 1979 c. 5.

VALID FROM 28/07/2000

11 Emulsions of water in gas oil. U.K.

(1) In section 6A of the M14Hydrocarbon Oil Duties Act 1979 (duty on fuel substitutes), after subsection (2) (definition of chargeable use) insert—

"(2A) But the use of water is not a chargeable use if—

(a) the water is comprised in an emulsion of water in gas oil, and

(b) the emulsion is stabilised by additives.".

(2) This section shall have effect in relation to duty charged on or after the day on which this Act is passed.

Marginal Citations
M14 1979 c. 5.

Tobacco products duty

12 Rates of tobacco products duty. U.K.

(1) For the Table of rates of duty in Schedule 1 to the [M15]Tobacco Products Duty Act 1979 substitute—

" TABLE

1. Cigarettes	An amount equal to 22 per cent. of the retail price plus £90.43 per thousand cigarettes.
2. Cigars	£132.33 per kilogram.
3. Hand-rolling tobacco	£95.12 per kilogram.
4. Other smoking tobacco and chewing tobacco	£58.17 per kilogram."

(2) This section shall be deemed to have come into force at 6 o'clock in the evening of 21st March 2000.

Marginal Citations
M15 1979 c. 7.

VALID FROM 28/07/2000

13 Basis of calculation of*ad valorem* element of duty on cigarettes. U.K.

(1) Section 5 of the [M16]Tobacco Products Duty Act 1979 (retail price of cigarettes) is amended as follows.

(2) In subsection (1) (meaning of retail price) for the words from "shall be taken to be" to the end substitute "shall be taken to be—

(a) the higher of—

(i) the recommended price for the sale by retail at that time in the United Kingdom of cigarettes of that description, and

(ii) any (or, if more than one, the highest) retail price shown at that time on the packaging of the cigarettes in question,

or

(b) if there is no such price recommended or shown, the highest price at which cigarettes of that description are normally sold by retail at that time in the United Kingdom.".

(3) In subsection (3) (determination of price by Commissioners), for “paragraph (a) of subsection (1)" substitute “ paragraph (b) of subsection (1) ”.

(4) In subsection (4) (reference to arbitration of Commissioners’ determination), for “subsection (1)(a)" substitute “ subsection (1)(b) ”.

Marginal Citations
M16 1979 c. 7.

VALID FROM 28/07/2000

14 Fiscal marks on tobacco products. U.K.

After section 8 of the [M17]Tobacco Products Duty Act 1979 insert the following sections—

“**8A Fiscal marks: introductory.**

Fiscal marking applies to tobacco products that are—
(a) cigarettes, or
(b) hand-rolling tobacco.

8B Power to alter range of products to which fiscal marking applies.

(1) The Commissioners may by order made by statutory instrument amend section 8A above for the purpose of causing fiscal marking—
(a) to apply to any description of tobacco products to which it does not apply, or
(b) to cease to apply to any description of tobacco products to which it does apply.

(2) Where fiscal marking applies to any description of tobacco products, the Commissioners may by regulations provide that fiscal marking does not apply to such products of that description as are of a description specified in the regulations.

(3) A statutory instrument containing (whether alone or with other provisions) an order under subsection (1)(a) above shall not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.

(4) A statutory instrument that—
(a) contains (whether alone or with other provisions) an order under subsection (1) above, and
(b) is not subject to any requirement that a draft of the instrument be laid before and approved by a resolution of each House of Parliament,

shall be subject to annulment in pursuance of a resolution of either House of Parliament.

8C Fiscal mark regulations.

(1) The Commissioners may make provision by regulations—
(a) requiring the carrying of fiscal marks by tobacco products to which fiscal marking applies, and
(b) as to such matters relating to fiscal marks as appear to the Commissioners to be necessary or expedient.

(2) In this Act "fiscal mark" means a mark carried by tobacco products indicating all or any of the following—
(a) that excise duty has been paid on the products;
(b) the rate at which excise duty was paid on the products;
(c) the amount of excise duty paid on the products;
(d) when excise duty was paid on the products;
(e) that sale of the products—
(i) is only permissible on dates ascertainable from the mark;
(ii) is not permissible after (or on or after) a date so ascertainable;
(iii) is not permissible before (or before or on) a date so ascertainable.

(3) Regulations under this section may, in particular, make provision about—
(a) the contents of a fiscal mark;
(b) the appearance of a fiscal mark;
(c) in the case of tobacco products that have more than one layer of packaging, which of the layers is (or are) to carry a fiscal mark;
(d) the positioning of a fiscal mark on the packaging of any tobacco products;
(e) when tobacco products are required to carry a fiscal mark.

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

8D Fiscal marks: public notices.

(1) The Commissioners may by notices published by them regulate any of the matters mentioned in paragraphs (a) to (d) of section 8C(3) above.

(2) A notice under this section may provide for provision made by regulations under section 8C above to have effect subject to provisions of the notice.

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

8E Failure to comply with fiscal mark regulations and public notices.

(1) This section applies if a person fails to comply with any requirement imposed by or under—
(a) regulations made under section 8C above, or
(b) a notice published under section 8D above.

(2) Any article in respect of which the person fails to comply with the requirement shall be liable to forfeiture.

(3) The person's failure to comply shall attract a penalty under section 9 of the [M18]Finance Act 1994 (civil penalties).

(4) The Commissioners may by regulations make such provision as is mentioned in subsection (5) below about the calculation of the penalty in a case where the failure involves post-dating of any tobacco products.

For this purpose "post-dating" means that the products carry a fiscal mark ("the later period mark") that—

(a) is not one they are required to carry by virtue of this Act, and

(b) is one they would be required to carry by virtue of this Act if the requirement to pay the duty charged on them under section 2 above took effect at a time later than that at which it in fact takes effect.

(5) The provision that may be made by regulations under subsection (4) above is for the penalty to be calculated by reference to the duty currently charged on the products.

For this purpose "the duty currently charged" on the products is the amount of the duty charged under section 2 above that would be payable on the products if the requirement to pay the duty took effect at the time of the failure.

8F Sale of marked tobacco when not permitted: penalties.

(1) This section applies if provision made by or under—

(a) regulations made under section 8C above, or

(b) a notice published under section 8D above,

provides for any tobacco products to carry a period of sale mark.

(2) In this section—

"a period of sale mark" means a fiscal mark indicating any of the matters mentioned in subsection (2)(e) of section 8C above; and

"prohibited time", in relation to tobacco products that carry a period of sale mark, means a time when, according to the mark, sale of the products is not permissible.

(3) If—

(a) a person sells by way of retail sale, or exposes for retail sale, any tobacco products that carry a period of sale mark, and

(b) he so sells or exposes the products at a prohibited time,

his so selling or exposing the products shall attract a penalty under section 9 of the [M19]Finance Act 1994 (civil penalties) and the products are liable to forfeiture.

8G Offences: possession and sale etc. of unmarked tobacco.

(1) In this section "unmarked products" means tobacco products that are subject to fiscal marking but do not carry a compliant duty-paid fiscal mark.

(2) For the purposes of this section "duty-paid fiscal mark" means a fiscal mark carried by tobacco products indicating that excise duty has been paid on the products.

(3) For the purposes of this section a duty-paid fiscal mark carried by tobacco products of any description is "compliant" if it complies with all relevant requirements for any duty-paid fiscal mark that by virtue of this Act is required to be carried by such tobacco products of that description as are by virtue of this Act required to carry such a mark.

For this purpose "relevant requirement" means a requirement, imposed by virtue of this Act, as to any of the matters mentioned in paragraphs (a) to (d) of section 8C(3) above (contents, appearance and positioning etc. of fiscal marks).

(4) If a person—

(a) is in possession of, transports or displays, or

(b) sells, offers for sale or otherwise deals in,

unmarked products then, except in such cases as may be prescribed in regulations made by the Commissioners, that person commits an offence and the products are liable to forfeiture.

(5) It is a defence for a person charged with an offence under subsection (4) above to prove that the unmarked products were not required by virtue of this Act to carry a duty paid fiscal mark.

(6) A person guilty of an offence under subsection (4) above shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

8H Offences: use of premises for sale of unmarked tobacco.

(1) A manager of premises commits an offence if he suffers the premises to be used for the sale of unmarked products.

In this section "unmarked products" has the same meaning as in section 8G above.

(2) It is a defence for a person charged with an offence under subsection (1) above to prove that the unmarked products were not required by virtue of this Act to carry a duty-paid fiscal mark.

For this purpose "duty-paid fiscal mark" has the same meaning as in section 8G above.

(3) A person guilty of an offence under subsection (1) above shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(4) A court by or before which a person is convicted of an offence under subsection (1) above may make an order prohibiting the use of the premises in question for the sale of tobacco products during a period specified in the order.

(5) The period specified in an order under subsection (4) above shall not exceed six months; and the first day of the period shall be the day specified as such in the order.

(6) A manager of premises commits an offence if he suffers the premises to be used in breach of an order under subsection (4) above.

(7) A person guilty of an offence under subsection (6) above shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(8) For the purposes of this section a person is a manager of premises if he—
- (a) is entitled to control their use,
- (b) is entrusted with their management, or
- (c) is in charge of them.

8J Interfering with fiscal marks: penalties.

(1) This section applies where a person—
- (a) alters or overprints any fiscal mark carried by any tobacco products in compliance with any provision made under this Act, or
- (b) causes any such mark to be altered or overprinted.

(2) His altering or overprinting of the mark, or his causing it to be altered or overprinted, shall attract a penalty under section 9 of the [M20]Finance Act 1994 (civil penalties).

(3) The products that carried the mark shall be liable to forfeiture.

(4) The penalty under subsection (2) above shall be calculated by reference to the duty currently charged on the products.

For this purpose "the duty currently charged" on the products is the amount of the duty charged under section 2 above that would be payable on the products if the requirement to pay the duty took effect at the time of the conduct attracting the penalty.".

Marginal Citations
- **M17** 1979 c. 7.
- **M18** 1994 c. 9.
- **M19** 1994 c. 9.
- **M20** 1994 c. 9.

VALID FROM 28/07/2000

15 Management of excise duty on tobacco products. U.K.

(1) The [M21]Tobacco Products Duty Act 1979 has effect subject to the following amendments.

(2) In section 2(2) (remission or repayment of duty where tobacco products exported, shipped as stores or used for research or experiment), for the words from "that" to the end of paragraph (b) substitute—

"that—

(a) the products in question have been—
(i) exported or shipped as stores, or
(ii) used solely for the purposes of research or experiment; and
(b) any fiscal marks carried by the products have been obliterated;".

(3) Section 7 (regulations for management of duty) is amended as follows.

(4) After paragraph (a) of subsection (1) (method of charging duty and securing and collecting duty) insert—

"(aa) for charging the duty, in such circumstances as may be specified in the regulations, by reference to the weight of the tobacco products at a time specified in the regulations or by the Commissioners (whether the time at which the products become chargeable or that at which the duty becomes payable or any other time);".

(5) In paragraph (b) of subsection (1) (registration of premises for storage of tobacco), after "regulating their" insert " storage and ".

(6) After that paragraph insert—

"(ba) for the registration of premises for the manufacture of tobacco products, for restricting or prohibiting the manufacture of tobacco products otherwise than in premises so registered and for regulating their storage and treatment in, and removal from, such premises;".

(7) In paragraph (c) of subsection (1), omit sub-paragraph (i) (which is superseded by the amendment made by subsection (6) above).

(8) In paragraph (d) of subsection (1), for "and the making of such returns, as may be specified in the regulations" substitute " the notification of such information, and the making of such returns, as may be specified in the regulations or required by the Commissioners ".

(9) After subsection (1) insert—

"(1A) Regulations under subsection (1) above may, in particular, include provision—
(a) imposing, or providing for the imposition under the regulations of, conditions and restrictions relating to any of the matters mentioned in that subsection;
(b) enabling the Commissioners to dispense with compliance with any provision contained in the regulations in such circumstances and subject to such conditions (if any) as they may determine.".

Marginal Citations

M21 1979 c. 7.

VALID FROM 28/07/2000

Gaming duty

16 Rates of gaming duty. U.K.

(1) For the table in section 11(2) of the M22 Finance Act 1997 (rates of gaming duty) substitute—

" TABLE

Part of gross gaming yield	*Rate*
The first £470,500	2½ per cent.
The next £1,045,500	12½ per cent.
The next £1,045,500	20 per cent.
The next £1,830,000	30 per cent.
The remainder	40 per cent."

(2) This section has effect in relation to accounting periods beginning on or after 1st April 2000.

Marginal Citations

M22 1997 c. 16.

VALID FROM 28/07/2000

Amusement machine licence duty

17 Amusement machine licence duty. U.K.

Schedule 2 to this Act (which amends the M23 Betting and Gaming Duties Act 1981) shall have effect.

Marginal Citations

M23 1981 c. 63.

VALID FROM 28/07/2000

Air passenger duty

18 Rates of duty. U.K.

(1) Section 30 of the M24 Finance Act 1994 is amended as follows.

(2) In subsection (1) (basis on which duty is charged) for the words from "appropriate" to the end substitute " determined in accordance with subsections (2) to (4) below. "

(3) In subsection (2) (rate where destination is in an EEA State etc)—

(a) for "The rate is £10 if that place" substitute " If the place where the passenger's journey ends ", and

(b) after paragraph (b) add— " the rate shall be determined in accordance with subsection (3A) below. ".

(4) After subsection (3) insert—

"(3A) In a case falling within subsection (2) above—

(a) if the passenger's agreement for carriage provides for standard class travel in relation to every flight on his journey, the rate is £5;

(b) in any other case, the rate is £10.".

(5) For subsection (4) (rate where destination is not in an EEA State etc) substitute—

"(4) In a case not falling within subsection (2) above—

(a) if the passenger's agreement for carriage provides for standard class travel in relation to every flight on his journey, the rate is £20;

(b) in any other case, the rate is £40.".

(6) At the end of the section add—

"(10) In this section "standard class travel", in relation to carriage on an aircraft, means—

(a) in the case of an aircraft on which only one class of travel is available, that class of travel;

(b) in any other case, the lowest class of travel available on the aircraft.".

(7) In consequence of the provision made by the preceding provisions of this section, in section 39 of the M25 Finance Act 1994 (schemes for simplifying operation of reliefs) —

(a) in subsection (4)(b), for "at the rate mentioned in section 30(2) above" substitute—

"(i) at the rate mentioned in paragraph (a) of section 30(3A) above, and

(ii) at the rate mentioned in paragraph (b) of that provision";

(b) in subsection (4B)(c), for "at the rate mentioned in section 30(2) above" substitute—

"(i) at the rate mentioned in paragraph (a) of section 30(3A) above, and

(ii) at the rate mentioned in paragraph (b) of that provision";

(c) in subsection (8)(b), for the words from "on the carriage" to the end substitute—

"(i) on the carriage of each of those falling within paragraph (a) of section 30(4) above at the rate mentioned in that paragraph, and

(ii) on the carriage of each of those falling within paragraph (b) of section 30(4) above at the rate mentioned in that paragraph";

and

(d) in subsection (8A)(c), for the words from "on the carriage" to the end substitute—

"(i) on the carriage of each of those falling within paragraph (a) of section 30(4) above at the rate mentioned in that paragraph, and

(ii) on the carriage of each of those falling within paragraph (b) of section 30(4) above at the rate mentioned in that paragraph".

(8) This section applies to any carriage of a passenger on an aircraft which begins on or after 1st April 2001.

Marginal Citations
M24 1994 c. 9.
M25 1994 c. 9.

19 Changes in exemption from duty. U.K.

(1) Section 31 of the M26 Finance Act 1994 is amended as follows.

(2) Omit subsections (1) and (2) (exemption in relation to passengers making return journeys within the United Kingdom).

(3) After subsection (4A) insert—

"(4B) A passenger is not a chargeable passenger in relation to a flight if under his agreement for carriage (whether or not it is evidenced by a ticket) the flight is to depart from an airport which is in a region of the United Kingdom designated by order.

(4C) An order may be made for the purposes of subsection (4B) above in respect of any region which has a population density of not more than 12.5 persons per square kilometre.

(4D) In subsections (4B) and (4C) above, references to a region are references to an area which is determined by the Treasury to constitute a region for the purposes of those subsections.".

(4) Omit subsection (6) (provision by regulations for subsection (1) to have effect in relation to journeys begun in the Isle of Man).

(5) In consequence of the provision made by subsection (2) above, in section 43 of the [M27]Finance Act 1994 (interpretation)—
   (a) in subsection (2) (meaning of "journey" etc), omit "Subject to subsection (3) below", and
   (b) omit subsection (3) (interpretation of references to a return ticket).

(6) This section applies to any carriage of a passenger on an aircraft which begins on or after 1st April 2001.

Marginal Citations
M26 1994 c. 9.
M27 1994 c. 9.

VALID FROM 28/07/2000

Vehicle excise duty

20 Threshold for reduced general rate. U.K.

(1) In paragraph 1 of Schedule 1 to the [M28]Vehicle Excise and Registration Act 1994 (rate of duty applicable where no other rate specified), in sub-paragraphs (2) and (2A) for "1,100 cubic centimetres" (the reduced rate threshold) substitute " 1,200 cubic centimetres ".

This amendment applies to licences issued on or after 1st March 2001.

(2) Refunds shall be made by the Secretary of State, in accordance with the following provisions of this section, in respect of licences—
   (a) issued in the period beginning with 1st March 2000 and ending with 28th February 2001, and
   (b) not surrendered before the end of that period,

where the amount of vehicle excise duty chargeable on the licence would have been less if the amendment in subsection (1) had applied.

(3) The amount of the refund is—
   (a) £55 for a 12 month licence, and
   (b) £27.50 for a 6 month licence.

(4) The person entitled to the refund is—
   (a) in the case of a licence in force on 28th February 2001, the keeper of the vehicle on that date;
   (b) in the case of a licence that has ceased to be in force before that date, the keeper of the vehicle when the licence expired.

(5) For the purposes of subsection (4) the keeper of the vehicle shall be taken to be—
   (a) the person registered as keeper of the vehicle on the date in question, or

(b) if the Secretary of State has received notification of a change of ownership of the vehicle as a result of which another person is on that date entitled to be registered as the new keeper of the vehicle, that person.

(6) A refund shall only be made if an application is made for it in such form, and containing such particulars and supported by such documents, as the Secretary of State may require.

(7) The Secretary of State shall give notice in writing to any person appearing to him to be entitled to a refund—

(a) informing him that he appears to be entitled to a refund,

(b) enclosing an application form, and

(c) specifying the particulars and supporting documents to be provided.

(8) An application for, or the making of, a refund under this section in respect of a licence does not affect the validity of the licence.

(9) For the purposes of section 19 of the [M29]Vehicle Excise and Registration Act 1994 (surrender of licences) as it applies to the surrender on or after 1st March 2001 of a licence in respect of which a refund under this section has been made, or applied for, the annual rate of duty chargeable on the licence shall be taken to be that which would have been chargeable if the amendment in subsection (1) above had applied.

(10) Section 45 of that Act (offence of false or misleading declaration) applies to a declaration in connection with an application for a refund under this section as it applies to a declaration in connection with an application for a vehicle licence.

(11) In the application of this section to Northern Ireland, references to registration as the keeper of a vehicle shall be read as references to registration as the owner of the vehicle.

Marginal Citations

M28 1994 c. 22.

M29 1994 c. 22.

21 Increase in general rate. U.K.

(1) In paragraph 1 of Schedule 1 to the [M30]Vehicle Excise and Registration Act 1994 (rate of duty applicable where no other rate specified)—

(a) in sub-paragraph (2) (the standard rate), for "£155" substitute " £160 "; and

(b) in sub-paragraph (2A) (the reduced rate), for "£100" substitute " £105 ".

(2) This section applies to licences issued on or after 1st March 2001.

Marginal Citations

M30 1994 c. 22.

22 Rates of duty for new cars and vans. U.K.

Schedule 3 to this Act has effect with respect to vehicle excise duty on light passenger vehicles and light goods vehicles first registered on or after 1st March 2001.

23 Enforcement provisions for graduated rates. U.K.

Schedule 4 to this Act has effect with respect to vehicle licences for vehicles in respect of which vehicle excise duty is chargeable at different rates.

24 Rates of duty for goods vehicles. U.K.

(1) Schedule 5 to this Act (which makes provision for new rates of vehicle excise duty for goods vehicles etc.) has effect.

(2) The provisions of that Schedule apply in relation to licences issued after 21st March 2000.

VALID FROM 28/07/2000

Enforcement of duties

25 Power to search premises. U.K.

In Part XII of the [M31]Customs and Excise Management Act 1979 (general supplementary provisions), for section 161 (power to search premises) substitute—

“161 Power to search premises: writ of assistance.

(1) The powers conferred by this section are exercisable by an officer having a writ of assistance if there are reasonable grounds to suspect that anything liable to forfeiture under the customs and excise Acts—

(a) is kept or concealed in any building or place, and

(b) is likely to be removed, destroyed or lost before a search warrant can be obtained and executed.

(2) The powers are—

(a) to enter the building or place at any time, whether by day or night, on any day, and search for, seize, and detain or remove any such thing, and

(b) so far as is necessary for the purpose of such entry, search, seizure, detention or removal, to break open any door, window or container and force and remove any other impediment or obstruction.

(3) An officer shall not exercise the power of entry conferred by this section by night unless accompanied by a constable.

(4) A writ of assistance shall continue in force during the reign in which it is issued and for six months thereafter.

161A Power to search premises: search warrant.

(1) If a justice of the peace is satisfied by information upon oath given by an officer that there are reasonable grounds to suspect that anything liable to forfeiture under the customs and excise Acts is kept or concealed in any building or place, he may by warrant under his hand authorise any officer, and any person accompanying an officer, to enter and search the building or place named in the warrant.

(2) An officer or other person so authorised has power—

(a) to enter the building or place at any time, whether by day or night, on any day, and search for, seize, and detain or remove any such thing, and

(b) so far as is necessary for the purpose of such entry, search, seizure, detention or removal, to break open any door, window or container and force and remove any other impediment or obstruction.

(3) Where there are reasonable grounds to suspect that any still, vessel, utensil, spirits or materials for the manufacture of spirits is or are unlawfully kept or deposited in any building or place, subsections (1) and (2) above apply in relation to any constable as they would apply in relation to an officer.

(4) The powers conferred by a warrant under this section are exercisable until the end of the period of one month beginning with the day on which the warrant is issued.

(5) A person other than a constable shall not exercise the power of entry conferred by this section by night unless accompanied by a constable.”.

Marginal Citations

M31 1979 c. 2.

26 Power to search articles. U.K.

In Part XII of the [M32]Customs and Excise Management Act 1979 (general supplementary provisions), after section 163 (power to search vehicles or vessels) insert—

“163A Power to search articles.

(1) Without prejudice to any other power conferred by the Customs and Excise Acts 1979, where there are reasonable grounds to suspect that a person in the United Kingdom (referred to in this section as “the suspect”) has with him, or at the place where he is, any goods to which this section applies, an officer may—

(a) require the suspect to permit a search of any article that he has with him or at that place, and

(b) if the suspect is not under arrest, detain him (and any such article) for so long as may be necessary to carry out the search.

(2) The goods to which this section applies are dutiable alcoholic liquor, or tobacco products, which are—

(a) chargeable with any duty of excise, and

(b) liable to forfeiture under the customs and excise Acts.

(3) Notwithstanding anything in subsection (4) of section 24 of the [M33]Criminal Law (Consolidation) (Scotland) Act 1995 (detention and questioning by customs officers), detention of the suspect under subsection (1) above shall not prevent his subsequent detention under subsection (1) of that section.".

Marginal Citations

M32 1979 c. 2.

M33 1995 c. 39.

27 Security for customs and excise duties. U.K.

(1) Section 157 of the [M34]Customs and Excise Management Act 1979 (bonds and security) is amended as follows.

(2) In subsection (1) (power to require security), for "by bond" substitute " (or further security) by bond, guarantee ".

(3) After that subsection insert—

"(1A) For the purposes of this section "condition in connection with excise" includes a condition in connection with excise duty charged, under the law of a member State other than the United Kingdom, on—

(a) manufactured tobacco,

(b) alcohol or alcoholic beverages, or

(c) mineral oils.

The expressions used in paragraphs (a) to (c) above have the same meaning as in Council Directive 92/12/EEC.".

(4) In subsection (2) (bonds for the purposes of assigned matters), after "Any bond" insert " , guarantee or other security ".

(5) In paragraph (a) of that subsection (bonds to be taken on behalf of Her Majesty), for "on behalf of Her Majesty" substitute " either on behalf of Her Majesty or on behalf of Her Majesty and the tax authorities of each member State other than the United Kingdom ".

(6) At the end of that subsection add—

"In this subsection "assigned matter" includes any excise duty charged as mentioned in subsection (1A) above.".

Marginal Citations

M34 1979 c. 2.

28 Civil penalties for breach of excise duty requirements. U.K.

In section 9(2)(a) of the [M35]Finance Act 1994 (how to calculate the penalty in cases where provision is made by any enactment for conduct to attract a penalty calculated by reference to an amount of excise duty), for “or any other enactment" substitute “ , or by or under any other enactment, ”.

Marginal Citations

M35 1994 c. 9.

29 Correction of reference. U.K.

In section 127 of the [M36]Finance Act 1999 (interest on repayments of customs duty), in subsection (1)(b) for “Council Regulation 2454/93" substitute “ Commission Regulation 2454/93 ”.

This amendment shall be deemed always to have had effect.

Marginal Citations

M36 1999 c. 16.

VALID FROM 28/07/2000

PART II U.K.

CLIMATE CHANGE LEVY

30 Climate change levy. U.K.

(1) Schedule 6 to this Act (which makes provision for a new tax that is to be known as climate change levy) shall have effect.

(2) Schedule 7 to this Act (climate change levy: consequential amendments) shall have effect.

(3) Part V of Schedule 6 to this Act (registration for the purposes of climate change levy) shall not come into force until such date as the Treasury may appoint by order made by statutory instrument; and different days may be appointed under this subsection for different purposes.

PART III U.K.

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

VALID FROM 28/07/2000

CHAPTER I U.K.

CHARGE AND RATES

Income tax

31 Charge and rates for 2000-01. U.K.

Income tax shall be charged for the year 2000-01, and for that year—

(a) the starting rate shall be 10%,

(b) the basic rate shall be 22%, and

(c) the higher rate shall be 40%.

32 Extension of starting rate to savings income of individuals. U.K.

(1) Section 1A of the Taxes Act 1988 (application of lower rate or Schedule F ordinary rate to income from savings and distributions) is amended as follows.

(2) In subsection (1)(b) (income of individuals to which those rates do not apply), after the words "is not" insert "—

(i) savings income falling within section 1(2)(aa), or

(ii)".

(3) After subsection (1) insert—

"(1AA) In subsection (1)(b)(i) above "savings income" means income to which this section applies other than—

(a) income chargeable under Schedule F, or

(b) equivalent foreign income falling within subsection (3)(b) below and chargeable under Case V of Schedule D.".

(4) This section has effect for the year 2000-01 and subsequent years and shall be deemed to have had effect for the year 1999-00.

33 Deduction of income tax from foreign dividends. U.K.

(1) In section 4 of the Taxes Act 1988 (construction of references in Income Tax Acts to deduction of tax), after subsection (1A) (which provides for deduction at lower rate from savings and distributions) insert—

"(1B) To the extent that section 118E (paying and collecting agents: deduction of tax) applies in relation to foreign dividend income—

(a) subsections (1) and (1A) above shall not apply, and

(b) any provision of that section of the kind mentioned in subsection (1) above shall be construed as referring to deduction or payment of income tax at the Schedule F ordinary rate in force for the relevant year of assessment.

For this purpose "foreign dividend income" means any such dividend or other distribution of a company not resident in the United Kingdom as would be chargeable under Schedule F if the company were resident in the United Kingdom.".

(2) This section has effect for the year 2000-01 and shall be deemed to have had effect for the year 1999-00.

34 Children's tax credit. U.K.

(1) In section 257AA(2) of the Taxes Act 1988 (which specifies the amount by reference to which the children's tax credit is calculated) for "£4,160" substitute " £4,420 ".

(2) This section has effect for the year 2001-02 and subsequent years of assessment.

Corporation tax

35 Charge and main rate for financial year 2001. U.K.

Corporation tax shall be charged for the financial year 2001 at the rate of 30%.

36 Small companies' rate for financial year 2000. U.K.

For the financial year 2000—

(a) the small companies' rate shall be 20%, and

(b) the fraction mentioned in section 13(2) of the Taxes Act 1988 (marginal relief for small companies) shall be one fortieth.

Capital gains tax

37 Application of starting rate to capital gains tax. U.K.

(1) In section 4 of the [M37]Taxation of Chargeable Gains Act 1992 (rates of capital gains tax), after subsection (1AA) insert—

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

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

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

(1AC) The references in subsection (1AB) above to the unused part of an individual's starting rate band are to the amount by which the starting rate limit exceeds his total income (as reduced by any deductions made in accordance with the Income Tax Acts).".

(2) This section has effect for the year 2000-01 and subsequent years of assessment.

Marginal Citations

M37 1992 c. 12.

CHAPTER II U.K.

OTHER PROVISIONS

VALID FROM 28/07/2000

Giving to charity

38 Payroll deduction scheme. U.K.

(1) Where in accordance with a scheme approved under section 202 of the Taxes Act 1988 (donations to charity: payroll deduction scheme) an agent is to pay to a charity any sum which—

(a) is withheld by an employer from a payment which an employee is entitled to receive; and

(b) is paid by the employer to the agent,

the agent shall, within a period prescribed by regulations made by the Treasury, pay a supplement equal to 10% of that sum to the charity.

(2) On a claim made by an agent in such form as the Board may prescribe, the Board shall pay to the agent out of money provided by Parliament—

(a) such amounts as are required—

(i) to fund the payment of supplements falling to be paid by him; or

(ii) to reimburse him for supplements paid by him the payment of which has not been so funded; and

(b) in the case of an agent which is a charity, an amount which is equal to 10% of the aggregate of sums which—

(i) are withheld and paid as mentioned in paragraphs (a) and (b) of subsection (1) above; and

(ii) are sums to which the agent is itself entitled in its capacity as a charity.

(3) The Treasury may by regulations make provision—

(a) requiring agents to notify the Board of any failures of theirs to comply with subsection (1) above, and of the reasons for those failures;

(b) requiring agents to keep records of supplements paid by them under that subsection; and

(c) for the assessment and recovery under the Taxes Acts of amounts paid to agents under subsection (2) above which ought not to have been so paid.

The regulations may contain such supplementary and incidental provision as appears to the Treasury necessary or expedient.

(4) In this section—

"agent" means any such person or charity as is mentioned in subsection (4) of section 202 of the Taxes Act 1988;

"employee" and "employer" shall be construed in accordance with subsection (1) of that section;

"charity" has the same meaning as in section 506 of that Act and includes each of the bodies mentioned in section 507 of that Act;

"the Taxes Acts" has the same meaning as in the [M38]Taxes Management Act 1970.

(5) In section 202 of the Taxes Act 1988—

(a) in subsection (6), the words "must not be paid by the employee under a covenant" shall cease to have effect;

(b) subsection (7) shall cease to have effect; and

(c) in subsection (11), in the definition of "charity", after "section 506" there shall be inserted " and includes each of the bodies mentioned in section 507 ".

(6) Subsections (1) to (4) above shall have effect in relation to supplements or other amounts payable in respect of sums withheld on or after 6th April 2000 and before 6th April 2003; and no claim under subsection (2) above shall be entertained if made on or after 6th April 2004.

(7) Subsection (5) above shall have effect in relation to sums withheld on or after 6th April 2000.

Marginal Citations

M38 1970 c. 9.

39 Gift aid payments by individuals. U.K.

(1) Section 25 of the [M39]Finance Act 1990 (donations to charity by individuals) shall be amended in accordance with subsections (2) to (7) below.

(2) In subsection (1)(c), for "an appropriate certificate" there shall be substituted " an appropriate declaration ".

(3) In subsection (2)—

(a) paragraphs (c) and (g) shall cease to have effect;

(b) in paragraph (e), for "two and a half per cent of the amount of the gift" there shall be substituted " the limit imposed by subsection (5A) below "; and

(c) for paragraph (i) there shall be substituted—

"(i) either—

(i) at the time the gift is made, the donor is resident in the United Kingdom or performs duties which by virtue of section 132(4)(a) of the Taxes Act 1988 (Crown employees serving overseas) are treated as being performed in the United Kingdom; or

(ii) the grossed up amount of the gift would, if in fact made, be payable out of profits or gains brought into charge to income tax or capital gains tax.".

(4) For subsection (3) there shall be substituted—

"(3) The reference in subsection (1)(c) above to an appropriate declaration is a reference to a declaration which—

(a) is given in such manner as may be prescribed by regulations made by the Board; and

(b) contains such information and such statements as may be so prescribed.

(3A) Regulations made for the purposes of subsection (3) above may—

(a) provide for declarations to have effect, to cease to have effect or to be deemed never to have had effect in such circumstances and for such purposes as may be prescribed by the regulations;

(b) require charities to keep records with respect to declarations given to them by donors; and

(c) make different provision for declarations made in a different manner.".

(5) After subsection (5) there shall be inserted—

"(5A) The limit imposed by this subsection is—

(a) where the amount of the gift does not exceed £100, 25 per cent of the amount of the gift;

(b) where the amount of the gift exceeds £100 but does not exceed £1,000, £25;

(c) where the amount of the gift exceeds £1,000, 2.5 per cent of the amount of the gift.

(5B) Where a benefit received in consequence of making a gift—

(a) consists of the right to receive benefits at intervals over a period of less than twelve months;

(b) relates to a period of less than twelve months; or

(c) is one of a series of benefits received at intervals in consequence of making a series of gifts at intervals of less than twelve months,

the value of the benefit shall be adjusted for the purposes of subsection (4) above and the amount of the gift shall be adjusted for the purposes of subsection (5A) above.

(5C) Where a benefit, other than a benefit which is one of a series of benefits received at intervals, is received in consequence of making a gift which is one of a series of gifts made at intervals of less than twelve months, the amount of the gift shall be adjusted for the purposes of subsection (5A) above.

(5D) Where the value of a benefit, or the amount of a gift, falls to be adjusted under subsection (5B) or (5C) above, the value or amount shall be multiplied by 365 and the result shall be divided by—

(a) in a case falling within subsection (5B)(a) or (b) above, the number of days in the period of less than twelve months;

(b) in a case falling within subsection (5B)(c) or (5C) above, the average number of days in the intervals of less than twelve months;

and the reference in subsection (5B) above to subsection (4) above is a reference to that subsection as it applies for the purposes of subsection (2)(e) above.

(5E) In determining whether a gift to a charity falling within subsection (5F) below is a qualifying donation, there shall be disregarded the benefit of any right of admission received in consequence of the making of the gift—

(a) to view property the preservation of which is the sole or main purpose of the charity; or

(b) to observe wildlife the conservation of which is the sole or main purpose of the charity;

but this subsection shall not apply unless the opportunity to make gifts which attract such a right is available to members of the public.

(5F) A charity falls within this subsection if its sole or main purpose is the preservation of property, or the conservation of wildlife, for the public benefit.

(5G) In subsection (5E) above "right of admission" refers to admission of the person making the gift (or any member of his family who may be admitted because of the gift) either free of the charges normally payable for admission by members of the public, or on payment of a reduced charge.".

(6) For subsections (6) to (9) there shall be substituted—

"(6) Where any gift made by the donor in a year of assessment is a qualifying donation, then, for that year—

(a) the Income Tax Acts and the [M40]Taxation of Chargeable Gains Act 1992 shall have effect, in their application to him, as if—

(i) the gift had been made after deduction of income tax at the basic rate; and

(ii) the basic rate limit were increased by an amount equal to the grossed up amount of the gift;

(b) the provisions mentioned in subsection (7) below shall have effect, in their application to him, as if any reference to income tax which he is entitled to charge against any person included a reference to the tax treated as deducted from the gift; and

(c) to the extent, if any, necessary to ensure that he is charged to an amount of income tax and capital gains tax equal to the tax treated as deducted from the gift, he shall not be entitled to relief under Chapter I of Part VII of the Taxes Act 1988;

but paragraph (a)(ii) above shall not apply for the purposes of any computation under section 550(2)(a) or (b) of that Act (relief where gain charged at a higher rate).

(7) The provisions referred to in subsection (6)(b) above are—

(a) section 289A(5)(e) of the Taxes Act 1988 (relief under enterprise investment scheme);

(b) section 796(3) of that Act (credit for foreign tax); and

(c) paragraph 1(6)(f) of Schedule 15B to that Act (venture capital trusts).

(8) Where the tax treated as deducted from a gift by virtue of subsection (6) above exceeds the amount of income tax and capital gains tax with which the donor is charged for the year of assessment, the donor shall be assessable and chargeable with income tax at the basic rate on so much of the gift as is necessary to recover an amount of tax equal to the excess.

(9) In determining for the purposes of subsection (8) above the total amount of income tax and capital gains tax with which the donor is charged for the year of assessment, there shall be disregarded—

(a) any tax charged at the basic rate by virtue of—

(i) section 348 of the Taxes Act 1988 (read with section 3 of that Act); or

(ii) section 349 of that Act (read with section 350 of that Act);

(b) any tax treated as having been paid under—

(i) section 233(1)(a) of that Act (taxation of certain recipients of distributions);

(ii) section 249(4)(a) of that Act (stock dividends treated as income); or

(iii) section 547(5)(a) of that Act (method of charging life policy gain to tax);

(c) any relief to which section 256(2) of that Act applies (relief by way of income tax reduction);

(d) any relief under—

(i) section 347B of that Act (relief for maintenance payments);

(ii) section 788 of that Act (relief by agreement with other countries); or

(iii) section 790(1) of that Act (unilateral relief);

(e) any set off of tax deducted, or treated as deducted, from income other than—

(i) tax treated as deducted from income by virtue of section 421(1)(a) of that Act (taxation of borrower when loan released etc); or

(ii) tax treated as deducted from a relevant amount within the meaning of section 699A of that Act (untaxed sums comprised in the income of an estate) except to the extent that the relevant amount is or would be paid in respect of a distribution chargeable under Schedule F; and

(f) any set off of tax credits.

(9A) For the purposes of sections 257(5) and 257A(5) of the Taxes Act 1988 (age related allowances), the donor's total income shall be treated as reduced by the aggregate amount of gifts from which tax is treated as deducted by virtue of subsection (6) above.".

(7) In subsection (12), paragraphs (b) and (e) and the word "and" immediately preceding paragraph (e) shall cease to have effect.

(8) In subsections (1)(b) and (3)(b) of section 257BB of the Taxes Act 1988 (transfer of relief under section 257A where relief exceeds income), after "section 256(2)(b)" there shall be inserted " (read with section 25(6)(c) of the [M41]Finance Act 1990 where applicable) ".

(9) In paragraph 4(1)(b) of Schedule 13B to that Act (children's tax credit), after "section 256(2)(b)" there shall be inserted " (read with section 25(6)(c) of the [M42]Finance Act 1990 where applicable) ".

(10) This section has effect in relation to—

(a) gifts made on or after 6th April 2000 which are not covenanted payments; and

(b) covenanted payments falling to be made on or after that date;

and any regulations made under subsection (3) of section 25 of the [M43]Finance Act 1990 (as substituted by subsection (4) above) within three months of the passing of this Act may be so made as to apply to any payments in relation to which this section has effect.

Marginal Citations

M39 1990 c. 29.
M40 1992 c. 12.
M41 1990 c. 29.
M42 1990 c. 29.
M43 1990 c. 29.

40 Gift aid payments by companies. U.K.

(1) Section 339 of the Taxes Act 1988 (charges on income: donations to charity) shall be amended in accordance with subsections (2) to (8) below.

(2) In subsection (1), for paragraph (a) there shall be substituted—

"(a) a payment which, by reason of any provision of the Taxes Acts (within the meaning of the Management Act) except section 209(4), is to be regarded as a distribution; and".

(3) Subsections (2), (3), (3A), (3F), (6), (7) and (8) shall cease to have effect.

(4) In subsection (3B)(b), for "two and a half per cent. of the amount given after deducting tax under section 339(3)" there shall be substituted " the limit imposed by subsection (3DA) below ".

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

"(3DA) The limit imposed by this subsection is—

(a) where the amount of the payment does not exceed £100, 25 per cent of the amount of the payment;

(b) where the amount of the payment exceeds £100 but does not exceed £1,000, £25;

(c) where the amount of the payment exceeds £1,000, 2.5 per cent of the amount of the payment.

(3DB) Where a benefit received in consequence of making a payment—

(a) consists of the right to receive benefits at intervals over a period of less than twelve months;

(b) relates to a period of less than twelve months; or

(c) is one of a series of benefits received at intervals in consequence of making a series of payments at intervals of less than twelve months,

the value of the benefit shall be adjusted for the purposes of subsection (3C) above and the amount of the payment shall be adjusted for the purposes of subsection (3DA) above.

(3DC) Where a benefit, other than a benefit which is one of a series of benefits received at intervals, is received in consequence of making a payment which is one of a series of payments made at intervals of less than twelve months, the amount of the payment shall be adjusted for the purposes of subsection (3DA) above.

(3DD) Where the value of a benefit, or the amount of a payment, falls to be adjusted under subsection (3DB) or (3DC) above, the value or amount shall be multiplied by 365 and the result shall be divided by—

(a) in a case falling within subsection (3DB)(a) or (b) above, the number of days in the period of less than twelve months;

(b) in a case falling within subsection (3DB)(c) or (3DC) above, the average number of days in the intervals of less than twelve months;

and the reference in subsection (3DB) to subsection (3C) above is a reference to that subsection as it applies for the purposes of subsection (3B) above.".

(6) For subsection (4) there shall be substituted—

"(4) Where a company gives a sum of money to a charity, the gift shall in the hands of the charity be treated for the purposes of this Act as if it were an annual payment.".

(7) For subsection (7AA) there shall be substituted—

"(7AA) Where—

(a) a qualifying donation to a charity is made by a company which is wholly owned by a charity, and

(b) the company makes a claim for the donation, or any part of it, to be deemed for the purposes of section 338 to be a charge on income paid in an accounting period falling wholly or partly within the period of nine months ending with the date of the making of the donation,

the donation or part shall be deemed for those purposes to be a charge on income paid in that accounting period, and not in any later period.

A claim under this subsection must be made within the period of two years immediately following the accounting period in which the donation is made, or such longer period as the Board may allow.".

(8) In subsection (9), the words "in subsections (1) to (4) above includes" shall cease to have effect.

(9) In subsection (1) of section 209 of the Taxes Act 1988 (meaning of “distribution”), for “section 339(6) and any other express exceptions" there shall be substituted “ any express exceptions ”.

(10) In subsection (2)(a) of section 338 of that Act (allowance of charges on income and capital), after “company" there shall be inserted “ or payments falling within paragraph (b) below ”.

(11) This section has effect in relation to payments made on or after 1st April 2000; and—
- (a) so much of an accounting period as falls before that date; and
- (b) so much of it as falls after 31st March 2000,

shall be treated as separate accounting periods for the purposes of the amendment made by subsection (5) above.

41 Covenanted payments to charities. U.K.

(1) In subsection (5)(b) of section 338 of the Taxes Act 1988 (allowances of charges on income and capital), for “a covenanted donation to charity" there shall be substituted “ a qualifying donation ”.

(2) In section 347A of that Act (annual payments and interest: general rule), subsections (2)(b), (7) and (8) shall cease to have effect.

(3) In subsection (3) of section 348 of that Act (payments out of profits or gains brought into charge to income tax: deductions of tax), at the end there shall be inserted “ or to any payment which is a qualifying donation for the purposes of section 25 of the [M44]Finance Act 1990 ”.

(4) In subsection (1) of section 349 of that Act (payments not out of profits or gains brought into charge to income tax, and annual interest), at the end there shall be inserted “ or to any payment which is a qualifying donation (within the meaning of section 339) or a qualifying donation for the purposes of section 25 of the [M45]Finance Act 1990 ”.

(5) In subsection (6) of section 505 of that Act (charities: general), the words “and, for this purpose, all covenanted payments to charity (within the meaning of section 347A(7)) shall be treated as a single item” shall cease to have effect.

(6) In subsection (9) of section 660A of that Act (income arising under a settlement where settlor retains an interest), for paragraph (b) there shall be substituted—

“(b) qualifying donations for the purposes of section 25 of the Finance Act 1990.”.

(7) Section 59 of the [M46]Finance Act 1989 (covenanted subscriptions) shall cease to have effect.

(8) Where a deed of covenant executed by an individual before 6th April 2000 provides for the payment of specified amounts, any amount payable under the deed on or after that date shall be determined as if the individual were entitled to deduct tax from that amount at the basic rate.

(9) This section shall have effect in relation to covenanted payments—
- (a) falling to be made by individuals on or after 6th April 2000; or
- (b) made by companies on or after 1st April 2000.

Marginal Citations
M44 1990 c. 29.
M45 1990 c. 29.
M46 1989 c. 26.

42 Millennium gift aid. U.K.

(1) In section 48 of the [M47]Finance Act 1998 (gifts of money for relief in poor countries), subsections (3), (6) and (7) shall cease to have effect.

(2) In subsection (4) of that section—

(a) in paragraph (a), after "made" there shall be inserted " before 6th April 2000 ";

(b) after paragraph (b) there shall be inserted—

"(bb) the subsequent gift, or at least one of the subsequent gifts, is made on or after 6th April 2000;";

and

(c) in paragraph (c), for "appropriate certificate" there shall be substituted " appropriate declaration ".

(3) In subsection (8) of that section, for the definition of "relevant gift" there shall be substituted—

""relevant gift" means a gift to which this section applies—

(a) which satisfies the requirements of subsection (2) of section 25 of the [M48]Finance Act 1990 (as amended by section 39 of the Finance Act 2000); or

(b) which would satisfy those requirements if paragraph (e) of that subsection were disregarded.".

Marginal Citations
M47 1998 c. 36.
M48 1990 c. 29.

43 Gifts of shares and securities to charities etc. U.K.

(1) After section 587A of the Taxes Act 1988 there shall be inserted—

"587B Gifts of shares and securities to charities etc.

(1) Subsections (2) and (3) below apply where, otherwise than by way of a bargain made at arm's length, an individual, or a company which is not itself a charity, disposes of the whole of the beneficial interest in a qualifying investment to a charity.

(2) On a claim made in that behalf to an officer of the Board—

(a) the relevant amount shall be allowed—

(i) in the case of a disposal by an individual, as a deduction in calculating his total income for the purposes of income tax for the year of assessment in which the disposal is made;

(ii) in the case of a disposal by a company, as a charge on income for the purposes of corporation tax for the accounting period in which the disposal is made; and

(b) no relief in respect of the disposal shall be given under section 83A or any other provision of the Income Tax Acts;

but paragraph (a)(i) above shall not apply for the purposes of any computation under section 550(2)(a) or (b).

(3) The consideration for which the charity's acquisition of the qualifying investment is treated by virtue of section 257(2) of the 1992 Act as having been made—

(a) shall be reduced by the relevant amount; or

(b) where that consideration is less than that amount, shall be reduced to nil.

(4) Subject to subsections (5) to (7) below, the relevant amount is an amount equal to—

(a) where the disposal is a gift, the market value of the qualifying investment at the time when the disposal is made;

(b) where the disposal is at an undervalue, the difference between that market value and the amount or value of the consideration for the disposal.

(5) Where there are one or more benefits received in consequence of making the disposal which are received by the person making the disposal or a person connected with him, the relevant amount shall be reduced by the value of that benefit or, as the case may be, the aggregate value of those benefits; and section 839 applies for the purposes of this subsection.

(6) Where the disposal is a gift, the relevant amount shall be increased by the amount of the incidental costs of making the disposal to the person making it.

(7) Where the disposal is at an undervalue—

(a) to the extent that the consideration for the disposal is less than that for which the disposal is treated as made by virtue of section 257(2)(a) of the 1992 Act, the relevant amount shall be increased by the amount of the incidental costs of making the disposal to the person making it; and

(b) section 48 of that Act (consideration due after time of disposal) shall apply in relation to the computation of the relevant amount as it applies in relation to the computation of a gain.

(8) In the case of a disposal by a company which is carrying on life assurance business—

(a) if the company is charged to tax under Case I of Schedule D in respect of such business, subsections (2) and (3) above shall not apply;

(b) if the company is not so charged to tax in respect of such business—

(i) subsection (2)(a)(ii) above shall have effect as if for "a charge on income" there were substituted "an expense of management"; and

(ii) the relevant amount given by subsection (4) above shall be reduced by so much (if any) of that amount as is not referable to basic life assurance and general annuity business;

and for the purpose of determining how much (if any) of that amount is not so referable, section 432A shall have effect as if that amount were a gain accruing on the disposal of the qualifying investment to the company.

(9) In this section—

"authorised unit trust" and "open-ended investment company" have the meanings given by section 468;

"charity" has the same meaning as in section 506 and includes each of the bodies mentioned in section 507(1);

"the incidental costs of making the disposal to the person making it" shall be construed in accordance with section 38(2) of the 1992 Act;

"life assurance business" and related expressions have the same meaning as in Chapter I of Part XII;

"offshore fund" means a collective investment scheme (within the meaning of the [M49] Financial Services Act 1986) which is constituted by any company, unit trust scheme or other arrangement falling within paragraph (a), (b) or (c) of section 759(1);

"qualifying investment" means any of the following—

(a) shares or securities which are listed or dealt in on a recognised stock exchange;

(b) units in an authorised unit trust;

(c) shares in an open-ended investment company; and

(d) an interest in an offshore fund.

(10) Subject to subsection (11) below, the market value of any qualifying investment shall be determined for the purposes of this section as for the purposes of the 1992 Act.

(11) In the case of an interest in an offshore fund for which there are separate published buying and selling prices, section 272(5) of the 1992 Act (meaning of "market value" in relation to rights of unit holders in a unit trust scheme) shall apply with any necessary modifications for determining the market value of the interest for the purposes of this section.".

(2) In subsection (2) of section 338 of that Act (allowances of charges on income and capital), immediately before paragraph (a) there shall be inserted—

"(za) amounts allowed as charges on income under section 587B(2)(a)(ii);".

(3) This section has effect in relation to—

(a) disposals made by individuals on or after 6th April 2000; and

(b) disposals made by companies on or after 1st April 2000.

Marginal Citations
M49 1986 c. 60.

44 Gifts to charity from certain trusts. U.K.

(1) Chapter IA of Part XV of the Taxes Act 1988 (liability of settlors) shall not apply to any qualifying income which arises under a trust the trustees of which are resident in the United Kingdom (a "UK trust") if—

(a) it is given by the trustees to a charity in the year of assessment in which it arises; or

(b) it is income to which a charity is entitled under the terms of the trust.

(2) Subject to subsection (3) below, where in any year of assessment qualifying income arising under a UK trust from different sources exceeds the amount of that income falling within subsection (1) above, that amount shall be rateably apportioned between those sources.

(3) Nothing in subsection (2) above shall affect the operation of any requirement that the whole, or any specified part, of the income from a particular source be given to a charity.

(4) Where in any year of assessment qualifying income arising under a UK trust exceeds the amount of that income falling within subsection (1) above, any management expenses for that year shall be rateably apportioned between—

(a) so much of that income as is equal to that amount; and

(b) so much of that income as exceeds that amount.

(5) In this section—

"charity" has the same meaning as in section 506 of the Taxes Act 1988 and includes each of the bodies mentioned in section 507 of that Act;

"qualifying income" means—

(i) income which is to be accumulated;

(ii) income which is payable at the discretion of the trustees or any other person (whether or not the trustees have power to accumulate it); or

(iii) income which (before being distributed) is income of any person other than the trustees;

"resident", in relation to the trustees of a trust, shall be construed in accordance with section 110 of the [M50]Finance Act 1989;

and the reference to Chapter IA of Part XV of the Taxes Act 1988 includes a reference to that Chapter as it has effect by virtue of section 660E of that Act (application to settlements by two or more settlors).

(6) This section has effect in relation to qualifying income arising to a UK trust on or after 6th April 2000.

Marginal Citations
M50 1989 c. 26.

45 Loans to charities. U.K.

(1) In Chapter IA of Part XV of the Taxes Act 1988 "settlement" does not include any arrangement so far as it consists of a loan of money made by an individual to a charity either—

(a) for no consideration; or

(b) for a consideration which consists only of interest.

(2) In this section "charity" has the same meaning as in section 44 above.

(3) This section has effect in relation to income arising on or after 6th April 2000 on loans made before, as well as loans made on or after, that date.

46 Exemption for small trades etc. U.K.

(1) Subject to subsection (2) below, exemption from tax under Case I or VI of Schedule D shall be granted, on a claim made in that behalf to the Board, in respect of any income of a charity if the requirements of subsection (3) below are satisfied with respect to the income.

(2) Exemption shall not be granted under subsection (1) above in respect of income which is chargeable to tax under Case VI of Schedule D by virtue of any of the following—

(a) section 30 of the [M51]Taxes Management Act 1970;

(b) sections 214, 412, 547(1)(b) and (6), 553(6), 660C, 677, 703, 776, 788, 790 and 804 of the Taxes Act 1988;

(c) paragraph 14 of Schedule 4 to the [M52]Finance (No. 2) Act 1997;

(d) paragraph 52(4) of Schedule 18, and paragraph 13(7) of Schedule 19, to the [M53]Finance Act 1998; and

(e) any other enactment specified in an order made by the Treasury.

(3) The requirements of this subsection are satisfied with respect to any income for a chargeable period if it is applied solely for the purposes of the charity and either—

(a) the charity's gross income for the chargeable period does not exceed the requisite limit; or

(b) the charity had, at the beginning of the period, a reasonable expectation that its gross income for the period would not exceed that limit.

(4) Subject to subsection (5) below, the requisite limit is whichever is the greater of—

(a) £5,000; and

(b) whichever is the lesser of £50,000 and 25% of all of the charity's incoming resources for the chargeable period.

(5) For a chargeable period of less than twelve months, the amounts of £5,000 and £50,000 specified in subsection (4) above shall be proportionally reduced.

(6) In this section—

"charity" means any body of persons or trust established for charitable purposes only;

"gross income", in relation to a charity, means income before deduction of any expenses;

"income", in relation to a charity, means any profits or gains or other income which is chargeable to tax under Case I or VI of Schedule D and which is not, apart this section, exempted from tax under that Case.

(7) This section applies for the year 2000-01 and subsequent years of assessment or, in the case of charities which are companies, for accounting periods beginning on or after 1st April 2000.

Marginal Citations
M51 1970 c. 9.
M52 1997 c. 58.
M53 1998 c. 36.

Employee share ownership

VALID FROM 28/07/2000

47 Employee share ownership plans. U.K.

Schedule 8 to this Act (employee share ownership plans) shall have effect.

VALID FROM 28/07/2000

48 Relief for transfers to employee share ownership plans. U.K.

(1) In the M54Taxation of Chargeable Gains Act 1992, after section 236 insert—

" *Employee share ownership plans*

236A Relief for transfers to employee share ownership plans

Schedule 7C (which makes provision for roll-over relief where shares are transferred to an approved employee share ownership plan) shall have effect.".

(2) After Schedule 7B to that Act insert the Schedule 7C set out in Schedule 9 to this Act.

Marginal Citations
M54 1992 c. 12.

VALID FROM 28/07/2000

49 Phasing out of approved profit sharing schemes. U.K.

(1) The Board shall not approve a profit sharing scheme under Schedule 9 to the Taxes Act 1988 (approval of share option schemes and profit sharing schemes) unless the application for approval is received by the Board before 6th April 2001.

(2) For the purposes of subsection (1) an application for approval which is not accompanied by the particulars and evidence referred to in paragraph 1(2) of that Schedule is not regarded as received by the Board until the required particulars and evidence have been received by them.

(3) In section 186 of that Act (approved profit sharing schemes), in subsection (1) (under which the section applies to appropriations of shares made after 5th April 1979) after "5th April 1979" insert " and before 1st January 2003 ".

VALID FROM 28/07/2000

50 Phasing out of relief for payments to trustees of profit sharing schemes. U.K.

(1) This section has effect to phase out deductions under section 85 of the Taxes Act 1988 (corporation tax relief for payments to trustees of approved profit sharing schemes).

(2) In the case of sums paid to the trustees on or after 21st March 2000 and before 6th April 2002 no deduction may be made by virtue of subsection (2)(a) of that section (sums applied in acquiring shares for appropriation) unless the trustees appropriate the shares acquired, by the application of the sum, as mentioned in that provision—
   (a) before the end of the period of nine months beginning on the day following the end of the period of account in which payment to the trustees was made, and
   (b) before 1st January 2003.

(3) No deduction may be made by virtue of subsection (2)(a) of that section in respect of any sum paid to the trustees on or after 6th April 2002.

(4) No deduction may be made by virtue of subsection (2)(b) of that section (sums to meet expenses of trustees in administering the scheme) in respect of any sum paid to the trustees more than three years after the date of the last appropriation of shares to individuals which was made—
   (a) in accordance with the approved profit sharing scheme, and
   (b) before 1st January 2003.

(5) For the purposes of this section references to a deduction under section 85 are to a deduction under subsection (1)(a) or by virtue of subsection (1)(b) of that section.

VALID FROM 28/07/2000

51 Approved profit sharing scheme: other awards of shares. U.K.

(1) In Schedule 9 to the Taxes Act 1988 (approved share option schemes and profit sharing schemes), in paragraph 3(2) (grounds for withdrawing approval of profit sharing schemes), after "below" in paragraph (e) insert—

"; or

(f) the trustees appropriate shares to participants, one or more of whom have had free shares appropriated to them, at an earlier time in the same year of assessment, under a relevant share plan".

(2) After paragraph 3(3) of that Schedule insert—

"(4) For the purposes of sub-paragraph (2)(f) above the reference to persons having had free shares appropriated to them includes persons who would have had free shares appropriated to them but for their failure to obtain a performance allowance (within the meaning of paragraph 25 of Schedule 8 to the Finance Act 2000).

(5) In sub-paragraph (2)(f) and (4) above—

"free shares" has the same meaning as in Schedule 8 to the Finance Act 2000;

"relevant share plan", in relation to a profit sharing scheme, means an employee share ownership plan that—

(a) was established by the grantor or a connected company, and

(b) is approved under Schedule 8 to that Act.

(6) For the purposes of sub-paragraph (5) above "connected company" means—

(a) a company which controls or is controlled by the grantor or which is controlled by a company which also controls the grantor, or

(b) a company which is a member of a consortium owning the grantor or which is owned in part by the grantor as a member of a consortium.".

52 Approved profit sharing schemes: restriction on type of shares. U.K.

(1) Schedule 9 to the Taxes Act 1988 (share option schemes and profit sharing schemes) is amended in accordance with subsections (2) to (4).

(2) In paragraph 9(1) (requirements to be satisfied by shares in share option schemes), after "below" insert " (disregarding paragraph 11A) ".

(3) After paragraph 11 (requirements as to listing etc.) insert—

"11A

(1) In the case of a profit sharing scheme, scheme shares must not be shares—

(a) in an employer company, or

(b) in a company that—

(i) has control of an employer company, and

(ii) is under the control of a person or persons within sub-paragraph (2)(b)(i) below in relation to an employer company.

(2) For the purposes of this paragraph a company is "an employer company" if—

(a) the business carried on by it consists substantially in the provision of the services of the persons employed by it, and

(b) the majority of those services are provided to—

(i) a person who has, or two or more persons who together have, control of the company, or

(ii) a company associated with the company.

(3) For the purposes of sub-paragraph (2)(b)(ii) above a company shall be treated as associated with another company if both companies are under the control of the same person or persons.

(4) For the purposes of sub-paragraphs (1) to (3) above—

(a) references to a person include a partnership, and

(b) where a partner, alone or together with others, has control of a company, the partnership shall be treated as having like control of that company.

(5) For the purposes of this paragraph the question whether a person controls a company shall be determined in accordance with section 416(2) to (6).".

(4) In paragraph 12—

(a) in sub-paragraph (1), in paragraph (c) for "other than" to the end of that paragraph there shall be substituted " other than those permitted by sub-paragraph (1A) below. ", and

(b) after sub-paragraph (1) insert—

"(1A) Subject to sub-paragraph (1B) below, scheme shares may be subject to—

(a) restrictions which attach to all shares of the same class, or

(b) a restriction authorised by sub-paragraph (2) below.

(1B) In the case of a profit sharing scheme, scheme shares must not be subject to any restrictions affecting the rights attaching to those shares which relate to—

(a) dividends, or

(b) assets on a winding-up of the company,

other than restrictions which attach to all other ordinary shares in the same company.".

(5) Subsections (1) to (4) shall be deemed to have come into force on 21st March 2000.

(6) Subsections (3) and (4) do not have effect in relation to shares acquired before 21st March 2000 by the trustees of a profit sharing scheme approved under Schedule 9 to the Taxes Act 1988.

Commencement Information

I1 S. 52(1)-(4) deemed to have come into force at 21.3.2000 see s. 52(5)

53 Approved profit sharing schemes: loan arrangements. U.K.

(1) In paragraph 2 of Schedule 9 to the Taxes Act 1988 (conditions for approval of share option schemes and profit sharing schemes), after sub-paragraph (2) insert—

"(2A) The Board shall not approve a profit sharing scheme unless they are satisfied—

(a) that the arrangements for the scheme do not make any provision, and are not in any way associated with any provision made, for loans to some or all of the employees of—

(i) the company that established the scheme, or

(ii) in the case of a group scheme, any participating company, and

(b) that the operation of the scheme is not in any way associated with such loans.

(2B) For the purposes of sub-paragraph (2A) above "arrangements" includes any scheme, agreement or understanding, whether or not legally enforceable.".

(2) In paragraph 3(2) of that Schedule (withdrawal of approval of profit sharing schemes), before paragraph (d) insert—

"(ca) the Board—

(i) cease to be satisfied of the matters mentioned in paragraph 2(2A) above, or

(ii) in the case of a scheme approved before 21st March 2000, are not satisfied of those matters; or".

(3) This section shall be deemed to have come into force on 21st March 2000.

VALID FROM 28/07/2000

54 Employee share ownership trusts. U.K.

No claim for relief under section 229(1) or (3) of the [M55]Taxation of Chargeable Gains Act 1992 (roll-over relief where disposal made to employee share ownership trust) may be made in relation to a disposal of shares, or an interest in shares, made on or after 6th April 2001.

Marginal Citations

M55 1992 c. 12.

VALID FROM 28/07/2000

55 Shares transferred from employee share ownership trust. U.K.

(1) Section 69 of the [M56]Finance Act 1989 (chargeable events in relation to employee share ownership trusts) is amended in accordance with subsections (2) to (5).

(2) In subsection (1) (definition of "chargeable event"), after paragraph (d) insert—

"(e) where—

(i) the trustees make a qualifying transfer within subsection (3AA) below for a consideration, and

(ii) they do not, during the period specified in subsection (5A) below, expend a sum of not less than the amount of that consideration for one or more qualifying purposes,

the expiry of that period.".

(3) After subsection (3) insert—

"(3AA) For the purposes of subsection (1)(a) above a transfer is also a qualifying transfer if—

(a) it is a transfer of relevant shares made to the trustees of the plan trust of an employee share ownership plan,

(b) the plan is approved under Schedule 8 to the Finance Act 2000 when the transfer is made, and

(c) the consideration (if any) for which the transfer is made does not exceed the market value of the shares.

(3AB) For the purpose of determining whether a transfer by the trustees is a qualifying transfer within subsection (3AA) above, where on or after 21st March 2000—

(a) the trustees transfer or dispose of part of a holding of shares (whether by way of a qualifying transfer or otherwise), and

(b) the holding includes any relevant shares,

the relevant shares shall be treated as transferred or disposed of before any other shares included in that holding.

For this purpose "holding" means any number of shares of the same class held by the trustees, growing or diminishing as shares of that class are acquired or disposed of.

(3AC) For the purposes of subsections (3AA) and (3AB) above—

"market value" has the same meaning as in Schedule 8 to the Finance Act 2000; and

"relevant shares" means—

(i) shares that are held by the trustees of the employee share ownership trust at midnight on 20th March 2000, and

(ii) shares purchased by those trustees with original funds after that time.

(3AD) For the purposes of subsection (3AC) above—

(a) "original funds" means any money held by the trustees of the employee share ownership trust in a bank or building society account at midnight on 20th March 2000, and

(b) any payment made by the trustees after that time (whether to acquire shares or otherwise) shall be treated as made out of original funds (and not out of money received after that time) until those funds are exhausted.".

(4) In subsection (5) after "(1)(d)" insert " or (e) ".

(5) After that subsection insert—

"(5A) The period referred to in paragraph (e) of subsection (1) above is the period—

(a) beginning with the qualifying transfer mentioned in that paragraph, and

(b) ending nine months after the end of the period of account in which that qualifying transfer took place.

For this purpose the period of account means the period of account of the company that established the employee share ownership trust.".

(6) In section 70 of the [M57]Finance Act 1989 (chargeable amounts), after subsection (3) insert—

"(4) If the chargeable event falls within section 69(1)(e) above the chargeable amount is an amount equal to—

(a) the amount of the consideration received for the qualifying transfer mentioned in section 69(1)(e) above, less

(b) the amount of any expenditure by the trustees for a qualifying purpose during the period mentioned in section 69(5A) above.".

Marginal Citations

M56 1989 c. 26.

M57 1989 c. 26.

VALID FROM 28/07/2000

56 Further provisions about share options. U.K.

(1) In Chapter IV of Part V of the Taxes Act 1988 (provisions relating to the Schedule E charge: other exemptions and reliefs), after section 187 insert—

" Contributions in respect of share option gains

187A Relief for contributions in respect of share option gains.

(1) Where a person ("the earner") is chargeable to tax under section 135 on a gain, relief is available under this section if—

(a) an agreement has been entered into allowing the secondary contributor to recover from the earner the whole or part of any secondary Class 1 contributions in respect of the gain, or

(b) an election is in force which has the effect of transferring to the earner the whole or part of the liability to pay secondary Class 1 contributions in respect of the gain.

(2) The amount of the relief is the total of—

(a) any amount that, in pursuance of any such agreement as is mentioned in subsection (1)(a), is recovered in respect of the gain by the secondary contributor not later than 60 days after the end of the year of assessment in which occurred the event giving rise to the charge to tax under section 135; and

(b) the amount of any liability in respect of that gain that, by virtue of any such election as is mentioned in subsection (1)(b), has become the earner's liability.

(3) Where notice of withdrawal of approval of any such election is given, relief under subsection (2)(b) is limited to so much of the earner's liability in respect of the gain as is met before the end of the 60th day after the end of the year of assessment in which occurred the event giving rise to the charge under section 135.

(4) Relief under this section shall be given by way of deduction from the amount of the gain on which the earner is chargeable to tax under section 135.

(5) Any such deduction does not affect the amount of the gain for the purposes of—

(a) section 120(4) of the [M58]Taxation of Chargeable Gains Act 1992 (amount treated as consideration for acquisition of shares), or

(b) section 4(4)(a) of the Contributions and Benefits Act (amount treated as remuneration for contributions purposes).

(6) The agreements and elections referred to in this section are those having effect under paragraph 3A or 3B of Schedule 1 to the Contributions and Benefits Act.

References to approval in relation to an election are to approval by the Inland Revenue under paragraph 3B of that Schedule.

(7) In this section—

"the Contributions and Benefits Act" means the [M59]Social Security Contributions and Benefits Act 1992 or the [M60]Social Security Contributions and Benefits (Northern Ireland) Act 1992; and

"secondary Class 1 contributions" and "secondary contributor" have the same meaning as in that Act."

Section 187A inserted by this subsection applies to any agreement or election having effect as mentioned in subsection (6) of that section, whether made before or after the passing of this Act.

(2) Section 203FB of the Taxes Act 1988 (PAYE: gains from share options) is amended as follows—

(a) in subsections (2) and (3), for "subsection (7)" substitute " subsection (6A) ";

(b) after subsection (6) insert—

"(6A) Where section 203F has effect in accordance with subsection (2) or (3) above, subsection (3) of section 203F shall apply as if the reference in that subsection to the amount of income likely to be chargeable to tax under Schedule E in respect of the provision of the asset were a reference to the amount on which tax is likely to be chargeable by virtue of section 135 in respect of the event in question, reduced by the amount of any relief likely to be available under section 187A.";

(c) in subsection (7), for "any of the preceding provisions of this section" substitute " subsection (4) or (5) above " and for "section 135, 140A or 140D" substitute " section 140A or 140D ".

These amendments apply where the event giving rise to the charge to tax occurs after the passing of this Act.

(3) In section 136(6) of the Taxes Act 1988 and section 85(1) of the [M61]Finance Act 1988 (duty to deliver particulars relating to share options, etc. within 30 days after end of year of assessment), for "30 days" substitute " 92 days ".

These amendments apply where the event giving rise to the duty to deliver particulars occurs on or after 6th April 2000.

(4) After section 136(6) of the Taxes Act 1988 add—

"(7) A body corporate is not obliged to deliver particulars under subsection (6) above which it has already given in a notice under paragraph 2 of Schedule 14 to the Finance Act 2000 (enterprise management incentives: notice required for option to be qualifying option).

In other respects the obligations imposed by that subsection and that paragraph are independent of each other.

(8) The duty of a body corporate under subsection (6) above to deliver particulars of any matter includes a duty to deliver particulars of any secondary Class 1 contributions payable in connection with that matter that—

(a) are recovered as mentioned in section 187A(2)(a), or

(b) are met as mentioned in section 187A(3).

In this subsection "secondary Class 1 contributions" has the same meaning as in section 187A.".

Section 136(8) inserted by this subsection applies to any amounts recovered or met as mentioned in section 187A(2)(a) or (3) of the Taxes Act 1988, whether before or after the passing of this Act.

Marginal Citations

M58 1992 c. 12.

M59 1992 c. 4.

M60 1992 c. 7.

M61 1988 c. 39.

VALID FROM 28/07/2000

Other provisions about employment

57 Benefits in kind: deregulatory amendments. U.K.

(1) Chapter II of Part V of the Taxes Act 1988 (provisions relating to the Schedule E charge: benefits in kind, etc.) is amended in accordance with Schedule 10 to this Act.

(2) The amendments have effect for the year 2000-01 and subsequent years of assessment.

58 Education and Training. U.K.

(1) After section 200D of the Taxes Act 1988 (work-related training) insert—

"200E Education and training funded by employers.

(1) This section applies for the purposes of Schedule E where any person (in this section, and sections 200F and 200G, called "the employer") incurs expenditure—

(a) by making a payment to a person ("the provider") in respect of the costs of any qualifying education or training provided by the provider to a fundable employee of the employer (in this section, and sections 200F and 200G, called "the employee"), or

(b) in paying or reimbursing any related costs.

(2) Subject to sections 200F to 200H, the emoluments of the employee from the office or employment shall not be taken to include—

(a) any amount in respect of that expenditure, or

(b) any amount in respect of the benefit of the education or training provided by means of that expenditure.

(3) In subsection (1) above "related costs", in relation to any qualifying education or training provided to the employee, means—

(a) any costs that are incidental to the employee's undertaking the education or training and are incurred wholly and exclusively as a result of his doing so;

(b) any expenses incurred in connection with an assessment (whether by examination or otherwise) of what the employee has gained from the education or training; and

(c) the cost of obtaining for the employee any qualification, registration or award to which he has or may become entitled as a result of undertaking the education or training or of undergoing such an assessment.

(4) In this section "qualifying education or training" means education or training of a kind that qualifies for grants whose payment is authorised by—

(a) regulations under section 108 or 109 of the [M62]Learning and Skills Act 2000, or

(b) regulations under section 1 of the [M63]Education and Training (Scotland) Act 2000.

(5) For the purposes of this section, a person is a fundable employee of the employer if—

(a) he holds, or has at any time held, an office or employment under the employer, and

(b) he holds an account that qualifies under section 104 of the Learning and Skills Act 2000 or he is a party to qualifying arrangements.

(6) In subsection (5) above "qualifying arrangements" means arrangements which qualify under—

(a) section 105 or 106 of the Learning and Skills Act 2000, or

(b) section 2 of the Education and Training (Scotland) Act 2000.

200F Section 200E: exclusion of expenditure not directly related to training.

(1) Section 200E shall not apply in the case of any expenditure to the extent that it is incurred in paying or reimbursing the cost of any facilities or other benefits provided or made available to the employee for either or both of the following purposes, that is to say—

(a) enabling the employee to enjoy the facilities or benefits for entertainment or recreational purposes;

(b) rewarding the employee for the performance of the duties of his office or employment under the employer, or for the manner in which he has performed them.

(2) Section 200E shall not apply in the case of any expenditure incurred in paying or reimbursing any expenses of travelling or subsistence, except to the extent that those expenses would be deductible under section 198 if the employee—

(a) undertook the education or training in question in the performance of the duties of—

(i) his office or employment under the employer, or

(ii) where the employee no longer holds an office or employment under the employer, the last office or employment that he did hold under the employer; and

(b) incurred those expenses out of the emoluments of that office or employment.

(3) Section 200E shall not apply in the case of any expenditure incurred in paying or reimbursing the cost of providing the employee with, or with the use of, any asset except where—

(a) the asset is provided or made available for use only in the course of the education or training;

(b) the asset is provided or made available for use in the course of the education or training and in the performance of the duties of the employee's office or employment but not to any significant extent for any other use;

(c) the asset consists in training materials provided in the course of the education or training; or
(d) the asset consists in something made by the employee in the course of the education or training or incorporated into something so made.

(4) In subsection (1) above the reference to enjoying facilities or benefits for entertainment or recreational purposes includes a reference to enjoying them in the course of any leisure activity.

(5) In this section—

“subsistence” includes food and drink and temporary living accommodation; and

“training materials” means stationery, books or other written material, audio or video tapes, compact disks or floppy disks.

200G Section 200E: exclusion of expenditure if contributions not generally available to staff.

(1) Section 200E shall not apply to any expenditure incurred in respect of—
(a) the costs of any education or training provided to the employee, or
(b) any related costs,

unless the expenditure is incurred in giving effect to fair-opportunity arrangements that were in place at the time when the employer agreed to incur the expenditure.

In this subsection “related costs”, in relation to any education or training provided to the employee, has the meaning given by section 200E(3).

(2) For the purposes of subsection (1) above “fair-opportunity arrangements” are in place at any time if at that time arrangements are in place that provide—
(a) for the making of contributions by the employer to costs arising from qualifying education or training being undertaken by persons who hold, or have held, an office or employment under the employer, and
(b) for such contributions to be generally available, on similar terms, to the persons who at that time hold an office or employment under the employer.

In this subsection “qualifying education or training” has the same meaning as in section 200E.

(3) The Treasury may by regulations make provision specifying the persons or other entities under whom Crown servants are to be treated for the purposes of this section as holding office or employment; and such regulations may—
(a) deem a description of Crown servants (or two or more such descriptions taken together) to be an entity for the purposes of the regulations;
(b) make different provision for different descriptions of Crown servants.

In this subsection “Crown servant” means a person holding an office or employment under the Crown.

200H Section 200E: exclusion of expenditure otherwise relieved.

Section 200E does not apply to expenditure to the extent that—

(a) section 200B (expenditure on work-related training) applies to it, or

(b) section 588(1) (expenditure on retraining courses) has effect in respect of it.

200J Education or training funded by third parties.

(1) This section applies where—

(a) any person ("the employee") who holds, or has at any time held, an office or employment under another ("the employer") is provided by reason of that office or employment with any benefit,

(b) that benefit consists in any qualifying education or training or is provided in connection with any such education or training, and

(c) the amount which (apart from this section and sections 200E to 200H) would be included in respect of that benefit in the emoluments of the employee ("the chargeable amount") is or includes an amount that does not represent expenditure incurred by the employer.

(2) For the purposes of Schedule E, the questions whether and to what extent those emoluments shall be taken to include an amount in respect of that benefit shall be determined in accordance with sections 200E to 200H as if the benefit had been provided by means of a payment by the employer of an amount equal to the whole of the chargeable amount.

(3) In this section "qualifying education or training" has the same meaning as in section 200E.".

(2) In section 200A(3)(b) of that Act (definition of a qualifying absence from home), at the end of sub-paragraph (iv) insert ", or

(v) expenses the amount of which, having been paid or reimbursed by the person under whom he holds that office or employment, is excluded from his emoluments in pursuance of section 200E, or

(vi) expenses the amount of which would be so excluded if it were so paid or reimbursed.".

(3) This section applies for the year 2000-01 and subsequent years of assessment.

Marginal Citations

M62 2000 c. 21.

M63 2000 asp 8.

59 Cars available for private use. U.K.

Schedule 11 to this Act (which makes provision in relation to the taxation of cars available for private use) has effect for the year 2002-03 and subsequent years of assessment.

60 Provision of services through intermediary. U.K.

Schedule 12 to this Act has effect with respect to the provision of services through an intermediary.

VALID FROM 28/07/2000

Pension schemes

61 Occupational and personal pension schemes. U.K.

Schedule 13 to this Act (which makes provision in relation to occupational and personal pension schemes) has effect.

VALID FROM 28/07/2000

Enterprise incentives

62 Enterprise management incentives. U.K.

Schedule 14 to this Act (enterprise management incentives) has effect in relation to any right to acquire shares granted after the passing of this Act.

63 Corporate venturing scheme. U.K.

(1) Schedule 15 to this Act (which makes provision for the corporate venturing scheme) has effect.

(2) Schedule 16 to this Act (which makes consequential amendments) has effect.

(3) Paragraph 3(2)(a)(i) to (iii) and (3) of Schedule 16 (and paragraph 3(1) so far as it relates to those provisions) have effect—

(a) in relation to claims made under section 573 of the Taxes Act 1988, in respect of disposals on or after 1st April 2000, and

(b) in relation to claims made under section 574 of that Act, in respect of disposals on or after 6th April 2000.

(4) Subject to that, Schedules 15 and 16 apply in relation to shares issued on or after 1st April 2000 but before 1st April 2010.

64 Enterprise investment scheme: amendments. U.K.

The provisions relating to the enterprise investment scheme are amended in accordance with Schedule 17 to this Act.

In that Schedule—

Part I makes amendments reducing various periods which apply in relation to the provisions which determine the reliefs under the scheme;

Part II makes amendments about qualifying companies;

Part III makes other minor amendments.

65 Venture capital trusts: amendments. U.K.

The provisions relating to venture capital trusts are amended in accordance with Schedule 18 to this Act.

In that Schedule—

Part I makes amendments reducing various periods which apply in relation to the provisions which determine the reliefs; and

Part II makes amendments about qualifying holdings.

66 Taper relief: taper for business assets. U.K.

(1) Section 2A of the [M64] Taxation of Chargeable Gains Act 1992 (taper relief) is amended as follows.

(2) In subsection (5), for the first two columns of the table (which relate to gains on disposals of business assets) substitute—

Gains on disposals of business assets	
Number of whole years in qualifying holding period	**Percentage of gain chargeable**
1	87.5
2	75
3	50
4 or more	25

(3) For subsections (8) and (9) substitute—

"(8) The qualifying holding period of an asset for the purposes of this section is—

(a) in the case of a business asset, the period after 5th April 1998 for which the asset had been held at the time of its disposal;

(b) in the case of a non-business asset where—

(i) the time which, for the purposes of paragraph 2 of Schedule A1, is the time when the asset is taken to have been acquired by the person making the disposal is a time before 17th March 1998, and

(ii) there is no period which by virtue of paragraph 11 or 12 of that Schedule does not count for the purposes of taper relief,

the period mentioned in paragraph (a) plus one year;

(c) in the case of any other non-business asset, the period mentioned in paragraph (a).

This subsection is subject to paragraph 2(4) of Schedule A1 and paragraph 3 of Schedule 5BA.".

(4) This section applies to disposals on or after 6th April 2000.

Marginal Citations
M64 1992 c. 12.

67 Taper relief: assets qualifying as business assets. U.K.

(1) Schedule A1 to the [M65]Taxation of Chargeable Gains Act 1992 (application of taper relief) is amended as follows.

(2) In paragraph 4 (conditions for shares to qualify as business assets)—

(a) in sub-paragraph (4) (disposal by personal representatives), for the words following "if at that time" substitute " the relevant company was a qualifying company by reference to the personal representatives "; and

(b) in sub-paragraph (5) (disposal by legatee), for paragraph (b) substitute—

"(b) the relevant company was a qualifying company by reference to the personal representatives.".

(3) In paragraph 5 (conditions for other assets to qualify as business assets)—

(a) in sub-paragraph (2) (disposal by individual), for paragraphs (d) and (e) substitute—

"(d) the purposes of any office or employment held by that individual with a person carrying on a trade.";

and

(b) in sub-paragraph (3) (disposal by trustees of settlement), for paragraphs (e) and (f) substitute—

"(e) the purposes of any office or employment held by an eligible beneficiary with a person carrying on a trade.".

(4) For paragraph 6 (companies which are qualifying companies) substitute—

"6

(1) A company shall be taken to have been a qualifying company by reference to an individual at any time when—

(a) the company was a trading company or the holding company of a trading group, and

(b) one or more of the following conditions was met—

(i) the company was unlisted,

(ii) the individual was an officer or employee of the company, or of a company having a relevant connection with it, or

(iii) the voting rights in the company were exercisable, as to not less than 5%, by the individual.

(2) A company shall be taken to have been a qualifying company by reference to the trustees of a settlement at any time when—

(a) the company was a trading company or the holding company of a trading group, and

(b) one or more of the following conditions was met—

(i) the company was unlisted,

(ii) an eligible beneficiary was an officer or employee of the company, or of a company having a relevant connection with it, or

(iii) the voting rights in the company were exercisable, as to not less than 5%, by the trustees.

(3) A company shall be taken to have been a qualifying company by reference to an individual's personal representatives at any time when—

(a) the company was a trading company or the holding company of a trading group, and

(b) one or more of the following conditions was met—

(i) the company was unlisted, or

(ii) the voting rights in the company were exercisable, as to not less than 5%, by the personal representatives.".

(5) In paragraph 22(1) (interpretation), at the appropriate place insert—

""unlisted company" means a company—

(a) none of whose shares is listed on a recognised stock exchange, and

(b) which is not a 51 per cent subsidiary of a company whose shares, or any class of whose shares, is so listed;";

and omit the definitions of "full-time working officer or employee" and "qualifying office or employment".

(6) After paragraph 22 insert—

"23 **Qualifying shareholdings in joint venture companies**

(1) This Schedule has effect subject to the following provisions where a company ("the investing company") has a qualifying shareholding in a joint venture company.

(2) For the purposes of this paragraph a company is a "joint venture company" if, and only if—

(a) it is a trading company or the holding company of a trading group, and

(b) 75% or more of its ordinary share capital (in aggregate) is held by not more than five companies.

For the purposes of paragraph (b) above the shareholdings of members of a group of companies shall be treated as held by a single company.

(3) For the purposes of this paragraph a company has a "qualifying shareholding" in a joint venture company if—

(a) it holds more than 30% of the ordinary share capital of the joint venture company, or

(b) it is a member of a group of companies, it holds ordinary share capital of the joint venture company and the members of the group between them hold more than 30% of that share capital.

(4) For the purpose of determining whether the investing company is a trading company—

(a) any holding by it of shares in the joint venture company shall be disregarded, and

(b) it shall be treated as carrying on an appropriate proportion—

(i) of the activities of the joint venture company, or

(ii) where the joint venture company is the holding company of a trading group, of the activities of that group.

This sub-paragraph does not apply if the investing company is a holding company.

(5) For the purpose of determining whether the investing company is a holding company—

(a) any holding by it of shares in the joint venture company shall be disregarded, and

(b) it shall be treated as carrying on an appropriate proportion of the activities—

(i) of the joint venture company, or

(ii) where the joint venture company is the holding company of a trading group, of that group.

This sub-paragraph does not apply if the joint venture company is a 51 per cent subsidiary of the investing company.

(6) For the purpose of determining whether a group of companies is a trading group—

(a) every holding of shares in the joint venture company by a member of the group having a qualifying shareholding in that company shall be disregarded, and

(b) each member of the group having such a qualifying shareholding shall be treated as carrying on an appropriate proportion of the activities—

(i) of the joint venture company, or

(ii) where the joint venture company is the holding company of a trading group, of that group.

This sub-paragraph does not apply if the joint venture company is a member of the group.

(7) In sub-paragraphs (4)(b), (5)(b) and (6)(b) above "an appropriate proportion" means a proportion corresponding to the percentage of the ordinary share capital of the joint venture company held by the investing company or, as the case may be, by the group member concerned.

(8) The following shall be treated as having a relevant connection with each other—

(a) the investing company;

(b) the joint venture company;

(c) any company having a relevant connection with the investing company;

(d) any company having a relevant connection with the joint venture company by virtue of being—
(i) a 51 per cent subsidiary of that company, or
(ii) a member of the same commercial association of companies.

(9) The acquisition by the investing company of the qualifying shareholding shall not be treated as a relevant change of activity for the purposes of paragraph 11 above.

(10) For the purposes of this paragraph "ordinary share capital" has the meaning given by section 832(1) of the Taxes Act.".

(7) This section has effect for determining whether an asset is a business asset at any time on or after 6th April 2000.

It does not affect the determination on or after that date whether an asset was a business asset at a time before that date.

Marginal Citations
M65 1992 c. 12.

VALID FROM 28/07/2000

Research and development

68 Meaning of "research and development". U.K.

(1) Schedule 19 to this Act (meaning of "research and development") has effect.

In that Schedule—

Part I contains a new definition of "research and development" for the purposes of the Tax Acts, and

Part II contains consequential amendments.

(2) The amendments in Part II of that Schedule have effect—
(a) for the purposes of income tax and capital gains tax, in relation to the year 2000-01 and subsequent years of assessment, and
(b) for the purposes of corporation tax, for accounting periods ending on or after 1st April 2000.

69 Tax relief for expenditure on research and development. U.K.

(1) Schedule 20 to this Act (tax relief for expenditure on research and development) has effect for accounting periods ending on or after 1st April 2000.

In that Schedule—

Part I provides for entitlement to relief, Part II provides for the manner of giving effect to the relief, and

Part III contains supplementary provisions.

(2) Schedule 21 to this Act (which contains consequential amendments) has effect accordingly.

VALID FROM 28/07/2000

Capital allowances

70 First year allowances for small or medium-sized enterprises. U.K.

(1) In section 22(3D) of the [M66]Capital Allowances Act 1990 (expenditure qualifying for 40% first year allowances), for "in the period beginning with 2nd July 1998 and ending with 1st July 2000" substitute " on or after 2nd July 1998 ".

(2) In that Act—

(a) in section 22(3C)(a), (3CA)(a) and (3D)(a), for "a small company or a small business" substitute " a small or medium-sized enterprise ";

(b) in section 22A—

(i) in the sidenote, for "small company or small business",

(ii) in subsection (1) for "small company", and

(iii) in subsection (2) for "small business",

substitute " small or medium-sized enterprise ".

The amendments in this subsection are of nomenclature only.

Marginal Citations
M66 1990 c. 1.

71 First year allowances for ICT expenditure by small enterprises. U.K.

(1) In section 22 of the Capital Allowances Act 1990 (first-year allowances), after subsection (3D) insert—

"(3E) This section applies to—

(a) any expenditure on information and communications technology which, disregarding any effect of section 83(2) on the time at which it is to be treated as incurred, is incurred by a small enterprise in the period beginning with 1st April 2000 and ending with 31st March 2003; and

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

(3F) For the purposes of subsection (3E) above expenditure on information and communications technology means expenditure on items within any of the classes set out in subsection (3G) below.

(3G) The classes referred to in subsection (3F) above are as follows:

A. Computers and associated equipment

This class covers—

(a) computers,

(b) peripheral devices designed to be used by being connected to or inserted in a computer,

(c) equipment (including cabling) for use primarily to provide a data connection—

(i) between one computer and another, or

(ii) between a computer and a data communications network,

(d) dedicated electrical systems for computers.

For this purpose "computer" does not include computerised control or management systems or other systems that are part of a larger system whose principal function is not processing or storing information.

B. Other qualifying equipment

This class covers—

(a) wireless application protocol telephones,

(b) third generation mobile telephones,

(c) devices designed to be used by being connected to a television set that are capable of receiving and transmitting information from and to data networks, and

(d) other devices substantially similar to those within paragraphs (a), (b) and (c) that are capable of receiving and transmitting information from and to data networks.

This is subject to any order under subsection (3H) below.

C. Software

This class covers the right to use or otherwise deal with software for the purposes of any equipment within Class A or B above.

(3H) The Treasury may make provision by order—

(a) further defining the descriptions of equipment within Class B in subsection (3G), or

(b) adding further descriptions of equipment to that class.".

(2) In sections 22(4), (6B) and (6C), 23(6), 42(9) and 50(3) and (4A) of that Act, for "and (3D)" substitute " , (3D) and (3E) ".

(3) In sections 43(5), 44(5), 46(8) and 48(7) of that Act, for "or (3D)" substitute " , (3D) or (3E) ".

(4) In section 39(2)(a) of that Act for "to (3D)" substitute " to (3E) ".

72 Expenditure of a small enterprise. U.K.

After section 22A of the [M67]Capital Allowances Act 1990, insert—

"**22AA Expenditure of a small enterprise.**

(1) For the purposes of section 22 capital expenditure incurred by a company is capital expenditure incurred by a small enterprise if the company—

(a) qualifies as small in relation to the financial year of the company in which the expenditure is incurred, and

(b) is not a member of a large or medium-sized group at the time when the expenditure is incurred.

(2) For the purposes of section 22, capital expenditure is capital expenditure incurred by a small enterprise if—

(a) it is incurred by a business for the purposes of a trade (the "first trade") carried on by that business, and

(b) were the first trade carried on by a company (the "hypothetical company") in the circumstances set out in subsection (3) below, that company would qualify as small in relation to the financial year of that company in which the expenditure would be treated as incurred.

(3) Those circumstances are—

(a) that every trade, profession or vocation carried on by the business concerned is carried on by the business as a part of the first trade,

(b) that the financial years of the hypothetical company coincide with the chargeable periods of the business concerned, and

(c) that accounts of the hypothetical company for any relevant chargeable period were prepared in accordance with the requirements of the Companies Act 1985 as if that period were a financial year of the company.

(4) Subject to subsection (5) below, a company is a member of a large or medium-sized group at the time when any expenditure is incurred if —

(a) it is at that time the parent undertaking of a group which does not qualify as small in relation to the financial year of the parent company in which that time falls; or

(b) it is at that time a subsidiary undertaking in relation to the parent undertaking of such a group.

(5) If, at the time when any expenditure is incurred by any company any arrangements exist which are such that, had effect been given to them immediately before that time, the company or a successor of the company would, at that time, have been a member of a large or medium-sized group, this section shall have effect as if the company concerned was a member of a large or medium-sized group at that time.

(6) In this section the following expressions have the same meaning as in section 22A above: "arrangements", "business", "company", "financial year", "group", "parent undertaking" and "subsidiary undertaking".

(7) References in this section, in relation to a company, to its qualifying as small—

(a) except in the case of a company formed and registered in Northern Ireland, are references to its so qualifying, or being treated as so qualifying, for the purposes of section 247 of the M68Companies Act 1985; and

(b) in the case of a company so formed and registered, are references to a company so qualifying, or being treated as so qualifying, for the purposes of Article 255 of the Companies (Northern Ireland) Order 1986.

(8) In relation to a company with respect to which the question arises whether it is or would be a member of a large or medium-sized group, references to a group's qualifying as small—

(a) except in the case of a company formed and registered in Northern Ireland, are references to its so qualifying, or being treated as so qualifying, for the purposes of section 249 of the M69Companies Act 1985; and

(b) in the case of a company so formed and registered, are references to its so qualifying, or being treated as so qualifying, for the purposes of Article 257 of the Companies (Northern Ireland) Order 1986;

but for the purposes of this section each of those provisions shall be construed as if references, in relation to a group, to the parent company were references to the parent undertaking.

(9) For the purposes of this section a company is the successor of another if—

(a) it carries on a trade which, in whole or in part, the other company has ceased to carry on, and

(b) the circumstances are such that section 343 of the principal Act applies in relation to the two companies as the predecessor and the successor within the meaning of that section.".

Marginal Citations

M67 1990 c. 1.

M68 1985 c. 6.

M69 1985 c. 6.

73 Repeal of notification requirements. U.K.

(1) In section 118 of the M70Finance Act 1994 (notification requirements)—

(a) subsections (1) to (5) and (7) to (9) shall cease to have effect; and

(b) in subsection (6), for "the provisions mentioned in subsection (2) above" there shall be substituted—

"(a) section 25(1) of the Capital Allowances Act 1990 (meaning of qualifying expenditure for the purposes of writing-down allowances for expenditure on machinery or plant); and

(b) section 44(4) of the Finance Act 1971 (provision corresponding to section 25(1) applicable to earlier chargeable periods),".

(2) This section has effect for chargeable periods as respects which the period specified in subsection (3A) of that section ends on or after 1st April 2000.

Marginal Citations
M70 1994 c. 9.

74 Pool for certain leased assets and inexpensive cars. U.K.

(1) In section 41 of the [M71]Capital Allowances Act 1990 (writing-down allowances etc for leased assets and inexpensive cars)—

(a) in subsection (1), paragraphs (b) and (c) and the word " or " at the end of paragraph (a); and

(b) in subsection (4), paragraph (a) and, in paragraph (b), the words from "or within (1)(b) or (c)" to "subsection (1)(c)" and the words "or subsection (1)(b) or (c)",

shall cease to have effect for chargeable periods ending on or after the relevant date.

(2) Subsection (3) below applies where—

(a) immediately before the end of the relevant chargeable period, a person was treated for the purposes of sections 24, 25 and 26 of the [M72]Capital Allowances Act 1990 as having incurred expenditure on the provision of machinery or plant wholly and exclusively for the purposes of a separate trade carried on by him;

(b) the expenditure fell within subsection (1)(b) or (c) of section 41 of that Act; and

(c) qualifying expenditure in respect of the separate trade for the relevant chargeable period exceeded any disposal value brought into account in respect of that trade for that period.

(3) The balance of the excess (after the deduction of any writing-down allowances made by reference to it) shall be treated for the purposes of sections 24, 25 and 26 of the [M73]Capital Allowances Act 1990 as capital expenditure which—

(a) was incurred by that person in the relevant chargeable period on the provision of the machinery or plant for the purposes of the trade which is the actual trade for the purposes of section 41 of that Act; and

(b) does not form part of his qualifying expenditure for that period.

(4) In this section—

"the relevant chargeable period" means the chargeable period immediately preceding that which begins on or before and ends on or after the relevant date;

"the relevant date" means, subject to subsection (5) below, 6th April 2000 for the purposes of income tax and 1st April 2000 for the purposes of corporation tax.

(5) A person may, by a notice given to an officer of the Board, elect that this section shall have effect in relation to any trade carried on by him as if the relevant date were 6th April 2001 or, as the case may be, 1st April 2001.

Marginal Citations
M71 1990 c. 1.
M72 1990 c. 1.

M73 1990 c. 1.

75 Machinery and plant allowances for non-residents etc. U.K.

(1) In section 83 of the [M74]Capital Allowances Act 1990 (interpretation of Part II), after subsection (2) there shall be inserted—

"(2A) In this Part (except in Chapter V and sections 64A and 75 to 78), references—

(a) to a trade, or

(b) to activities falling in accordance with section 28A, 29 or 61 to be treated as a trade,

shall be construed as if activities were capable of being comprised in a trade, or of being treated as a trade, to the extent only that they are activities the profits or gains from which are, or (if there were any) would be, chargeable to income tax or corporation tax.".

(2) After section 79 of that Act there shall be inserted—

"79A Reduction in qualifying use.

(1) This section applies where—

(a) any expenditure falls, for the purposes of making allowances or charges, to be treated in accordance with section 79 as incurred on the provision of machinery or plant for the purposes of a notional trade;

(b) there is such a change of circumstances as would make it appropriate for any reduction falling to be made under subsection (5) of that section—

(i) for the chargeable period in which the change takes place ("the relevant chargeable period"), or

(ii) for any subsequent chargeable period,

to represent a larger proportion of the amount reduced than would have been appropriate apart from the change;

(c) no disposal value in respect of the machinery or plant would, apart from this section, fall to be brought into account for the relevant chargeable period; and

(d) the open market value of the machinery or plant at the end of the relevant chargeable period exceeds the qualifying expenditure in respect of the notional trade for that period by more than £1 million.

(2) It shall be assumed that the notional trade is permanently discontinued immediately before the end of the relevant chargeable period.

(3) Section 79(3) shall have effect as if immediately after the beginning of the following chargeable period expenditure had been incurred on the provision of the machinery or plant of an amount equal to the disposal value brought into account by virtue of subsection (2) above.

(4) In this section "open market value" has the same meaning as in section 76.".

(3) In section 81 of that Act (effect of bringing an asset into use for the purposes of a trade after it has been used for a purpose that does not attract capital allowances), after subsection (2) there shall be inserted—

"(2AA) Where—

(a) a person is treated by virtue of subsection (1)(a) above as having incurred capital expenditure on the provision of machinery or plant, and

(b) the sum which (apart from this subsection) would be taken to be the amount of that expenditure is more than the amount of capital expenditure actually incurred by that person on the provision of the machinery or plant,

the amount of the capital expenditure treated by virtue of subsection (1)(a) above as incurred on the provision of the machinery or plant shall be deemed (subject to subsection (2AB) below) to be equal to the amount actually so incurred by that person.

(2AB) Where any of the amount of capital expenditure actually incurred on the provision of the machinery or plant by the person in question would have fallen by virtue of section 75, 76 or 76A to be disregarded for the purposes of sections 24, 25 and 26 had it been in consequence of that expenditure that the machinery or plant was provided for the purposes of a trade, the references in subsection (2AA) above to that amount shall be construed as references to only so much of that expenditure as would not have fallen to be so disregarded.".

(4) In Schedule 19AC to the Taxes Act 1988 (overseas life insurance companies), in paragraph 10B (modifications of section 440), after sub-paragraph (2) there shall be inserted—

"(2A) The following subsection shall be treated as inserted after subsection (4)—

(

Section 81 of the 1990 Act (as it has effect by virtue of section 83(2A) of that Act) shall apply in relation to any case in which an asset or part of an asset held by an overseas life insurance company—

(a) ceases to be within the category set out in paragraph (h) of subsection (4) above; and

(b) at the same time comes within another of the categories set out in that subsection. ".""

(5) In section 53 of the [M75]Capital Allowances Act 1990—

(a) in subsection (1), paragraph (bb) (which, for the purposes of making allowances in respect of machinery or plant subject to equipment leasing, requires the equipment lessee to be within the charge to tax) shall cease to have effect; and

(b) in subsection (1B)(b), for "paragraphs (bb) and" there shall be substituted " paragraph ".

(6) In this section—

(a) subsections (1), (4) and (5) have effect for chargeable periods ending on or after 21st March 2000;

(b) subsection (2) has effect where the change of circumstances occurs on or after that date; and

(c) subsection (3) has effect where the condition mentioned in section 81(1)(a) of that Act is fulfilled on or after that date.

Marginal Citations

M74 1990 c. 1.

M75 1990 c. 1.

76 Production animals. U.K.

(1) Section 82 of the [M76]Capital Allowances Act 1990 (capital expenditure to which Part II does not apply) shall be renumbered as subsection (1) of that section; and after that provision as so renumbered there shall be inserted—

"(2) This Part shall not apply to capital expenditure—

(a) on animals or other creatures to which Schedule 5 to the principal Act (treatment of farm animals etc for purposes of Case I of Schedule D) applies; or

(b) on shares in such animals or creatures.".

(2) In paragraph 9(4) of Schedule 5 to the Taxes Act 1988 (treatment of farm animals etc for purposes of Case I of Schedule D), for the words from "in relation to animals" to the end there shall be substituted—

"(a) in relation to animals or other creatures kept singly as they apply in relation to herds; and

(b) in relation to shares in animals or other creatures as they apply in relation to animals or other creatures themselves.".

(3) The enactments amended by subsections (1) and (2) above shall be deemed always to have had effect with the amendments made by those subsections.

Marginal Citations

M76 1990 c. 1.

77 Sale and leaseback. U.K.

(1) After section 76A of the [M77]Capital Allowances Act 1990 insert—

"76B Special provision for sale and leaseback cases.

(1) This section applies where—

(a) subsection (1), (2) or (3) of section 75 applies by virtue of paragraph (b) (and not by virtue of paragraph (a) or (c)) of that subsection, or is treated (under one or both of sections 76(1) and 76A(1)) as so applying;

(b) the conditions set out in subsection (2) below are fulfilled; and

(c) the seller and the buyer elect that this section should apply.

(2) The conditions are—

(a) that the seller incurred capital expenditure on the provision of the machinery or plant;

(b) that the machinery or plant was new at or after the time when it was acquired by the seller;

(c) that the machinery or plant was acquired by the seller otherwise than as a result of a transaction to which section 75(1), (2) or (3) applies, or is treated (under one or both of sections 76(1) and 76A(1)) as applying;

(d) that the sale is effected not more than four months after the first occasion on which the machinery or plant is brought into use by any person for any purpose;

(e) that the seller has not—

(i) made a claim for an allowance in respect of capital expenditure incurred on the provision of the machinery or plant;

(ii) made a return in which such expenditure is taken into account in determining his qualifying expenditure for the purposes of section 24; or

(iii) given notice of any such amendment of a return as provides for such expenditure to be so taken into account.

(3) In a case where this section applies—

(a) no allowance shall be made to the seller under this Act in respect of the capital expenditure incurred on the provision of the machinery or plant, or any additional VAT liability incurred in respect of it;

(b) the whole amount of that expenditure, and any such liability, shall be left out of account in determining the amount for any period of the seller's qualifying expenditure under section 25;

(c) section 76(2) shall have effect as if paragraph (a) were omitted; and

(d) section 76A shall have effect as if subsection (5) were omitted.

(4) An election under this section shall be made by notice to an officer of the Board not more than two years after the time of the sale.

(5) An election under this section shall be irrevocable once made; and nothing in—

(a) section 42 of, or Schedule 1A to, the [M78]Taxes Management Act 1970 (claims and elections for income tax purposes); or

(b) paragraphs 54 to 60 of Schedule 18 to the [M79]Finance Act 1998 (claims and elections for corporation tax purposes),

shall apply to such an election.

(6) In this section, in a case where section 75(2) applies or is treated as applying, "the seller" means the owner of the machinery or plant, "the buyer" means the person entering into the contract and "the sale" means the making of the contract.

(7) In this section, in a case where section 75(3) applies or is treated as applying—

(a) "the seller" means the assignor, "the buyer" means the assignee and "the sale" means the assignment; and

(b) references to the machinery or plant being acquired by the seller shall be construed as references to the contract being entered into by the assignor.

(8) In this section "return" means any return required to be made under the M80Taxes Management Act 1970 for income tax or corporation tax purposes.".

(2) In subsections (1), (2) and (3) of section 75 of that Act, after "76A" there shall be inserted " , 76B ".

Marginal Citations

M77 1990 c. 1.

M78 1970 c. 9.

M79 1988 c. 36.

M80 1970 c. 9.

78 Meaning of "fixture". U.K.

(1) Section 51 of the M81Capital Allowances Act 1990 (application and interpretation of Chapter VI: plant and machinery: fixtures) is amended as follows.

(2) In subsection (1) for the words from the beginning to "other land" substitute—

"(1) This Chapter applies to determine entitlement to allowances under this Part in respect of expenditure on the provision of machinery or plant that is, or becomes, a fixture;".

(3) In subsection (2) (definitions), for the definition of "fixture" substitute—

""fixture", subject to subsection (2A) below, means machinery or plant that is so installed or otherwise fixed in or to a building or other description of land as to become, in law, part of that building or other land;".

(4) After subsection (2), insert—

"(2A) In this Chapter—

"fixture" includes any boiler, or water-filled radiator, installed in a building as part of a space or water heating system; and

"relevant land", in relation to such a fixture, means the building in which it is so installed.".

(5) For subsection (8) substitute—

"(8) Nothing in this Chapter affects the entitlement of any person to an allowance by virtue of section 154 (allowances in respect of contributions to capital expenditure).".

(6) The amendments in this section shall be deemed always to have had effect.

Marginal Citations
M81 1990 c. 1.

79 Leased assets under the Affordable Warmth Programme. U.K.

(1) In section 53 of the [M82]Capital Allowances Act 1990 (fixtures: expenditure incurred by equipment lessor), after subsection (1C) insert—

"(1D) Where the conditions in subsection (1E) below are satisfied in any case, subsection (1) above shall have effect as if the following were omitted, that is to say—

(a) in paragraph (b), the words from "for the purposes of" to "by the equipment lessee", and

(b) paragraphs (ba), (bb) and (d).

(1E) Those conditions are—

(a) that the machinery or plant consists of a boiler, heat exchanger, radiator or heating control that is installed in a building as part of a space or water heating system; and

(b) that the agreement for the lease is approved for the purposes of this section as entered into as part of the Affordable Warmth Programme.

(1F) The approval mentioned in subsection (1E)(b) above may be given, with the consent of the Treasury—

(a) by the Secretary of State;

(b) in the case of buildings in Scotland, by the Scottish Ministers;

(c) in the case of buildings in Wales, by the National Assembly for Wales;

(d) in the case of buildings in Northern Ireland, by the Department for Social Development in Northern Ireland.

(1G) Where any such approval is withdrawn—

(a) the approval shall be treated for the purposes of subsection (1E)(b) above as never having had effect, and

(b) all such assessments and adjustments of assessments shall be made as are necessary in consequence of the withdrawal of the approval.

(1H) Where a person who has made a return becomes aware that anything contained in the return has, after being made, become incorrect by reason of the withdrawal of any such approval, he shall, within three months of first becoming so aware, give notice to an officer of the Board of the amendments required to his return in consequence of the withdrawal of approval.".

(2) In the second column of the table in section 98 of the [M83]Taxes Management Act 1970 (penalty for failure to provide information etc.), in the entry relating to requirements imposed by provisions of the [M84]Capital Allowances Act 1990, for "and 51(6A)" substitute " 51(6A) and 53(1H) ".

(3) This section has effect in relation to expenditure incurred after the passing of this Act and before 1st January 2008.

Marginal Citations
M82 1990 c. 1.
M83 1970 c. 9.
M84 1990 c. 1.

80 Fixtures and machinery and plant on hire-purchase etc. U.K.

(1) In section 60 of the [M85]Capital Allowances Act 1990 (machinery and plant on hire-purchase etc.), after subsection (3) insert—

"(4) This section has effect subject to section 60A below.".

(2) After that section insert—

"60A Machinery and plant on hire-purchase etc.: fixtures.

(1) Section 60 does not—
(a) apply to expenditure incurred on machinery or plant that is a fixture, or
(b) prevent Chapter VI of this Part (fixtures) applying in relation to expenditure on machinery or plant incurred under such a contract as is mentioned in subsection (1) of that section.

(2) If machinery or plant that is treated as belonging to a person under section 60 becomes a fixture, then, unless it is treated under Chapter VI of this Part as belonging to that person, it shall be treated for the purposes of this Part as ceasing to belong to him at the time when it becomes a fixture.

(3) In this section "fixture" has the same meaning as in Chapter VI of this Part.".

(3) In section 60A of that Act (as inserted by subsection (2) above)—
(a) subsection (1) shall be deemed always to have had effect, and
(b) subsection (2) does not apply where the machinery or plant concerned became a fixture (within the meaning of that section) before the passing of this Act.

Marginal Citations
M85 1990 c. 1.

81 Production sharing contracts. U.K.

(1) After section 64 of the [M86]Capital Allowances Act 1990 insert—

"64A Production sharing contracts.

(1) Subsection (2) below applies where—
(a) a person ("the contractor") is entitled to an interest in a contract made with, or with the authorised representative of, the government of a country or territory in which oil is or may be produced;

(b) the contract provides (among other things) that any machinery or plant of a description specified in the contract which—
(i) is provided by the contractor; and
(ii) is used for qualifying purposes under the contract,

shall (whether immediately or at some later time) be transferred to the government or representative;

(c) the contractor incurs capital expenditure on the provision of machinery or plant of a description so specified which, for the purposes of a trade of oil extraction carried on by him, is to be used for qualifying purposes under the contract;

(d) the amount of that expenditure is commensurate with the value of the contractor's interest under the contract; and

(e) in accordance with the provision mentioned in paragraph (b) above, the machinery or plant is transferred to the government or representative.

(2) The machinery or plant shall, notwithstanding the transfer and subject to subsection (6) below, be deemed for the purposes of this Part to belong to the contractor (and not to any other person) until such time as it—
(a) ceases to belong to the government or representative; or
(b) ceases to be used, or held for use, by any person under the contract.

(3) Subsection (4) below applies where, in a case falling within subsection (1)(a) and (b) above—
(a) a person ("the participator") acquires an interest in the contract, whether from the contractor or from another person who has acquired it (directly or indirectly) from the contractor;
(b) the participator incurs capital expenditure on the provision of machinery or plant which, for the purposes of a trade of oil extraction carried on by him, is to be used for qualifying purposes under the contract;
(c) the amount of that expenditure is commensurate with the value of the participator's interest under the contract; and
(d) in accordance with the provision mentioned in subsection (1)(b) above, the machinery or plant is transferred to the government or representative.

(4) The machinery or plant shall, notwithstanding the transfer and subject to subsection (6) below, be deemed for the purposes of this Part to belong to the participator (and not to any other person) until such time as it—
(a) ceases to belong to the government or representative; or
(b) ceases to be used, or held for use, by any person under the contract.

(5) Subsections (6) to (9) below apply where, in a case falling within subsection (1)(a) and (b) above—
(a) a person ("the participator") acquires an interest in the contract, whether from the contractor or from another person who has acquired it (directly or indirectly) from the contractor; and
(b) some of the expenditure incurred by the participator to acquire his interest in the contract is attributable to machinery or plant which—

(i) is deemed by subsection (2) above to belong to the contractor; or

(ii) is deemed by subsection (4) above or subsection (6) below to belong to another person ("the other participator").

(6) The machinery or plant shall, subject to any subsequent application of this subsection, be deemed for the purposes of this Part to belong to the participator (and not to any other person) until such time as it—

(a) ceases to belong to the government or representative; or

(b) ceases to be used, or held for use, by any person under the contract.

(7) The contractor or, as the case may be, the other participator shall be deemed for the purposes of this Part to have disposed of the machinery or plant for a consideration equal to the expenditure attributable as mentioned in subsection (5)(b) above.

(8) The participator shall be deemed for the purposes of this Part to have incurred, on the provision of the machinery or plant, capital expenditure of an amount which, subject to subsection (9) below, is equal to the expenditure so attributable.

(9) There shall be disregarded for the purposes of this Part so much (if any) of the expenditure deemed to be incurred by the participator on the provision of the machinery or plant as exceeds any disposal value which falls to be brought into account by the contractor or, as the case may be, the other participator by reason of his deemed disposal of the machinery or plant.

(10) In determining for the purposes of this Part the expenditure which is attributable as mentioned in subsection (5)(b) above, regard shall be had to what is just and reasonable in all the circumstances.

(11) For the purposes of this section machinery or plant is used for qualifying purposes if it is used—

(a) to explore for, win access to or extract oil;

(b) for the initial storage or treatment of oil; or

(c) for other purposes ancillary to the extraction of oil.

(12) In this section "oil" has the same meaning as in section 196 of the [M87]Taxation of Chargeable Gains Act 1992.".

(2) In section 26(1) of the [M88]Capital Allowances Act 1990 (disposal value), for the word "and" at the end of paragraph (ee) there shall be substituted—

"(ef) if that event is a deemed disposal of the machinery or plant which arises solely by virtue of subsection (2), (4) or (6) of section 64A and capital compensation is received by the contractor or participator (within the meaning of that subsection), equals the amount of that compensation;

(eg) if that event is such a deemed disposal and no such compensation is so received, equals nil; and".

(3) This section has effect where the capital expenditure—

(a) is incurred on or after 21st March 2000; or

(b) is treated as incurred by virtue of section 81(1)(a) of the [M89]Capital Allowances Act 1990 and the condition mentioned in that provision is fulfilled on or after that date.

Marginal Citations

M86 1990 c. 1.
M87 1992 c. 12.
M88 1990 c. 1.
M89 1990 c. 1.

VALID FROM 28/07/2000

Tonnage tax

82 Tonnage tax. U.K.

Schedule 22 to this Act (tonnage tax) has effect.

VALID FROM 28/07/2000

Other relieving provisions

83 Relief for interest on loans to buy annuities. U.K.

(1) In section 365(3) of the Taxes Act 1988 (loans to buy annuities)—

(a) for the words "the qualifying maximum for the year of assessment", in the first place where they occur, there shall be substituted the words " the sum of £30,000 "; and

(b) for those words, in the second place where they occur, there shall be substituted the words " that sum ".

(2) In section 353(1G) of that Act (percentage of interest eligible for relief), for the words from "the percentage" to the end there shall be substituted " 23 per cent. ".

(3) In section 369(1A) of that Act (deductible percentage where interest payable under deduction of tax), for the words from "the percentage" to the end there shall be substituted " 23 per cent. ".

(4) This section has effect in relation to payments of interest made on or after 6th April 2000.

84 Exemption of payments under New Deal 50plus. U.K.

(1) This section applies to—

(a) the scheme under section 2(2) of the [M90]Employment and Training Act 1973 known as "New Deal 50plus", and

(b) the corresponding scheme under section 1 of the [M91]Employment and Training Act (Northern Ireland) 1950.

(2) A payment to a person as a participant in the scheme by way of an employment credit or training grant under the scheme is exempt from income tax and, accordingly, shall be disregarded in computing the amount of any receipts brought into account for income tax purposes.

(3) This section applies to any such payment made on or after 25th October 1999.

Marginal Citations

M90 1973 c. 50.

M91 1950 c. 29 (N.I.).

85 Exemption of payments under Employment Zones programme. U.K.

(1) A payment to a person as a participant in an employment zone programme is exempt from income tax and, accordingly, shall be disregarded in computing the amount of any receipts brought into account for income tax purposes.

(2) An "employment zone programme" means an employment zone programme established for an area or areas designated under section 60 of the [M92]Welfare Reform and Pensions Act 1999.

(3) This section applies to any such payment made on or after 6th April 2000.

Marginal Citations

M92 1999 c. 30.

86 Loan where return bears inverse relationship to results. U.K.

(1) In section 209 of the Taxes Act 1988 (meaning of "distribution"), after subsection (3A) insert—

"(3B) For the purposes of subsection (2)(e)(iii) above the consideration given by the company for the use of the principal secured shall not be treated as being to any extent dependent on the results of the company's business or any part of it by reason only of the fact that the terms of the security provide—

(a) for the consideration to be reduced in the event of the results improving, or

(b) for the consideration to be increased in the event of the results deteriorating."This subsection applies to payments made on or after 21st March 2000.

(2) In Schedule 18 to the Taxes Act 1988 (group relief: equity holders and profits available for distribution), in paragraph 1(5E)—

(a) in paragraph (a), after "improving" insert " , or for the rate of interest to be increased in the event of the results of the company's business or any part of it deteriorating "; and

(b) in paragraph (b), after "increasing" insert " , or for the rate of interest to be increased in the event of the value of any of the company's assets diminishing ".

This subsection applies for the purposes of determining whether, at any time on or after 21st March 2000, a loan is a normal commercial loan for the purposes of paragraph 1(1)(b) of Schedule 18 to the Taxes Act 1988.

87 Tax treatment of acquisition, disposal or revaluation of certain rights. U.K.

Schedule 23 to this Act has effect with respect to the treatment of amounts relating to the acquisition, disposal or revaluation of—

(a) licences granted under section 1 of the [M93]Wireless Telegraphy Act 1949 in accordance with regulations made under section 3 of the [M94]Wireless Telegraphy Act 1998 (bidding for licences),
(b) indefeasible rights to use a telecommunications cable system, or
(c) rights derived, directly or indirectly, from a right within paragraph (a) or (b).

Marginal Citations

M93 1949 c. 54.
M94 1998 c. 6.

88 Contributions to local enterprise agencies, etc. U.K.

In sections 79(11) and 79A(7) of the Taxes Act 1988 (relief for contributions to local enterprise agencies, business links and similar organisations: time limits), the words "and before 1st April 2000" shall cease to have effect.

89 Waste disposal: entitlement of successor to allowances. U.K.

In Chapter V of Part IV of the Taxes Act 1988 (provisions relating to the Schedule D charge: deductions), after section 91B (waste disposal: site preparation), insert—

"91BA Waste disposal: entitlement of successor to allowances.

(1) This section applies where—
(a) site preparation expenditure has been incurred in relation to a waste disposal site,
(b) that expenditure was incurred by a person in the course of carrying on a trade, and
(c) on or after 21st March 2000—
(i) that person ("the predecessor") ceases to carry on that trade, or ceases to carry it on so far as it relates to that site, and
(ii) another person ("the successor") begins to carry on that trade, or to carry on in the course of a trade the activities formerly carried on by the predecessor in relation to that site.

(2) If the conditions specified in the following provisions of this section are met, then, for the purposes of section 91B above—

(a) the trade carried on by the successor shall be treated as the same trade as that carried on by the predecessor, and

(b) allowances shall be made to the successor (and not to the predecessor) as if everything done to or by the predecessor had been done to or by the successor.

(3) The first condition is that the whole of the site in question is transferred to the successor.

Provided the successor holds an estate or interest in the whole of the site, it need not be the same as that held by the predecessor.

(4) The second condition is that the successor, at the time he first deposits waste material at the site, holds a relevant licence in respect of the site which is then in force.

(5) Expressions used in this section have the same meaning as in section 91B.”.

VALID FROM 28/07/2000

Capital gains tax: gifts and trusts

90 Restriction of gifts relief. U.K.

(1) In section 165(1) of the [M95]Taxation of Chargeable Gains Act 1992 (relief for gifts of business assets), in the closing words (which list the provisions restricting relief), for “sections 166 and 167" substitute “ sections 166, 167 and 169 ”.

(2) In section 260(1) of that Act (gifts on which inheritance tax is chargeable etc.), in the closing words (which list the provisions restricting relief), for “section 261" substitute “ sections 169 and 261 ”.

(3) In section 165(2)(b)(i) of, and paragraph 2(2)(b)(i) of Schedule 7 to, that Act (shares or securities in respect of which gifts relief may be claimed), for “neither listed on a recognised stock exchange nor dealt in on the Unlisted Securities Market" substitute “ not listed on a recognised stock exchange ”.

(4) In section 165(3)(b) of that Act (disposals of shares or securities excepted from gifts relief), after “shares or securities," insert “ the transferee is a company or ”.

(5) This section has effect in relation to disposals made on or after 9th November 1999.

Marginal Citations

M95 1992 c.12.

91 Disposal of interest in settled property: deemed disposal of underlying assets. U.K.

(1) After section 76 of the M96Taxation of Chargeable Gains Act 1992, insert—

"76A Disposal of interest in settled property: deemed disposal of underlying assets.

Schedule 4A to this Act has effect with respect to disposals for consideration of an interest in settled property.".

(2) After Schedule 4 to that Act insert the Schedule 4A set out in Schedule 24 to this Act.

(3) This section applies to any disposal of an interest in settled property made, or the effective completion of which falls, on or after 21st March 2000.

Expressions used in this subsection have the same meaning as in Schedule 4A to the M97Taxation of Chargeable Gains Act 1992.

Marginal Citations

M96 1992 c. 12.

M97 1992 c. 12.

92 Transfers of value by trustees linked with trustee borrowing. U.K.

(1) After section 76A of the M98Taxation of Chargeable Gains Act 1992 (inserted by section 91(1) above), insert—

"76B Transfers of value by trustees linked with trustee borrowing.

Schedule 4B to this Act has effect with respect to transfers of value by trustees that are, in accordance with the Schedule, treated as linked with trustee borrowing.".

(2) After Schedule 4A to that Act (inserted by section 91(2) above), insert the Schedule 4B set out in Schedule 25 to this Act.

(3) After section 85 of that Act, insert—

"85A Transfers of value: attribution of gains to beneficiaries.

Schedule 4C to this Act has effect with respect to the attribution to beneficiaries of gains accruing under Schedule 4B.".

(4) After Schedule 4B to the M99Taxation of Chargeable Gains Act 1992 (inserted by subsection (2) above), insert the Schedule 4C set out in Part I of Schedule 26 to this Act.

The consequential amendments in Part II of Schedule 26 to this Act have effect.

(5) The provisions of this section have effect in relation to any transfer of value in relation to which the material time is on or after 21st March 2000.

The expressions "transfer of value" and "material time" have the same meaning in this subsection as in Schedule 4B to the [M100]Taxation of Chargeable Gains Act 1992.

Marginal Citations
M98 1992 c. 12.
M99 1992 c. 12.
M100 1992 c. 12.

93 Restriction on set-off of trust losses. U.K.

(1) After section 79 of the [M101]Taxation of Chargeable Gains Act 1992, insert—

"79A Restriction on set-off of trust losses.

(1) This section applies to a chargeable gain accruing to the trustees of a settlement where—

(a) in computing the gain, the allowable expenditure is reduced in consequence, directly or indirectly, of a claim to gifts relief in relation to an earlier disposal to the trustees;

(b) the transferor on that earlier disposal, or any person connected with the transferor, has at any time—

(i) acquired an interest in the settled property, or

(ii) entered into an arrangement to acquire such an interest; and

(c) in connection with that acquisition or arrangement any person has at any time received, or become entitled to receive, any consideration.

(2) Where this section applies to a chargeable gain, no allowable losses accruing to the trustees (in the year in which the gain accrues or any earlier year) may be set against the gain.

This applies to the whole of the chargeable gain (and not just the element deferred as a result of the claim to gifts relief).

(3) In this section—

(a) "gifts relief" means relief under section 165 or 260; and

(b) references to losses not being allowed to be set against a chargeable gain are to the losses not being allowed as a deduction against chargeable gains to the extent that they include that gain.

(4) The references in subsection (1)(b) above to an interest in settled property have the same meaning as in Schedule 4A.".

(2) This section applies to gains accruing on or after 21st March 2000.

Marginal Citations
M101 1992 c. 12.

94 Attribution to trustees of gains of non-resident companies. U.K.

(1) After section 79A of the [M102]Taxation of Chargeable Gains Act 1992 (inserted by section 93 above), insert—

"79B Attribution to trustees of gains of non-resident companies.

(1) This section applies where trustees of a settlement are participators—

(a) in a close company, or

(b) in a company that is not resident in the United Kingdom but would be a close company if it were resident in the United Kingdom.

For this purpose "participator" has the same meaning as in section 13.

(2) Where this section applies, nothing in any double taxation relief arrangements shall be read as preventing a charge to tax arising by virtue of the attribution to the trustees under section 13, by reason of their participation in the company mentioned in subsection (1) above, of any part of a chargeable gain accruing to a company that is not resident in the United Kingdom.

(3) Where this section applies and—

(a) a chargeable gain accrues to a company that is not resident in the United Kingdom but would be a close company if it were resident in the United Kingdom, and

(b) all or part of the chargeable gain is treated under section 13(2) as accruing to a close company which is not chargeable to corporation tax in respect of the gain by reason of double taxation relief arrangements, and

(c) had the company mentioned in paragraph (b) (and any other relevant company) not been resident in the United Kingdom, all or part of the chargeable gain would have been attributed to the trustees by reason of their participation in the company mentioned in subsection (1) above,

section 13(9) shall apply as if the company mentioned in paragraph (b) above (and any other relevant company) were not resident in the United Kingdom.

(4) The references in subsection (3) above to "any other relevant company" are to any other company which if it were not resident in the United Kingdom would be a company in relation to which section 13(9) applied with the result that all or part of the chargeable gain was attributed to the trustees as mentioned in that subsection.".

(2) This section applies where a chargeable gain accrues on or after 21st March 2000 to a company that is not resident in the United Kingdom.

Marginal Citations

M102 1992 c. 12.

95 Disposal of interest in non-resident settlement. U.K.

(1) Section 85 of the [M103]Taxation of Chargeable Gains Act 1992 (disposal of interest in non-resident settlements) is amended as follows.

(2) In subsection (2) (market value uplift for interest where trustees become non-resident) for "Subject to subsections (4) and (9) below," substitute " Subject to subsections (4), (9) and (10) below, ".

(3) In subsection (5) (market value uplift for interest where trustees become treaty non-resident), at the beginning insert " Subject to subsection (10) below, ".

(4) After subsection (9) add—

"(10) Subsection (3) or (7) above does not apply to the disposal of an interest created by or arising under a settlement which has relevant offshore gains at the material time.

The material time is—

(a) in relation to subsection (3) above, the relevant time within the meaning of section 80;

(b) in relation to subsection (7) above, the time found under subsection (8) above.

(11) For the purposes of subsection (10) above, a settlement has relevant offshore gains at any time if, were the year of assessment to end at that time, there would be an amount of trust gains which by virtue of section 89(2) or paragraph 8(3) of Schedule 4C would be available to be treated as chargeable gains accruing to any beneficiaries of the settlement receiving capital payments in the following year of assessment.".

(5) This section applies where the material time (within the meaning of section 85(10) of the [M104]Taxation of Chargeable Gains Act 1992, inserted by subsection (4) above) falls on or after 21st March 2000.

Marginal Citations
M103 1992 c. 12.
M104 1992 c. 12.

96 Payments by trustees to non-resident companies. U.K.

(1) In section 96(5) of the [M105]Taxation of Chargeable Gains Act 1992 (capital payments by trustees to non-resident company), in the opening words (which refer to the persons by whom the company is controlled), omit "and each of them is then resident or ordinarily resident in the United Kingdom".

(2) This section applies to payments received on or after 21st March 2000.

Marginal Citations
M105 1992 c. 12.

VALID FROM 28/07/2000

Groups and group relief

97 Group relief for non-resident companies etc. U.K.

Schedule 27 to this Act has effect.

In that Schedule—

Part I makes amendments of Chapter IV of Part X of the Taxes Act 1988 (group relief), and

Part II contains consequential amendments.

98 Recovery of tax payable by non-resident company. U.K.

(1) Schedule 28 to this Act has effect with respect to the recovery of unpaid corporation tax payable by a company not resident in the United Kingdom.

(2) The provisions of that Schedule have effect in relation to corporation tax for accounting periods ending on or after 1st April 2000.

99 Joint arrangements for claims. U.K.

In paragraph 77 of Schedule 18 to the [M106]Finance Act 1998 (power to make provision by regulations about joint arrangements for group relief), in sub-paragraph (1)(a) (arrangements permitting claim for relief without copy of notice of consent to surrender), after “the surrendering company" insert “ , provided authority for the claim being so made is given by a company which is authorised in relation to the claimant company as mentioned in paragraph (b) ”.

Marginal Citations
M106 1998 c. 36.

100 Limit on amount of group relief in case of consortium claim. U.K.

(1) For section 403C of the Taxes Act 1988 (special rules for consortium cases) substitute—

“**403C Amount of relief in consortium cases.**

(1) In the case of a consortium claim the amount that may be set off against the total profits of the claimant company is limited by this section.

(2) Where the claimant company is a member of the consortium, the amount that may be set off against the total profits of that company for the overlapping period is limited to the relevant fraction of the surrenderable amount.

That fraction is whichever is the lowest in that period of the following percentages—

(a) the percentage of the ordinary share capital of the surrendering company that is beneficially owned by the claimant company;
(b) the percentage to which the claimant company is beneficially entitled of any profits available for distribution to equity holders of the surrendering company; and
(c) the percentage to which the claimant company would be beneficially entitled of any assets of the surrendering company available for distribution to its equity holders on a winding-up.

If any of those percentages have fluctuated in that period, the average percentage over the period shall be taken.

(3) Where the surrendering company is a member of the consortium, the amount that may be set off against the total profits of the claimant company for the overlapping period is limited to the relevant fraction of the claimant company's total profits for the overlapping period.

That fraction is whichever is the lowest in that period of the following percentages—
(a) the percentage of the ordinary share capital of the claimant company that is beneficially owned by the surrendering company;
(b) the percentage to which the surrendering company is beneficially entitled of any profits available for distribution to equity holders of the claimant company; and
(c) the percentage to which the surrendering company would be beneficially entitled of any assets of the claimant company available for distribution to its equity holders on a winding-up.

If any of those percentages have fluctuated in that period, the average percentage over the period shall be taken.

(4) In any case where the claimant or surrendering company is a subsidiary of a holding company which is owned by a consortium, for the references in subsection (2) or (3) above to the claimant or surrendering company there shall be substituted references to the holding company.

(5) Expressions used in this section and in section 403A have the same meanings in this section as in that section.

(6) Schedule 18 has effect for supplementing this section.".

(2) In section 406(6) of the Taxes Act 1988 (claims relating to losses etc. of consortium company or group member), for "accounting period in respect of which the member's share in the consortium" substitute " overlapping period in respect of which the relevant fraction ".

(3) The following provisions shall cease to have effect—
(a) in section 402(4) of the Taxes Act 1988, the words from "if the share in the consortium" to "is nil or"; and
(b) in section 413 of that Act, subsections (8) and (9).

(4) In Schedule 18 to the Taxes Act 1988—
(a) in paragraphs 1(1), 2(1), 3(1), 4(3) and (4), 5A(3) and (4), 5C(3) and (4), 5D(3) and (4), 5E(3) and (4) and 6, for "section 413(7) to (9)" substitute " sections 403C and 413(7) "; and

(b) in paragraph 7(1)(b), for "subsection (8) of that section" substitute " section 403C ".

(5) The amendments in this section shall be deemed always to have had effect.

101 Notional transfers within groups of companies. U.K.

(1) After section 171 of the M107Taxation of Chargeable Gains Act 1992 insert—

"**171A Notional transfers within a group.**

(1) This section applies where—

(a) two companies ("A" and "B") are members of a group of companies; and

(b) A disposes of an asset to a person who is not a member of the group ("C").

(2) Subject to subsections (3) and (4) below, A and B may, by notice in writing to an officer of the Board, jointly elect that, for the purposes of corporation tax on chargeable gains—

(a) the asset, or any part of it, shall be deemed to have been transferred by A to B immediately before the disposal to C;

(b) section 171(1) shall be deemed to have applied to that transfer; and

(c) the disposal of the asset or part to C shall be deemed to have been made by B.

(3) No election may be made under subsection (2) above unless section 171(1) would have applied to an actual transfer of the asset or part from A to B.

(4) An election under that subsection must be made before the second anniversary of the end of the accounting period of A in which the disposal to C was made.

(5) Any payment by A to B, or by B to A, in pursuance of an agreement between them in connection with the election—

(a) shall not be taken into account in computing profits or losses of either company for corporation tax purposes, and

(b) shall not for any purposes of the Corporation Tax Acts be regarded as a distribution or a charge on income,

provided it does not exceed the amount of the chargeable gain or allowable loss that is treated, as a result of the disposal, as accruing to B.".

(2) This section has effect in relation to disposals made on or after 1st April 2000.

Marginal Citations

M107 1992 c. 12.

102 Chargeable gains: non-resident companies and groups etc. U.K.

Schedule 29 to this Act has effect.

In that Schedule—

Part I makes provision with respect to the application of the [M108]Taxation of Chargeable Gains Act 1992 to companies not resident in the United Kingdom and groups of companies etc,

Part II contains minor and consequential amendments, and

Part III contains transitional provisions.

Marginal Citations
M108 1992 c. 12.

VALID FROM 28/07/2000

International matters

103 Double taxation relief. U.K.

Schedule 30 to this Act (double taxation relief) shall have effect.

104 Controlled foreign companies. U.K.

Schedule 31 to this Act (which makes provision in relation to controlled foreign companies) shall have effect.

105 Corporation tax: use of currencies other than sterling. U.K.

(1) For sections 92 to 95 of the [M109]Finance Act 1993 there shall be substituted—

"**92 The basic rule: sterling to be used.**

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

(2) In this section—

"losses" includes management expenses and any allowances falling to be made under section 28 or 61(1) of the [M110]Capital Allowances Act 1990;

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

93 Use of currency other than sterling.

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

(2) The first condition is that—

(a) the accounts of the company as a whole are prepared in a currency other than sterling in accordance with normal accounting practice; and
(b) in the case of a company which is not resident in the United Kingdom, the company makes a return of accounts for its branch in the United Kingdom prepared in such a currency in accordance with such practice.

(3) The second condition is that—
(a) the accounts of the company as a whole are prepared in sterling but, so far as relating to the business, they are prepared, using the closing rate/net investment method, from financial statements prepared in a currency other than sterling; or
(b) in the case of a company which is not resident in the United Kingdom, the company makes a return of accounts for its branch in the United Kingdom prepared in sterling but, so far as relating to the business, it is prepared, using that method, from financial statements prepared in such a currency.

(4) The profits or losses of the business for an accounting period shall for the purposes of corporation tax be found by—
(a) taking the amount of all the profits and losses of the business for the period computed and expressed in the relevant foreign currency;
(b) taking account of any of the following which are so computed and expressed—
(i) any management expenses brought forward under section 75(3) of the Taxes Act 1988 from an earlier accounting period;
(ii) any losses of the business brought forward under section 392B or 393 of that Act from such a period; and
(iii) any non-trading deficits on loan relationships brought forward under section 83 of the [M111]Finance Act 1996 from the previous accounting period; and
(c) taking the sterling equivalent of the amount found by applying paragraphs (a) and (b) above.

(5) In the application of section 22B, 34, 35, 38C, 38D or 79A of the [M112]Capital Allowances Act 1990 for the purposes of subsection (4)(a) or (b) above, it shall be assumed that any sterling amount mentioned in any of those sections is its equivalent expressed in the relevant foreign currency.

(6) Where in an accounting period—
(a) a company carries on different parts of a business through different branches (whether within or outside the United Kingdom); and
(b) this section would apply differently in relation to different parts if they were separate businesses,

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

(7) In this section, unless the context otherwise requires—
"accounts", in relation to a company, means—

(a) the annual accounts of the company prepared in accordance with Part VII of the M113Companies Act 1985 or Part VIII of the M114Companies (Northern Ireland) Order 1986; or

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

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

"branch" includes any collection of assets and liabilities;

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

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

"losses" has the same meaning as in section 92 above except that it does not include allowable losses within the meaning of the M115Taxation of Chargeable Gains Act 1992;

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

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

"return of accounts", in relation to a branch in the United Kingdom, means a return of such accounts of the branch as may be required by the Inland Revenue under paragraph 3 of Schedule 18 to the Finance Act 1998 (company tax returns, assessments and related matters).

94 Rules for ascertaining currency equivalents.

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

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

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

(2) The conditions are—

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

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

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

(4) The following—

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

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

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

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

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

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

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

(7) Where—

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

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

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

(8) In this section—

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

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

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

"the relevant day" means—

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

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

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

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

(10) Nothing in paragraph 88 of Schedule 18 to the [M116]Finance Act 1998 (company tax returns, assessments and related matters) shall be taken to prevent any amount which is taken to be conclusively determined for the purposes of the Corporation Tax Acts from being translated under this section by reference to an exchange rate which was not used to determine the amount which can no longer be altered.".

(2) Where any of the items referred to in section 93(4)(b) of the [M117]Finance Act 1993 (as substituted by subsection (1) above) fall to be taken into account in the first accounting period in relation to which this section has effect, the amounts of those items shall be computed and expressed in the relevant currency by reference to the London closing exchange rate for the last day of the immediately preceding accounting period.

(3) Where any of the items referred to in section 25(1) of the [M118]Capital Allowances Act 1990 which fall to be taken into account for the first accounting period in relation to which this section has effect relate to expenditure which was incurred before the beginning of that period, the amounts of those items shall be computed and expressed in the relevant currency by reference to the London closing exchange rate for the last day of the immediately preceding accounting period.

(4) Subject to subsection (5) below, this section has effect for accounting periods beginning on or after 1st January 2000 and ending on or after 21st March 2000.

(5) Any company which did not, for the accounting period immediately preceding the first accounting period falling within subsection (4) above, make an election in respect of a trade or part of a trade under the Local Currency Elections Regulations 1994 may, by notice given to an officer of the Board on or before 31st August 2000, elect that this section shall not have effect in relation to it until the first accounting period beginning on or after 1st July 2000.

Marginal Citations

M109 1993 c. 34.
M110 1990 c. 1.
M111 1996 c. 8.
M112 1990 c. 1.
M113 1985 c. 6.
M114 S.I. 1986/1032 (N.I.6).
M115 1992 c. 12.
M116 1998 c. 36.
M117 1993 c. 34.

M118 1990 c. 1.

106 Foreign exchange gains and losses: use of local currency. U.K.

(1) In subsection (2) of section 149 of the [M119]Finance Act 1993 (local currency to be used)—

(a) for "trade or trades", in both places where they occur, there shall be substituted " business or businesses "; and

(b) for "any such trade" there shall be substituted " any such business ".

(2) In subsection (4) of that section—

(a) the words "the asset or contract was held, or the liability was owed, by the company solely for trading purposes and" shall cease to have effect; and

(b) for "sections 125 to 128" there shall be substituted " sections 125 to 129 ".

(3) In subsection (5) of that section—

(a) the words "the asset or contract was held, or the liability was owed, by the company solely for trading purposes and" shall cease to have effect;

(b) for "sections 125 to 128" there shall be substituted " sections 125 to 129 "; and

(c) for "trade", in both places where it occurs, there shall be substituted " business ".

(4) For subsection (6) of that section there shall be substituted—

"(6) In any other case—

(a) sections 125 to 129 above shall be applied by reference to sterling;

(b) those sections shall then be applied separately by reference to each local currency involved (other than sterling); and

(c) any exchange gain or loss of a business or part shall be ignored unless found in the currency which is the local currency of the business or part for the relevant accounting period (whether sterling or otherwise).".

(5) For subsection (7) of that section there shall be substituted—

"(7) For the purposes of this section a part of a business is any part of a business which is treated for the purposes of section 93 above as if it were a separate business for the relevant accounting period.".

(6) For subsection (9) of section 128 of the [M120]Finance Act 1993 (trading gains and losses) there shall be substituted—

"(9) For the purposes of this section a part of a trade is any part of a trade which is treated for the purposes of section 93 above as if it were a separate business for the relevant accounting period; and the relevant accounting period is the accounting period which constitutes the accrual period concerned or in which that accrual period falls.".

(7) After section 135 of that Act there shall be inserted—

"135A Sterling used if avoidance of gain is the main benefit.

(1) This section applies where, as regards qualifying assets and liabilities of a company—

(a) a currency other than sterling would (apart from this section) be the local currency for the purposes of sections 125 to 129 above; and

(b) the main benefit that might be expected to accrue from that currency being the local currency is that no net exchange gain would accrue to the company for those purposes.

(2) If a net exchange gain would accrue to the company if sterling were the local currency for the purposes of sections 125 to 129 above, then, as regards the assets and liabilities concerned, sterling shall be the local currency for those purposes.

(3) For the purposes of this section a net exchange gain accrues to a company if its initial exchange gains (as determined in accordance with this Chapter) exceed its initial exchange losses (as so determined).".

(8) For subsection (12) of section 140 of that Act (deferral of unrealised gains) there shall be substituted—

"(12) For the purposes of this section a part of a trade is any part of a trade which is treated for the purposes of section 93 above as if it were a separate business for the relevant accounting period; and the relevant accounting period is the accounting period which constitutes the second accrual period or in which that accrual period falls.".

(9) For subsection (2) of section 142 of that Act (deferral non-sterling trades) there shall be substituted—

"(2) For the purposes of subsection (1) above the sterling equivalent of an amount is the sterling equivalent calculated by reference to such rate of exchange as applies by virtue of section 94 above in the case of the profits or losses for the accounting period concerned of the business or part of which the gain or loss is a gain or loss (or would be apart from section 139 above).".

(10) In subsections (3) and (5) of that section, for "trade", in each place where it occurs, there shall be substituted " business ".

(11) For subsection (4) of that section there shall be substituted—

"(4) The amount the company is treated as receiving under section 128(4) or 129(2) above in respect of the accounting period and by virtue of the gain (as reduced) shall be the amount computed and expressed in that currency.".

(12) In subsection (1) of section 163 of that Act (local currency of a trade), for "trade" there shall be substituted " business ".

(13) For subsections (2) and (3) of that section there shall be substituted—

"(2) Where by virtue of section 93 above the profits or losses of a business or part of a business for an accounting period are to be computed and expressed in a currency other than sterling for the purposes of corporation tax, that other currency is the local currency of the business or part for that period.".

(14) In section 164 of that Act (interpretation: miscellaneous), subsections (6) and (7) shall cease to have effect.

(15) In section 167 of that Act (orders and regulations)—

(a) in subsection (5A), for "the provisions of Chapter II of Part IV of the [M121]Finance Act 1996 (loan relationships)" there shall be substituted—

"(a) the provisions of Chapter II of Part IV of the [M122]Finance Act 1996 (loan relationships); or

(b) the provisions of sections 105 and 106 of the Finance Act 2000 (use of local currency).";

(b) in subsection (5B), for "subsection (5A)" there shall be substituted " subsection (5A)(a) "; and

(c) after that subsection there shall be inserted—

"(5C) The power to make any such modifications as are mentioned in subsection (5A)(b) above shall be exercisable so as to apply those modifications in relation to any accounting period of a company beginning on or after 1st January 2000.".

(16) In subsection (4)(b) of section 110 of the [M123]Finance Act 1998 (determinations requiring the sanction of the Board), after "section 135," there shall be inserted " 135A, ".

(17) This section has effect for accounting periods beginning on or after 1st January 2000 and ending on or after 21st March 2000.

Marginal Citations

M119 1993 c. 34.
M120 1993 c. 34.
M121 1996 c. 8.
M122 1996 c. 8.
M123 1998 c. 36.

VALID FROM 28/07/2000

Insurance

107 General insurance reserves. U.K.

(1) Where an amount representing the whole or any part of the technical provisions which are made by a general insurer for a period of account is taken into account in computing for tax purposes the profits of his trade for that period—

(a) subsection (2) below applies if it becomes apparent in a later period of account that the amount taken into account was excessive; and

(b) subsection (3) below applies if it becomes apparent in such a period that that amount was insufficient.

(2) For the purpose of making good to the Exchequer the loss occasioned by the excess, an amount calculated by applying, for a prescribed period, a prescribed rate of interest to the amount of the excess shall be treated as a receipt of the general insurer's trade in computing for tax purposes the profits of that trade for the later period of account.

(3) For the purpose of making good to the general insurer the loss occasioned by the deficiency, an amount calculated by applying, for a prescribed period, a prescribed rate of interest to the amount of the deficiency shall be treated as an expense of the general insurer's trade in computing for tax purposes the profits of that trade for the later period of account.

(4) A general insurer may, before the end of a prescribed period, elect that any part of the technical provisions made by him for a period of account shall not be taken into account in computing for tax purposes the profits of his trade for that period; and where he does so, the profits of his trade for the next period of account shall be adjusted accordingly for the purposes of any computation for tax purposes.

(5) The Board may by regulations make provision for giving effect to subsections (1) to (4) above.

(6) The regulations may, in particular—
- (a) exclude from the operation of subsections (1) to (4) above such descriptions of general insurer as may be prescribed;
- (b) make such provision as appears to the Board to be appropriate for determining for the purposes of subsections (1) to (3) above whether any amount taken into account was excessive or insufficient and, if so, the amount of the excess or deficiency, including—
  - (i) provision requiring discounting at a prescribed rate; and
  - (ii) provision allowing a prescribed margin for error;
- (c) make provision for applying subsections (1) to (3) above, to such extent and with such modifications as appear to the Board to be appropriate, to cases where it becomes apparent—
  - (i) that any amount taken into account was or has become insufficient; or
  - (ii) that any amount treated as a receipt or expense of a trade was excessive;
- (d) make such provision as appears to the Board to be appropriate for dealing with cases where a general insurer transfers his general business to, or enters into a qualifying contract with, another person; and
- (e) in the event of any changes in the rules or practice of Lloyd's, make such amendments of this section as appear to the Board to be expedient having regard to those changes.

(7) In this section—

"closing year", in relation to a syndicate, has the same meaning as in Chapter III of Part II of the [M124]Finance Act 1993 or Chapter V of Part IV of the [M125]Finance Act 1994;

[[F1] "general business" means business which consists of the effecting or carrying out of contracts that fall within Part I of Schedule 1 to the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001;**]**

"general insurer" means any of the following which carries on general business—

(a) a person (other than a friendly society) who has permission under Part 4 of the Financial Services and Markets Act 2000 to effect or carry out contracts that fall within Part I of Schedule 1 to the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001;

(b) an EEA firm of the kind mentioned in paragraph 5(d) of Schedule 3 to that Act which has permission under paragraph 15 of Schedule 3 to that Act (as a result of qualifying for authorisation under paragraph 12(1) of that Schedule) to effect or carry out such contracts;

(ba) **[**[F2]a firm which has permission under paragraph 4 of Schedule 4 to that Act (as a result of qualifying for authorisation under paragraph 2 of that Schedule) to effect or carry out such contracts;**]**

(c) a controlled foreign company within the meaning of Chapter IV of Part XVII of the Taxes Act 1988; and

(d) an underwriting member of Lloyd's ("an underwriting member");

"period of account"—

(a) except in relation to an underwriting member, means a period for which an account is made up;

(b) in relation to such a member, means an underwriting year in which profits or losses are declared for an earlier underwriting year;

"prescribed" means prescribed by regulations under this section;

"qualifying contract", in relation to a general insurer, means a contract for reinsuring the liabilities to which any technical provisions of his relate;

"reinsurance to close contract" means a contract where, in accordance with the rules or practice of Lloyd's and in consideration of the payment of a premium, one underwriting member agrees with another to meet liabilities arising from the latter's underwriting business for an underwriting year so that the accounts of the business for that year may be closed;

"syndicate" means a syndicate of underwriting members of Lloyd's formed for an underwriting year;

"technical provisions", except in relation to an underwriting member, means any of the following—

(a) provisions for claims outstanding;

(b) provisions for unearned premiums;

(c) provisions for unexpired risks;

and in this definition expressions which are used in Schedule 9A to the [M126]Companies Act 1985 have the same meanings as in that Schedule;

"technical provisions", in relation to an underwriting member, means—

(a) so much of the premiums paid, or treated (in accordance with the rules or practice of Lloyd's) as paid, by him under reinsurance to close contracts; and

(b) so much of any provisions made for the unpaid liabilities of an open syndicate of which he is a member,

as may be determined by or under regulations made by the Board;

"underwriting year" means the calendar year;

and for the purposes of this section a syndicate is an open syndicate at any time after the end of its closing year if, at that time, the accounts of its business for the underwriting year for which it was formed have not been closed.

(8) Regulations under this section may—
- (a) make different provision for different cases or descriptions of case, including different provision for different entitlements to participate in the general business carried on by syndicates; and
- (b) make such supplementary, incidental, consequential and transitional provision as appears to the Board to be appropriate.

(9) An amount which under subsection (2) or (3) above is treated as a receipt or expense of an underwriting member's trade—
- (a) shall not be included in the aggregate amount mentioned in paragraph 1 of Schedule 19 to the [M127]Finance Act 1993; but
- (b) shall be regarded as arising directly from his membership of one or more syndicates for the purposes of section 172(1)(a) of the Finance Act 1993 or section 220(2)(a) of the [M128]Finance Act 1994.

(10) Nothing in paragraph 7 of Schedule 19 to the Finance Act 1993 shall be taken to affect the operation of subsection (2) or (3) above or the exercise of the power conferred by subsection (4) above.

(11) Section 177 of the [M129]Finance Act 1993 and section 224 of the [M130]Finance Act 1994 (which are superseded by this section) shall cease to have effect.

(12) In this section—
- (a) subsections (1) to (3), subsections (5) to (8) and (10) so far as relating to those subsections and subsection (9) have effect where—
  - (i) the first period of account mentioned in subsection (1) begins on or after 1st January 2000; and
  - (ii) the later period of account mentioned in that subsection begins on or after 1st January 2001;
- (b) subsection (4), and subsections (5) to (8) and (10) so far as relating to that subsection, have effect in relation to periods of account beginning on or after 1st January 2000;
- (c) subsection (11) has effect in relation to profits of underwriting members' trades which are declared in periods of account beginning on or after that date.

Textual Amendments

F1 S. 107(7): definition of "general business" substituted (1.12.2001) by S.I. 2001/3629, **arts. 1(2)**, 106

F2 S. 107(7): paras. (a)(b)(ba) in definition of "general insurer" substituted (1.12.2001) for paras. (a)(b) by S.I. 2001/3629, **arts. 1(2)**, 106

Modifications etc. (not altering text)

C1 S. 107(1)-(4) restricted (29.5.2001 with effect as mentioned in art. 1 of the amending S.I.) by S.I. 2001/1757, **arts 1**, 6

Marginal Citations

M124 1993 c. 34.
M125 1994 c. 9.
M126 1985 c. 6.
M127 1993 c. 34.

M128 1994 c. 9.
M129 1993 c. 34.
M130 1994 c. 9.

107 General insurance reserves. U.K.

(1) Where an amount representing the whole or any part of the technical provisions which are made by a general insurer for a period of account is taken into account in computing for tax purposes the profits of his trade for that period—

(a) subsection (2) below applies if it becomes apparent in a later period of account that the amount taken into account was excessive; and

(b) subsection (3) below applies if it becomes apparent in such a period that that amount was insufficient.

(2) For the purpose of making good to the Exchequer the loss occasioned by the excess, an amount calculated by applying, for a prescribed period, a prescribed rate of interest to the amount of the excess shall be treated as a receipt of the general insurer's trade in computing for tax purposes the profits of that trade for the later period of account.

(3) For the purpose of making good to the general insurer the loss occasioned by the deficiency, an amount calculated by applying, for a prescribed period, a prescribed rate of interest to the amount of the deficiency shall be treated as an expense of the general insurer's trade in computing for tax purposes the profits of that trade for the later period of account.

(4) A general insurer may, before the end of a prescribed period, elect that any part of the technical provisions made by him for a period of account shall not be taken into account in computing for tax purposes the profits of his trade for that period; and where he does so, the profits of his trade for the next period of account shall be adjusted accordingly for the purposes of any computation for tax purposes.

(5) The Board may by regulations make provision for giving effect to subsections (1) to (4) above.

(6) The regulations may, in particular—

(a) exclude from the operation of subsections (1) to (4) above such descriptions of general insurer as may be prescribed;

(b) make such provision as appears to the Board to be appropriate for determining for the purposes of subsections (1) to (3) above whether any amount taken into account was excessive or insufficient and, if so, the amount of the excess or deficiency, including—

(i) provision requiring discounting at a prescribed rate; and

(ii) provision allowing a prescribed margin for error;

(c) make provision for applying subsections (1) to (3) above, to such extent and with such modifications as appear to the Board to be appropriate, to cases where it becomes apparent—

(i) that any amount taken into account was or has become insufficient; or

(ii) that any amount treated as a receipt or expense of a trade was excessive;

(d) make such provision as appears to the Board to be appropriate for dealing with cases where a general insurer transfers his general business to, or enters into a qualifying contract with, another person; and

(e) in the event of any changes in the rules or practice of Lloyd's, make such amendments of this section as appear to the Board to be expedient having regard to those changes.

(7) In this section—

"closing year", in relation to a syndicate, has the same meaning as in Chapter III of Part II of the M487Finance Act 1993 or Chapter V of Part IV of the M488Finance Act 1994;

"general business" has the same meaning as in the M489Insurance Companies Act 1982;

"general insurer" means any of the following which carries on general business—

(a) a company to which Part II of the M490Insurance Companies Act 1982 applies;

(b) an EC company (within the meaning of section 6(2) of that Act) which carries on general business through a branch or agency in the United Kingdom;

(c) a controlled foreign company within the meaning of Chapter IV of Part XVII of the Taxes Act 1988; and

(d) an underwriting member of Lloyd's ("an underwriting member");

"period of account"—

(a) except in relation to an underwriting member, means a period for which an account is made up;

(b) in relation to such a member, means an underwriting year in which profits or losses are declared for an earlier underwriting year;

"prescribed" means prescribed by regulations under this section;

"qualifying contract", in relation to a general insurer, means a contract for reinsuring the liabilities to which any technical provisions of his relate;

"reinsurance to close contract" means a contract where, in accordance with the rules or practice of Lloyd's and in consideration of the payment of a premium, one underwriting member agrees with another to meet liabilities arising from the latter's underwriting business for an underwriting year so that the accounts of the business for that year may be closed;

"syndicate" means a syndicate of underwriting members of Lloyd's formed for an underwriting year;

"technical provisions", except in relation to an underwriting member, means any of the following—

(a) provisions for claims outstanding;

(b) provisions for unearned premiums;

(c) provisions for unexpired risks;

and in this definition expressions which are used in Schedule 9A to the M491Companies Act 1985 have the same meanings as in that Schedule;

"technical provisions", in relation to an underwriting member, means—

(a) so much of the premiums paid, or treated (in accordance with the rules or practice of Lloyd's) as paid, by him under reinsurance to close contracts; and

(b) so much of any provisions made for the unpaid liabilities of an open syndicate of which he is a member,

as may be determined by or under regulations made by the Board;

"underwriting year" means the calendar year;

and for the purposes of this section a syndicate is an open syndicate at any time after the end of its closing year if, at that time, the accounts of its business for the underwriting year for which it was formed have not been closed.

(8) Regulations under this section may—

(a) make different provision for different cases or descriptions of case, including different provision for different entitlements to participate in the general business carried on by syndicates; and

(b) make such supplementary, incidental, consequential and transitional provision as appears to the Board to be appropriate.

(9) An amount which under subsection (2) or (3) above is treated as a receipt or expense of an underwriting member's trade—

(a) shall not be included in the aggregate amount mentioned in paragraph 1 of Schedule 19 to the [M492]Finance Act 1993; but

(b) shall be regarded as arising directly from his membership of one or more syndicates for the purposes of section 172(1)(a) of the Finance Act 1993 or section 220(2)(a) of the [M493]Finance Act 1994.

(10) Nothing in paragraph 7 of Schedule 19 to the Finance Act 1993 shall be taken to affect the operation of subsection (2) or (3) above or the exercise of the power conferred by subsection (4) above.

(11) Section 177 of the [M494]Finance Act 1993 and section 224 of the [M495]Finance Act 1994 (which are superseded by this section) shall cease to have effect.

(12) In this section—

(a) subsections (1) to (3), subsections (5) to (8) and (10) so far as relating to those subsections and subsection (9) have effect where—

(i) the first period of account mentioned in subsection (1) begins on or after 1st January 2000; and

(ii) the later period of account mentioned in that subsection begins on or after 1st January 2001;

(b) subsection (4), and subsections (5) to (8) and (10) so far as relating to that subsection, have effect in relation to periods of account beginning on or after 1st January 2000;

(c) subsection (11) has effect in relation to profits of underwriting members' trades which are declared in periods of account beginning on or after that date.

Modifications etc. (not altering text)

C13 S. 107(1)-(4) restricted (29.5.2001 with effect as mentioned in reg. 1 of the amending S.I.) by S.I. 2001/1757, **regs. 1**, 6

Marginal Citations

M487 1993 c. 34.

M488 1994 c. 9.
M489 1982 c. 50.
M490 1982 c. 50.
M491 1985 c. 6.
M492 1993 c. 34.
M493 1994 c. 9.
M494 1993 c. 34.
M495 1994 c. 9.

108 Overseas life assurance business. U.K.

(1) In subsection (1) of section 431D of the Taxes Act 1988 (meaning of "overseas life assurance business"), for "or life reinsurance business" there shall be substituted " , life reinsurance business or business of any description excluded from this section by regulations made by the Board ".

(2) For subsections (2) to (8) of that section there shall be substituted—

"(2) Regulations under subsection (1) above may describe the excluded business by reference to any circumstances appearing to the Board to be relevant.

(3) The Board may by regulations—

(a) make provision as to the circumstances in which a trustee who is a policy holder or annuitant residing in the United Kingdom is to be treated for the purposes of this section as not so residing; and

(b) provide that nothing in Chapter II of Part XIII shall apply to a policy or contract which constitutes overseas life assurance business by virtue of any such provision as is mentioned in paragraph (a) above.

(4) Regulations under subsection (1) or (3) above may contain such supplementary, incidental, consequential or transitional provision as appears to the Board to be appropriate.".

(3) Where the policy or contract for any life assurance business was made before such day as the Treasury may by order appoint, the amendments made by this section (and any regulations made under them) shall not have effect for determining whether the business is overseas life assurance business.

109 Insurance business: apportionment rules. U.K.

(1) In subsection (4)(b) of section 432ZA of the Taxes Act 1988 (linked assets), for the words from "the proportion which" to the end there shall be substituted—

"the proportion A/B where—

A is the total of the linked liabilities of the company which are liabilities of the internal linked fund in which the asset is held and are referable to that category of business;

B is the total of the linked liabilities of the company which are liabilities of that fund.".

(2) For subsection (6) of that section there shall be substituted—

"(6) In this section—

"internal linked fund", in relation to an insurance company, means an account—

(a) to which linked assets are appropriated by the company; and

(b) which may be divided into units the value of which is determined by the company by reference to the value of those assets;

"linked liabilities" means liabilities in respect of benefits to be determined by reference to the value of linked assets.".

(3) In the subsections mentioned in subsection (4) below—

(a) in paragraph (a), after "reduced" there shall be inserted " (but not below nil) " and for "values" there shall be substituted " net values "; and

(b) for paragraph (b) there shall be substituted—

"(b) the denominator is the aggregate of—

(i) the numerator given by paragraph (a) above; and

(ii) the numerators given by that paragraph in relation to the other categories of business.".

(4) The subsections are—

(a) subsection (6) of section 432A of the Taxes Act 1988 (apportionment of income and gains);

(b) subsection (4) of section 432C of that Act (section 432B apportionment: income of non-participating funds); and

(c) subsection (3) of section 432D of that Act (section 432B apportionment: value of non-participating funds).

(5) For subsection (8) of section 432A there shall be substituted—

"(8) In subsection (6) above "appropriate part", in relation to the investment reserve, means—

(a) where none (or none but an insignificant proportion) of the liabilities of the long term business are with-profits liabilities, the part of that reserve which bears to the whole the proportion A/B where—

A is the amount of the liabilities of the category of business in question;

B is the whole amount of the liabilities of the long term business; and

(b) in any other case, the part of that reserve which bears to the whole the proportion C/D where—

C is the amount of the with-profits liabilities of the category of business in question;

D is the whole amount of the with-profits liabilities of the long term business.".

(6) After subsection (9) of that section there shall be inserted—

"(9A) In this section and sections 432C and 432D "net value", in relation to any assets, means the excess of the value of the assets over any liabilities which—

(a) represent a money debt; and

(b) are liabilities of an internal linked fund in which the assets are held;

and in this subsection “internal linked fund” has the same meaning as in section 432ZA.

(9B) In this section—

“investment reserve”, in relation to an insurance company, means the excess of the value of the assets of the company’s long term business over the aggregate of—

(a) the liabilities of that business; and

(b) any liabilities of the long term business fund which represent a money debt;

“money debt” has the same meaning as in Chapter II of Part IV of the M131 Finance Act 1996.”.

(7) In subsection (5)(b) of section 432C, after “subsection (1)" there shall be inserted “ or (2) ”.

(8) In Schedule 11 to the M132 Finance Act 1996 (loan relationships: special provisions for insurers), after paragraph 3 there shall be inserted—

“3A (1) This paragraph applies where—

(a) any money debt of an insurance company is represented by a liability which is a liability of the long term business fund of the company; and

(b) any question arises for the purposes of the Corporation Tax Acts as to the extent to which any debits or credits given for the purposes of this Chapter in respect of that debt or liability are referable to any category of the company’s long term business.

(2) If any debits relate to interest payable in respect of the late payment of any benefits, they are referable to the category of long term business which comprises the effecting and carrying out of the policies or contracts under which the benefits are payable.

(3) If the liability is a liability of an internal linked fund of the company, any debits or credits are referable—

(a) to the category of long term business to which the fund relates; or

(b) where the fund relates to two or more categories of such business, to those categories in the same proportion as the linked assets in the fund are apportioned to them under section 432ZA(4) of the Taxes Act 1988 (linked assets).

(4) In any case not falling within sub-paragraph (2) or (3) above, there shall be referable to any category of long term business the relevant fraction of any debits or credits.

(5) For the purpose of determining that fraction, subsections (6) and (8) of section 432A of the Taxes Act 1988 (apportionment of income and gains) shall have effect as if—

(a) the debits or credits were income not directly referable to any category of business;

(b) the reference in subsection (6)(a) to assets directly referable to a category of business were a reference to assets linked to that category of business; and

(c) subsection (9) of that section were omitted.

(6) In this paragraph "internal linked fund" has the same meaning as in section 432ZA of the Taxes Act 1988 (linked assets).".

(9) In consequence of the preceding provisions of this section—

(a) in section 431(2) of the Taxes Act 1988 (interpretative provisions in relation to insurance companies), the definition of "investment reserve" shall cease to have effect;

(b) in paragraph 4(2) of Schedule 19AA to that Act (overseas life assurance fund), after "investment reserve" there shall be inserted " (within the meaning of section 432A) "; and

(c) in paragraph 7(3) of Schedule 19AC to that Act (modification of Act in relation to overseas life insurance companies)—

(i) in paragraph (b), for "value" there shall be substituted " net value "; and

(ii) paragraph (c) shall cease to have effect.

(10) This section shall have effect in relation to accounting periods beginning on or after 1st January 2000 and ending on or after 21st March 2000.

Marginal Citations

M131 1996 c. 8.

M132 1996 c. 8.

VALID FROM 28/07/2000

Miscellaneous

110 Rent factoring. U.K.

(1) At the end of Part II of the Taxes Act 1988 (provisions relating to the Schedule A charge) insert—

" Rent factoring

43A Finance agreement: interpretation.

(1) A transaction is a finance agreement for the purposes of sections 43B to 43F if in accordance with normal accounting practice the accounts of a company which receives money under the transaction would record a financial obligation (whether in respect of a lease creditor or otherwise) in relation to that receipt.

(2) In subsection (1) "normal accounting practice" in relation to a company means normal accounting practice for a company incorporated in a part of the United Kingdom (irrespective of where the company is in fact incorporated).

(3) The reference to a company's accounts in subsection (1) shall be taken to include a reference to the consolidated group accounts of a group of companies of which it is a member; and—

(a) "group of companies" means a set of companies which, if each were incorporated in Great Britain, would form a group within the meaning given by section 262(1) of the [M133]Companies Act 1985, and

(b) "consolidated group accounts" means accounts of a kind which would satisfy the requirements of section 227 of the Companies Act 1985.

(4) For the purposes of subsection (1) a company shall be treated as receiving any money which—

(a) falls to be taken into account as a receipt for the purpose of calculating the company's liability to corporation tax, or

(b) would fall to be taken into account as a receipt for that purpose if the company were resident in the United Kingdom.

43B **Transfer of rent.**

(1) This section applies to a finance agreement if it transfers a right to receive rent in respect of land in the United Kingdom from one person to another, otherwise than by means of the grant of a lease of land in the United Kingdom.

(2) A person who receives a finance amount shall be treated for the purposes of the Tax Acts as receiving it—

(a) by way of rent,

(b) in the course of a business falling within paragraph 1(1) of Schedule A, and

(c) in the chargeable period in which the agreement is made;

and the finance amount shall be taken into account in computing the profits of the Schedule A business for the chargeable period in which the agreement is made.

(3) In subsection (2) "finance amount" means a receipt in respect of which section 43A(1) is satisfied.

43C **Transfer of rent: exceptions, &c.**

(1) Section 43B shall not apply to a finance agreement if the term over which the financial obligation is to be reduced exceeds 15 years.

(2) Section 43B shall not apply to a finance agreement if—

(a) the arrangements for the reduction of the financial obligation substantially depend on a person's entitlement to an allowance under the Capital Allowances Acts, and

(b) that person is not connected to the person from whom the right to receive rent is transferred.

(3) Section 43B shall not apply to a finance agreement if—
(a) section 36(1) applies (without reference to section 36(3)), or
(b) section 36(1) would apply (without reference to section 36(3)) if the price at which an estate or interest is sold were to exceed the price at which it is to be reconveyed.

(4) If—
(a) section 36(1) would apply in relation to a finance agreement by virtue only of section 36(3), and
(b) section 43B applies in relation to the agreement,

section 36(1) shall not apply.

(5) Section 43B shall not apply to a finance agreement if section 780 applies.

(6) Section 43B(2) shall not apply to a finance amount which is brought into account in computing the profits of a trade for the purposes of Case I of Schedule D (otherwise than by virtue of section 83 of the [M134]Finance Act 1989 (life assurance)).

43D Interposed lease.

(1) This section applies to a finance agreement under which—
(a) a lease is granted in respect of land in the United Kingdom,
(b) a premium is payable in respect of the lease, and
(c) section 43A(1) is satisfied by reference to the receipt of the premium.

(2) Where this section applies, the person to whom the premium is payable shall be treated for the purposes of the Tax Acts as receiving it—
(a) by way of rent,
(b) in the course of a business falling within paragraph 1(1) of Schedule A, and
(c) in the chargeable period in which the agreement is made;

and the premium shall be taken into account in computing the profits of the Schedule A business for the chargeable period in which the agreement is made.

43E Interposed lease: exceptions, &c.

(1) Section 43D shall not apply to a finance agreement if—
(a) the term over which the financial obligation is to be reduced exceeds 15 years, or
(b) the length of the lease does not exceed 15 years, or
(c) the length of the lease is not significantly different from the term over which the financial obligation is to be reduced.

(2) For the purpose of subsection (1) the length of a lease shall be calculated in accordance with section 38.

(3) Section 43D shall not apply to a finance agreement if—

(a) the arrangements for the reduction of the financial obligation substantially depend on a person's entitlement to an allowance under the Capital Allowances Acts, and

(b) that person is not connected to the person who grants the lease in respect of which the premium is payable.

(4) Section 43D(2) shall not apply where all or part of the premium is brought into account in computing the profits of a trade for the purposes of Case I of Schedule D (otherwise than by virtue of section 83 of the [M135]Finance Act 1989 (life assurance)).

(5) Section 34 shall not apply in relation to a premium to which section 43D(2) applies.

43F **Insurance business.**

(1) In the application of sections 43A to 43E to companies carrying on insurance business a reference to accounts does not include a reference to accounts required to be prepared under Part II of the [M136]Insurance Companies Act 1982.

(2) Neither section 43B(2) nor section 43D(2) shall require any amount to be brought into account in a computation of profits of life assurance business, or any category of life assurance business, carried on by a company where the computation is made in accordance with the provisions of this Act applicable to Case I of Schedule D.

(3) Section 432A shall have effect in relation to any sum which is or would be treated as received by virtue of section 43B(2) or 43D(2) of this Act.

(4) Expressions used in this section and in Chapter I of Part XII have the same meaning in this section as in that Chapter.

43G **Interpretation.**

(1) This section applies for the purposes of sections 43A to 43F.

(2) In those sections—

"connected" in relation to persons has the meaning given by section 839,

"rent" includes any sum which is chargeable to tax under Schedule A,

"lease" includes an underlease, sublease, tenancy or licence and an agreement for any of those things, but does not include a mortgage or heritable security,

"premium" has the meaning given by section 24(1) (and, in relation to Scotland, section 24(5)), and subsections (4) and (5) of section 34 shall have effect in relation to sections 43A to 43F as they have effect in relation to section 34, and

"sum" has the meaning given by section 24(4).

(3) A reference to a transfer of a right to receive rent from one person to another includes a reference to any arrangement under which rent ceases to form part of the receipts taken into account for the purposes of calculating a company's liability to corporation tax or income tax.

(4) In calculating the term over which a financial obligation is to be reduced no account shall be taken of any period during which the arrangements for reduction differ from the arrangements which apply in a previous period if—

(a) the period begins after the financial obligation has been substantially reduced, and

(b) the different arrangements for reduction are not the result of a provision for periodic review, on commercial terms, of rent under a lease.".

(2) The provisions inserted by subsection (1) have effect in relation to transactions entered into on or after 21st March 2000.

Marginal Citations

M133 1985 c. 6.
M134 1989 c. 26.
M135 1989 c. 26.
M136 1982 c. 50.

111 Payments under deduction of tax. U.K.

(1) Chapter VIIA of Part IV of the Taxes Act 1988 (paying and collecting agents) shall cease to have effect.

(2) In section 349 of the Taxes Act 1988 (payments under deduction of tax)—

(a) in subsections (3)(c) and (3B) (payments excepted from deduction of tax), for "payment to which section 124 applies" substitute " payment of interest on a quoted Eurobond "; and

(b) in subsection (4), after the definition of "qualifying deposit right" insert—

""quoted Eurobond" means any security that—

(i) is issued by a company,

(ii) is listed on a recognised stock exchange, and

(iii) carries a right to interest;";

and accordingly section 124 of that Act (interest on quoted Eurobonds) shall cease to have effect.

(3) In section 482 of the Taxes Act 1988 (supplementary provisions with respect to deposit-takers etc)—

(a) after subsection (2) insert—

"(2A) A declaration under section 481(5)(k)(i) must contain—

(a) in a case falling within section 481(4)(a), the name and principal residential address of the individual who is beneficially entitled to the interest or, where two or more individuals are so entitled, of each of them;

(b) in a case falling within section 481(4)(b), the name and principal residential address of each of the partners.";

and

(b) subsection (11)(a) shall cease to have effect.

(4) In section 477A of the Taxes Act 1988 (building societies: regulations for deduction of tax), after subsection (2) insert—

"(2A) Without prejudice to the generality of subsection (2)(a) above, regulations under subsection (1) above may make provision with respect to the furnishing of information to or by building societies corresponding to any provision that is made by, or may be made under, section 482 with respect to the furnishing of information to or by deposit-takers.".

(5) In section 37(11) of the [M137]Finance (No.2) Act 1997 (interest to be paid gross), for "Sections 50 and 118D(4)" substitute " Section 50 ".

(6) In this section—

(a) subsections (1) and (5) apply to relevant payments or receipts in relation to which the chargeable date for the purposes of Chapter VIIA of Part IV is on or after 1st April 2001;

(b) subsection (2) applies in relation to payments of interest made on or after that date;

(c) subsection (3) applies in relation to declarations under section 481(5)(k)(i) of the Taxes Act 1988 made on or after 6th April 2001.

Marginal Citations

M137 1997 c. 58.

112 UK public revenue dividends: deduction of tax. U.K.

(1) In subsection (A1) of section 50 of the Taxes Act 1988 (Treasury directions for payment of public revenue dividends without deduction of tax), for "registered gilt-edged securities" substitute " gilt-edged securities ".

(2) After subsection (3B) of section 349 of that Act (payments not out of profits or gains brought into charge to income tax, and annual interest) insert—

"(3C) Subject to any provision to the contrary in the Income Tax Acts, where any UK public revenue dividend is paid, the person by or through whom the payment is made shall, on making the payment, deduct out of it a sum representing the amount of income tax on it for the year in which the payment is made.".

(3) At the end of subsection (4) of that section insert—

""UK public revenue dividend" means any income from securities which is paid out of the public revenue of the United Kingdom or Northern Ireland, but does not include interest on local authority stock.".

(4) After section 350 of that Act insert—

"350A UK public revenue dividends: deduction of tax.

(1) The Board may by regulations—

(a) make provision as to the time and manner in which persons who under section 349(3C) deduct sums representing income tax out of payments of UK public revenue dividends are to account for and pay those sums; and

(b) otherwise modify the provisions of sections 349 and 350 in their application to such dividends;

and in this section "UK public revenue dividend" has the same meaning as in section 349.

(2) Regulations under this section may—

(a) make different provision for different descriptions of UK public revenue dividend and for different circumstances;

(b) make special provision for UK public revenue dividends which—

(i) are payable to the Bank of Ireland out of the public revenue of the United Kingdom, or

(ii) are entrusted to the Bank of Ireland for payment and distribution and are not payable by that Bank out of its principal office in Belfast;

(c) include such transitional and other supplementary provisions as appear to the Board to be necessary or expedient.

(3) No regulations under this section shall be made unless a draft of them has been laid before and approved by a resolution of the House of Commons.".

(5) This section applies to payments made on or after 1st April 2001.

113 Tax treatment of expenditure on production or acquisition of films. U.K.

(1) In section 68 of the of the M138 Capital Allowances Act 1990 (expenditure relating to films, tapes and discs), for subsection (1) substitute—

"(1) Expenditure incurred on the production or acquisition of a film, tape or disc shall be regarded for the purposes of the Tax Acts as expenditure of a revenue nature, subject to any election under subsection (9) below.".

(2) For subsection (2) of that section substitute—

"(2) In this section any reference to a film, tape or disc is to the master negative, master tape or master audio disc of a film as defined in section 43 of the Finance (No.2) Act 1992.

Any such reference includes a reference to any rights in the film (or its soundtrack) that are held or acquired with the master negative, master tape or master audio disc.".

(3) In section 42 of the M139 Finance (No.2) Act 1992 (relief for production or acquisition expenditure), for subsection (9) substitute—

"(9) This section has effect in relation to expenditure incurred—

(a) on the production of a film completed on or after 10th March 1992, or

(b) on the acquisition of the master negative, master tape or master disc of a film completed on or after that date.".

(4) In section 43 of that Act (interpretation)—

(a) in subsection (2)(b) (treatment of acquisition of rights in film), for "any description of rights in it" substitute " any rights in the film (or its soundtrack) that are held or acquired with the master negative, master tape or master audio disc "; and

(b) in subsection (3), omit paragraph (b) and the word "or" preceding it.

(5) This section applies to expenditure on the production of a film—

(a) if the first day of principal photography is on or after 21st March 2000, or

(b) if the first day of principal photography is before that date but—

(i) the film is completed on or after that date, and

(ii) the person incurring the expenditure elects that the provisions of this section should apply.

For this purpose a film is completed at the time when it is first in a form in which it can reasonably be regarded as ready for copies of it to be made and distributed for presentation to the general public.

Any election under paragraph (b)(ii) above, once made, is irrevocable.

(6) This section applies to expenditure incurred on the acquisition of a master negative, master tape or master audio disc of a film (as defined in section 43 of the [M140]Finance (No.2) Act 1992) on or after 6th April 2000.

Marginal Citations

M138 1990 c. 1.

M139 1992 c. 48.

M140 1992 c. 48.

Part IV U.K.

Stamp duty and Stamp duty reserve tax

Stamp duty

114 Rates: conveyance or transfer on sale. U.K.

(1) In Schedule 13 to the [M141]Finance Act 1999 (instruments chargeable and rates of duty), in Part I (conveyance or transfer on sale), in the third column of the table in paragraph 4—

(a) in the third entry, for "2.5%" substitute " 3% "; and

(b) in the fourth entry, for "3.5%" substitute " 4% ".

(2) This section applies to instruments executed on or after 28th March 2000.

(3) But this section does not apply to an instrument giving effect to a contract made on or before 21st March 2000, unless—

(a) the instrument is made in consequence of the exercise after that date of any option, right of pre-emption or similar right; or

(b) the instrument transfers the property in question to, or vests it in, a person other than the purchaser under the contract, because of an assignment (or, in Scotland, assignation) or further contract made after that date.

(4) This section shall be deemed to have come into force on 28th March 2000.

Marginal Citations

M141 1999 c. 16.

115 Rates: duty on lease chargeable by reference to rent. U.K.

(1) In Schedule 13 to the [M142]Finance Act 1999 (instruments chargeable and rates of duty), in Part II (lease)—

(a) in paragraph 11, in paragraph 1 of the table, and

(b) in paragraph 12(3), in paragraph 1(a) and (b) of the table,

for "£500" substitute " £5,000 ".

(2) This section has effect in relation to instruments executed on or after 28th March 2000.

(3) This section shall be deemed to have come into force on 28th March 2000.

Marginal Citations

M142 1999 c. 16.

116 Rate of duty on seven year leases. U.K.

(1) In paragraph 12(3) of Schedule 13 to the [M143]Finance Act 1999 (rates of stamp duty on leases where part of consideration is rent), in paragraph 1 of the table, for "less than 7 years" substitute " not more than 7 years ".

(2) This section applies to instruments executed on or after 1st October 1999, subject to Schedule 32 to this Act (which makes transitional provision for instruments executed on or after 1st October 1999 but before 28th March 2000).

(3) This section shall be deemed to have come into force on 28th March 2000.

Marginal Citations

M143 1999 c. 16.

VALID FROM 28/07/2000

117 Power to vary stamp duties. U.K.

Schedule 33 to this Act (power to vary stamp duties) has effect.

118 Land transferred etc for other property. U.K.

(1) Subsection (2) applies where—

(a) an instrument transferring or vesting an estate or interest in land would not, apart from this section, be or fall to be treated as a conveyance or transfer on sale for the purposes of stamp duty; but

(b) the transfer or vesting of the estate or interest is for consideration; and

(c) the consideration is or includes any property ("the other property").

(2) For the purposes of Part I of Schedule 13 to the Finance Act 1999 (stamp duty on conveyance or transfer on sale) the instrument transferring or vesting the estate or interest shall be taken to be a transfer on sale of the estate or interest.

(3) If—

(a) the other property is or includes one or more estates or interests in land, and

(b) *ad valorem* duty is chargeable on the conveyance or transfer of all or any of those estates or interests,

the amount of duty that would (apart from this subsection) be chargeable in consequence of subsection (2) on the transfer on sale there mentioned shall be reduced (but not below nil) by the total of the*ad valorem* duty chargeable as mentioned in paragraph (b).

(4) If, for the purposes of Part I of Schedule 13 to the Finance Act 1999, the amount or value of the consideration for the transfer on sale mentioned in subsection (2) would (apart from this subsection) exceed the market value of the estate or interest immediately before the execution of the instrument transferring or vesting it, the amount or value of the consideration shall be taken for those purposes to be equal to that market value.

(5) For the purposes of this section, the market value of property at any time is the price which that property might reasonably be expected to fetch on a sale at that time in the open market.

(6) Subsection (2) has effect even though—

(a) the transfer or vesting of the estate or interest is the whole or part of the consideration for a sale of the other property; or

(b) the transaction is by way of exchange.

(7) Subsection (2) does not affect any charge to stamp duty in respect of the same or any other instrument so far as it relates to the transfer of the other property.

(8) This section is subject to subsection (5) of section 119.

(9) This section shall be construed as one with the [M144]Stamp Act 1891.

(10) This section applies to instruments executed on or after 28th March 2000.

(11) But this section does not apply to an instrument giving effect to a contract made on or before 21st March 2000, unless—

(a) the instrument is made in consequence of the exercise after that date of any option, right of pre-emption or similar right; or

(b) the instrument transfers the property in question to, or vests it in, a person other than the purchaser under the contract, because of an assignment (or, in Scotland, assignation) or further contract made after that date.

(12) This section shall be deemed to have come into force on 28th March 2000.

Marginal Citations

M144 1891 c. 39.

119 Transfer of land to connected company. U.K.

(1) This section applies where an estate or interest in land is transferred to or vested in a company ("A") and—

(a) the person transferring or vesting the estate or interest ("B") is connected with A; or

(b) some or all of the consideration for the transfer or vesting consists of the issue or transfer of shares in a company with which B is connected.

(2) For the purposes of Part I of Schedule 13 to the Finance Act 1999 (stamp duty on conveyance or transfer on sale) an instrument transferring or vesting the estate or interest shall be taken to be a transfer on sale of the estate or interest.

(3) If for those purposes the amount or value of the consideration for the transfer on sale of the estate or interest would, apart from this subsection, be less than the value determined under subsection (4), the consideration shall be taken for those purposes to be the value determined under subsection (4).

(4) That value is—

(a) the market value of the estate or interest immediately before the execution of the instrument transferring or vesting it; but

(b) reduced by the value of so much of any actual consideration as does not consist of property.

(5) Where—

(a) apart from this section, an instrument would be chargeable to stamp duty in accordance with section 118, and

(b) apart from that section, the instrument would be chargeable to stamp duty in accordance with this section,

the stamp duty chargeable on the instrument shall be determined in accordance with this section (instead of that section).

(6) This section applies only if, in consequence of its application, the instrument transferring or vesting the estate or interest is chargeable with a greater amount of stamp duty than it would be apart from this section and section 118.

(7) For the purposes of this section, the market value of property at any time is the price which that property might reasonably be expected to fetch on a sale at that time in the open market.

(8) In this section—

"company" means any body corporate;

"shares" includes stock and the reference to shares in a company includes a reference to securities issued by a company.

(9) For the purposes of this section, the question whether any person is connected with another shall be determined in accordance with the provisions of section 839 of the Taxes Act 1988.

(10) This section shall be construed as one with the [M145]Stamp Act 1891.

(11) This section applies to instruments executed on or after 28th March 2000.

(12) But this section does not apply to an instrument giving effect to a contract made on or before 21st March 2000, unless—

(a) the instrument is made in consequence of the exercise after that date of any option, right of pre-emption or similar right; or

(b) the instrument transfers the property in question to, or vests it in, a person other than the purchaser under the contract, because of an assignment (or, in Scotland, assignation) or further contract made after that date.

(13) This section shall be deemed to have come into force on 28th March 2000.

Marginal Citations

M145 1891 c. 39.

VALID FROM 28/07/2000

120 Exceptions from section 119. U.K.

(1) Section 119 does not apply by virtue of paragraph (a) of subsection (1) of that section in any of the following cases (any reference in this section to A or B being taken as a reference to the person referred to as A or B, as the case may be, in that subsection).

(2) Case 1 is where B holds the estate or interest as nominee or bare trustee for A.

(3) Case 2 is where A is to hold the estate or interest as nominee or bare trustee for B.

(4) Case 3 is where B holds the estate or interest as nominee or bare trustee for some other person and A is to hold it as nominee or bare trustee for that other person.

(5) Case 4 is where (in a case not falling within subsection (2) or (4) above)—

(a) the transfer or vesting is a conveyance or transfer out of a settlement in or towards satisfaction of a beneficiary's interest;

(b) the beneficiary's interest is not an interest acquired for money or money's worth; and

(c) the conveyance or transfer is a distribution of property in accordance with the provisions of the settlement.

(6) Case 5 is where (in a case not falling within subsection (3) above) A—

(a) is a person carrying on a business which consists of or includes the management of trusts; and

(b) is to hold the estate or interest as trustee acting in the course of that business.

(7) Case 6 is where (in a case not falling within subsection (3) above) A is to hold the estate or interest as trustee and, apart from section 839(3) of the Taxes Act 1988 (trustees as connected persons), would not be connected with B.

(8) Case 7 is where—

(a) B is a company;

(b) the transfer or vesting is, or is part of, a distribution of assets (whether or not in connection with the winding up of the company); and

(c) the estate or interest was acquired by B by virtue of an instrument which is duly stamped.

(9) This section shall be construed as one with the [M146]Stamp Act 1891.

(10) This section applies to instruments executed after the day on which this Act is passed.

Marginal Citations

M146 1891 c. 39.

121 Grant of lease to connected company. U.K.

(1) This section applies where a lease is granted to a company ("A") and—

(a) the person granting the lease ("B") is connected with A; or

(b) some or all of the consideration for the grant of the lease consists of the issue or transfer of shares in a company with which B is connected.

(2) Subsection (3) has effect for the purposes of stamp duty chargeable under Part II of Schedule 13 to the [M147]Finance Act 1999 (stamp duty on a lease) by reference to Part I of that Schedule (conveyance or transfer on sale).

(3) If, apart from this subsection, the amount or value of the consideration for the grant would be less than the value determined under subsection (4), the consideration shall be taken to be the value determined under subsection (4).

(4) That value is—

(a) the market value, immediately before the instrument granting the lease is executed, of the lease granted; but

(b) reduced by the value of so much of any actual consideration as does not consist of property.

(5) This section applies only if, in consequence of its application, the lease is chargeable with a greater amount of stamp duty than it would be apart from this section.

(6) For the purposes of this section, the market value of property at any time is the price which that property might reasonably be expected to fetch on a sale at that time in the open market.

(7) In this section—

"company" means any body corporate;

"shares" includes stock and the reference to shares in a company includes a reference to securities issued by a company.

(8) For the purposes of this section, the question whether any person is connected with another shall be determined in accordance with the provisions of section 839 of the Taxes Act 1988.

(9) This section shall be construed as one with the M148Stamp Act 1891.

(10) This section applies to instruments executed on or after 28th March 2000.

(11) But this section does not apply to an instrument giving effect to a contract made on or before 21st March 2000, unless—

(a) the instrument is made in consequence of the exercise after that date of any option, right of pre-emption or similar right; or

(b) the instrument transfers the property in question to, or vests it in, a person other than the purchaser under the contract, because of an assignment (or, in Scotland, assignation) or further contract made after that date.

(12) This section shall be deemed to have come into force on 28th March 2000.

Marginal Citations

M147 1999 c. 16.

M148 1891 c. 39.

122 Marketable securities transferred etc for exempt property. U.K.

(1) Subsection (2) applies where—

(a) an instrument transferring marketable securities would not, apart from this section, be or fall to be treated as a transfer on sale for the purposes of stamp duty; but

(b) the transfer of the marketable securities is for consideration; and

(c) the consideration is or includes any qualifying property ("the other property").

(2) For the purposes of Part I of Schedule 13 to the Finance Act 1999 (stamp duty on conveyance or transfer on sale) the instrument transferring the marketable securities shall be taken to be a transfer on sale of those securities.

(3) If the amount or value of the consideration for that transfer on sale would (apart from this subsection) exceed the market value of the marketable securities immediately before the execution of the instrument transferring them, the amount or value of the consideration shall be taken to be equal to that market value.

For this purpose the market value of property at any time is the price which that property might reasonably be expected to fetch on a sale at that time in the open market.

(4) Subsection (2) has effect even though—

(a) the transfer of the marketable securities is the whole or part of the consideration for a sale of the other property; or

(b) the transaction is by way of exchange.

(5) Subsection (2) does not affect any charge to stamp duty in respect of the same or any other instrument so far as it relates to the transfer of the other property.

(6) In this section "qualifying property" means any debt due, stock or securities, to the extent that the debt, stock or securities are not chargeable securities, within the meaning of Part IV of the [M149]Finance Act 1986 (stamp duty reserve tax).

(7) This section shall be construed as one with the [M150]Stamp Act 1891.

(8) This section applies to instruments executed on or after 28th March 2000.

(9) But this section does not apply to an instrument giving effect to a contract made on or before 21st March 2000, unless—

(a) the instrument is made in consequence of the exercise after that date of any option, right of pre-emption or similar right; or

(b) the instrument transfers the property in question to, or vests it in, a person other than the purchaser under the contract, because of an assignment (or, in Scotland, assignation) or further contract made after that date.

(10) This section shall be deemed to have come into force on 28th March 2000.

Marginal Citations

M149 1986 c. 41.

M150 1891 c. 39.

VALID FROM 28/07/2000

123 Transfer of property between associated companies: Great Britain. U.K.

(1) Amend section 42 of the [M151]Finance Act 1930 as follows.

(2) In subsection (2) (instruments on which stamp duty not chargeable) in paragraph (a) for "to another" substitute " ("the transferor") to another ("the transferee") ".

(3) In that subsection, after paragraph (b) insert— " unless at the time the instrument is executed arrangements are in existence by virtue of which at that or some later time any person has or could obtain, or any persons together have or could obtain, control of the transferee but not of the transferor. ".

(4) In subsection (2B) (body to be parent of another if beneficial owner of 75% of ordinary share capital) after "if at that time the first body" insert " (a) " and at the end of the subsection add—

"(b) is beneficially entitled to not less than 75 per cent of any profits available for distribution to equity holders of the second body; and

(c) would be beneficially entitled to not less than 75 per cent of any assets of the second body available for distribution to its equity holders on a winding-up.".

(5) In subsection (3)—
(a) after "The ownership referred to in" insert " paragraph (a) of "; and
(b) for "this section" substitute " that paragraph ".

(6) At the end of the section add—

"(5) Schedule 18 to the M152Income and Corporation Taxes Act 1988 shall apply for the purposes of paragraphs (b) and (c) of subsection (2B) as it applies for the purposes of paragraphs (a) and (b) of section 413(7) of that Act; but this is subject to subsection (6).

(6) In determining for the purposes of this section whether a body corporate is the parent of the transferor, paragraphs 5(3) and 5B to 5E of Schedule 18 to the Income and Corporation Taxes Act 1988 shall not apply for the purposes of paragraph (b) or (c) of subsection (2B).

(7) In this section, "control" shall be construed in accordance with section 840 of the M153Income and Corporation Taxes Act 1988.".

(7) This section has effect in relation to instruments executed after the day on which this Act is passed.

Marginal Citations
M151 1930 c. 28.
M152 1988 c. 1.
M153 1988 c. 1.

VALID FROM 28/07/2000

124 Transfer of property between associated companies: Northern Ireland. U.K.

(1) Amend section 11 of the M154Finance Act (Northern Ireland) 1954 as follows.

(2) After subsection (2) (instruments on which stamp duty not chargeable) insert—

"(2A) But this section does not apply to an instrument by virtue of subsection (2)(a) if, at the time the instrument is executed, arrangements are in existence by virtue of which at that or some later time any person has or could obtain, or any persons together have or could obtain, control of the transferee but not of the transferor.".

(3) In subsection (3AA) (body to be parent of another if beneficial owner of 75% of ordinary share capital) after "if at that time the first body" insert " (a) " and at the end of the subsection add—

"(b) is beneficially entitled to not less than 75 per cent of any profits available for distribution to equity holders of the second body; and

(c) would be beneficially entitled to not less than 75 per cent of any assets of the second body available for distribution to its equity holders on a winding-up.".

(4) In subsection (3A)—

(a) after "The ownership referred to in" insert " paragraph (a) of "; and

(b) for "this section" substitute " that paragraph ".

(5) At the end of the section add—

"(6) Schedule 18 to the M155Income and Corporation Taxes Act 1988 shall apply for the purposes of paragraphs (b) and (c) of subsection (3AA) as it applies for the purposes of paragraphs (a) and (b) of section 413(7) of that Act; but this is subject to subsection (7).

(7) In determining for the purposes of this section whether a body corporate is the parent of the transferor, paragraphs 5(3) and 5B to 5E of Schedule 18 to the Income and Corporation Taxes Act 1988 shall not apply for the purposes of paragraph (b) or (c) of subsection (3AA).

(8) In this section, "control" shall be construed in accordance with section 840 of the M156Income and Corporation Taxes Act 1988.".

(6) This section has effect in relation to instruments executed after the day on which this Act is passed.

Marginal Citations

M154 1954 c. 23 (N.I.).
M155 1988 c. 1.
M156 1988 c. 1.

VALID FROM 28/07/2000

125 Grant of leases etc between associated companies. U.K.

(1) Amend section 151 of the M157Finance Act 1995 as follows.

(2) In subsection (1) (stamp duty not chargeable on leases etc) at the end insert the following paragraph—

"This subsection is subject to subsection (4A) below.".

(3) After subsection (4) insert—

"(4A) An instrument shall not be exempt from stamp duty by virtue of subsection (1) above if at the time the instrument is executed arrangements are in existence by virtue of which at that or some later time any person has or could obtain, or any persons together have or could obtain, control of the lessee but not of the lessor.".

(4) In subsection (8) (body to be parent of another if beneficial owner of 75% of ordinary share capital) after "if at that time the first body" insert " (a) " and at the end of the subsection add—

"(b) is beneficially entitled to not less than 75 per cent of any profits available for distribution to equity holders of the second body; and

(c) would be beneficially entitled to not less than 75 per cent of any assets of the second body available for distribution to its equity holders on a winding-up.".

(5) In subsection (10)—

(a) after "The ownership referred to in" insert " paragraph (a) of "; and

(b) for "this section" substitute " that paragraph ".

(6) After subsection (10) insert—

"(10A) Schedule 18 to the [M158]Income and Corporation Taxes Act 1988 shall apply for the purposes of paragraphs (b) and (c) of subsection (8) as it applies for the purposes of paragraphs (a) and (b) of section 413(7) of that Act; but this is subject to subsection (10B).

(10B) In determining for the purposes of this section whether a body corporate is the parent of the lessor, paragraphs 5(3) and 5B to 5E of Schedule 18 to the Income and Corporation Taxes Act 1988 shall not apply for the purposes of paragraph (b) or (c) of subsection (8) above.

(10C) In this section, "control" shall be construed in accordance with section 840 of the [M159]Income and Corporation Taxes Act 1988.".

(7) This section has effect in relation to instruments executed after the day on which this Act is passed.

Marginal Citations

M157 1995 c. 4.
M158 1988 c. 1.
M159 1988 c. 1.

VALID FROM 28/07/2000

126 Future issues of stock. U.K.

(1) Amend section 55 of the [M160]Stamp Act 1891 (calculation of ad valorem duty in respect of stock and securities) as follows.

(2) After subsection (1) insert—

"(1A) For the purposes of subsection (1), it is immaterial—

(a) whether, at the time of the execution of the conveyance on sale, the stock or marketable security is or has been issued or is to be issued; and

(b) in a case where the stock or marketable security is to be issued, when it is to be, or is, issued and whether the issue is certain or contingent.".

(3) This section has effect in relation to instruments executed after the day on which this Act is passed.

Marginal Citations
M160 1891 c. 39.

VALID FROM 28/07/2000

127 Company acquisition reliefs: redeemable shares. U.K.

(1) Amend section 75 of the M161Finance Act 1986 (acquisitions: reliefs) in accordance with subsections (2) and (3).

(2) In subsection (4), in paragraph (a) (which requires that the consideration for the acquisition consists of or includes the issue of shares) after "the issue of" insert " non-redeemable ".

(3) In subsection (4), after paragraph (b) add—

"In paragraph (a) above, "non-redeemable shares" means shares which are not redeemable shares.".

(4) In section 76 of the M162Finance Act 1986 (acquisitions: further provisions about reliefs) in subsection (3)(a) (which requires that the consideration for the acquisition consists of or includes the issue of shares) for "shares" substitute " non-redeemable shares (within the meaning of section 75(4)(a) above) ".

(5) This section has effect in relation to instruments executed after the day on which this Act is passed.

Marginal Citations
M161 1986 c. 41.
M162 1986 c. 41.

VALID FROM 28/07/2000

128 Surrender of leases. U.K.

(1) Where a lease is or has been surrendered or, in Scotland, renounced at any time, a document evidencing the surrender or renunciation shall be treated for the purposes of stamp duty as if it were a deed executed at that time effecting the surrender or renunciation.

(2) Stamp duty shall be chargeable by virtue of subsection (1) on a document containing a statutory declaration, notwithstanding anything in rule 316(1) of the **M163**Land Registration Rules 1925 or any other provision of those Rules or of any other rules (whenever made) under section 144 of the **M164** Land Registration Act 1925.

(3) Stamp duty shall not be chargeable by virtue of subsection (1) on any lease or agreement for a lease or with respect to any letting if the lease or agreement—
- (a) is made in consideration of the surrender or renunciation; and
- (b) relates to the same subject matter as the lease surrendered or renounced.

(4) Stamp duty shall not be chargeable by virtue of subsection (1) on any document if a document falling within subsection (5) has been duly stamped.

(5) The documents that fall within this subsection are—
- (a) a deed effecting the surrender or renunciation;
- (b) an agreement which falls to be treated for the purposes of stamp duty as if it were such a deed;
- (c) any document which falls to be so treated by virtue of subsection (1); and
- (d) any lease or agreement falling within subsection (3).

(6) A land registrar shall regard a document which by virtue of subsection (4) is not chargeable to stamp duty by virtue of subsection (1) as not duly stamped unless—
- (a) it is stamped as if it were a deed effecting the surrender or renunciation; or
- (b) it appears by some stamp impressed on it that the full and proper duty chargeable on such a deed has been paid on another document; or
- (c) it appears by some stamp impressed on it that a lease or agreement falling within subsection (3) has been duly stamped; or
- (d) the land registrar is aware of a document falling within subsection (5) which has been duly stamped.

(7) The documents which evidence the surrender or renunciation of a lease shall be taken to include an application, in consequence of the surrender or renunciation of the lease, for—
- (a) the making in a land register, or
- (b) the removal from a land register,

of an entry relating to the lease.

(8) In this section—

"land register"—
- (a) in relation to England and Wales, means the register kept under section 1 of the **M165**Land Registration Act 1925;
- (b) in relation to Scotland, means the Land Register of Scotland or the General Register of Sasines;
- (c) in relation to Northern Ireland, means the register maintained under section 10 of the **M166**Land Registration Act (Northern Ireland) 1970;

"land registrar"—
- (a) in relation to England and Wales, means the Chief Land Registrar or any other officer of Her Majesty's Land Registry exercising functions of the Chief Land Registrar;
- (b) in relation to Scotland, means the Keeper of the Registers of Scotland;

(c) in relation to Northern Ireland, means the Registrar of Titles or any other official of the Land Registry exercising functions of the Registrar of Titles.

(9) This section shall be construed as one with the [M167]Stamp Act 1891.

(10) This section applies to documents relating to the surrender or renunciation of a lease after the day on which this Act is passed.

Marginal Citations

M163 S.R.&O. 1925/1093.
M164 1925 c. 21.
M165 1925 c. 21.
M166 1970 c. 18 (N.I.)
M167 1891 c. 39.

129 Abolition of duty on instruments relating to intellectual property. U.K.

(1) No stamp duty is chargeable on an instrument for the sale, transfer or other disposition of intellectual property.

(2) In subsection (1) "intellectual property" means—

(a) any patent, trade mark, registered design, copyright or design right,

(b) any plant breeders' rights and rights under section 7 of the [M168]Plant Varieties Act 1997,

(c) any licence or other right in respect of anything within paragraph (a) or (b), and

(d) any rights under the law of a country or territory outside the United Kingdom that correspond or are similar to those within paragraph (a), (b) or (c).

(3) Schedule 34 to this Act (which contains provisions supplementing this section) has effect.

(4) This section and Schedule 34 shall be construed as one with the [M169]Stamp Act 1891.

(5) This section applies to instruments executed on or after 28th March 2000.

(6) This section shall be deemed to have come into force on that date.

Marginal Citations

M168 1997 c. 66.
M169 1891 c. 39.

VALID FROM 28/07/2000

130 Transfers to registered social landlords etc. U.K.

(1) No stamp duty shall be chargeable under Part I or II, or paragraph 16 of Part III, of Schedule 13 to the [M170]Finance Act 1999 on a conveyance or transfer of an estate or interest in land, or on a lease of land,—

(a) to a qualifying landlord controlled by its tenants;
(b) to a qualifying landlord by a qualifying transferor; or
(c) to a qualifying landlord purchasing the estate or interest, or the grant of the lease, with the assistance of a public subsidy.

(2) For the purposes of this section the cases where a qualifying landlord is controlled by its tenants are those cases where the majority of the board members of the qualifying landlord are tenants occupying properties owned or managed by the qualifying landlord.

(3) For the purposes of subsection (2) a "board member" means—
(a) in relation to a qualifying landlord which is a company, a director of the company;
(b) in relation to a qualifying landlord which is a body corporate whose affairs are managed by its members, a member;
(c) in relation to a qualifying landlord which is a body of trustees, a member of that body of trustees;
(d) in relation to a qualifying landlord not falling within any of paragraphs (a) to (c), a member of the committee of management or other body to which is entrusted the direction of the affairs of the qualifying landlord.

(4) In subsection (3), "company" has the same meaning as in the [M171]Companies Act 1985 (see section 735(1) of that Act).

(5) In this section "qualifying landlord" means—
(a) in relation to England and Wales, any body registered as a social landlord in a register maintained under section 1(1) of the [M172]Housing Act 1996;
(b) in relation to Scotland—
(i) any housing association registered in the register maintained under section 3(1) of the [M173]Housing Associations Act 1985 by Scottish Homes; or
(ii) any body corporate whose objects correspond to those of a housing association and which, pursuant to a contract with Scottish Homes, is registered in a register kept for the purpose by Scottish Homes;
(c) in relation to Northern Ireland, any housing association registered in the register maintained under Article 14 of the [M174]Housing (Northern Ireland) Order 1992.

(6) In this section "qualifying transferor" means any of the following—
(a) a qualifying landlord;
(b) a housing action trust established under Part III of the [M175]Housing Act 1988;
(c) a principal council, within the meaning of the [M176]Local Government Act 1972;
(d) the Common Council of the City of London;
(e) a council constituted under section 2 of the [M177]Local Government etc. (Scotland) Act 1994;
(f) Scottish Homes;
(g) the Department for Social Development in Northern Ireland;
(h) the Northern Ireland Housing Executive.

(7) In this section "public subsidy" means any grant or other financial assistance—

(a) made or given by way of a distribution pursuant to section 25 of the [M178]National Lottery etc. Act 1993 (application of money by distributing bodies);
(b) under section 18 of the [M179]Housing Act 1996 (social housing grants);
(c) under section 126 of the [M180]Housing Grants, Construction and Regeneration Act 1996 (financial assistance for regeneration and development);
(d) under section 2 of the [M181]Housing (Scotland) Act 1988 (general functions of Scottish Homes); or
(e) under Article 33 of the [M182]Housing (Northern Ireland) Order 1992 (housing association grants).

(8) Where stamp duty would be chargeable on an instrument but for paragraph (c) of subsection (1), that subsection shall only have effect in relation to the instrument if the instrument is certified to the Board by the qualifying landlord concerned as being an instrument on which stamp duty is by virtue of that paragraph not chargeable.

(9) An instrument on which stamp duty is not chargeable by virtue only of this section shall not be taken to be duly stamped unless—
(a) it is stamped with the duty to which it would be liable but for this section; or
(b) it has, in accordance with section 12 of the [M183]Stamp Act 1891, been stamped with a particular stamp denoting that it is not chargeable with any duty.

(10) This section applies to instruments executed after the day on which this Act is passed.

Marginal Citations
M170 1999 c. 16.
M171 1985 c. 6.
M172 1996 c. 52.
M173 1985 c. 69.
M174 S.I. 1992/1725 (N.I. 15).
M175 1988 c. 50.
M176 1972 c. 70.
M177 1994 c. 39.
M178 1993 c. 39.
M179 1996 c. 52.
M180 1996 c. 53.
M181 1988 c. 43.
M182 S.I. 1992/1725 (N.I. 15).
M183 1891 c. 39.

VALID FROM 28/07/2000

131 Relief for certain instruments executed before this Act has effect. U.K.

(1) This section applies to an instrument of any of the following descriptions executed in the period beginning with 22nd March 2000 and ending with the day on which this Act is passed—

(a) an instrument transferring or vesting an estate or interest in land in such circumstances as are mentioned in section 119 (transfer of land to connected company), in a case specified in section 120 (excepted cases);

(b) a conveyance or transfer of an estate or interest in land, or a lease of land, to a qualifying landlord within the meaning of section 130 (transfers to registered social landlords, etc.) from a qualifying transferor within subsection (6)(c), (d), (e), (f) or (h) of that section.

(2) If the instrument is not stamped until after the day on which this Act is passed, the law in force at the time of its execution shall be deemed for stamp duty purposes to be that which would have applied if it had been executed after that day.

(3) If the Commissioners are satisfied that—

(a) the instrument was stamped on or before the day on which this Act is passed,

(b) stamp duty was chargeable in respect of it, and

(c) had it been stamped after that day no stamp duty, or less stamp duty, would have been chargeable,

they shall pay to such person as they consider appropriate an amount equal to the duty (and any interest or penalty) that would not have been payable if the law in force at the time of execution of the instrument had been that which would have applied had it been executed after that day.

(4) Any such payment must be claimed before 1st April 2001.

(5) Entitlement to a payment is subject to compliance with such conditions as the Commissioners may determine with respect to the production of the instrument, to its being stamped so as to indicate that it has been produced under this section or to other matters.

(6) For the purposes of section 10 of the [M184]Exchequer and Audit Departments Act 1866 (Commissioners to deduct repayments from gross revenues) any amount paid under this section shall be treated as a repayment.

(7) This section shall be construed as one with the [M185]Stamp Act 1891.

Marginal Citations

M184 1866 c. 39.

M185 1891 c. 39.

132 The Northern Ireland Assembly Commission. U.K.

(1) Amend section 55 of the [M186]Finance Act 1987 (Crown exemption from stamp duty) as follows.

(2) In subsection (1) (which specifies the bodies relieved from stamp duty)—

(a) after “agreed to be made" insert “ (a) ”;

(b) after “Minister of the Crown or" insert “ (b) ”; and

(c) after “Treasury, or" insert “ (c) ”.

(3) In subsection (1), after “National Assembly for Wales," insert “or

(d) to the Northern Ireland Assembly Commission,”.

(4) Subsection (3) has effect in relation to instruments executed on or after 28th March 2000.

(5) This section shall be deemed to have come into force on 28th March 2000.

Marginal Citations

M186 1987 c. 16.

VALID FROM 28/07/2000

Stamp duty and Stamp duty reserve tax

[F3 133 Loan capital where return bears inverse relationship to results. U.K.

(1) In section 79 of the M187 Finance Act 1986 (loan capital), after subsection (7) insert—

"(7A) Subsection (4) above shall not be prevented from applying to an instrument by virtue of subsection (6)(b) above by reason only that the loan capital concerned carries a right to interest which—

(a) reduces in the event of the results of a business or part of a business improving, or the value of any property increasing, or

(b) increases in the event of the results of a business or part of a business deteriorating, or the value of any property diminishing.".

(2) For the purposes of stamp duty, subsection (1) above has effect where the instrument is executed on or after 21st March 2000.

(3) For the purposes of stamp duty reserve tax, subsection (1) above has effect—

(a) in relation to the charge to tax under section 87 of the Finance Act 1986, where—

(i) the agreement to transfer is conditional and the condition is satisfied on or after 21st March 2000, or

(ii) the agreement is not conditional and is made on or after that date;

(b) in relation to the charge to tax under section 93(1) of that Act, where securities are transferred, issued or appropriated on or after 21st March 2000 (whenever the arrangement was made);

(c) in relation to the charge to tax under section 96(1) of that Act, where securities are transferred or issued on or after 21st March 2000 (whenever the arrangement was made);

(d) in relation to the charge to tax under section 93(10) of that Act, where securities are issued or transferred on sale, under terms there mentioned, on or after 21st March 2000;

(e) in relation to the charge to tax under section 96(8) of that Act, where securities are issued or transferred on sale, under terms there mentioned, on or after 21st March 2000.]

Textual Amendments

F3 S. 133 repealed (with effect as mentioned in Sch. 40 Pt. III Note 3 of the amending Act) by 2000 c. 17, s. 156, **Sch. 40 Pt. III**

Marginal Citations

M187 1986 c. 41.

[F4 134 Transfers between depositary receipt systems and clearance systems. U.K.

(1) In Part III of the M188 Finance Act 1986 (stamp duty), after section 72 insert—

" *Transfers between depositary receipt system and clearance system*

Transfers between depositary receipt system and clearance system.

(1) Where an instrument transfers relevant securities of a company incorporated in the United Kingdom between a depositary receipt system and a clearance system—

(a) the provisions of section 67(2) to (5) or, as the case may be, section 70(2) to (5) above shall not apply, and

(b) the stamp duty chargeable on the instrument is £5.

(2) A transfer between a depositary receipt system and a clearance system means a transfer—

(a) from (or to) a company that at the time of the transfer falls within section 67(6) above, and

(b) to (or from) a company that at that time falls within section 70(6) above.

(3) This section does not apply to a transfer from a clearance system (that is, from such a company as is mentioned in subsection (2)(b) above) if at the time of the transfer an election is in force under section 97A below in relation to the clearance services for the purposes of which the securities are held immediately before the transfer.".

(2) In Part IV of the M189 Finance Act 1986 (stamp duty reserve tax), after section 97A insert—

" **Transfer between depositary receipt system and clearance system.**

(1) There shall be no charge to tax under section 93 or 96 above where securities are transferred between a depositary receipt system and a clearance system.

(2) A transfer between a depositary receipt system and a clearance system means a transfer—

(a) from (or to) a company which at the time of the transfer falls within section 67(6) above, and

(b) to (or from) a company which at that time falls within section 70(6) above.

(3) This section does not apply to a transfer from a clearance system (that is, from such a company as is mentioned in subsection (2)(b) above) if at the time of the transfer an election is in force under section 97A above in relation to the clearance services for the purposes of which the securities are held immediately before the transfer.".

(3) In sections 67(9), 70(9), 95(1) and 97(1) of the [M190]Finance Act 1986 (transfers between depositary receipt systems or between clearance systems), the words "and is resident in the United Kingdom" and "and is so resident" shall cease to have effect.

(4) In section 97A of that Act (clearance services: election for alternative system of charge), after subsection (12) add—

"(13) Nothing in section 70(9) or 97(1) above has effect to prevent a charge to stamp duty or stamp duty reserve tax arising—
(a) on a transfer to which subsection (5) above applies, or
(b) on a deemed transfer under subsection (11) above.".

(5) The amendments in this section have effect as follows—
(a) subsection (1), and subsections (3) and (4) as they apply for stamp duty purposes, apply in relation to instruments executed after the day on which this Act is passed;
(b) subsection (2), and subsections (3) and (4) as they apply for the purposes of stamp duty reserve tax, apply where the securities are transferred after that day.]

Textual Amendments

F4 S. 134 repealed (with effect as mentioned in Sch. 40 Pt. III Note 3 of the amending Act) by 2000 c. 17, s. 156, **Sch. 40 Pt. III**

Marginal Citations

M188 1986 c. 41.
M189 1986 c. 41.
M190 1986 c. 41.

VALID FROM 28/07/2000

PART V U.K.

OTHER TAXES

Value added tax

135 Supplies to which reduced rate applies. U.K.

(1) Schedule 35 to this Act (which amends Schedule A1 to the [M191]Value Added Tax Act 1994 for the purpose of extending the range of supplies to which the reduced rate of value added tax applies) has effect.

(2) The amendments made by that Schedule have effect in relation to supplies made on or after 1st April 2000.

(3) Subsection (2) does not apply to the amendment made by paragraph 8(5) of that Schedule.

That amendment has effect in relation to supplies made after the day on which this Act is passed.

Marginal Citations

M191 1994 c. 23.

136 Disposals of assets for which a VAT repayment is claimed. U.K.

(1) In section 3(2) of the M192 Value Added Tax Act 1994 (taxable persons and registration), for "Schedules 1 to 3" there shall be substituted " Schedules 1 to 3A ".

(2) In section 67 of that Act (failure to notify)—

(a) in subsection (1)(a), for "or with paragraph 3 or 8(2) of Schedule 3" there shall be substituted " , with paragraph 3 or 8(2) of Schedule 3 or paragraph 3, 4 or 7(2) or (3) of Schedule 3A ";

(b) in subsection (3)(a), for "or paragraph 3 of Schedule 3" there shall be substituted " , paragraph 3 of Schedule 3 or paragraph 3 or 4 of Schedule 3A "; and

(c) in subsection (3)(b), for "or with sub-paragraph (2) of paragraph 8 of Schedule 3" there shall be substituted " , with sub-paragraph (2) of paragraph 8 of Schedule 3 or with sub-paragraph (2) or (3) of paragraph 7 of Schedule 3A ".

(3) In section 69(1)(a) of that Act (breaches of regulatory provisions), for "or paragraph 5 of Schedule 3" there shall be substituted " , paragraph 5 of Schedule 3 or paragraph 5 of Schedule 3A ".

(4) In section 73(3)(b) of that Act (failure to make returns etc.), for "or paragraph 6(2) or (3) of Schedule 3" there shall be substituted " , paragraph 6(2) or (3) of Schedule 3 or paragraph 6(1) or (2) of Schedule 3A ".

(5) In section 74(1)(c) of that Act (interest on VAT recovered or recoverable by assessment), for "under paragraph 8 of Schedule 3" there shall be substituted " , under paragraph 8 of Schedule 3 or under paragraph 7 of Schedule 3A ".

(6) In the following provisions of that Act—

(a) paragraph 1(4)(a) and (5) of Schedule 1 (registration in respect of taxable supplies); and

(b) paragraph 1(4) of Schedule 2 (registration in respect of supplies from other member States),

for "or paragraph 6(3) of Schedule 3" there shall be substituted " , paragraph 6(3) of Schedule 3 or paragraph 6(2) of Schedule 3A ".

(7) In paragraph 1(3) of Schedule 3 to that Act (registration in respect of acquisitions from other member States), for "or paragraph 6(2) of Schedule 2" there shall be substituted " , paragraph 6(2) of Schedule 2 or paragraph 6(2) of Schedule 3A ".

(8) After Schedule 3 to that Act there shall be inserted the Schedule 3A set out in Schedule 36 to this Act.

(9) In paragraph 5(5) of Schedule 4 to that Act (matters to be treated as a supply of goods or services), for the words from "under sections 25 and 26" to the end there shall be substituted—

"(a) under sections 25 and 26, to credit for the whole or any part of the VAT on the supply, acquisition or importation of those goods or of anything comprised in them; or

(b) under a scheme embodied in regulations made under section 39, to a repayment of VAT on the supply or importation of those goods or of anything comprised in them.".

(10) Subsections (1) to (7) and (9) above have effect in relation to supplies made on or after 21st March 2000; and subsection (8) above and Schedule 36 to this Act have effect in relation to relevant supplies (within the meaning of Schedule 3A to that Act) made on or after that date.

Marginal Citations

M192 1994 c. 23.

137 Gold: penalty for failure to comply with record-keeping requirements etc. U.K.

(1) Part IV of the [M193]Value Added Tax Act 1994 (administration, collection and enforcement) is amended as follows.

(2) After section 69 (breaches of regulatory provisions) insert—

"69A Breach of record-keeping requirements etc. in relation to transactions in gold.

(1) This section applies where a person fails to comply with a requirement of regulations under section 13(5)(a) or (b) of the [M194]Finance Act 1999 (gold: duties to keep records or provide information).

Where this section applies, the provisions of section 69 do not apply.

(2) A person who fails to comply with any such requirement is liable to a penalty not exceeding 17.5% of the value of the transactions to which the failure relates.

(3) For the purposes of assessing the amount of any such penalty, the value of the transactions to which the failure relates shall be determined by the Commissioners to the best of their judgement and notified by them to the person liable.

(4) No assessment of a penalty under this section shall be made more than 2 years after evidence of facts sufficient in the opinion of the Commissioners to justify the making of the assessment comes to their knowledge.

(5) The reference in subsection (4) above to facts sufficient to justify the making of the assessment is to facts sufficient—

(a) to indicate that there had been a failure to comply with any such requirement as is referred to in subsection (1) above, and

(b) to determine the value of the transactions to which the failure relates.

(6) A failure by any person to comply with any such requirement as is mentioned in subsection (1) above shall not give rise to a liability to a penalty under this section if the person concerned satisfies the Commissioners or, on appeal, a tribunal, that there is a reasonable excuse for the failure.

(7) Where by reason of conduct falling within subsection (1) above a person—

(a) is assessed to a penalty under section 60, or

(b) is convicted of an offence (whether under this Act or otherwise),

that conduct shall not also give rise to a penalty under this section.”.

(3) In section 70(1) of that Act (mitigation of penalties), for “or 67" substitute “ , 67 or 69A ”.

(4) In section 76(1) of that Act (assessment of amount due by way of penalty etc.), for “to 69" (in both places) substitute “ to 69A ”.

(5) In section 83 of that Act (appeals), in paragraph (n) for “59 to 69" substitute “ 59 to 69A ”.

Marginal Citations

M193 1994 c. 23.

M194 1999 c. 16.

Inheritance tax

138 Treatment of employee share ownership trusts. U.K.

(1) The [M195]Inheritance Tax Act 1984 is amended as follows.

(2) In section 13 (dispositions by close companies for benefit of employees), in subsection (4), after paragraph (b) insert “; or

(c) if the trusts are those of an employee share ownership plan approved under Schedule 8 to the Finance Act 2000, of any power to appropriate shares to, or acquire shares on behalf of, individuals under the plan.”.

(3) In section 72 (property leaving employee trusts and newspaper trusts)—

(a) in subsection (2) after “subsection (4)" insert “ , (4A) ”, and

(b) after subsection (4) insert—

“(4A) If the trusts are those of an employee share ownership plan approved under Schedule 8 to the Finance Act 2000, tax shall not be chargeable under this section by virtue of subsection (3)(b) above on an appropriation of shares to, or acquisition of shares on behalf of, an individual under the plan.”.

(4) In section 86 (trusts for benefit of employees), in subsection (3), after paragraph (b) insert "; or

(c) the trusts on which the settled property is held are those of an employee share ownership plan approved under Schedule 8 to the Finance Act 2000.".

Marginal Citations

M195 1984 c. 51.

Petroleum revenue tax

139 Operating expenditure incurred while safeguard relief applies. U.K.

(1) After section 9 of the [M196]Oil Taxation Act 1975 insert—

"9A Operating expenditure incurred while section 9 applies.

(1) Subsections (2) and (3) below apply where—

(a) operating expenditure is incurred by a participator in an oil field during a chargeable period to which section 9(1) of this Act applies ("the relevant chargeable period");

(b) a claim for the allowance of the expenditure is made under Schedule 5 or 6 for the claim period which coincides with the relevant chargeable period ("the relevant claim period"); and

(c) the claim is made more than four months after the end of the relevant claim period.

(2) The Board shall not allow the expenditure except to such extent (if any) as they consider necessary to secure that the participator's overall liability to tax is no greater than it would have been if the claim had been allowed before the Board had made an assessment to tax or a determination on or in relation to the participator in respect of the field for the relevant chargeable period.

(3) Any amounts of oil allowance which, if the claim had been allowed before the Board had made an assessment to tax or a determination on or in relation to the participator in respect of the field for the relevant chargeable period, would not have been utilised by him in that period, or any subsequent chargeable period, shall be disregarded for the purposes of section 8(6) of this Act.

(4) Where—

(a) the participator transfers the whole or part of his interest in the oil field to another person; and

(b) Parts II and III of Schedule 17 to the [M197]Finance Act 1980 apply to the transfer,

subsections (2) and (3) above shall have effect as if references to the participator included references to that other person.

(5) In this section—

"acquisition", in relation to an asset, includes acquisition of an interest in the asset;

"capital expenditure" means expenditure on the acquisition or construction of an asset which is to be used for any of the following purposes—

(a) for ascertaining the extent or characteristics of any oil-bearing area wholly or partly included in the field, or what the reserves of oil of any such oil-bearing area are;

(b) for winning oil from the field;

(c) for transporting oil won from the field, whether to a place in the United Kingdom or to a place in another country; or

(d) for the initial treatment or initial storage of oil won from the field;

"operating expenditure" means any expenditure other than capital expenditure.

(6) Where a claim period is a period of twelve months, this section shall have effect as if—

(a) that period were two separate claim periods of six months each;

(b) any claim for that period under Schedule 5 or 6 were two separate claims, one for each of those separate periods; and

(c) the operating expenditure to which that claim relates were apportioned between those separate periods and those separate claims in such manner as may be just and reasonable.".

(2) This section has effect in relation to expenditure incurred on or after 21st March 2000.

Marginal Citations

M196 1975 c. 22.

M197 1980 c. 48.

Landfill tax

140 Rate. U.K.

(1) In section 42 of the M198 Finance Act 1996 (amount of landfill tax), in subsections (1) (a) and (2) for "£10" substitute " £11 ".

(2) This section has effect in relation to taxable disposals made, or treated as made, on or after 1st April 2000.

Marginal Citations

M198 1996 c. 8.

141 Disposals which are not taxable. U.K.

(1) In section 62 of the [M199]Finance Act 1996 (regulations about taxable disposals) amend subsection (7) (limit on power to make regulations providing that a disposal is not taxable) as follows.

(2) For paragraph (a) substitute—

“(a) the material comprised in the disposal is held temporarily pending one or more of the following—

(i) the incineration or recycling of the material, or

(ii) the removal of the material for use elsewhere, or

(iii) the use of the material, if it is qualifying material within the meaning of section 42(3) above, for the restoration to use of the site at which the disposal takes place, or any part of that site, upon completion of waste disposal operations at the site, or as the case may be, that part of the site, or

(iv) the sorting of the material with a view to its removal elsewhere or its eventual disposal, and”.

(3) In paragraph (b) for “the temporary disposal is made" substitute “ the material in question is held temporarily ”.

Marginal Citations

M199 1996 c. 8.

142 Secondary liability. U.K.

(1) In section 60 of the [M200]Finance Act 1996 (which gives effect to Schedule 5 to the Act), after “penalties" insert “ , secondary liability ”.

(2) Accordingly the sidenote to that section becomes “Information, powers, penalties, secondary liability, etc".

(3) At the end of Schedule 5 to that Act (supplementary provisions relating to landfill tax) add the Part VIII set out in Schedule 37 to this Act.

(4) Subsection (3) has effect in relation to taxable disposals made on or after the day on which this Act is passed.

Marginal Citations

M200 1996 c. 8.

VALID FROM 28/07/2000

PART VI U.K.

MISCELLANEOUS AND SUPPLEMENTARY PROVISIONS

Incentives for electronic communications

143 Power to provide incentives to use electronic communications. U.K.

(1) Regulations may be made in accordance with Schedule 38 to this Act for providing incentives to use electronic communications.

(2) Anything received by way of incentive under any such regulations shall not be regarded as income for any purposes of the Tax Acts.

Compliance

144 Offence of fraudulent evasion of income tax U.K.

(1) A person commits an offence if he is knowingly concerned in the fraudulent evasion of income tax by him or any other person.

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

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

(b) on conviction on indictment, to imprisonment for a term not exceeding seven years or a fine, or both.

(3) This section applies to things done or omitted on or after 1st January 2001.

145 Information about interest etc paid, credited or received. U.K.

(1) In section 17 of the [M201]Taxes Management Act 1970 (interest paid or credited by banks etc without or after deduction of tax), subsections (4B) and (4C) shall cease to have effect.

(2) In subsection (5) of that section—

(a) for paragraph (c) there shall be substituted—

"(c) that if a person is required—

(i) to make and deliver a return under subsection (1) above;

(ii) to include information in such a return under any provision made under paragraph (a) above; or

(iii) to furnish information under any provision made under paragraph (b) above,

and the notice under subsection (1) above specifies the form in which the return is to be made and delivered, or the information is to be included or furnished, the person shall make and deliver the return, or include or furnish the information, in that form;";

and

(b) at the end there shall be inserted—

"The further information required as mentioned in paragraph (a) or (b) above may include, in prescribed cases, the name and address of the person beneficially entitled to the interest paid or credited.".

(3) After paragraph (a) of subsection (6) of that section there shall be inserted—

"(aa) may make provision with respect to the furnishing of information by persons required—

(i) to make and deliver a return under subsection (1) above;

(ii) to include information in such a return under any provision made under subsection (5)(a) above; or

(iii) to furnish information under any provision made under subsection (5)(b) above,

including the inspection of books, documents and other records on behalf of the Board;".

(4) In subsection (1) of section 18 of that Act (interest paid without or after deduction of tax)—

(a) for "by whom" there shall be substituted " by or through whom "; and

(b) for "who receives any such interest" there shall be substituted " by whom any such interest is received ".

(5) Subsections (3) and (3AA) of that section shall cease to have effect.

(6) In subsection (3A) of that section, after "interest paid" there shall be inserted " or received ".

(7) At the end of subsection (3B) of that section there shall be inserted—

"The further information required as mentioned in paragraph (a) above may include, in prescribed cases, the name and address of the person beneficially entitled to the interest paid or received.".

(8) After paragraph (a) of subsection (3C) of that section there shall be inserted—

"(aa) may make provision with respect to the furnishing of information by persons required to furnish information under subsection (1) above, or under any provision made under subsection (3B)(a) above, including the inspection of books, documents and other records on behalf of the Board;".

(9) For subsection (3D) of that section there shall be substituted—

"(3D) For the purposes of this section interest shall be treated as received by any person if it is received by another person at his direction or with his consent.

(3E) For the purposes of this section the following shall be treated as interest—

(a) any dividend in respect of a share in a building society;

(b) any amount to which a person holding a relevant discounted security is entitled on the redemption of that security; and

(c) any foreign dividend.

(3F) In subsection (3E)(b) above "relevant discounted security" has the meaning given by paragraph 3 of Schedule 13 to the [M202]Finance Act 1996.

(3G) In subsection (3E)(c) above "foreign dividend" means any annual payment, interest or dividend payable out of, or in respect of the stocks, funds, shares or securities of—

(a) a body of persons that is not resident in the United Kingdom, or

(b) a government or public or local authority in a country outside the United Kingdom.".

(10) Section 482A of Taxes Act 1988 (audit powers in relation to non-residents) shall cease to have effect.

(11) This section has effect in relation to amounts paid, credited or received on or after 6th April 2001.

Marginal Citations

M201 1970 c. 9.

M202 1996 c. 8.

146 International exchange of information: general. U.K.

(1) After section 815B of the Taxes Act 1988 there shall be inserted—

"815C Exchange of information with other countries.

(1) If Her Majesty by Order in Council declares that arrangements specified in the Order have been made with the government of any territory outside the United Kingdom with a view to the exchange of information necessary for carrying out—

(a) the domestic laws of the United Kingdom concerning income tax, capital gains tax and corporation tax in respect of income and chargeable gains; and

(b) the laws of the territory to which the arrangements relate concerning any taxes of a similar character to those taxes imposed by the laws of that territory,

and that it is expedient that those arrangements shall have effect, then those arrangements shall have effect notwithstanding anything in any enactment.

(2) Any Order in Council made under this section revoking an earlier such Order in Council may contain such transitional provisions as appear to Her Majesty to be necessary or expedient.

(3) An Order under this section shall not be submitted to Her Majesty in Council unless a draft of the Order has been laid before and approved by a resolution of the House of Commons.".

(2) In subsection (2) of section 816 of that Act (disclosure of information), after "section 788" there shall be inserted " or 815C " and after that subsection there shall be inserted—

"(2ZA) Neither the Board nor an authorised officer of the Board shall disclose any information in pursuance of any arrangements having effect by virtue of section 815C unless satisfied that the government with which the arrangements are made is bound by, or has undertaken to observe, rules of confidentiality with respect to the information which are not less strict than those applying to it in the United Kingdom.".

(3) Subsections (1) to (8) and (8C) to (9) of section 20 of the [M203]Taxes Management Act 1970 (powers to call for information relevant to liability to income tax, corporation tax or capital gains tax) shall have effect as if the references in those provisions to tax liability included a reference to liability to a tax which—

(a) is a tax of a territory outside the United Kingdom; and

(b) is covered by arrangements having effect under section 788 or 815C of the Taxes Act 1988 and containing provision with respect to the obtaining (as well as the disclosure) of information.

(4) In their application by virtue of subsection (3) above those provisions shall have effect as if—

(a) the reference in section 20(7A) to any provision of the Taxes Acts were a reference to any provision of the law of the territory concerned;

(b) the references in subsection (2) of section 20B to an appeal relating to tax were references to an appeal, review or similar proceedings under the law of that territory relating to the tax in question; and

(c) the reference in subsection (6) of that section to believing that tax has or may have been lost to the Crown were a reference to believing that the tax in question has or may have been lost to that territory.

Marginal Citations

M203 1970 c. 9.

147 International exchange of information: inheritance tax. U.K.

(1) After section 220 of the [M204]Inheritance Tax Act 1984 there shall be inserted—

"220A Exchange of information with other countries.

(1) If Her Majesty by Order in Council declares that arrangements specified in the Order have been made with the government of any territory outside the United Kingdom with a view to the exchange of information necessary for carrying out—

(a) the domestic laws of the United Kingdom concerning inheritance tax; and

(b) the laws of the territory to which the arrangements relate concerning any taxes imposed by the laws of that territory which are of a similar character to that tax or are chargeable on or by reference to death or gifts inter vivos,

and that it is expedient that those arrangements shall have effect, then those arrangements shall have effect notwithstanding anything in any enactment.

(2) Any Order in Council made under this section revoking an earlier such Order in Council may contain such transitional provisions as appear to Her Majesty to be necessary or expedient.

(3) An Order under this section shall not be submitted to Her Majesty in Council unless a draft of the Order has been laid before and approved by a resolution of the House of Commons.

(4) Where any arrangements have effect by virtue of this section, no obligation of secrecy shall prevent the Board or an authorised officer of the Board from disclosing to any authorised officer of the government with which the arrangements are made such information as is required to be disclosed in accordance with the arrangements.

(5) Neither the Board nor an authorised officer of the Board shall disclose any information in pursuance of any arrangements having effect by virtue of this section unless satisfied that the government with which the arrangements are made is bound by, or has undertaken to observe, rules of confidentiality with respect to the information which are not less strict than those applying to it in the United Kingdom.”.

(2) Section 219 of the [M205]Inheritance Tax Act 1984 (power to obtain information for purposes of the Act) shall have effect as if the reference to that Act in subsection (1) of that section included a reference to any provision of the law of a territory outside the United Kingdom in accordance with which there is charged any tax which—

(a) is of a character similar to that of inheritance tax or is chargeable on or by reference to death or gifts inter vivos; and

(b) is covered by arrangements having effect under section 158 or 220A of the Inheritance Tax Act 1984 and containing provision with respect to the obtaining (as well as the disclosure) of information.

Marginal Citations

M204 1984 c. 51.

M205 1984 c. 51.

148 Use of minimum wage information. U.K.

(1) Information obtained by an officer acting for the purposes of the [M206]National Minimum Wage Act 1998 (“the 1998 Act”) by virtue of section 13(1)(a) or (b) of that Act (officers) may be supplied by or with the authority of the Secretary of State to the Board for the purpose of any of its functions.

(2) Information obtained by an officer of the Board acting in accordance with section 13(1)(b) of the 1998 Act may be used for the purpose of any functions of the Board.

(3) Information supplied to the Secretary of State under section 16(2) of the 1998 Act (information obtained by agricultural wages officers) may be supplied by the Secretary of State to the Board for the purpose of any of its functions.

(4) For section 15(6) of the 1998 Act (restrictions on use of information) there shall be substituted—

"(6) This section—

(a) does not limit the circumstances in which information may be supplied or used apart from this section; and

(b) is subject to section 148 of the Finance Act 2000 (use of minimum wage information).".

Marginal Citations

M206 1998 c. 39.

149 Orders for the delivery of documents. U.K.

(1) After section 20B of the M207 Taxes Management Act 1970 insert—

"20BA Orders for the delivery of documents.

(1) The appropriate judicial authority may make an order under this section if satisfied on information on oath given by an authorised officer of the Board—

(a) that there is reasonable ground for suspecting that an offence involving serious fraud in connection with, or in relation to, tax is being, has been or is about to be committed, and

(b) that documents which may be required as evidence for the purposes of any proceedings in respect of such an offence are or may be in the power or possession of any person.

(2) An order under this section is an order requiring the person who appears to the authority to have in his possession or power the documents specified or described in the order to deliver them to an officer of the Board within—

(a) ten working days after the day on which notice of the order is served on him, or

(b) such shorter or longer period as may be specified in the order.

For this purpose a "working day" means any day other than a Saturday, Sunday or public holiday.

(3) Where in Scotland the information mentioned in subsection (1) above relates to persons residing or having places of business at addresses situated in different sheriffdoms—

(a) an application for an order may be made to the sheriff for the sheriffdom in which any of the addresses is situated, and

(b) where the sheriff makes an order in respect of a person residing or having a place of business in his own sheriffdom, he may also make orders in respect of all or any of the other persons to whom the information relates (whether or not they have an address within the sheriffdom).

(4) Schedule 1AA to this Act contains provisions supplementing this section.".

(2) After Schedule 1 to the M208 Taxes Management Act 1970, insert the Schedule 1AA set out in Schedule 39 to this Act.

(3) In section 20BB of that Act (falsification etc. of documents)—

(a) in subsection (1)(a), after "above" insert " or an order under section 20BA above ";

(b) in subsection (3), after "notice is given" insert " or the order is made "; and

(c) after "notice", in the second place where it occurs in that subsection, insert " or order ".

(4) In section 20D(1) of that Act (meaning of "appropriate judicial authority"), after "20A" insert " , 20BA ".

Marginal Citations

M207 1970 c. 9.

M208 1970 c. 9.

150 Search warrants: miscellaneous amendments. U.K.

(1) Section 20C of the [M209]Taxes Management Act 1970 (search warrants) is amended as follows.

(2) After subsection (1) insert—

"(1AA) The Board shall not approve an application for a warrant under this section unless they have reasonable grounds for believing that use of the procedure under section 20BA above and Schedule 1AA to this Act (order for production of documents) might seriously prejudice the investigation.".

(3) After subsection (3) insert—

"(3A) In the case of any information contained in a computer which is information that—

(a) an officer who enters the premises as mentioned in subsection (3) above has reasonable cause to believe may be required as evidence for the purposes mentioned in paragraph (b) of that subsection, and

(b) is accessible from the premises,

the power of seizure under that subsection includes a power to require the information to be produced in a form in which it can be taken away and in which it is visible and legible.".

(4) For subsection (4) substitute—

"(4) Nothing in subsection (3) above authorises the seizure and removal of items subject to legal privilege.

(4A) In subsection (4) "items subject to legal privilege" means—

(a) communications between a professional legal adviser and his client or any person representing his client made in connection with the giving of legal advice to the client;

(b) communications between a professional legal adviser and his client or any person representing his client or between such an adviser or his client or any such representative and any other person made in connection with or in contemplation of legal proceedings and for the purposes of such proceedings; and

(c) items enclosed with or referred to in such communications and made—

(i) in connection with the giving of legal advice; or

(ii) in connection with or in contemplation of legal proceedings and for the purposes of such proceedings,

when they are in the possession of a person who is entitled to possession of them.

(4B) Items held with the intention of furthering a criminal purpose are not subject to legal privilege.".

(5) After subsection (8) insert—

"(9) Where in Scotland the information mentioned in subsection (1) above relates to premises situated in different sheriffdoms—

(a) petitions for the issue of warrants in respect of all the premises to which the information relates may be made to the sheriff for a sheriffdom in which any of the premises is situated, and

(b) where the sheriff issues a warrant in respect of premises situated in his own sheriffdom, he shall also have jurisdiction to issue warrants in respect of all or any of the other premises to which the information relates.

This does not affect any power or jurisdiction of a sheriff to issue a warrant in respect of an offence committed within his own sheriffdom.".

Marginal Citations

M209 1970 c. 9.

Provisions relating to government finance

151 Debt Management Account. U.K.

In Schedule 5A to the [M210]National Loans Act 1968 (the Debt Management Account), in paragraph 11, after sub-paragraph (1) (excess of Account's liabilities over its assets to be liability of National Loans Fund) insert—

"(1A) The Treasury may pay from the National Loans Fund to the Debt Management Account an amount representing all or any of any excess mentioned in sub-paragraph (1) above, and if they do the liability there mentioned shall be extinguished or reduced accordingly.".

Marginal Citations

M210 1968 c. 13.

152 National Savings Bank. U.K.

(1) In section 4 of the [M211]National Savings Bank Act 1971 (deposits: limits and minimum balances), after subsection (3) insert—

"(4) Regulations under section 2 of this Act may include any provision that may be included in an order under this section.".

(2) In section 26 of that Act (regulations and orders etc.), for subsections (2) and (3) (parliamentary control of regulations under section 2 and orders under section 4) substitute—

"(2) A statutory instrument containing—
(a) regulations under section 2 of this Act, or
(b) an order under section 4 of this Act,
shall be subject to annulment in pursuance of a resolution of either House of Parliament.".

(3) If a draft of a statutory instrument containing an order under section 4 of that Act has been laid before Parliament, but the instrument has not been made, before the day on which this Act is passed, the instrument may be made either—
(a) as if section 26 of that Act had not been amended by this section, or
(b) in reliance on section 26(2) as substituted by this section.

The instrument shall be taken to be made as mentioned in paragraph (a) unless it states that it is made in reliance on section 26(2) as substituted by this section.

Marginal Citations
M211 1971 c. 29.

153 National savings certificates. U.K.

(1) This section applies to a national savings certificate issued under section 12 of the [M212]National Loans Act 1968 if—
(a) it was purchased on or before 7th October 1999, and
(b) the fifth anniversary of its purchase falls after the day on which this Act is passed.

(2) The power of the Treasury (under the prospectus under which the certificate was issued) to alter or end the extension terms for the certificate shall have effect as if it included power for the Treasury to decide before the fifth anniversary of the certificate's purchase that the extension terms for the certificate are to involve it (so far as not cashed in) undergoing automatic roll-over on that anniversary.

(3) Where a certificate undergoes automatic roll-over on any occasion, the Treasury has power to decide before the fifth anniversary of that occasion that the extension terms for the certificate are to involve it (so far as not cashed in) undergoing automatic roll-over on that anniversary.

(4) For the purposes of this section a certificate undergoes "automatic roll-over" on an occasion if during the period of 5 years beginning with that occasion the certificate

(so far as not cashed in) will earn interest as though it were a national savings certificate—

(a) purchased on that occasion for a term of 5 years at a price equal to the value (rounded, if necessary, to the nearest penny) of the certificate on that occasion, and

(b) earning such interest (whether at fixed rates or at rates that give effect to index-linking or partly one and partly the other) as has been decided by the Treasury before that occasion.

(5) Subject to subsections (2) and (3), a certificate to which this section applies continues (so far as not cashed in) to be held on the terms of the prospectus under which it was issued.

However, any obligation of the Director of Savings to take steps to inform the holder of the certificate before the fifth anniversary of its purchase of what is to happen to the certificate after that anniversary extends to taking the corresponding steps in relation to the fifth anniversary of each occasion on which the certificate has undergone automatic roll-over.

(6) Nothing in this section shall be taken as prejudicing the rights of the holder of a certificate to which this section applies to apply at any time to cash in the certificate.

(7) References in this section to cashing in a certificate include reinvesting it.

Marginal Citations

M212 1968 c. 13.

154 Exchange Equalisation Account. U.K.

(1) For section 4 of the [M213]Exchange Equalisation Account Act 1979 (examination and certification of the Account) substitute—

"4 Annual accounts.

(1) For each financial year in which the Account operates the Treasury shall prepare, in such form and on such basis as they may prescribe, accounts in relation to the transactions, assets and liabilities of the Account.

(2) The Treasury shall send the accounts to the Comptroller and Auditor General not later than 30th November of the financial year following that to which the accounts relate.

(3) The Comptroller and Auditor General shall examine and certify the accounts, issue a report on them and send the certified accounts and the report to the Treasury not later than 15th January of that year.

(4) The Treasury shall lay the certified accounts and the report before each House of Parliament not later than 31st January of that year.

(5) In certifying accounts under subsection (3) above the Comptroller and Auditor General shall state whether or not it is his opinion, having regard to his examination of the accounts, that—

(a) the resources of the Account have been used in accordance with the provisions of this Act;

(b) the transactions of the Account are in accordance with any relevant authority; and

(c) the accounts have been prepared in the form, and on the basis, prescribed under subsection (1) above.

(6) The Treasury may by order made by statutory instrument amend the date for the time being specified in any of subsections (2) to (4) above.

(7) Before making an order under subsection (6) above the Treasury shall consult the Comptroller and Auditor General.

(8) A statutory instrument containing an order under subsection (6) above shall be subject to annulment in pursuance of a resolution of the House of Commons.

(9) In this section a reference to the use of resources is a reference to their expenditure, consumption or reduction in value.".

(2) This section applies in relation to the operation of the Exchange Equalisation Account in the financial year ending 31st March 2001 and subsequent financial years.

Marginal Citations
M213 1979 c. 30.

Supplementary provisions

155 Interpretation. U.K.

In this Act "the Taxes Act 1988" means the [M214]Income and Corporation Taxes Act 1988.

Marginal Citations
M214 1988 c. 1.

156 Repeals. U.K.

(1) The enactments mentioned in Schedule 40 to this Act (which include provisions that are spent or of no practical utility) are repealed to the extent specified in the third column of that Schedule.

(2) The repeals specified in that Schedule have effect subject to the commencement provisions and savings contained or referred to in the notes set out in that Schedule.

157 Short title. U.K.

This Act may be cited as the Finance Act 2000.

SCHEDULES

VALID FROM 01/10/2000

SCHEDULE 1 U.K.

Section 6.

MIXING OF REBATED LIGHT OILS

Converting unleaded petrol into leaded petrol

1 (1) In paragraph 1(1) of Schedule 2A to the [M215]Hydrocarbon Oil Duties Act 1979 (converting unleaded petrol into leaded petrol), before paragraph (a) insert—

“(aa) adding lead to unleaded petrol in respect of which duty has been charged at the rate specified in section 6(1A)(a);”.

(2) In paragraph 8 of that Schedule (rate for mixtures of light oil), for sub-paragraph (2) substitute—

“(2) In the case of a mixture produced in contravention of paragraph 1 above, the rate is the rate in force under section 6(1A)(b) at the time the mixture is produced.”.

Marginal Citations
M215 1979 c. 5.

Converting unleaded petrol into higher octane unleaded petrol

2 (1) In that Schedule, for paragraph 2 substitute—

Converting unleaded petrol into higher octane unleaded petrol

“2 (1) A mixture which is higher octane unleaded petrol is produced in contravention of this paragraph if it is produced by adding an octane enhancer to—

(a) unleaded petrol in respect of which duty has been charged at the rate specified in section 6(1A)(a),

(b) unleaded petrol in respect of which a rebate has been allowed under section 13A(1A)(b), or

(c) a mixture of petrol within paragraph (a) or (b),

or by mixing higher octane unleaded petrol with any such petrol as is mentioned in paragraph (a), (b) or (c).

(2) This paragraph is subject to any direction given under paragraph 3.”.

(2) In paragraph 8 of that Schedule (rate for mixtures of light oil), for sub-paragraph (3) substitute—

"(3) In the case of a mixture produced in contravention of paragraph 2 above, the rate is the rate produced by deducting from the rate referred to in sub-paragraph (2) the rate of rebate which at that time is in force under section 13A(1A)(a) of this Act.".

Mixing different kinds of unleaded petrol

3 (1) After paragraph 2 of that Schedule insert—

Mixing different kinds of unleaded petrol

"2A (1) A mixture which is unleaded petrol is produced in contravention of this paragraph if the mixture is produced by mixing unleaded petrol of any two or more of the following descriptions—

(a) petrol on which duty has been paid at the rate specified in section 6(1A)(a),

(b) petrol in respect of which a rebate has been allowed under section 13A(1A)(b),

(c) petrol in respect of which a rebate has been allowed under section 13A(1A)(a),

where the mixture produced is petrol of a description subject to a higher effective rate of duty than one or more of the ingredients of the mixture.

(2) The comparison required by sub-paragraph (1) shall be made by reference to the effective rates of duty in force at the time the mixture is produced.

(3) This paragraph is subject to any direction given under paragraph 3.".

(2) In paragraph 3 of that Schedule, for "paragraph 1 above or (as the case may be) paragraph 2 above" substitute " paragraph 1, 2 or 2A above ".

(3) In paragraph 8 of that Schedule, after sub-paragraph (3) insert—

"(3A) In the case of a mixture produced in contravention of paragraph 2A above, the rate is—

(a) in the case of a mixture that is higher octane unleaded petrol, the rate produced by deducting from the rate in force under section 6(1A)(b) at the time the mixture is produced the rebate which at that time is in force under section 13A(1A)(a);

(b) in the case of a mixture that is neither higher octane unleaded petrol nor ultra low sulphur petrol, the rate produced by deducting from the rate in force under section 6(1A)(b) at the time the mixture is produced the rebate which at that time is in force under section 13A(1A)(b).".

(4) In paragraph 10 of that Schedule, make the existing provision sub-paragraph (1), at the beginning insert " Subject to sub-paragraph (2), " and after it insert—

"(2) Sub-paragraph (1) does not apply in the case of any such mixture as is mentioned in paragraph 8(3A)(b) as regards the duty paid in respect of any ingredient in the mixture that is subject to a higher effective rate of duty than the resulting mixture.".

Interpretation

4 In paragraph 11 of that Schedule, make the existing provision sub-paragraph (1) and after it insert—

"(2) References in this Schedule to the effective rate of duty, in relation to petrol of any description, are to the rate of duty in force reduced by any applicable rebate.".

VALID FROM 28/07/2000

SCHEDULE 2 U.K.

Section 17.

AMUSEMENT MACHINE LICENCE DUTY

. . . .

VALID FROM 28/07/2000

SCHEDULE 3 U.K.

Section 22.

VEHICLE EXCISE DUTY ON NEW CARS AND VANS

After Part I of Schedule 1 to the [M220]Vehicle Excise and Registration Act 1994, insert—

"PART IA U.K.

LIGHT PASSENGER VEHICLES: GRADUATED RATES OF DUTY

Vehicles to which this Part applies

1A (1) This Part of this Schedule applies to a vehicle which—
(a) is first registered on or after 1st March 2001, and
(b) is so registered on the basis of an EC certificate of conformity or UK approval certificate that—
(i) identifies the vehicle as having been approved as a light passenger vehicle, and

(ii) specifies a CO_2 emissions figure in terms of grams per kilometre driven.

(2) In sub-paragraph (1)(b)(i) a "light passenger vehicle" means a vehicle within Category M1 of Annex II to Council Directive 70/156/EEC (vehicle with at least four wheels used for carriage of passengers and comprising no more than 8 seats in addition to the driver's seat).

(3) For the purposes of this Part of this Schedule "the applicable CO_2 emissions figure" is—

(a) where the EC certificate of conformity or UK approval certificate specifies only one CO_2 emissions figure, that figure, and

(b) where it specifies more than one, the figure specified as the CO_2 emissions (combined) figure.

(4) Where the car is registered on the basis of an EC certificate of conformity, or UK approval certificate, that specifies separate CO_2 emissions figures in terms of grams per kilometre driven for different fuels, "the applicable CO_2 emissions figure" is the lowest figure specified or, in a case within sub-paragraph (3)(b), the lowest CO_2 emissions (combined) figure specified.

(5) If a vehicle is on first registration a vehicle to which this Part of this Schedule applies—

(a) its status as such a vehicle, and

(b) the applicable CO_2 emissions figure,

are not affected by any subsequent modification of the vehicle.

Graduated rates of duty

1B The annual rate of vehicle excise duty applicable to a vehicle to which this Part of this Schedule applies shall be determined in accordance with the following table by reference to—

(a) the applicable CO_2 emissions figure, and

(b) whether the vehicle qualifies for the reduced rate of duty, or is liable to the standard rate or the premium rate of duty.

CO_2 emissions figure		**Rate**		
(1)	**(2)**	**(3)**	**(4)**	**(5)**
Exceeding	**Not Exceeding**	**Reduced rate**	**Standard rate**	**Premium rate**
g/km	**g/km**	**£**	**£**	**£**
	150	90	100	110
150	165	110	120	130
165	185	130	140	150
185		150	155	160

The reduced rate

1C (1) A vehicle qualifies for the reduced rate of duty if condition A, B or C below is met.

(2) Condition A is that the vehicle is constructed or modified—

(a) so as to be propelled by a prescribed type of fuel, or

(b) so as to be capable of being propelled by any of a number of prescribed types of fuel,

and complies with any other requirements prescribed for the purposes of this condition.

(3) Condition B is that the vehicle—

(a) incorporates before its first registration equipment enabling it to meet such vehicle emission standards as may be prescribed for the purposes of this condition, and

(b) has incorporated such equipment since its first registration.

(4) Condition C is that the vehicle is of a description certified by the Secretary of State, before the vehicle's first registration, as meeting such vehicle emission standards as may be prescribed for the purposes of this condition.

(5) The Secretary of State may make provision by regulations—

(a) for the making of an application to the Secretary of State for the issue of a certificate under sub-paragraph (4);

(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 one or more vehicles of the description to which the application relates, 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 the form and content of such a certificate;

(f) for the revocation, cancellation or surrender of such a certificate;

(g) for the fact that such a certificate is, or is not, in force in respect of a description of vehicle to be treated as having conclusive effect for the purposes of this Act as to such matters as may be prescribed; and

(h) for appeals against any determination not to issue such a certificate.

The standard rate

1D A vehicle is liable to the standard rate of duty if it does not qualify for the reduced rate and is not liable to the premium rate.

The premium rate

1E (1) A vehicle is liable to the premium rate of duty if—

(a) it is constructed or modified so as to be propelled solely by diesel, and

(b) it is not of a prescribed description.

(2) In sub-paragraph (1)(a) "diesel" means any diesel fuel within the definition in Article 2 of Directive 98/70/EC of the European Parliament and of the Council.

Meaning of "prescribe"d

1F In this Part of this Schedule "prescribed" means prescribed by regulations made by the Secretary of State with the consent of the Treasury.

Meaning of "EC certificate of conformit"y and "UK approval certificat"e

1G (1) References in this Part of this Schedule to an "EC certificate of conformity" are to a certificate of conformity issued by a manufacturer under any provision of the law of a Member State implementing Article 6 of Council Directive 70/156/EEC, as amended.

(2) References in this Part of this Schedule to a "UK approval certificate" are to a certificate issued under—

(a) section 58(1) or (4) of the [M221]Road Traffic Act 1988, or

(b) Article 31A(4) or (5) of the [M222]Road Traffic (Northern Ireland) Order 1981.

Part IB U.K.

Light goods vehicles

Vehicles to which this Part applies

1H (1) This Part of this Schedule applies to a vehicle which—

(a) is first registered on or after 1st March 2001, and

(b) is so registered on the basis of an EC certificate of conformity or UK approval certificate that identifies the vehicle as having been approved as a light goods vehicle.

(2) In sub-paragraph (1)(b) a "light goods vehicle" means a vehicle within Category N1 of Annex II to Council Directive 70/156/EEC (vehicle with four or more wheels used for carriage of goods and having a maximum mass not exceeding 3.5 tonnes).

(3) If a vehicle is on first registration a vehicle to which this Part of this Schedule applies its status as such a vehicle is not affected by a subsequent modification of the vehicle.

(4) In this paragraph "EC certificate of conformity" and "UK approval certificate" have the same meaning as in Part IA of this Schedule.

Annual rate of duty

1J The annual rate of vehicle excise duty applicable to a vehicle to which this Part of this Schedule applies is £160.".

Marginal Citations

M220 1994 c. 22.
M221 1988 c. 52.
M222 S.I. 1981/154 (N.I. 1).

Marginal Citations
M220 1994 c. 22.
M221 1988 c. 52.
M222 S.I. 1981/154 (N.I. 1).

VALID FROM 28/07/2000

SCHEDULE 4 U.K.

Section 23.

VEHICLE EXCISE DUTY: ENFORCEMENT PROVISIONS FOR GRADUATED RATES

Introduction

1 (1) This Schedule applies to vehicles in respect of which different rates of vehicle excise duty are, under the provisions listed below, chargeable in respect of vehicles by reference to characteristics of the vehicle.

(2) The provisions referred to in sub-paragraph (1) are—

Part I of Schedule 1 to the [M223]Vehicle Excise and Registration Act 1994 (the general rate),

Part IA of that Schedule (graduated rates for light passenger vehicles first registered on or after 1st March 2001), or

Part II of that Schedule (motorcycles).

Marginal Citations
M223 1994 c. 22.

Particulars to be furnished on application for licence

2 (1) The Secretary of State may make provision by regulations as to the particulars to be furnished on an application for a vehicle licence in respect of a vehicle to which this Schedule applies.

(2) The regulations may make different provision for different descriptions of vehicle and different descriptions of licence.

(3) The prescribed particulars may include—
(a) particulars other than those required for the purposes of vehicle excise duty, and
(b) particulars other than with respect to the vehicle in respect of which the licence is to be taken out.

(4) Every person making an application with respect to which regulations under this paragraph are in force shall—

(a) furnish such particulars as may be prescribed by the regulations, and
(b) make such a declaration as may be specified by the Secretary of State.

(5) A person applying for a licence need not make the declaration specified for the purposes of sub-paragraph (4)(b) if he agrees to comply with such conditions as may be specified in relation to him by the Secretary of State.

The conditions which may be specified include—
(a) a condition that the prescribed particulars are furnished by being transmitted to the Secretary of State by such electronic means as he may specify; and
(b) a condition requiring such payments as may be specified by the Secretary of State to be made to him in respect of—
(i) steps taken by him for facilitating compliance by any person with any condition falling within paragraph (a); and
(ii) in such circumstances as may be so specified, the processing of applications for vehicle licences where particulars are transmitted in accordance with that paragraph.

(6) In relation to applications with respect to which regulations under this paragraph are in force, the preceding provisions of this paragraph have effect in place of the provisions of subsections (1) to (3B) of section 7 of the [M224]Vehicle Excise and Registration Act 1994.

Marginal Citations
M224 1994 c. 22.

Power to require evidence in support of application

3 The Secretary of State may make provision by regulations—
(a) requiring an application for a vehicle licence in respect of a vehicle to which this Schedule applies to be supported by such documentary or other evidence as may be specified in the regulations, and
(b) authorising him to refuse to issue the licence applied for if such evidence is not provided.

Powers exercisable where licence issued on basis of incorrect application

4 The powers conferred by paragraphs 5 to 11 below are exercisable in a case where—
(a) a vehicle licence is issued to a person on the basis of an application stating that the vehicle—
(i) is a vehicle to which this Schedule applies, or
(ii) is a vehicle to which this Schedule applies in respect of which a particular amount of vehicle excise duty falls to be paid, and
(b) the vehicle is not such a vehicle or, as the case may be, is one in respect of which duty falls to be paid at a higher rate.

Power to declare licence void

5 The Secretary of State may by notice sent by post to the person inform him that the licence is void as from the time when it was granted.

If he does so, the licence shall be void as from the time when it was granted.

Power to require payment of balance of duty

6 (1) The Secretary of State may by notice sent by post to the person require him to secure that the additional duty payable is paid within such reasonable period as is specified in the notice.

(2) If that requirement is not complied with, the Secretary of State may by notice sent by post to the person inform him that the licence is void as from the time when it was granted.

If he does so, the licence shall be void as from the time when it was granted.

Power to require delivery up of licence

7 The Secretary of State may in a notice under paragraph 5 or 6(2) require the person to whom it is sent to deliver up the licence within such reasonable period as is specified in the notice.

Power to require delivery up of licence and payment in respect of duty

8 (1) The Secretary of State may in a notice under paragraph 5 or 6(2) require the person to whom it is sent—

(a) to deliver up the licence within such reasonable period as is specified in the notice, and

(b) on doing so to pay an amount equal to the monthly duty shortfall for each month, or part of a month, in the relevant period.

(2) The “monthly duty shortfall” means one-twelfth of the difference between—

(a) the duty that would have been payable for a licence for a period of twelve months if the vehicle had been correctly described in the application, and

(b) that duty payable in respect of such a licence on the basis of the description in the application as made.

For this purpose the amount of the duty payable shall be ascertained by reference to the rates in force at the beginning of the relevant period.

Failure to deliver up licence

9 (1) A person who—

(a) is required by notice under paragraph 7 or 8(1)(a) above to deliver up a licence, and

(b) fails to comply with the requirement contained in the notice,

commits an offence.

(2) A person committing such an offence is liable on summary conviction to a penalty not exceeding whichever is the greater of—

(a) level 3 on the standard scale, and

(b) five times the annual duty shortfall.

(3) The "annual duty shortfall" means the difference between—

(a) the duty that would have been payable for a licence for a period of twelve months if the vehicle had been correctly described in the application, and

(b) that duty payable in respect of a licence for a period of twelve months in respect of the vehicle as described in the application.

For this purpose the amount of the duty payable shall be ascertained by reference to the rates in force at the beginning of the relevant period.

Failure to deliver up licence: additional liability

10 (1) Where a person has been convicted of an offence under paragraph 9, the court shall (in addition to any penalty which it may impose under that paragraph) order him to pay an amount equal to the monthly duty shortfall for each month, or part of a month, in the relevant period (or so much of the relevant period as falls before the making of the order).

(2) In sub-paragraph (1) the "monthly duty shortfall" has the meaning given by paragraph 8(2).

(3) Where—

(a) a person has been convicted of an offence under paragraph 9, and

(b) a requirement to pay an amount with respect to that licence has been imposed on that person by virtue of paragraph 8(1)(b),

the order to pay an amount under this paragraph has effect instead of that requirement and the amount to be paid under the order shall be reduced by any amount actually paid in pursuance of the requirement.

Meaning of the "relevant perio"d

11 References in this Schedule to the "relevant period" are to the period—

(a) beginning with the first day of the period for which the licence was applied for or, if later, the day on which the licence first was to have effect, and

(b) ending with whichever is the earliest of the following times—

(i) the end of the month during which the licence was required to be delivered up;

(ii) the end of the month during which the licence was actually delivered up;

(iii) the date on which the licence was due to expire;

(iv) the end of the month preceding that in which there first had effect a new vehicle licence for the vehicle in question.

Construction and effect

12 (1) This Schedule and the [M225]Vehicle and Excise Registration Act 1994 shall be construed and have effect as if this Schedule were contained in that Act.

(2) References in any other enactment to that Act shall be construed and have effect accordingly as including references to this Schedule.

Marginal Citations
M225 1994 c. 22.

VALID FROM 28/07/2000

SCHEDULE 5 U.K.

Section 24.

Rates of vehicle excise duty on goods vehicles

1 Part VIII of Schedule 1 to the Vehicle Excise and Registration Act 1994 (annual rates of vehicle excise duty: goods vehicles) is amended as follows.

2 For the Table in paragraph 9(1) (rigid goods vehicles not satisfying reduced pollution requirements and with a revenue weight exceeding 3,500 kilograms but not exceeding 44,000 kilograms) substitute—

“Revenue weight of vehicle		**Rate**		
(1)	**(2)**	**(3)**	**(4)**	**(5)**
Exceeding	**Not Exceeding**	**Two axle vehicle**	**Three axle vehicle**	**Four or more axle vehicle**
kgs	**kgs**	**£**	**£**	**£**
3,500	7,500	165	165	165
7,500	12,000	300	300	300
12,000	13,000	470	490	350
13,000	14,000	650	490	350
14,000	15,000	840	490	350
15,000	17,000	1,320	490	350
17,000	19,000	1,600	850	350
19,000	21,000	1,600	1,020	350
21,000	23,000	1,600	1,470	510
23,000	25,000	1,600	2,230	830
25,000	27,000	1,600	2,340	1,470
27,000	29,000	1,600	2,340	2,320
29,000	31,000	1,600	2,340	3,360
31,000	44,000	1,600	2,340	4,400”

3 For the Table in paragraph 9B (rigid goods vehicles satisfying reduced pollution requirements and with a revenue weight exceeding 3,500 kilograms but not exceeding 44,000 kilograms) substitute—

“Revenue weight of vehicle		**Rate**		
(1)	**(2)**	**(3)**	**(4)**	**(5)**
Exceeding	**Not Exceeding**	**Two axle vehicle**	**Three axle vehicle**	**Four or more axle vehicle**
kgs	kgs	£	£	£
3,500	7,500	160	160	160
7,500	12,000	160	160	160
12,000	13,000	160	160	160
13,000	14,000	160	160	160
14,000	15,000	160	160	160
15,000	17,000	320	160	160
17,000	19,000	600	160	160
19,000	21,000	600	160	160
21,000	23,000	600	470	160
23,000	25,000	600	1,230	160
25,000	27,000	600	1,340	470
27,000	29,000	600	1,340	1,320
29,000	31,000	600	1,340	2,360
31,000	44,000	600	1,340	3,400”

4 For the Table in paragraph 11(1) (tractive units not satisfying reduced pollution requirements and with a revenue weight exceeding 3,500 kilograms but not exceeding 44,000 kilograms) substitute—

“Revenue weight of tractive unit		**Rate for tractive unit with two axles**			**Rate for tractive unit with three or more axles**		
(1)	**(2)**	**(3)**	**(4)**	**(5)**	**(6)**	**(7)**	**(8)**
Exceeding	**Not exceeding**	**Any no. of semi-trailer axles**	**2 or more semi-trailer axles**	**3 or more semi-trailer axles**	**Any no. of semi-trailer axles**	**2 or more semi-trailer axles**	**3 or more semi-trailer axles**
kgs	**kgs**	**£**	**£**	**£**	**£**	**£**	**£**
3,500	7,500	165	165	165	165	165	165
7,500	12,000	300	300	300	300	300	300

12,000	16,000	460	460	460	460	460	460
16,000	20,000	520	460	460	460	460	460
20,000	23,000	810	460	460	460	460	460
23,000	26,000	1,190	590	460	590	460	460
26,000	28,000	1,190	1,130	460	1,130	460	460
28,000	31,000	1,740	1,740	1,090	1,740	660	460
31,000	33,000	2,530	2,530	1,740	2,530	1,000	460
33,000	34,000	5,170	5,170	1,740	2,530	1,470	570
34,000	35,000	5,170	5,170	2,340	2,530	2,100	860
35,000	36,000	6,750	6,750	2,340	2,530	2,100	860
36,000	38,000	9,250	9,250	2,710	2,820	2,820	1,280
38,000	41,000	9,250	9,250	3,950	3,750	4,250	2,500
41,000	44,000	9,250	9,250	3,950	7,250	7,250	2,950”

5 For the Table in paragraph 11B (tractive units satisfying reduced pollution requirements and with a revenue weight exceeding 3,500 kilograms but not exceeding 44,000 kilograms) substitute—

“Revenue weight of tractive unit		**Rate for tractive unit with two axles**			**Rate for tractive unit with three or more axles**		
(1)	**(2)**	**(3)**	**(4)**	**(5)**	**(6)**	**(7)**	**(8)**
Exceeding	**Not exceeding**	**Any no. of semi-trailer axles**	**2 or more semi-trailer axles**	**3 or more semi-trailer axles**	**Any no. of semi-trailer axles**	**2 or more semi-trailer axles**	**3 or more semi-trailer axles**
kgs	**kgs**	**£**	**£**	**£**	**£**	**£**	**£**
3,500	7,500	160	160	160	160	160	160
7,500	12,000	160	160	160	160	160	160
12,000	16,000	160	160	160	160	160	160
16,000	20,000	160	160	160	160	160	160
20,000	23,000	160	160	160	160	160	160
23,000	26,000	190	160	160	160	160	160
26,000	28,000	190	160	160	160	160	160
28,000	31,000	740	740	160	740	160	160
31,000	33,000	1,530	1,530	740	1,530	160	160
33,000	34,000	4,170	4,170	740	1,530	470	160
34,000	35,000	4,170	4,170	1,340	1,530	1,100	160

35,000	36,000	5,750	5,750	1,340	1,530	1,100	160
36,000	38,000	8,250	8,250	1,710	1,820	1,820	280
38,000	41,000	8,250	8,250	2,950	2,750	3,250	1,500
41,000	44,000	8,250	8,250	2,950	6,250	6,250	1,950”

6 (1) In the following provisions—
(a) in paragraph 11(1), after “Subject to sub-paragraphs (2) and (3)", and
(b) in paragraph 11A(2), after “Subject to sub-paragraph (3)",
insert “ and paragraph 11C ”.

(2) After paragraph 11B insert—

“11C(1) This paragraph applies to a tractive unit that—
(a) has a revenue weight exceeding 41,000 kilograms but not exceeding 44,000 kilograms,
(b) has 3 or more axles and is used exclusively for the conveyance of semi-trailers with 3 or more axles,
(c) is of a type that could lawfully be used on a public road immediately before 21st March 2000, and
(d) complies with the requirements in force immediately before that date for use on a public road.

(2) The annual rate of vehicle excise duty applicable to a vehicle to which this paragraph applies is—
(a) in the case of a vehicle with respect to which the reduced pollution requirements are not satisfied, £1,280;
(b) in the case of a vehicle with respect to which those requirements are satisfied, £280.”.

VALID FROM 28/07/2000

SCHEDULE 6 U.K.

Section 30.

CLIMATE CHANGE LEVY

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VALID FROM 28/07/2000

SCHEDULE 7 U.K.

Section 30.

CLIMATE CHANGE LEVY: CONSEQUENTIAL AMENDMENTS

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VALID FROM 28/07/2000

SCHEDULE 8 U.K.

Section 47.

EMPLOYEE SHARE OWNERSHIP PLANS

. . . .

VALID FROM 28/07/2000

SCHEDULE 9 U.K.

Section 48.

NEW SCHEDULE 7C TO THE M295 TAXATION OF CHARGEABLE GAINS ACT 1992

Marginal Citations
M295 1992 c. 12.

The Schedule inserted after Schedule 7B to the Taxation of Chargeable Gains Act 1992 is as follows—

"SCHEDULE 7C U.K.

RELIEF FOR TRANSFERS TO APPROVED SHARE PLANS

Introductory

1 (1) A person ("the claimant") who makes a disposal of shares ("the disposal") to the trustees of the plan trust of an employee share ownership plan ("the plan") is entitled to claim relief under paragraph 5 if—
(a) the conditions in paragraph 2 are fulfilled, and
(b) paragraph 3(1) or (2) applies.

(2) Sub-paragraph (1) does not apply to a company that makes a disposal of shares.

(3) In this paragraph the references to a disposal of shares include a disposal of an interest in shares.

Conditions relating to the disposal

2 (1) The first condition is that, at the time of the disposal, the plan is approved under Schedule 8 to the Finance Act 2000.

(2) The second condition is that the relevant shares meet the requirements in Part VIII of that Schedule (types of shares that may be used in plan) in relation to the plan.

For this purpose that Part applies as if paragraph 61(a) and (c) (listed shares and shares in a company under the control of a company whose shares are listed) were omitted.

(3) The third condition is that, at any time in the entitlement period, the trustees hold, for the beneficiaries of the plan trust, shares in the relevant company that—

(a) constitute not less than 10% of the ordinary share capital of the company, and

(b) carry rights to not less than 10% of—

(i) any profits available for distribution to shareholders of the company, and

(ii) any assets of that company available for distribution to its shareholders in the event of a winding up.

(4) For the purposes of sub-paragraph (3), shares that have been appropriated to, or acquired on behalf of, an individual under the plan shall continue to be treated as held by the trustees of the plan trust for the beneficiaries of that trust until such time as they cease to be subject to the plan (within the meaning of Schedule 8 to the Finance Act 2000).

(5) The fourth condition is that, at all times in the proscribed period, there are no unauthorised arrangements under which the claimant or a person connected with him may be entitled to acquire (directly or indirectly) from the trustees of the plan trust any shares, or an interest in or right deriving from any shares.

(6) For the purposes of this paragraph—

"ordinary share capital" has the meaning given in section 832(1) of the Taxes Act;

"the relevant company" means the company of whose share capital the relevant shares form part; and

"the relevant shares" means the shares that are, or an interest in which is, the subject of the disposal.

Reinvestment of disposal proceeds

3 (1) This sub-paragraph applies if the claimant obtains consideration for the disposal and, at any time in the acquisition period, all of the amount or value of the consideration is applied by him in making an acquisition of assets or an interest in assets ("replacement assets") which—

(a) are, immediately after the time of the acquisition, chargeable assets in relation to the claimant, and

(b) are not shares in, or debentures issued by, the relevant company or a company which is (at the time of the acquisition) in the same group as the relevant company;

but the preceding provisions of this sub-paragraph shall have effect without the words ", at any time in the acquisition period," if the acquisition is made pursuant to an unconditional contract entered into in the acquisition period.

(2) This sub-paragraph applies if—

(a) sub-paragraph (1) would have applied but for the fact that part only of the amount or value mentioned in that sub-paragraph is applied as there mentioned, and

(b) all the amount or value so mentioned except for a part which is less than the amount of the gain (whether all chargeable gain or not) accruing on the disposal is so applied.

(3) In sub-paragraph (1)(b)—

"the relevant company" has the meaning given in paragraph 2(6); and

"group" shall be construed in accordance with section 170.

Provision supplementary to paragraphs 2 and 3

4 (1) This paragraph applies for the purposes of paragraphs 2 and 3.

(2) The entitlement period is the period beginning with the disposal and ending on the expiry of 12 months beginning with the date of the disposal.

(3) The acquisition period is the period beginning with the disposal and ending on the expiry of six months beginning with—

(a) the date of the disposal, or

(b) if later, the date on which the third condition (set out in paragraph 2(3)) is first fulfilled.

(4) The proscribed period is the period beginning with the disposal and ending on—

(a) the date of the acquisition, or

(b) if later, the date on which the third condition (set out in paragraph 2(3)) is first fulfilled.

(5) All arrangements are unauthorised unless they only allow shares to be appropriated to or acquired on behalf of an individual under the plan.

The relief

5 (1) Where the claimant is entitled to claim relief under this paragraph and paragraph 3(1) applies, he shall, on making a claim in the period of 2 years beginning with the acquisition, be treated for the purposes of this Act—

(a) as if the consideration for the disposal were (if otherwise of a greater amount or value) of such amount as would secure that on the disposal neither a gain nor a loss accrues to him, and

(b) as if the amount or value of the consideration for the acquisition were reduced by the excess of the amount or value of the actual consideration for the disposal over the amount of the consideration which the claimant is treated as receiving under paragraph (a).

(2) Where the claimant is entitled to claim relief under this paragraph and paragraph 3(2) applies, he shall, on making a claim in the period of 2 years beginning with the acquisition, be treated for the purposes of this Act—

(a) as if the amount of the gain accruing on the disposal were reduced to the amount of the part mentioned in paragraph 3(2)(b), and

(b) as if the amount or value of the consideration for the acquisition were reduced by the amount by which the gain is reduced under paragraph (a) above.

(3) Nothing in sub-paragraph (1) or (2) shall affect the treatment for the purposes of this Act of the other party to the disposal or of the other party to the acquisition.

(4) The provisions of this Act fixing the amount of the consideration deemed to be given for a disposal or acquisition shall be applied before the preceding provisions of this paragraph are applied.

Dwelling-houses: special provision

6 (1) Sub-paragraph (2) applies where—
(a) a claim is made under paragraph 5,
(b) immediately after the time of the acquisition mentioned in paragraph 3 and apart from this paragraph, any replacement asset was a chargeable asset in relation to the claimant,
(c) the asset is a dwelling-house or part of a dwelling-house or land, and
(d) there was a time in the period beginning with the acquisition and ending with the time when paragraph 5(1) or (2) falls to be applied such that, if the asset (or an interest in it) were disposed of at that time, it would be within section 222(1) and the individual there mentioned would be the claimant or the claimant's spouse.

(2) In such a case the asset shall be treated as if, immediately after the time of the acquisition mentioned in paragraph 3, it was not a chargeable asset in relation to the claimant.

(3) Sub-paragraph (4) applies where—
(a) the provisions of paragraph 5(1) or (2) have been applied,
(b) any replacement asset which, immediately after the time of the acquisition mentioned in paragraph 3 and apart from this paragraph, was a chargeable asset in relation to the claimant consists of a dwelling-house or part of a dwelling-house or land, and
(c) there is a time after paragraph 5(1) or (2) has been applied such that, if the asset (or an interest in it) were disposed of at that time, it would be within section 222(1) and the individual there mentioned would be the claimant or the claimant's spouse.

(4) In such a case—
(a) the asset shall be treated as if, immediately after the time of the acquisition mentioned in paragraph 3, it was not a chargeable asset in relation to the claimant and adjustments shall be made accordingly, but
(b) any gain treated as accruing in consequence of the application of paragraph (a) shall be treated as accruing at the time mentioned in sub-paragraph (3)(c) or, if there is more than one such time, at the earliest of them.

(5) Sub-paragraph (6) applies where—
(a) a claim is made under paragraph 5,
(b) immediately after the time of the acquisition mentioned in paragraph 3 and apart from this paragraph, any replacement asset was a chargeable asset in relation to the claimant,
(c) the asset was an option to acquire (or to acquire an interest in) a dwelling-house or part of a dwelling-house or land,
(d) the option has been exercised, and

(e) there was a time in the period beginning with the exercise of the option and ending with the time when paragraph 5(1) or (2) falls to be applied such that, if the asset acquired on exercise of the option were disposed of at that time, it would be within section 222(1) and the individual there mentioned would be the claimant or the claimant's spouse.

(6) In such a case the option shall be treated as if, immediately after the time of the acquisition mentioned in paragraph 3, it was not a chargeable asset in relation to the claimant.

(7) Sub-paragraph (8) applies where—

(a) the provisions of paragraph 5(1) or (2) have been applied,

(b) any replacement asset which, immediately after the time of the acquisition mentioned in paragraph 3 and apart from this paragraph, was a chargeable asset in relation to the claimant consisted of an option to acquire (or to acquire an interest in) a dwelling-house or part of a dwelling-house or land,

(c) the option has been exercised, and

(d) there is a time after paragraph 5(1) or (2) has been applied such that, if the asset acquired on exercise of the option were disposed of at that time, it would be within section 222(1) and the individual there mentioned would be the claimant or the claimant's spouse.

(8) In such a case—

(a) the option shall be treated as if, immediately after the time of the acquisition mentioned in paragraph 3, it was not a chargeable asset in relation to the claimant and adjustments shall be made accordingly, but

(b) any gain treated as accruing in consequence of the application of paragraph (a) shall be treated as accruing at the time mentioned in sub-paragraph (7)(d) or, if there is more than one such time, at the earliest of them.

(9) References in this paragraph to an individual include a person entitled to occupy under the terms of a settlement.

Shares: special provision

7 (1) Sub-paragraph (2) applies where—

(a) a claim is made under paragraph 5,

(b) immediately after the time of the acquisition mentioned in paragraph 3 and apart from this paragraph, any replacement asset was a chargeable asset in relation to the claimant,

(c) the asset consists of shares, and

(d) relief is claimed under Chapter III of Part VII of the Taxes Act (enterprise investment scheme) at any time in the period beginning with the acquisition and ending when paragraph 5(1) or (2) falls to be applied.

(2) In such a case the asset shall be treated as if, immediately after the time of the acquisition mentioned in paragraph 3, it was not a chargeable asset in relation to the claimant.

(3) Sub-paragraph (4) applies where—

(a) the provisions of paragraph 5(1) or (2) have been applied,

(b) any replacement asset which, immediately after the time of the acquisition mentioned in paragraph 3 and apart from this paragraph, was a chargeable asset in relation to the claimant consists of shares, and

(c) at any time after paragraph 5(1) or (2) has been applied relief is claimed in respect of the asset under Chapter III of Part VII of the Taxes Act (enterprise investment scheme).

(4) In such a case the asset shall be treated as if, immediately after the time of the acquisition mentioned in paragraph 3, it was not a chargeable asset in relation to the claimant and adjustments shall be made accordingly.

Meaning of “chargeable asse"t

8 For the purposes of this Schedule an asset is a chargeable asset in relation to the claimant at a particular time if, were the asset to be disposed of at that time, any gain accruing to him on the disposal would be a chargeable gain, and either—

(a) at that time he is resident or ordinarily resident in the United Kingdom, or

(b) he would be chargeable to capital gains tax under section 10(1) (non-resident with United Kingdom branch or agency) in respect of the gain,

unless (were he to dispose of the asset at that time) the claimant would fall to be regarded for the purposes of any double taxation relief arrangements as not liable in the United Kingdom to tax on any gains accruing to him on the disposal.”.

VALID FROM 28/07/2000

SCHEDULE 10 U.K.

Section 57.

BENEFITS IN KIND: DEREGULATORY AMENDMENTS

. . . .

VALID FROM 28/07/2000

SCHEDULE 11 U.K.

Section 59.

CARS AVAILABLE FOR PRIVATE USE

. . . .

VALID FROM 28/07/2000

SCHEDULE 12 U.K.

Section 60.

PROVISION OF SERVICES THROUGH AN INTERMEDIARY

. . . .

VALID FROM 28/07/2000

SCHEDULE 13 U.K.

Section 61.

OCCUPATIONAL AND PERSONAL PENSION SCHEMES

. . . .

VALID FROM 28/07/2000

SCHEDULE 14 U.K.

Section 62.

ENTERPRISE MANAGEMENT INCENTIVES

. . . .

VALID FROM 28/07/2000

SCHEDULE 15 U.K.

Section 63(1).

THE CORPORATE VENTURING SCHEME

. . . .

VALID FROM 28/07/2000

SCHEDULE 16 U.K.

Section 63(2).

CORPORATE VENTURING SCHEME: CONSEQUENTIAL AMENDMENTS

. . . .

VALID FROM 28/07/2000

SCHEDULE 17 U.K.

Section 64.

ENTERPRISE INVESTMENT SCHEME: AMENDMENTS

. . . .

VALID FROM 28/07/2000

SCHEDULE 18 U.K.

Section 65.

VENTURE CAPITAL TRUSTS: AMENDMENTS

. . . .

VALID FROM 28/07/2000

SCHEDULE 19 U.K.

Section 68.

MEANING OF “RESEARCH AND DEVELOPMENT"

. . . .

VALID FROM 28/07/2000

SCHEDULE 20 U.K.

Section 69(1).

TAX RELIEF FOR EXPENDITURE ON RESEARCH AND DEVELOPMENT

. . . .

VALID FROM 28/07/2000

SCHEDULE 21 U.K.

Section 69(2).

R&D TAX CREDITS: CONSEQUENTIAL AMENDMENTS

Interest

1 (1) Section 826 of the Taxes Act 1988 (interest on tax overpaid) is amended as follows.

(2) In subsection (1) (payments which carry interest) after paragraph (c) insert "; or

(d) a payment of R&D tax credit falls to be made to a company under Schedule 20 to the Finance Act 2000 in respect of an accounting period,".

(3) After subsection (3) (material date for repayments of income tax etc.) insert—

"(3A) In relation to a payment of R&D tax credit falling within subsection (1)(d) above the material date is whichever is the later of—

(a) the filing date for the company's company tax return for the accounting period for which the R&D tax credit is claimed, and

(b) the date on which the company tax return or amended company tax return containing the claim for payment of the R&D tax credit is delivered to the Inland Revenue.

For this purpose "the filing date", in relation to a company tax return, has the same meaning as in Schedule 18 to the [M365]Finance Act 1998.".

(4) In subsection (8A) (recovery of overpaid interest)—

(a) in paragraph (a), after "subsection (1)(a)" insert " or (d) ",

(b) for paragraph (b) substitute—

"(b) there is—

(i) a change in the company's assessed liability to corporation tax, or

(ii) a change in the amount of the R&D tax credit payable to the company (which does not result in a change falling within sub-paragraph (i)),

other than a change which in whole or in part corrects an error made by the Board or an officer of the Board, and".

(5) After subsection (8B) insert—

"(8BA) For the purposes of subsection (8A)(b) above, the cases where there is a change in the amount of the R&D tax credit payable to the company are those cases where an assessment, or an amendment to an assessment, is made to recover an amount of R&D tax credit paid to the company for the accounting period in question.".

Marginal Citations

M365 1998 c. 36.

Claim must be made in tax return

2 In Schedule 18 to the [M366]Finance Act 1998 (company tax returns, assessments and related matters), in paragraph 10 (other claims and elections to be included in return), for sub-paragraph (2) substitute—

"(2) A claim to which Part VIII, IX or IXA of this Schedule applies (claims for group relief, capital allowances or R&D tax credit) can only be made by being included in a company tax return (see paragraphs 67, 79 and 83B).".

Marginal Citations

M366 1998 c. 36.

Recovery of excessive R&D tax credit

3 In paragraph 52 of that Schedule (recovery of excessive repayments, etc.)—

(a) in sub-paragraph (2) (excessive repayments to which paragraphs 41 to 48 apply), before "or" at the end of paragraph (b) insert—

"(ba) R&D tax credit under Schedule 20 to the Finance Act 2000,";

and

(b) in sub-paragraph (5) (connection of assessment for excessive payment to an accounting period), before "or" at the end of paragraph (a) insert—

"(ab) an amount of R&D tax credit paid to a company for an accounting period,";

and

(c) at the end of that sub-paragraph after "(a)" insert " , (ab) ".

Claims for R&D tax credits

4 After Part IX of that Schedule (claims for capital allowances) insert—

"PART IXA U.K.

CLAIMS FOR R&D TAX CREDIT

Introduction

83A This Part of this Schedule applies to claims for R&D tax credits under Schedule 20 to the Finance Act 2000.

Claim to be included in company tax return

83B (1) A claim for an R&D tax credit must be made by being included in the claimant company's company tax return for the accounting period for which the claim is made.

(2) It may be included in the return originally made or by amendment.

Content of claim

83C A claim for an R&D tax credit must specify the amount of the relief claimed, which must be an amount quantified at the time the claim is made.

Amendment or withdrawal of claim

83D A claim for an R&D tax credit may be amended or withdrawn by the claimant company only by amending its company tax return.

Time limit for claims

83E (1) A claim for an R&D tax credit may be made, amended or withdrawn at any time up to the first anniversary of the filing date for the company tax return of the claimant company for the accounting period for which the claim is made.

(2) The claim may be made, amended or withdrawn at a later date if the Inland Revenue allow it.

Penalty

83F (1) The company is liable to a penalty where it—

(a) fraudulently or negligently makes a claim for an R&D tax credit which is incorrect, or

(b) discovers that a claim for an R&D tax credit made by it (neither fraudulently or negligently) is incorrect and does not remedy the error without unreasonable delay.

(2) The penalty is an amount not exceeding the excess R&D tax credit claimed, that is, the difference between—

(a) the amount of the R&D tax credit to which the company is entitled for the accounting period to which the claim relates, and

(b) the amount of the R&D tax credit claimed by the company for that period.".

VALID FROM 28/07/2000

SCHEDULE 22 U.K.

Section 82.

TONNAGE TAX

. . . .

VALID FROM 28/07/2000

SCHEDULE 23 U.K.

Section 87.

TAX TREATMENT OF AMOUNTS RELATING TO ACQUISITION ETC. OF CERTAIN RIGHTS

. . . .

VALID FROM 28/07/2000

SCHEDULE 24 U.K.

Section 91(2).

NEW SCHEDULE 4A TO THE TAXATION OF CHARGEABLE GAINS ACT 1992

The Schedule inserted after Schedule 4 to the [M426]Taxation of Chargeable Gains Act 1992 is as follows:

"SCHEDULE 4A U.K.

DISPOSAL OF INTEREST IN SETTLED PROPERTY: DEEMED DISPOSAL OF UNDERLYING ASSETS

Circumstances in which this Schedule applies

1 This Schedule applies where there is a disposal of an interest in settled property for consideration.

Meaning of "interest in settled propert"y

2 (1) For the purposes of this Schedule an "interest in settled property" means any interest created by or arising under a settlement.

(2) This includes any right to, or in connection with, the enjoyment of a benefit—

(a) created by or arising directly under a settlement, or

(b) arising as a result of the exercise of a discretion or power—

(i) by the trustees of a settlement, or

(ii) by any person in relation to settled property.

Meaning of "for consideratio"n

3 (1) For the purposes of this Schedule a disposal is "for consideration" if consideration is given or received by any person for, or otherwise in connection with, any transaction by virtue of which the disposal is effected.

(2) In determining for the purposes of this Schedule whether a disposal is for consideration there shall be disregarded any consideration consisting of another interest under the same settlement that has not previously been disposed of by any person for consideration.

(3) In this Schedule "consideration" means actual consideration, as opposed to consideration deemed to be given by any provision of this Act.

Deemed disposal of underlying assets

4 (1) Where this Schedule applies and the following conditions are met—

(a) the condition as to UK residence of the trustees (see paragraph 5),

(b) the condition as to UK residence of the settlor (see paragraph 6), and

(c) the condition as to settlor interest in the settlement (see paragraph 7),

the trustees of the settlement are treated for all purposes of this Act as disposing of and immediately reacquiring the relevant underlying assets.

This is referred to below in this Schedule as the "deemed disposal".

(2) In paragraphs 5, 6 and 7 "the relevant year of assessment" means the year of assessment in which the disposal of the interest in settled property is made.

(3) The deemed disposal is treated as taking place when the disposal of the interest in settled property is made.

This is subject to paragraph 13(3)(a) where the beginning of the disposal and its effective completion fall in different years of assessment.

Condition as to UK residence of trustees

5 (1) The condition as to UK residence of the trustees is that the trustees of the settlement were either—

(a) resident in the United Kingdom during the whole or part of the relevant year of assessment, or

(b) ordinarily resident in the United Kingdom during that year.

(2) For this purpose the trustees shall not be regarded as resident or ordinarily resident in the United Kingdom at any time when they fall to be regarded for the purposes of any double taxation relief arrangements as resident in a territory outside the United Kingdom.

(3) This paragraph has effect subject to paragraph 13(3)(b) where the beginning of the disposal and its effective completion fall in different years of assessment.

Condition as to UK residence of settlor

6 (1) The condition as to UK residence of the settlor is that in the relevant year of assessment, or any of the previous five years of assessment, a person who is a settlor in relation to the settlement either—
(a) was resident in the United Kingdom during the whole or part of the year, or
(b) was ordinarily resident in the United Kingdom during the year.

(2) Sub-paragraph (1) has effect subject to paragraph 13(3)(c) where the beginning of the disposal and its effective completion fall in different years of assessment.

(3) No account shall be taken for the purposes of this paragraph of any year of assessment before the year 1999-00.

Condition as to settlor interest in the settlement

7 (1) The condition as to settlor interest in the settlement is that at any time in the relevant period the settlement—
(a) was a settlor-interested settlement, or
(b) comprised property derived, directly or indirectly, from a settlement that at any time in that period was a settlor-interested settlement.

(2) The relevant period for this purpose is the period—
(a) beginning two years before the beginning of the relevant year of assessment, and
(b) ending with the date of the disposal of the interest in settled property.

This is subject to paragraph 13(3)(d) where the beginning of the disposal and its effective completion fall in different years of assessment.

(3) The relevant period shall not be treated as beginning before 6th April 1999.

If the rule in sub-paragraph (2) (or, where relevant, that in paragraph 13(3)(d)) would produce that result, the relevant period shall be treated as beginning on that date.

(4) For the purposes of this paragraph a "settlor-interested settlement" means a settlement in which a person who is a settlor in relation to the settlement has an interest or had an interest at any time in the relevant period.

The provisions of section 77(2) to (5) and (8) apply to determine for the purposes of this paragraph whether a settlor has (or had) an interest in the settlement.

(5) The condition as to settlor interest in the settlement is treated as not met in a year of assessment—
(a) where the settlor dies during the year, or
(b) in a case where the settlor is regarded as having an interest in the settlement by reason only of—
(i) the fact that property is, or will or may become, payable to or applicable for the benefit of his spouse, or
(ii) the fact that a benefit is enjoyed by his spouse,

where the spouse dies, or the settlor and the spouse cease to be married, during the year.

The relevant underlying assets

8 (1) Where the interest disposed of is a right in relation to a specific fund or other defined part of the settled property, the deemed disposal is of the whole or part of each of the assets comprised in that fund or part.

In any other case the deemed disposal is of the whole or part of each of the assets comprised in the settled property.

(2) Where the interest disposed of is an interest in a specific fraction or amount of the income or capital of—

(a) the settled property, or

(b) a specific fund or other defined part of the settled property,

the deemed disposal is of a corresponding part of each of the assets comprised in the settled property or, as the case may be, each of the assets comprised in that fund or part.

In any other case the deemed disposal is of the whole of each of the assets so comprised.

(3) Sub-paragraphs (1) and (2) have effect subject to paragraph 13(4)(a) where the identity of the underlying assets changes during the period between the beginning of the disposal and its effective completion.

(4) Where part only of an asset is comprised in a specific fund or other defined part of the settled property, that part of the asset shall be treated for the purposes of this Schedule as if it were a separate asset.

Character of deemed disposal

9 (1) The deemed disposal shall be taken—

(a) to be for a consideration equal to the whole or, as the case may be, a corresponding part of the market value of each of the assets concerned, and

(b) to be a disposal under a bargain at arm's length.

(2) Sub-paragraph (1)(a) shall be read with paragraph 13(4)(b) where the value of the assets changes during the period between the beginning of the disposal and its effective completion.

Avoidance of double-counting

10 (1) The provisions of this paragraph have effect to prevent there being both a deemed disposal under this Schedule in relation to the disposal of an interest in settled property and a chargeable disposal of the interest itself.

A "chargeable disposal" means one in relation to which section 76(1) does not apply.

(2) If there would be a chargeable gain on the disposal of the interest in the settlement, then—

(a) if—

(i) the chargeable gain on the disposal of the interest would be greater than the net chargeable gain on the deemed disposal, or

(ii) there would be no net chargeable gain on the deemed disposal,

the provisions of this Schedule as to a deemed disposal do not apply; and

(b) in any other case, the provisions of this Schedule as to a deemed disposal apply and no chargeable gain is treated as accruing on the disposal of the interest in the settlement.

(3) If there would be an allowable loss on the disposal of the interest in the settlement, then—

(a) if there would be a greater net allowable loss on the deemed disposal, the provisions of this Schedule as to a deemed disposal do not apply; and

(b) in any other case, the provisions of this Schedule as to a deemed disposal apply and no allowable loss is treated as accruing on the disposal of the interest in the settlement.

(4) If there would be neither a chargeable gain nor an allowable loss on the disposal of the interest in the settlement, then—

(a) if there would be a net allowable loss on the deemed disposal, the provisions of this Schedule as to a deemed disposal do not apply; and

(b) in any other case, the provisions of this Schedule as to a deemed disposal apply.

(5) For the purposes of this paragraph—

(a) there is a net chargeable gain on a deemed disposal if the aggregate of the chargeable gains accruing to the trustees in respect of the assets involved exceeds the aggregate of the allowable losses so accruing; and

(b) there is a net allowable loss on a deemed disposal if the aggregate of the allowable losses accruing to the trustees in respect of the assets involved exceeds the aggregate of the chargeable gains so accruing.

Recovery of tax from person disposing of interest

11 (1) This paragraph applies where chargeable gains accrue to the trustees on the deemed disposal and—

(a) tax becomes chargeable on and is paid by the trustees in respect of those gains, or

(b) a person who is a settlor in relation to the settlement recovers from the trustees under section 78 an amount of tax in respect of those gains.

(2) The trustees are entitled to recover the amount of the tax referred to in sub-paragraph (1)(a) or (b) from the person who disposed of the interest in the settlement.

(3) For this purpose the trustees may require an inspector to give that person a certificate specifying—

(a) the amount of the gains in question, and

(b) the amount of tax that has been paid.

Any such certificate shall be conclusive evidence of the facts stated in it.

Meaning of "settlo"r

12 The provisions of section 79(1) and (3) to (5) (meaning of "settlor") apply for the purposes of this Schedule as they apply for the purposes of sections 77 and 78.

Cases where there is a period between the beginning of the disposal and its effective completion

13 (1) This paragraph applies in a case where there is a period between the beginning of the disposal of an interest in settled property and the effective completion of the disposal.

(2) For the purposes of this Schedule—

(a) the beginning of the disposal is—

(i) in the case of a disposal involving the exercise of an option, when the option is granted, and

(ii) in any other case of a disposal under a contract, when the contract is entered into; and

(b) the effective completion of the disposal means the point at which the person acquiring the interest becomes for practical purposes unconditionally entitled to the whole of the intended subject matter of the disposal.

(3) Where this paragraph applies and the beginning of the disposal and its effective completion fall in different years of assessment—

(a) the deemed disposal is treated as taking place in the year of assessment in which the disposal is effectively completed;

(b) the condition in paragraph 5 (condition as to residence of trustees) is treated as met if it is met in relation to either of those years of assessment or any intervening year;

(c) the condition in paragraph 6 (condition as to residence of settlor) is treated as met if it is met in relation to either or both of those years of assessment or any intervening year; and

(d) the relevant period for the purposes of paragraph 7 (condition as to settlor interest) is the period—

(i) beginning two years before the beginning of the first of those years of assessment, and

(ii) ending with the effective completion of the disposal.

(4) If the identity or value of the underlying assets changes during the period between the beginning of the disposal and its effective completion, the following provisions apply—

(a) an asset is treated as comprised in the settled property and, where relevant, in any specific fund or other defined part of the settled property to which the deemed disposal relates if it is so comprised at any time in that period;

(b) the market value of any asset for the purposes of the deemed disposal is taken to be its highest market value at any time during that period.

(5) The provisions in sub-paragraph (4) do not apply to an asset if during that period it is disposed of by the trustees under a bargain at arm's length and is not reacquired.

Exception: maintenance funds for historic buildings

14 If the trustees of a settlement have elected that section 691(2) of the Taxes Act (certain income of maintenance funds for historic buildings not to be income of settlor etc.) shall have effect in the case of a settlement or part of a settlement in relation to a year of assessment, this Schedule does not apply in relation to the settlement or part for that year.".

Marginal Citations
M426 1992 c. 12).

Marginal Citations
M426 1992 c. 12).

VALID FROM 28/07/2000

SCHEDULE 25 U.K.

Section 92(2).

NEW SCHEDULE 4B TO THE TAXATION OF CHARGEABLE GAINS ACT 1992

The Schedule inserted after Schedule 4A to the [M427]Taxation of Chargeable Gains Act 1992 is as follows:

"SCHEDULE 4B U.K.

TRANSFERS OF VALUE BY TRUSTEES LINKED WITH TRUSTEE BORROWING

General scheme of this Schedule

1 (1) This Schedule applies where trustees of a settlement—

(a) make a transfer of value (see paragraph 2) in a year of assessment in which the settlement is within section 77, 86 or 87 (see paragraph 3), and

(b) in accordance with this Schedule the transfer of value is treated as linked with trustee borrowing (see paragraphs 4 to 9).

(2) Where this Schedule applies the trustees are treated as disposing of and immediately reacquiring the whole or a proportion of each of the chargeable assets that continue to form part of the settled property (see paragraphs 10 to 13).

Transfers of value

2 (1) For the purposes of this Schedule trustees of a settlement make a transfer of value if they—

(a) lend money or any other asset to any person,

(b) transfer an asset to any person and receive either no consideration or a consideration whose amount or value is less than the market value of the asset transferred, or

(c) issue a security of any description to any person and receive either no consideration or a consideration whose amount or value is less than the value of the security.

(2) References in this Schedule to "the material time", in relation to a transfer of value, are to the time when the loan is made, the transfer is effectively completed or the security is issued.

The effective completion of a transfer means the point at which the person acquiring the asset becomes for practical purposes unconditionally entitled to the whole of the intended subject matter of the transfer.

(3) In the case of a loan, the amount of value transferred is taken to be the market value of the asset.

(4) In the case of a transfer, the amount of value transferred is taken to be—
(a) if any part of the value of the asset is attributable to trustee borrowing, the market value of the asset;
(b) if no part of the value of the asset is attributable to trustee borrowing, the market value of the asset reduced by the amount or value of any consideration received for it.

Paragraph 12 below explains what is meant by the value of an asset being attributable to trustee borrowing.

(5) In the case of the issue of a security, the amount of value transferred shall be taken to be the value of the security reduced by the amount or value of any consideration received by the trustees for it.

(6) References in this paragraph to the value of an asset are to its value immediately before the material time, unless the asset does not exist before that time in which case its value immediately after that time shall be taken.

Settlements within section 77, 86 or 87

3 (1) This paragraph explains what is meant in this Schedule by a settlement being "within section 77, 86 or 87" in a year of assessment.

(2) A settlement is "within section 77" in a year of assessment if, assuming—
(a) that there were chargeable gains accruing to the trustees from the disposal of any or all of the settled property, and
(b) that the condition in subsection (1)(b) of that section was met,

chargeable gains would, under that section, be treated as accruing to the settlor in that year.

Expressions used in this sub-paragraph have the same meaning as in section 77.

(3) A settlement is "within section 86" in a year of assessment if, assuming—
(a) that there were chargeable gains accruing to the trustees by virtue of disposals of any of the settled property originating from the settlor, and
(b) that the other elements of the condition in subsection (1)(e) of that section were met,

chargeable gains would, under that section, be treated as accruing to the settlor in that year.

Expressions used in this sub-paragraph have the same meaning as in section 86.

(4) A settlement is "within section 87" in a year of assessment if, assuming—

(a) there were trust gains for the year within the meaning of subsection (2) of that section, and
(b) that beneficiaries of the settlement received capital payments from the trustees in that year or had received such payments in an earlier year,

chargeable gains would, under that section or section 89(2), be treated as accruing to the beneficiaries in that year.

Expressions used in this sub-paragraph have the same meaning as in section 87.

Trustee borrowing

4 (1) For the purposes of this Schedule trustees of a settlement are treated as borrowing if—
(a) money or any other asset is lent to them, or
(b) an asset is transferred to them and in connection with the transfer the trustees assume a contractual obligation (whether absolute or conditional) to restore or transfer to any person that or any other asset.

In the following provisions of this Schedule "loan obligation" includes any such obligation as is mentioned in paragraph (b).

(2) The amount borrowed (the "proceeds" of the borrowing) is taken to be—
(a) in the case of a loan, the market value of the asset;
(b) in the case of a transfer, the market value of the asset reduced by the amount or value of any consideration received for it.

(3) References in this paragraph to the market value of an asset are to its market value immediately before the loan is made, or the transfer is effectively completed, unless the asset does not exist before that time in which case its market value immediately after that time shall be taken.

The effective completion of a transfer means the point at which the person acquiring the asset becomes for practical purposes unconditionally entitled to the whole of the intended subject matter of the transfer.

Transfer of value linked with trustee borrowing

5 (1) For the purposes of this Schedule a transfer of value by trustees is treated as linked with trustee borrowing if at the material time there is outstanding trustee borrowing.

(2) For the purposes of this Schedule there is outstanding trustee borrowing at any time to the extent that—
(a) any loan obligation is outstanding, and
(b) there are proceeds of trustee borrowing that have not been either—
(i) applied for normal trust purposes, or
(ii) taken into account under this Schedule in relation to an earlier transfer of value.

(3) An amount of trustee borrowing is "taken into account" under this Schedule in relation to a transfer of value if the transfer of value is in accordance with this Schedule treated as linked with trustee borrowing.

The amount so taken into account is—

(a) the amount of the value transferred by that transfer of value, or
(b) if less, the amount of outstanding trustee borrowing at the material time in relation to that transfer of value.

Application of proceeds of borrowing for normal trust purposes

6 (1) For the purposes of this Schedule the proceeds of trustee borrowing are applied for normal trust purposes in the following circumstances, and not otherwise.

(2) They are applied for normal trust purposes if they are applied by the trustees in making a payment in respect of an ordinary trust asset and the following conditions are met—
(a) the payment is made under a transaction at arm's length or is not more than the payment that would be made if the transaction were at arm's length;
(b) the asset forms part of the settled property immediately after the material time or, if it does not do so, the alternative condition in paragraph 8 below is met; and
(c) the sum paid is (or but for section 17 or 39 would be) allowable under section 38 as a deduction in computing a gain accruing to the trustees on a disposal of the asset.

(3) They are applied for normal trust purposes if—
(a) they are applied by the trustees in wholly or partly discharging a loan obligation of the trustees, and
(b) the whole of the proceeds of the borrowing connected with that obligation (or all but an insignificant amount) have been applied by the trustees for normal trust purposes.

(4) They are applied for normal trust purposes if they are applied by the trustees in making payments to meet bona fide current expenses incurred by them in administering the settlement or any of the settled property.

Ordinary trust assets

7 (1) The following are "ordinary trust assets" for the purposes of this Schedule—
(a) shares or securities;
(b) tangible property, whether movable or immovable, or a lease of such property;
(c) property not within paragraph (a) or (b) which is used for the purposes of a trade, profession or vocation carried on—
(i) by the trustees, or
(ii) by a beneficiary who has an interest in possession in the settled property;
(d) any right in or over, or any interest in, property of a description within paragraph (b) or (c).

(2) In sub-paragraph (1)(a) "securities" has the same meaning as in section 132.

The alternative condition for assets no longer part of the settled property

8 (1) The alternative condition referred to in paragraph 6(2)(b) in relation to an asset which no longer forms part of the settled property is that—

(a) the asset is treated as having been disposed of by virtue of section 24(1), or
(b) one or more ordinary trust assets which taken together directly or indirectly represent the asset—
(i) form part of the settled property immediately after the material time, or
(ii) are treated as having been disposed of by virtue of section 24(1).

(2) Where there has been a part disposal of the asset, the condition in paragraph 6(2)(b) and the provisions of sub-paragraph (1) above may be applied in any combination in relation to the subject matter of the part disposal and what remains.

(3) References in this paragraph to an asset include part of an asset.

Normal trust purposes: power to make provision by regulations

9 (1) The Treasury may make provision by regulations as to the circumstances in which the proceeds of trustee borrowing are to be treated for the purposes of this Schedule as applied for normal trust purposes.

(2) The regulations may—
(a) add to, amend or repeal any of the provisions of paragraphs 6 to 8 above,
(b) make different provision for different cases, and
(c) contain such supplementary, incidental, consequential and transitional provision as the Treasury may think fit.

Deemed disposal of remaining chargeable assets

10 (1) Where in accordance with this Schedule a transfer of value by trustees is treated as linked with trustee borrowing, the trustees are treated for all purposes of this Act—
(a) as having at the material time disposed of, and
(b) as having immediately reacquired,

the whole or a proportion (see paragraph 11) of each of the chargeable assets that form part of the settled property immediately after the material time ("the remaining chargeable assets").

(2) The deemed disposal and reacquisition shall be taken—
(a) to be for a consideration equal to the whole or, as the case may be, a proportion of the market value of each of those assets, and
(b) to be under a bargain at arm's length.

(3) For the purposes of sub-paragraph (1) an asset is a chargeable asset if a gain on a disposal of the asset by the trustees at the material time would be a chargeable gain.

Whether deemed disposal is of whole or a proportion of the assets

11 (1) This paragraph provides for determining whether the deemed disposal and reacquisition is of the whole or a proportion of each of the remaining chargeable assets.

(2) If the amount of value transferred—
(a) is less than the amount of outstanding trustee borrowing, and
(b) is also less than the effective value of the remaining chargeable assets,

the deemed disposal and reacquisition is of the proportion of each of the remaining chargeable assets given by:

$$\frac{VT}{EV}$$

where—

VT is the amount of value transferred, and

EV is the effective value of the remaining chargeable assets.

(3) If the amount of value transferred—

(a) is not less than the amount of outstanding trustee borrowing, but

(b) is less than the effective value of the remaining chargeable assets,

the deemed disposal and reacquisition is of the proportion of each of the remaining chargeable assets given by:

$$\frac{TB}{EV}$$

where—

TB is the amount of outstanding trustee borrowing, and

EV is the effective value of the remaining chargeable assets.

(4) In any other case the deemed disposal and reacquisition is of the whole of each of the remaining chargeable assets.

(5) For the purposes of this paragraph the effective value of the remaining chargeable assets means the aggregate market value of those assets reduced by so much of that value as is attributable to trustee borrowing.

(6) References in this paragraph to amounts or values, except in relation to the amount of value transferred, are to amounts or values immediately after the material time.

Value attributable to trustee borrowing

12 (1) For the purposes of this Schedule the value of an asset is attributable to trustee borrowing to the extent determined in accordance with the following rules.

(2) Where the asset itself has been borrowed by trustees, the value of the asset is attributable to trustee borrowing to the extent that the proceeds of that borrowing have not been applied for normal trust purposes.

This is in addition to any extent to which the value of the asset may be attributable to trustee borrowing by virtue of sub-paragraph (3).

(3) The value of any asset is attributable to trustee borrowing to the extent that—

(a) the trustees have applied the proceeds of trustee borrowing in acquiring or enhancing the value of the asset, or

(b) the asset represents directly or indirectly an asset whose value was attributable to the trustees having so applied the proceeds of trustee borrowing.

(4) For the purposes of this paragraph an amount is applied by the trustees in acquiring or enhancing the value of an asset if it is applied wholly and exclusively by them—

(a) as consideration in money or money's worth for the acquisition of the asset,

(b) for the purpose of enhancing the value of the asset in a way that is reflected in the state or nature of the asset,

(c) in establishing, preserving or defending their title to, or to a right over, the asset, or

(d) where the asset is a holding of shares or securities that is treated as a single asset, by way of consideration in money or money's worth for additional shares or securities forming part of the same holding.

(5) Trustees are treated as applying the proceeds of borrowing as mentioned in sub-paragraph (4) if and to the extent that at the time the expenditure is incurred there is outstanding trustee borrowing.

(6) In sub-paragraph (4)(d) "securities" has the same meaning as in section 132.

Assets and transfers

13 (1) In this Schedule any reference to an asset includes money expressed in sterling.

References to the value or market value of such an asset are to its amount.

(2) Subject to sub-paragraph (3), references in this Schedule to the transfer of an asset include anything that is or is treated as a disposal of the asset for the purposes of this Act, or would be if sub-paragraph (1) above applied generally for the purposes of this Act.

(3) References in this Schedule to a transfer of an asset do not include a transfer of an asset that is created by the part disposal of another asset.".

Marginal Citations

M427 1992 c. 12.

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VALID FROM 28/07/2000

SCHEDULE 26 U.K.

Section 92(4).

TRANSFERS OF VALUE: ATTRIBUTION OF GAINS TO BENEFICIARIES

. . . .

VALID FROM 28/07/2000

SCHEDULE 27 U.K.

Section 97.

GROUP RELIEF IN CASE OF NON-RESIDENT COMPANIES ETC.

. . . .

VALID FROM 28/07/2000

SCHEDULE 28 U.K.

Section 98.

RECOVERY OF TAX PAYABLE BY NON-RESIDENT COMPANY

. . . .

VALID FROM 28/07/2000

SCHEDULE 29 U.K.

Section 102.

CHARGEABLE GAINS: NON-RESIDENT COMPANIES AND GROUPS ETC.

. . . .

SCHEDULE 30 U.K.

Section 103.

DOUBLE TAXATION RELIEF

Power to make treaty provision for matching credit for tax spared in foreign country

1 (1) In section 788 of the Taxes Act 1988 (relief by agreement with other countries) in subsection (5) (matching credit for tax spared in foreign country) in the second

sentence, paragraph (b) (power to provide for relief in the arrangements themselves) shall cease to have effect.

(2) This paragraph comes into force on 1st April 2000.

VALID FROM 28/07/2000

Matching credit for tax spared below immediate overseas subsidiary: treaty relief

2 (1) In section 788 of the Taxes Act 1988 (relief by agreement with other countries) in subsection (5) (which in certain circumstances treats tax spared under the foreign law as tax payable) after the second sentence insert—

"Relief does not fall to be given in accordance with section 801 by virtue of this subsection unless the arrangements in question make express provision for such relief (but this paragraph is without prejudice to section 790(10B))."

(2) This paragraph has effect in relation to any claim for credit in respect of underlying tax in relation to a dividend paid on or after 21st March 2000 by a company resident outside the United Kingdom to a company resident in the United Kingdom.

VALID FROM 28/07/2000

Matching credit for tax spared below immediate overseas subsidiary: unilateral relief

3 (1) Amend section 790 of the Taxes Act 1988 (unilateral relief) as follows.

(2) In subsection (3) (which postulates notional arrangements containing the provisions specified in subsections (4) to (10) of that section) for "(10)" substitute " (10C) ".

(3) After subsection (10) (credit for underlying tax under section 801) insert—

"(10A) In any case where—

(a) under the law of the territory outside the United Kingdom, an amount of tax ("the spared tax") would, but for a relief, have been payable by a company resident in that territory ("company A") in respect of any of its profits,

(b) company A pays a dividend out of those profits to another company resident in that territory ("company B"),

(c) company B, out of profits which consist of or include the whole or part of that dividend, pays a dividend to a company resident in the United Kingdom ("company C"), and

(d) the circumstances are such that, had company B been resident in the United Kingdom, it would have been entitled, under arrangements made with the government of the territory outside the United Kingdom and having effect by virtue of section 788, to a relief to which subsection (5) of that section applies in respect of the spared tax,

subsection (10B) below shall apply.

(10B) In any case falling within subsection (10A) above, the spared tax shall be taken into account for the purposes of—

(a) the other provisions of this section, and

(b) subject to section 795(3), Chapter II of this Part in its application to relief under this section in relation to the dividend paid to company C,

as if it had been payable and paid; and references in this section and that Chapter to double taxation, to tax payable or chargeable, or to tax not chargeable directly or by deduction shall be construed accordingly.

(10C) Except as provided by subsection (10B) above, in relation to any dividend paid—

(a) to a company resident in the United Kingdom,

(b) by a company resident in the territory outside the United Kingdom,

credit by virtue of section 801 does not fall to be given by virtue of this section in respect of tax which would have been payable under the law of that or any other territory outside the United Kingdom but for a relief (notwithstanding any arrangements made with the government of that or any other territory outside the United Kingdom which have effect by virtue of section 788 and provide for a relief to which subsection (5) of that section applies)."

(4) This paragraph has effect in relation to any claim for credit, under any arrangements, in respect of underlying tax in relation to a dividend paid on or after 21st March 2000 by a company resident outside the United Kingdom to a company resident in the United Kingdom.

VALID FROM 28/07/2000

Relief for persons resident outside the UK who have branches or agencies in the UK

4 (1) Amend section 790 of the Taxes Act 1988 (unilateral relief) in accordance with sub-paragraphs (2) and (3).

(2) In subsection (6) (dividend paid to company resident in United Kingdom) for "company resident in the United Kingdom" substitute " company falling within subsection (6A) below ".

(3) After subsection (6) insert—

"(6A) A company falls within this subsection if—

(a) it is resident in the United Kingdom; or

(b) it is resident outside the United Kingdom but the dividend mentioned in subsection (6) above forms part of the profits of a branch or agency of the company's in the United Kingdom."

(4) Amend section 794 of the Taxes Act 1988 (requirement as to residence) in accordance with sub-paragraphs (5) and (6).

(5) In subsection (2) (cases where credit may be allowed by way of unilateral relief) after paragraph (b) insert—

"(bb) for tax paid under the law of any territory outside the United Kingdom in respect of the income or chargeable gains of a branch or agency in the United Kingdom of a person who is not resident in the United Kingdom, where the following conditions are fulfilled, namely—
(i) that the territory under whose law the tax was paid is not one in which the person is liable to tax by reason of domicile, residence or place of management; and
(ii) that the amount of relief claimed does not exceed (or is by the claim expressly limited to) that which would have been available if the branch or agency had been a person resident in the United Kingdom and the income or gains in question had been income or gains of that person."

(6) Omit subsection (2)(c) (which is superseded by the amendment made by sub-paragraph (5)).

(7) Amend section 801 of the Taxes Act 1988 (dividends paid between related companies: relief for UK and third country taxes) in accordance with sub-paragraphs (8) and (9).

(8) In subsection (1) (dividend paid to company resident in the United Kingdom)—
(a) for "company resident in the United Kingdom ("the United Kingdom company")" substitute " company falling within subsection (1A) below ("the relevant company") "; and
(b) for "to the United Kingdom company" substitute " to the relevant company ".

(9) After subsection (1) insert—

"(1A) A company falls within this subsection if—
(a) it is resident in the United Kingdom; or
(b) it is resident outside the United Kingdom but the dividend mentioned in subsection (1) above forms part of the profits of a branch or agency of the company's in the United Kingdom."

(10) Amend section 801A of the Taxes Act 1988 (restriction of relief for underlying tax) in accordance with sub-paragraphs (11) and (12).

(11) In subsection (1)(a) (company resident in United Kingdom making claim for allowance by way of credit) for "a company resident in the United Kingdom ("the United Kingdom company")" substitute " a company ("the claimant company") ".

(12) In subsections (2), (7) and (11), for "the United Kingdom company" substitute " the claimant company ".

(13) In Schedule 19AC to the Taxes Act 1988 (modification of Act in relation to overseas life insurance companies) amend paragraph 13 (which notionally inserts certain provisions into section 794) as follows—
(a) omit sub-paragraph (1) (which notionally inserts subsection (2)(d));
(b) in sub-paragraph (2) (which notionally inserts subsections (3) and (4)) in the words preceding the notionally inserted subsections, for "subsections shall be treated as inserted after that subsection" substitute " subsection shall be treated as inserted after subsection (2) of section 794 ";

(c) omit the subsection (3) notionally inserted by sub-paragraph (2);

(d) in the subsection (4) notionally inserted by sub-paragraph (2), for "subsection (2)(d)" substitute " subsection (2)(bb) ".

(14) The amendments made by this paragraph have effect in relation to[F32 chargeable periods] ending on or after 21st March 2000.

Textual Amendments

F32 Words in Sch. 30 para. 4(14) substituted (*retrospectively*) by 2001 c. 9, s. 83, **Sch. 27 para. 7**

VALID FROM 28/07/2000

No double relief etc.

5 (1) After section 793 of the Taxes Act 1988 insert—

"793A No double relief etc.

(1) Where relief in respect of an amount of tax that would otherwise be payable under the law of a territory outside the United Kingdom may be allowed—

(a) under arrangements made with the government of that territory, or

(b) under the law of that territory in consequence of any such arrangements,

credit may not be allowed in respect of that tax, whether the relief has been used or not.

(2) Where, under arrangements having effect by virtue of section 788, credit may be allowed in respect of an amount of tax, credit by way of unilateral relief may not be allowed in respect of that tax.

(3) Where arrangements made with the government of a territory outside the United Kingdom contain express provision to the effect that relief by way of credit shall not be given under the arrangements in cases or circumstances specified or described in the arrangements, then neither shall credit by way of unilateral relief be allowed in those cases or circumstances."

(2) Subsections (1) and (2) of the section inserted by sub-paragraph (1) have effect in relation to claims for credit made on or after 21st March 2000.

(3) Subsection (3) of the section inserted by sub-paragraph (1) has effect in relation to arrangements made on or after 21st March 2000.

VALID FROM 28/07/2000

Limits on credit: minimisation of the foreign tax

6 (1) After section 795 of the Taxes Act 1988 insert—

"795A Limits on credit: minimisation of the foreign tax.

(1) The amount of credit for foreign tax which, under any arrangements, is to be allowed against tax in respect of any income or chargeable gain shall not exceed the credit which would be allowed had all reasonable steps been taken—

(a) under the law of the territory concerned, and

(b) under any arrangements made with the government of that territory,

to minimise the amount of tax payable in that territory.

(2) The steps mentioned in subsection (1) above include—

(a) claiming, or otherwise securing the benefit of, reliefs, deductions, reductions or allowances; and

(b) making elections for tax purposes.

(3) For the purposes of subsection (1) above, any question as to the steps which it would have been reasonable for a person to take shall be determined on the basis of what the person might reasonably be expected to have done in the absence of relief under this Part against tax in the United Kingdom."

(2) This paragraph has effect in relation to claims for credit made on or after 21st March 2000.

VALID FROM 28/07/2000

Foreign tax on amounts underlying non-trading credits

7 (1) Amend section 797A of the Taxes Act 1988 (foreign tax on interest brought into account as a non-trading credit) as follows.

(2) In subsection (1)—

(a) in paragraph (a) for "amount of interest" substitute " item ", and

(b) in paragraph (b) for "that amount" and "that interest" substitute " that item ".

(3) In consequence of sub-paragraph (2) above, in the sidenote for "interest brought into account as" substitute " items giving rise to ".

(4) The amendments made by this paragraph have effect in relation to accounting periods ending on or after 21st March 2000.

VALID FROM 28/07/2000

Restriction of relief for underlying tax

8 (1) Amend section 799 of the Taxes Act 1988 (computation of underlying tax) as follows.

(2) In subsection (1) (underlying tax to be taken into account to be so much of the foreign tax on the relevant profits as is attributable to the proportion represented by the dividend) after "as" insert " (a) " and at the end of the subsection add ", and

(b) does not exceed the amount calculated by applying the formula set out in subsection (1A) below."

(3) After subsection (1) insert—

"(1A) The formula is—

$$\frac{D \times M}{(100 - M)}$$

where—

D is the amount of the dividend; and

M is the maximum relievable rate;

and for the purposes of this subsection the maximum relievable rate is the rate of corporation tax in force when the dividend was paid."

(4) In subsection (3) (profits by reference to which underlying tax to be taken into account is calculated)—

(a) at the end of paragraph (a) insert " and ";

(b) omit paragraph (b); and

(c) in paragraph (c), for "paid neither for a specified period nor out of specified profits" substitute " not paid for a specified period ".

(5) This paragraph has effect in relation to any claim for an allowance by way of credit made on or after 31st March 2001 in respect of a dividend paid by a company resident outside the United Kingdom to a company resident in the United Kingdom, unless the dividend was paid before that date.

(6) In determining, for the purpose of any such claim made on or after that date, the underlying tax of any such third, fourth or successive company as is mentioned in section 801(2) or (3) of the Taxes Act 1988, this paragraph shall be deemed to have had effect at the time the dividend paid by that company was paid.

VALID FROM 28/07/2000

Computation of underlying tax: the relevant profits

9 (1) Amend section 799 of the Taxes Act 1988 as follows.

(2) After subsection (4) add—

"(5) For the purposes of paragraphs (a) and (c) of subsection (3) above, "profits", in the case of any period, means the profits available for distribution.

(6) In subsections (4) and (5) above, "profits available for distribution" means, in the case of any company, the profits available for distribution as shown in accounts relating to the company—

(a) drawn up in accordance with the law of the company's home State, and

(b) making no provision for reserves, bad debts or contingencies other than such as is required to be made under that law.

(7) In this section, "home State", in the case of any company, means the country or territory under whose law the company is incorporated or formed."

(3) This paragraph has effect in relation to any claim for credit, under any arrangements, in respect of underlying tax in relation to a dividend paid on or after 21st March 2000 by a company resident outside the United Kingdom to a company resident in the United Kingdom.

VALID FROM 28/07/2000

Dividends paid between related companies but not covered by arrangements

10 (1) Section 800 of the Taxes Act 1988 (dividends paid between related companies but not covered by arrangements) shall cease to have effect.

(2) This paragraph has effect in relation to dividends paid on or after 1st April 2000.

VALID FROM 28/07/2000

Restriction of relief for underlying tax: dividends paid between related companies

11 (1) Amend section 801 of the Taxes Act 1988 as follows.

(2) After subsection (2) (cases where the overseas company receives a dividend from a related third company) insert—

"(2A) Section 799(1)(b) applies for the purposes of subsection (2) above only—

(a) if the overseas company and the third company are not resident in the same territory; or

(b) in such other cases as may be prescribed by regulations made by the Treasury."

(3) This paragraph has effect in relation to any claim for an allowance by way of credit made on or after 31st March 2001 in respect of a dividend paid by a company resident outside the United Kingdom to a company resident in the United Kingdom, unless the dividend was paid before that date.

(4) In determining, for the purpose of any such claim made on or after that date, the underlying tax of any such third, fourth or successive company as is mentioned in section 801(2) or (3) of the Taxes Act 1988, this paragraph shall be deemed to have had effect at the time the dividend paid by that company was paid.

VALID FROM 28/07/2000

Dividends paid out of transferred profits

12 (1) After section 801A of the Taxes Act 1988 insert—

"**801B Dividends paid out of transferred profits.**

(1) This section applies where—

(a) a company ("company A") resident outside the United Kingdom has paid tax under the law of a territory outside the United Kingdom in respect of any of its profits;

(b) some or all of those profits become profits of another company resident outside the United Kingdom ("company B") otherwise than by virtue of the payment of a dividend to company B; and

(c) company B pays a dividend out of those profits to another company ("company C"), wherever resident.

(2) Where this section applies, this Part shall have effect, so far as relating to the determination of underlying tax in relation to any dividend paid—

(a) by any company resident outside the United Kingdom (whether or not company B),

(b) to a company resident in the United Kingdom,

as if company B had paid the tax paid by company A in respect of those profits of company A which have become profits of company B as mentioned in subsection (1)(b) above.

(3) But the amount of relief under this Part which is allowable to a company resident in the United Kingdom shall not exceed the amount which would have been allowable to that company had those profits become profits of company B by virtue of the payment of a dividend by company A to company B."

(2) This paragraph has effect in relation to any claim for credit, under any arrangements, in respect of underlying tax in relation to a dividend paid on or after 21st March 2000 by a company resident outside the United Kingdom to a company resident in the United Kingdom.

VALID FROM 28/07/2000

Separate streaming of dividend so far as representing an ADP dividend of a CFC

13 (1) After section 801B of the Taxes Act 1988 insert—

"**801C Separate streaming of dividend so far as representing an ADP dividend of a CFC.**

(1) This section applies in any case where—

(a) by virtue only of section 748(1)(a), no apportionment under section 747(3) falls to be made as regards an accounting period of a controlled foreign company; and

(b) one or more of the dividends paid by the controlled foreign company by virtue of which the condition in paragraph (a) above is satisfied are dividends falling within subsection (2) below.

(2) A dividend falls within this subsection if, for the purposes of Part I of Schedule 25, the whole or any part of it falls to be treated by virtue of paragraph 4 of that Schedule as paid by the controlled foreign company to a United Kingdom resident.

(3) If, in a case where this section applies,—

(a) an initial dividend is paid to a company resident outside the United Kingdom, and

(b) that company, or any other company which is related to it, pays an intermediate dividend which for the purposes of paragraph 4 of Schedule 25 to any extent represents that initial dividend,

subsection (4) below shall have effect in relation to the UK recipient concerned.

(4) Where this subsection has effect, it shall be assumed for the purposes of allowing credit relief under this Part to that UK recipient—

(a) that, instead of the intermediate dividend, the dividends described in subsection (5) below had been paid and the circumstances had been as described in subsection (6) or (7) below, as the case may be; and

(b) that any tax paid under the law of any territory in respect of the intermediate dividend, or which is underlying tax in relation to that dividend, had instead fallen to be borne accordingly (taking account of any reduction falling to be made under section 799(2)).

(5) The dividends mentioned in subsection (4)(a) above are—

(a) as respects each of the initial dividends which are, for the purposes of paragraph 4 of Schedule 25, to any extent represented by the intermediate dividend, a separate dividend (an "ADP dividend") representing, and of an amount equal to, so much of that initial dividend as is for those purposes represented by the intermediate dividend; and

(b) a further separate dividend (a "residual dividend") representing, and of an amount equal to, the remainder (if any) of the intermediate dividend.

(6) As respects each of the ADP dividends, the intermediate company is to be treated as if it were a separate company whose distributable profits are of a constitution corresponding to, and an amount equal to, that of the ADP dividend.

(7) As respects the residual dividend (if any), the relevant profits out of which it is to be regarded for the purposes of section 799(1) as paid by the intermediate company are, in consequence of subsection (6) above, to be treated as being of such constitution and amount as remains after excluding

accordingly so much of those relevant profits as constitute the whole or any part of the distributable profits out of which the ADP dividends are paid.

(8) If, in a case where this section applies, an intermediate company also pays a dividend which is not an intermediate dividend (an "independent dividend") and either—

(a) that dividend is paid to a United Kingdom resident, or

(b) if it is not so paid, a dividend which to any extent represents it is paid by a company which is related to that company and resident outside the United Kingdom to a United Kingdom resident,

subsection (9) below shall have effect in relation to the United Kingdom resident.

(9) Where this subsection has effect, it shall be assumed for the purposes of allowing credit relief under this Part to the United Kingdom resident—

(a) that the relevant profits out of which the independent dividend is to be regarded for the purposes of section 799(1) as paid by the intermediate company are, in consequence of subsection (6) above, to be treated as being of such constitution and amount as remains after excluding so much of those relevant profits as constitute the whole or any part of the distributable profits out of which the ADP dividends are paid; and

(b) that any tax paid under the law of any territory in respect of the independent dividend, or which is underlying tax in relation to that dividend, had instead fallen to be borne accordingly (taking account of any reduction falling to be made under section 799(2)).

(10) For the purposes of this section—

(a) a controlled foreign company is an "ADP controlled foreign company" as respects any of its accounting periods if the condition in paragraph (a) of subsection (1) above is satisfied as respects that accounting period;

(b) an "initial dividend" (subject to subsection (14) below) is any of the dividends mentioned in paragraph (b) of subsection (1) above paid by an ADP controlled foreign company; and

(c) a "subsequent dividend" is any dividend which, in relation to one or more initial dividends, is the subsequent dividend for the purposes of paragraph 4 of Schedule 25.

(11) In this section—

"distributable profits" means a company's profits available for distribution, determined in accordance with section 799(6);

"intermediate company" means any company resident outside the United Kingdom which pays an intermediate dividend;

"intermediate dividend" means any dividend which is paid by a company resident outside the United Kingdom and which—

(a) for the purposes of paragraph 4 of Schedule 25, to any extent represents one or more initial dividends paid by other companies; and

(b) either is the subsequent dividend in the case of those initial dividends or is itself to any extent represented for those purposes by a subsequent dividend;

"the UK recipient" means the United Kingdom resident to whom a subsequent dividend is paid.

(12) Where—

(a) one company pays a dividend ("dividend A") to another company, and

(b) that other company, or a company which is related to it, pays a dividend ("dividend B") to another company,

then, for the purposes of this section, dividend B represents dividend A, and dividend A is represented by dividend B, to the extent that dividend B is paid out of profits which are derived, directly or indirectly, from the whole or part of dividend A.

(13) Sub-paragraph (2) of paragraph 4 of Schedule 25 (related companies) shall apply for the purposes of this section as it applies for the purposes of that paragraph.

(14) Where an intermediate company which is an ADP controlled foreign company pays a dividend—

(a) by virtue of which (whether taken alone or with other dividends) the condition in subsection (1)(a) above is satisfied as regards an accounting period of the company, but

(b) which also for the purposes of paragraph 4 of Schedule 25 to any extent represents one or more initial dividends paid by other ADP controlled foreign companies,

the dividend shall not be regarded for the purposes of this section as an initial dividend paid by the company, to the extent that it so represents initial dividends paid by other ADP controlled foreign companies."

(2) This paragraph has effect in relation to any claim for an allowance by way of credit made on or after 31st March 2001 in respect of a dividend paid by a company resident outside the United Kingdom to a company resident in the United Kingdom, unless the dividend was paid before that date.

(3) In determining, for the purpose of any such claim made on or after that date, the underlying tax of any such third, fourth or successive company as is mentioned in section 801(2) or (3) of the Taxes Act 1988, this paragraph shall be deemed to have had effect at the time the dividend paid by that company was paid.

VALID FROM 28/07/2000

UK insurance companies trading overseas: repeal of section 802

14 (1) Section 802 of the Taxes Act 1988 shall cease to have effect.

(2) This paragraph has effect in relation to accounting periods beginning on or after 1st April 2000.

VALID FROM 28/07/2000

Underlying tax: foreign taxation of group as a single entity

15 (1) After section 803 of the Taxes Act 1988 insert—

“**803A Foreign taxation of group as a single entity.**

(1) This section applies in any case where, under the law of a territory outside the United Kingdom, tax is payable by any one company resident in that territory (“the responsible company”) in respect of the aggregate profits, or aggregate profits and aggregate gains, of that company and one or more other companies so resident, taken together as a single taxable entity.

(2) Where this section applies, this Part shall have effect, so far as relating to the determination of underlying tax in relation to any dividend paid by any of the companies mentioned in subsection (1) above (the “non-resident companies”) to another company (“the recipient company”), as if—

(a) the non-resident companies, taken together, were a single company,

(b) anything done by or in relation to any of the non-resident companies (including the payment of the dividend) were done by or in relation to that single company, and

(c) that single company were related to the recipient company, if that one of the non-resident companies which actually pays the dividend is related to the recipient company,

(so that, in particular, the relevant profits for the purposes of section 799(1) is a single aggregate figure in respect of that single company and the foreign tax paid by the responsible company is foreign tax paid by that single company).

(3) For the purposes of this section a company is related to another company if that other company—

(a) controls directly or indirectly, or

(b) is a subsidiary of a company which controls directly or indirectly,

not less than 10 per cent. of the voting power in the first-mentioned company.”

(2) This paragraph has effect in relation to any claim for credit, under any arrangements, in respect of underlying tax in relation to a dividend paid on or after 21st March 2000 by a company resident outside the United Kingdom to a company resident in the United Kingdom.

VALID FROM 28/07/2000

Life assurance companies with overseas branches etc: restriction of credit

16 (1) Amend section 804A of the Taxes Act 1988 (overseas life assurance business: restriction of credit) as follows.

(2) For subsection (1) (application of subsection (2)) substitute—

"(1) Subsection (2) below applies where credit for tax—

(a) which is payable under the laws of a territory outside the United Kingdom in respect of insurance business carried on by a company through a branch or agency in that territory, and

(b) which is computed otherwise than wholly by reference to profits arising in that territory,

is to be allowed (in accordance with this Part) against corporation tax charged under Case I or Case VI of Schedule D in respect of the profits, computed in accordance with the provisions applicable to Case I of Schedule D, of life assurance business or any category of life assurance business carried on by the company in an accounting period (in this section referred to as "the relevant profits").

(1A) For the purposes of paragraph (b) of subsection (1) above, the cases where tax payable under the laws of a territory outside the United Kingdom is "computed otherwise than wholly by reference to profits arising in that territory" are those cases where the charge to tax in that territory falls within subsection (1B) below.

(1B) A charge to tax falls within this subsection if it is such a charge made otherwise than by reference to profits as (by disallowing their deduction in computing the amount chargeable) to require sums payable and other liabilities arising under policies to be treated as sums or liabilities falling to be met out of amounts subject to tax in the hands of the company."

(3) In subsection (3) (the shareholders' share of the overseas tax) for the definition of A (the amount of profits chargeable under section 441) substitute—

"A is an amount equal to the amount of the relevant profits before making any deduction authorised by subsection (5) below;".

(4) In subsection (5) (relaxation of rule in section 795(2)(a) against deducting foreign tax in computing the profits of the overseas life assurance business) for "the profits of the overseas life assurance business" substitute " the relevant profits ".

(5) In consequence of the amendments made by this paragraph, the sidenote to the section becomes "Life assurance companies with overseas branches etc: restriction of credit."

(6) This paragraph has effect in relation to accounting periods beginning on or after 1st April 2000.

VALID FROM 28/07/2000

Allocation of foreign tax to different categories of insurance business

17 (1) After section 804A of the Taxes Act 1988 insert—

"804B Insurance companies carrying on more than one category of business: restriction of credit.

(1) Where—

(a) an insurance company carries on more than one category of business in an accounting period, and

(b) there arises to the company in that period any income or gain ("the relevant income") in respect of which credit for foreign tax falls to be allowed under any arrangements,

subsection (2) below shall have effect.

(2) In any such case, the amount of the credit for foreign tax which, under the arrangements, is allowable against corporation tax in respect of so much of the relevant income as is referable (in accordance with the provisions of sections 432ZA to 432E) to a particular category of business must not exceed the fraction of the foreign tax which, in accordance with the following provisions of this section, is attributable to that category of business.

(3) Where the relevant income arises from an asset—

(a) which is linked solely to a category of business (other than overseas life assurance business), or

(b) which is an asset of the company's overseas life assurance fund,

the whole of the foreign tax is attributable to the category mentioned in paragraph (a) above or, as the case may be, to the company's overseas life assurance business, unless the case is one where subsection (7) below applies in relation to the category of business in question.

(4) Where subsection (3) above does not apply and the category of business in question is—

(a) basic life assurance and general annuity business, or

(b) long term business which is not life assurance business,

the fraction of the foreign tax that is attributable to that category of business is the fraction whose numerator is the part of the relevant income which is referable to that category by virtue of any provision of section 432A and whose denominator is the whole of the relevant income.

(5) Subsections (6) and (7) below apply where the category of business in question is neither—

(a) basic life assurance and general annuity business; nor

(b) long term business which is not life assurance business.

(6) Where—

(a) subsection (3) above does not apply, and

(b) some or all of the relevant income is taken into account in accordance with section 83 of the [M462]Finance Act 1989 in an account in relation to which the provisions of section 432C or 432D apply,

the fraction of the foreign tax that is attributable to the category of business in question is the fraction whose numerator is the part of the relevant income which is referable to that category by virtue of any provision of section 432C or 432D and whose denominator is the whole of the relevant income.

(7) Where some or all of the relevant income falls to be taken into account in determining in accordance with section 83(2) of the Finance Act 1989 the amount referred to in section 432E(1) as the net amount, the fraction of the foreign tax that is attributable to the category of business in question is the fraction—

(a) whose numerator is the part of that net amount which is referable by virtue of section 432E to that category; and

(b) whose denominator is the whole of that net amount.

(8) No part of the foreign tax is attributable to any category of business except as provided by subsections (3) to (7) above.

(9) Where for the purposes of this section an amount of foreign tax is attributable to a category of life assurance business other than basic life assurance and general annuity business, credit in respect of the foreign tax so attributable shall be allowed only against corporation tax in respect of profits chargeable under Case VI of Schedule D arising from carrying on that category of business."

(2) This paragraph has effect in relation to accounting periods beginning on or after 1st April 2000.

Marginal Citations

M462 1989 c. 26.

VALID FROM 28/07/2000

Allocation of expenses etc in a computation under Case I of Schedule D

18 (1) After section 804B of the Taxes Act 1988 insert—

"804C Insurance companies: allocation of expenses etc in computations under Case I of Schedule D.

(1) Where—

(a) an insurance company carries on any category of insurance business in a period of account,

(b) a computation in accordance with the provisions applicable to Case I of Schedule D falls to be made in relation to that category of business for that period, and

(c) there arises to the company in that period any income or gain in respect of which credit for foreign tax falls to be allowed under any arrangements,

subsection (2) below shall have effect.

(2) In any such case, the amount of the credit for foreign tax which, under the arrangements, is to be allowed against corporation tax in respect of

so much of that income or gain as is referable to the category of business concerned ("the relevant income") shall be limited by treating the amount of the relevant income as reduced in accordance with subsections (3) and (4) below.

(3) The first limitation is to treat the amount of the relevant income as reduced (but not below nil) for the purposes of this Chapter by the amount of expenses (if any) attributable to the relevant income.

(4) If—

(a) the amount of the relevant income after any reduction under subsection (3) above,

exceeds

(b) the relevant fraction of the profits of the category of business concerned for the period of account in question which are chargeable to corporation tax,

the second limitation is to treat the relevant amount as further reduced (but not below nil) for the purposes of this Chapter to an amount equal to that fraction of those profits.

In this subsection any reference to the profits of a category of business is a reference to those profits after the set off of any losses of that category of business which have arisen in any previous accounting period.

(5) In determining the amount of the credit for foreign tax which is to be allowed as mentioned in subsection (2) above, the relevant amount shall not be reduced except in accordance with that subsection.

(6) For the purposes of subsection (3) above, the amount of expenses attributable to the relevant income is the appropriate fraction of the total relevant expenses of the category of business concerned for the period of account in question.

(7) In subsection (6) above, the "appropriate fraction" means the fraction—

(a) whose numerator is the amount of the relevant income before any reduction in accordance with subsection (2) above, and

(b) whose denominator is the total income of the category of business concerned for the period of account in question,

unless the denominator so determined is nil, in which case the denominator shall instead be the amount described in subsection (8) below.

(8) That amount is so much in total of the income and gains—

(a) which arise to the company in the period of account in question, and

(b) in respect of which credit for foreign tax falls to be allowed under any arrangements,

as are referable to the category of business concerned (before any reduction in accordance with subsection (2) above).

(9) In subsection (4) above, the "relevant fraction" means the fraction—

(a) whose numerator is the amount of the relevant income before any reduction in accordance with subsection (2) above; and

(b) whose denominator is the amount described in subsection (8) above.

(10) Where a 75 per cent subsidiary of an insurance company is acting in accordance with a scheme or arrangement and—

(a) the purpose, or one of the main purposes, of that scheme or arrangement is to prevent or restrict the application of subsection (2) above to the insurance company, and

(b) the subsidiary does not carry on insurance business of any description,

the amount of corporation tax attributable (apart from this subsection) to any item of income or gain arising to the subsidiary shall be found by setting off against that item the amount of expenses that would be attributable to it under subsection (3) above if that item had arisen directly to the insurance company.

(11) Where the credit allowed for any tax payable under the laws of a territory outside the United Kingdom is, by virtue of subsection (2) above, less than it would be if the relevant income were not treated as reduced in accordance with that subsection, section 795(2)(a) shall not prevent a deduction being made for the difference in computing the profits of the category of business concerned.

(12) Where, by virtue of subsection (10) above, the credit allowed for any tax payable under the laws of a territory outside the United Kingdom is less than it would be apart from that subsection, section 795(2)(a) shall not prevent a deduction being made for the difference in computing the income of the 75 per cent subsidiary.

(13) Any reference in this section to any income or gain being to any extent referable to a category of insurance business shall, in the case of—

(a) life assurance business or any category of life assurance business, or

(b) long term business which is not life assurance business,

be taken as a reference to the income or gain being to that extent referable to that category of business for the purposes of Chapter I of Part XII.

(14) This section shall be construed—

(a) in accordance with section 804D, where the category of business concerned is life assurance business or a category of life assurance business; and

(b) in accordance with section 804E, where the category of business concerned is not life assurance business or any category of life assurance business.

804D Interpretation of section 804C in relation to life assurance business etc.

(1) This section has effect for the interpretation of section 804C where the category of business concerned is life assurance business or a category of life assurance business.

(2) The "total income" of the category of business concerned for the period of account in question is the amount (if any) by which—

(a) so much of the total income shown in the revenue account in the periodical return of the company concerned for that period as is referable to that category of business,

exceeds

(b) so much of any commissions payable and any expenses of management incurred in connection with the acquisition of the business, as shown in that return, so far as referable to that category of business.

(3) Where any amounts fall to be brought into account in accordance with section 83 of the [M463]Finance Act 1989, the amounts that are referable to the category of business concerned shall be determined for the purposes of subsection (2) above in accordance with sections 432B to 432F.

(4) The "total relevant expenses" of the category of business concerned for any period of account is the amount of the claims incurred—

(a) increased by any increase in the liabilities of the company, or

(b) reduced (but not below nil) by any decrease in the liabilities of the company.

(5) For the purposes of subsection (4) above, the amounts to be taken into account in the case of any period of account are the amounts as shown in the company's periodical return for the period so far as referable to the category of business concerned.

804E Interpretation of section 804C in relation to other insurance business.

(1) This section has effect for the interpretation of section 804C where the category of business concerned is not life assurance business or any category of life assurance business.

(2) The "total income" of the category of business concerned for any period of account is the amount (if any) by which—

(a) the sum of the amounts specified in subsection (3) below,

exceeds

(b) the sum of the amounts specified in subsection (4) below.

(3) The amounts mentioned in subsection (2)(a) above are—

(a) earned premiums, net of reinsurance;

(b) investment income and gains;

(c) other technical income, net of reinsurance;

(d) any amount treated under section 107(2) of the Finance Act 2000 as a receipt of the company's trade.

(4) The amounts mentioned in subsection (2)(b) above are—

(a) acquisition costs;

(b) the change in deferred acquisition costs;

(c) losses on investments.

(5) The “total relevant expenses" of the category of business concerned for any period of account is the sum of—

(a) the claims incurred, net of reinsurance,

(b) the changes in other technical provisions, net of reinsurance,

(c) the change in the equalisation provision, and

(d) investment management expenses,

unless that sum is a negative amount, in which case the total relevant expenses shall be taken to be nil.

(6) The amounts to be taken into account for the purposes of the paragraphs of subsections (3) to (5) above are the amounts taken into account for the purposes of corporation tax.

(7) Expressions used—

(a) in the paragraphs of subsections (3) to (5) above, and

(b) in the provisions of section B of Schedule 9A to the [M464]Companies Act 1985 (form and content of accounts of insurance companies and groups) which relate to the profit and loss account format (within the meaning of paragraph 7(1) of that section),

have the same meaning in those paragraphs as they have in those provisions.”

(2) In consequence of the provision made by subsection (11) of the section 804C inserted into the Taxes Act 1988 by sub-paragraph (1), in section 82 of the [M465]Finance Act 1989 (calculation of profits of insurance company in respect of its life assurance business) in subsection (1)(a) (amounts to be taken into account as an expense) omit “or foreign tax".

(3) In consequence of the omission of those words by sub-paragraph (2), in sections 436(3)(a), 439B(3)(a) and 441(4)(a) of the Taxes Act 1988 (each of which provides for the omission of the words “tax or" in section 82(1)(a) of the Finance Act 1989 for certain purposes) for “ “tax or"" substitute “ “and any amounts of tax which are expended on behalf of" ”.

(4) This paragraph has effect in relation to periods of account beginning on or after 1st April 2000.

Marginal Citations

M463 1989 c. 26.

M464 1985 c. 6.

M465 1989 c. 26.

VALID FROM 28/07/2000

Interpretation of sections 804A to 804E

19 (1) After section 804E of the Taxes Act 1988 insert—

"**804F Interpretation of sections 804A to 804E.**

Expressions used in sections 804A to 804E and in Chapter I of Part XII have the same meaning in those sections as in that Chapter."

(2) The section inserted by sub-paragraph (1)—

(a) so far as relating to sections 804A and 804B, has effect in relation to accounting periods beginning on or after 1st April 2000; and

(b) so far as relating to sections 804C to 804E, has effect in relation to periods of account beginning on or after 1st April 2000.

VALID FROM 28/07/2000

Time limits for claims for credit relief

20 (1) Amend section 806 of the Taxes Act 1988 as follows.

(2) For subsection (1) substitute—

"(1) Subject to subsection (2) below and section 804(7), any claim for an allowance under any arrangements by way of credit for foreign tax in respect of any income or chargeable gain—

(a) shall, in the case of any income or chargeable gain which falls to be charged to income tax for a year of assessment, be made on or before—

(i) the fifth anniversary of the 31st January next following that year of assessment, or

(ii) if later, the 31st January next following the year of assessment in which the foreign tax is paid;

(b) shall, in the case of any income or chargeable gain which falls to be charged to corporation tax for an accounting period, be made not more than—

(i) six years after the end of that accounting period, or

(ii) if later, one year after the end of the accounting period in which the foreign tax is paid."

(3) This paragraph has effect in relation to claims for credit made on or after 21st March 2000.

VALID FROM 28/07/2000

Foreign dividends: onshore pooling and utilisation of certain unrelieved foreign tax

21 (1) After section 806 of the Taxes Act 1988 insert—

" Foreign dividends: onshore pooling and utilisation of eligible unrelieved foreign tax

806A Eligible unrelieved foreign tax on dividends: introductory.

(1) This section applies where, in any accounting period of a company resident in the United Kingdom, an amount of eligible unrelieved foreign tax arises in respect of a dividend falling within subsection (2) below paid to the company.

(2) The dividends that fall within this subsection are any dividends chargeable under Case V of Schedule D, other than—
- (a) any dividend which is trading income for the purposes of section 393;
- (b) any dividend which, in the circumstances described in paragraphs (a) and (b) of subsection (8) of section 393, would by virtue of that subsection fall to be treated as trading income for the purposes of subsection (1) of that section;
- (c) in a case where section 801A applies, the dividend mentioned in subsection (1)(b) of that section;
- (d) in a case where section 803 applies, the dividend mentioned in subsection (1)(b) of that section;
- (e) any dividend the amount of which is, under section 811, treated as reduced.

(3) For the purposes of this section—
- (a) the cases where an amount of eligible unrelieved foreign tax arises in respect of a dividend falling within subsection (2) above are the cases set out in subsections (4) and (5) below; and
- (b) the amounts of eligible unrelieved foreign tax which arise in any such case are those determined in accordance with section 806B.

(4) Case A is where—
- (a) the amount of the credit for foreign tax which under any arrangements would, apart from section 797, be allowable against corporation tax in respect of the dividend,

  exceeds
- (b) the amount of the credit for foreign tax which under the arrangements is allowed against corporation tax in respect of the dividend.

(5) Case B is where the amount of tax which, by virtue of any provision of any arrangements, falls to be taken into account as mentioned in section 799(1) in the case of the dividend (whether or not by virtue of section 801(2) or (3)) is less than it would be apart from the mixer cap.

(6) In determining whether the circumstances are as set out in subsection (4) or (5) above, sections 806C and 806D shall be disregarded.

806B The amounts that are eligible unrelieved foreign tax.

(1) This section has effect for determining the amounts of eligible unrelieved foreign tax which arise in the cases set out in section 806A(4) and (5).

(2) In Case A, the difference between—

(a) the amount of the credit allowed as mentioned in section 806A(4)(b), and

(b) the greater amount of the credit that would have been so allowed if, for the purposes of subsection (2) of section 797, the rate of corporation tax payable as mentioned in that subsection were the upper percentage,

shall be an amount of eligible unrelieved foreign tax.

(3) In Case B, where the mixer cap restricts the amount of tax to be taken into account as mentioned in section 799(1) in the case of the Case V dividend, the difference, in the case of that dividend, between—

(a) the amount of tax to be taken into account as there mentioned, and

(b) the greater amount of tax that would have been taken into account as there mentioned, had M in the formula in section 799(1A) in its application in the case of that dividend (but not any lower level dividend) been the upper percentage,

shall be an amount of eligible unrelieved foreign tax.

(4) In Case B, where the mixer cap—

(a) restricts the amount of underlying tax that is treated as mentioned in subsection (2) or (3) of section 801 in the case of any dividend received as mentioned in that subsection, but

(b) does not restrict the relevant tax in the case of any higher level dividend,

subsection (5) below shall apply.

(5) Where this subsection applies, an amount equal to the appropriate portion of the difference, in the case of the dividend mentioned in subsection (4)(a) above, between—

(a) the amount of underlying tax treated as mentioned in section 801(2) or (3), as the case may be, and

(b) the greater amount of underlying tax that would have been so treated, had M in the formula in section 799(1A) in its application in the case of that dividend (but not any higher or lower level dividend) been the upper percentage,

shall be an amount of eligible unrelieved foreign tax.

(6) For the purposes of subsection (5) above, the "appropriate portion" of the difference there mentioned in the case of any dividend is found by multiplying the amount of that difference by the product of the reducing fractions for each of the higher level dividends.

(7) For the purposes of subsection (6) above, the "reducing fraction" for any dividend is the fraction—

(a) whose numerator is the amount of the dividend; and

(b) whose denominator is the amount of the relevant profits (within the meaning of section 799(1)) out of which the dividend is paid.

(8) Any reference in this section to any tax being restricted by the mixer cap in the case of any dividend is a reference to that tax being so restricted otherwise than by virtue only of the application of the mixer cap in the case of one or more lower level dividends.

(9) For the purpose of determining the amount described in subsection (2)(b), (3)(b) or (5)(b) above, sections 806C and 806D shall be disregarded.

(10) In this section—

"the Case V dividend" means the dividend mentioned in section 806A(1);

"higher level dividend", in relation to another dividend, means any dividend—

(a) by which that other dividend is to any extent represented; and
(b) which either is the Case V dividend or is to any extent represented by the Case V dividend;

"lower level dividend", in relation to another dividend, means any dividend which—

(a) is received as mentioned in section 801(2) or (3); and
(b) is to any extent represented by that other dividend;

"the relevant tax" means—

(a) in the case of the Case V dividend, the foreign tax to be taken into account as mentioned in section 799(1); and
(b) in the case of any other dividend, the amount of underlying tax to be treated as mentioned in section 801(2) or (3) in the case of the dividend.

806C Onshore pooling.

(1) In this section "qualifying foreign dividend" means any dividend which falls within section 806A(2), other than—

(a) an ADP dividend paid by a controlled foreign company;
(b) so much of any dividend paid by any company as represents an ADP dividend paid by another company which is a controlled foreign company;
(c) a dividend in respect of which an amount of eligible unrelieved foreign tax arises.

(2) For the purposes of this section—

(a) a "related qualifying foreign dividend" is any qualifying foreign dividend paid to a company resident in the United Kingdom by a company which, at the time of payment of the dividend, is related to that company;
(b) an "unrelated qualifying foreign dividend" is any qualifying foreign dividend which is not a related qualifying foreign dividend.

(3) For the purposes of giving credit relief under this Part to a company resident in the United Kingdom—

(a) the related qualifying foreign dividends that arise to the company in an accounting period shall be aggregated;

(b) the unrelated qualifying foreign dividends that arise to the company in an accounting period shall be aggregated;

(c) the underlying tax in relation to the related qualifying foreign dividends that arise to the company in an accounting period shall be aggregated;

(d) so much of the foreign tax paid in respect of the qualifying foreign dividends that arise to the company in an accounting period as is not underlying tax shall be aggregated.

(4) Credit relief under this Part shall be given as if—

(a) the related qualifying foreign dividends aggregated under paragraph (a) of subsection (3) above in the case of any accounting period instead together constituted a single related qualifying foreign dividend arising in that accounting period ("the single related dividend" arising in that accounting period);

(b) the unrelated qualifying foreign dividends aggregated under paragraph (b) of that subsection in the case of any accounting period instead together constituted a single unrelated qualifying foreign dividend arising in that accounting period ("the single unrelated dividend" arising in that accounting period);

(c) the underlying tax aggregated under paragraph (c) of that subsection for any accounting period were instead underlying tax in relation to the single related dividend arising in that accounting period (the "aggregated underlying tax" in respect of the single related dividend);

(d) the tax aggregated under paragraph (d) of that subsection for any accounting period were instead foreign tax (other than underlying tax) paid in respect of, and computed by reference to,—

(i) the single related dividend arising in that accounting period,

(ii) the single unrelated dividend so arising, or

(iii) partly the one dividend and partly the other,

(that aggregated tax being referred to as the "aggregated withholding tax").

(5) For the purposes of this section, a dividend paid by a controlled foreign company is an "ADP dividend" if it is a dividend by virtue of which (whether in whole or in part and whether taken alone or with one or more other dividends) no apportionment under section 747(3) falls to be made as regards an accounting period of the controlled foreign company in a case where such an apportionment would fall to be made apart from section 748(1)(a).

806D Utilisation of eligible unrelieved foreign tax.

(1) For the purposes of this section, where—

(a) any eligible unrelieved foreign tax arises in an accounting period of a company, and

(b) the dividend in relation to which it arises is paid by a company which, at the time of payment of the dividend, is related to that company,

that tax is "eligible underlying tax" to the extent that it consists of or represents underlying tax.

(2) To the extent that any eligible unrelieved foreign tax is not eligible underlying tax it is for the purposes of this section "eligible withholding tax".

(3) For the purposes of giving credit relief under this Part to a company resident in the United Kingdom—

(a) the amounts of eligible underlying tax that arise in an accounting period of the company shall be aggregated (that aggregate being referred to as the "relievable underlying tax" arising in that accounting period); and

(b) the amounts of eligible withholding tax that arise in an accounting period of the company shall be aggregated (that aggregate being referred to as the "relievable withholding tax" arising in that accounting period).

(4) The relievable underlying tax arising in an accounting period of the company shall be treated for the purposes of allowing credit relief under this Part as if it were—

(a) underlying tax in relation to the single related dividend that arises in the same accounting period,

(b) relievable underlying tax arising in the next accounting period (whether or not any related qualifying foreign dividend in fact arises to the company in that accounting period), or

(c) underlying tax in relation to the single related dividend that arises in such one or more preceding accounting periods as result from applying the rules in section 806E,

or partly in one of those ways and partly in each or either of the others.

(5) The relievable withholding tax arising in an accounting period of the company shall be treated for the purposes of allowing credit relief under this Part as if it were—

(a) foreign tax (other than underlying tax) paid in respect of, and computed by reference to, the single related dividend or the single unrelated dividend that arises in the same accounting period,

(b) relievable withholding tax arising in the next accounting period (whether or not any qualifying foreign dividend in fact arises to the company in that accounting period), or

(c) foreign tax (other than underlying tax) paid in respect of, and computed by reference to, the single related dividend or the single unrelated dividend that arises in such one or more preceding accounting periods as result from applying the rules in section 806E,

or partly in one of those ways and partly in any one or more of the others.

(6) The amount of relievable underlying tax or relievable withholding tax arising in an accounting period that is treated—

(a) under subsection (4)(a) or (c) above as underlying tax in relation to the single related dividend arising in the same or any earlier accounting period, or

(b) under subsection (5)(a) or (c) above as foreign tax paid in respect of, and computed by reference to, the single related dividend or the single unrelated dividend arising in the same or any earlier accounting period,

must not be such as would cause an amount of eligible unrelieved foreign tax to arise in respect of that dividend.

806E Rules for carry back of relievable tax under section 806D.

(1) Where any relievable tax is to be treated as mentioned in section 806D(4)(c) or (5)(c), the rules for determining the accounting periods in question (and the amount of the relievable tax to be so treated in relation to each of them) are those set out in the following provisions of this section.

(2) Rule 1 is that the accounting periods in question must be accounting periods beginning not more than three years before the accounting period in which the relievable tax arises.

(3) Rule 2 is that the relievable tax must be so treated that—

(a) credit for, or for any remaining balance of, the relievable tax is allowed against corporation tax in respect of the single dividend arising in a later one of the accounting periods beginning as mentioned in rule 1 above,

before

(b) credit for any of the relievable tax is allowed against corporation tax in respect of the single dividend arising in any earlier such accounting period.

(4) Rule 3 is that the relievable tax must be so treated that, before allowing credit for any of the relievable tax against corporation tax in respect of the single dividend arising in any accounting period, credit for foreign tax is allowed—

(a) first for the aggregated foreign tax in respect of the single dividend arising in that accounting period, so far as not consisting of relievable tax arising in another accounting period; and

(b) then for relievable tax arising in any accounting period before that in which the relievable tax in question arises.

(5) The above rules are subject to sections 806D(6) and 806F.

(6) In this section—

"aggregated foreign tax" means aggregated underlying tax or aggregated withholding tax;

"relievable tax" means relievable underlying tax or relievable withholding tax;

"the single dividend" means—

(a) in relation to relievable underlying tax, the single related dividend; and

(b) in relation to relievable withholding tax, the single related dividend or the single unrelated dividend.

806F Credit to be given for underlying tax before other foreign tax etc.

(1) For the purposes of this Part, credit in accordance with any arrangements shall, in the case of any dividend, be given so far as possible—

(a) for underlying tax (where allowable) before foreign tax other than underlying tax;

(b) for foreign tax other than underlying tax before amounts treated as underlying tax; and

(c) for amounts treated as underlying tax (where allowable) before amounts treated as foreign tax other than underlying tax.

(2) Accordingly, where the amount of foreign tax to be brought into account for the purposes of allowing credit relief under this Part is subject to any limitation or restriction, the limitation or restriction shall be taken to have the effect of excluding foreign tax other than underlying tax before excluding underlying tax.

806G Claims for the purposes of section 806D(4) or (5).

(1) The relievable underlying tax or relievable withholding tax arising in any accounting period shall only be treated as mentioned in subsection (4) or (5) of section 806D on a claim.

(2) Any such claim must specify the amount (if any) of that tax—

(a) which is to be treated as mentioned in paragraph (a) of the subsection in question;

(b) which is to be treated as mentioned in paragraph (b) of that subsection; and

(c) which is to be treated as mentioned in paragraph (c) of that subsection.

(3) A claim under subsection (1) above may only be made before the expiration of the period of—

(a) six years after the end of the accounting period mentioned in that subsection; or

(b) if later, one year after the end of the accounting period in which the foreign tax in question is paid.

806H Surrender of relievable tax by one company in a group to another.

(1) The Board may by regulations make provision for, or in connection with, allowing a company which is a member of a group to surrender all or any part of the amount of the relievable tax arising to it in an accounting period to another company which is a member of that group at the time, or throughout the period, prescribed by the regulations.

(2) The provision that may be made under subsection (1) above includes provision—

(a) prescribing the conditions which must be satisfied if a surrender is to be made;

(b) determining the amount of relievable tax which may be surrendered in any accounting period;

(c) prescribing the conditions which must be satisfied if a claim to surrender is to be made;

(d) prescribing the consequences for tax purposes of a surrender having been made;

(e) allowing a claim to be withdrawn and prescribing the effect of such a withdrawal.

(3) Regulations under subsection (1) above—

(a) may make different provision for different cases; and

(b) may contain such supplementary, incidental, consequential or transitional provision as the Board may think fit.

(4) For the purposes of subsection (1) above a company is a member of a group if the conditions prescribed for that purpose in the regulations are satisfied.

806J Interpretation of foreign dividend provisions of this Chapter.

(1) This section has effect for the interpretation of the foreign dividend provisions of this Chapter.

(2) In this section, "the foreign dividend provisions of this Chapter" means sections 806A to 806H and this section.

(3) For the purposes of the foreign dividend provisions of this Chapter, where—

(a) one company pays a dividend ("dividend A") to another company, and

(b) that other company, or a company which is related to it, pays a dividend ("dividend B") to another company,

dividend B represents dividend A, and dividend A is represented by dividend B, to the extent that dividend B is paid out of profits which are derived, directly or indirectly, from the whole or part of dividend A.

(4) Where—

(a) one company is related to another, and

(b) that other is related to a third company,

the first company shall be taken for the purposes of paragraph (b) of subsection (3) above to be related to the third, and so on where there is a chain of companies, each of which is related to the next.

(5) In any case where—

(a) a company resident outside the United Kingdom pays a dividend to a company resident in the United Kingdom, and

(b) the circumstances are such that subsection (6)(b) of section 790 has effect in relation to that dividend,

the foreign dividend provisions of this Chapter shall have effect as if the company resident outside the United Kingdom were related to the company resident in the United Kingdom (and subsection (10) of that section shall have effect accordingly).

(6) Subsection (5) of section 801 (related companies) shall apply for the purposes of the foreign dividend provisions of this Chapter as it applies for the purposes of that section.

(7) In the foreign dividend provisions of this Chapter—

"aggregated underlying tax" shall be construed in accordance with section 806C(4)(c);

"aggregated withholding tax" shall be construed in accordance with section 806C(4)(d);

"controlled foreign company" has the same meaning as in Chapter IV of Part XVII;

"eligible unrelieved foreign tax" shall be construed in accordance with sections 806A and 806B;

"the mixer cap" means section 799(1)(b);

"qualifying foreign dividend" has the meaning given by section 806C(1);

"related qualifying foreign dividend" has the meaning given by section 806C(2)(a);

"relievable tax" has the meaning given by section 806E(6);

"relievable underlying tax" shall be construed in accordance with 806D(3)(a);

"relievable withholding tax" shall be construed in accordance with 806D(3)(b);

"single related dividend" shall be construed in accordance with section 806C(4)(a);

"single unrelated dividend" shall be construed in accordance with section 806C(4)(b);

"the upper percentage" is 45 per cent."

(2) The amendments made by sub-paragraph (1) have effect in relation to—

(a) dividends arising on or after 31st March 2001, and

(b) foreign tax in respect of such dividends,

(and accordingly the single related dividend or the single unrelated dividend which falls to be treated under those amendments as arising in any accounting period of a company shall not include any dividend arising on or before 30th March 2001).

VALID FROM 28/07/2000

Application of foreign dividend provisions to branches or agencies in the UK of persons resident elsewhere

22 (1) After section 806J of the Taxes Act 1988 insert—

" Application of foreign dividend provisions to branches or agencies in the UK of persons resident elsewhere

806K Application of foreign dividend provisions to branches or agencies in the UK of persons resident elsewhere.

(1) Sections 806A to 806J shall apply in relation to an amount of eligible unrelieved foreign tax arising in a chargeable period in respect of any of the income of a branch or agency in the United Kingdom of a person resident outside the United Kingdom as they apply in relation to eligible unrelieved foreign tax arising in an accounting period of a company resident in the United Kingdom in respect of any of the company's income, but with the modifications specified in subsection (2) below.

(2) Those modifications are—

(a) take any reference to an accounting period as a reference to a chargeable period;

(b) take any reference to corporation tax as including a reference to income tax;

(c) take the reference in section 806A(4)(a) to section 797 as a reference to sections 796 and 797;

(d) in relation to income tax, for subsection (2) of section 806B substitute the subsection (2) set out in subsection (3) below.

(3) That subsection is—

(") In Case A, the difference between—

(a) the amount of the credit allowed as mentioned in section 806A(4)(b), and

(b) the greater amount of credit that would have been so allowed if, for the purposes of section 796, the amount of income tax borne on the dividend as computed under that section were charged at a rate equal to the upper percentage,

shall be an amount of eligible unrelieved foreign tax. ".”

(2) The amendment made by sub-paragraph (1) has effect in relation to—

(a) dividends arising on or after 31st March 2001, and

(b) foreign tax in respect of such dividends,

(and accordingly the single related dividend or single unrelated dividend which by virtue of that amendment falls to be treated as arising in any chargeable period shall not include any dividend arising on or before 30th March 2001).

VALID FROM 28/07/2000

Unrelieved foreign tax: profits of overseas branch or agency

23 (1) After section 806K of the Taxes Act 1988 insert—

" Unrelieved foreign tax: profits of overseas branch or agency

806L Carry forward or carry back of unrelieved foreign tax.

(1) This section applies where, in any accounting period of a company resident in the United Kingdom, an amount of unrelieved foreign tax arises in respect of any of the company's qualifying income from an overseas branch or agency of the company.

(2) The amount of the unrelieved foreign tax so arising shall be treated for the purposes of allowing credit relief under this Part as if it were foreign tax paid in respect of, and computed by reference to, the company's qualifying income from the same overseas branch or agency—

(a) in the next accounting period (whether or not the company in fact has any such income from that source in that accounting period), or

(b) in such one or more preceding accounting periods, beginning not more than three years before the accounting period in which the unrelieved foreign tax arises, as result from applying the rules in subsection (3) below,

or partly in the one way and partly in the other.

(3) Where any unrelieved foreign tax is to be treated as mentioned in paragraph (b) of subsection (2) above, the rules for determining the accounting periods in question (and the amount of the unrelieved foreign tax to be so treated in relation to each of them) are that the unrelieved foreign tax must be so treated under that paragraph—

1. that

(a) credit for, or for any remaining balance of, the unrelieved foreign tax is allowed against corporation tax in respect of income of a later one of the accounting periods beginning as mentioned in that paragraph,

before

(b) credit for any of the unrelieved foreign tax is allowed against corporation tax in respect of income of any earlier such period;

2 that, before allowing credit for any of the unrelieved foreign tax against corporation tax in respect of income of any accounting period, credit for foreign tax is allowed—

(a) first for foreign tax in respect of the income of that accounting period, other than unrelieved foreign tax arising in another accounting period; and

(b) then for unrelieved foreign tax arising in any accounting period before that in which the unrelieved foreign tax in question arises.

(4) For the purposes of this section, the cases where an amount of unrelieved foreign tax arises in respect of any of a company's qualifying income from an overseas branch or agency in an accounting period are those cases where—

(a) the amount of the credit for foreign tax which under any arrangements would, apart from section 797, be allowable against corporation tax in respect of that income, exceeds

(b) the amount of the credit for foreign tax which under the arrangements is allowed against corporation tax in respect of that income;

and in any such case that excess is the amount of the unrelieved foreign tax in respect of that income.

(5) For the purposes of this section, a company's qualifying income from an overseas branch or agency is the profits of the overseas branch or agency which are—

(a) chargeable under Case I of Schedule D; or

(b) included in the profits of life reinsurance business or overseas life assurance business chargeable under Case VI of Schedule D by virtue of section 439B or 441.

(6) Where (whether by virtue of this subsection or otherwise) an amount of unrelieved foreign tax arising in an accounting period falls to be treated under subsection (2) above for the purposes of allowing credit relief under this Part as foreign tax paid in respect of, and computed by reference to, qualifying income of an earlier accounting period, it shall not be so treated for the purpose of any further application of this section.

(7) In this section "overseas branch or agency", in relation to a company, means a branch or agency through which the company carries on a trade in a territory outside the United Kingdom.

806M Provisions supplemental to section 806L.

(1) This section has effect for the purposes of section 806L and shall be construed as one with that section.

(2) If, in any accounting period, a company ceases to have a particular overseas branch or agency, the amount of any unrelieved foreign tax which arises in that accounting period in respect of the company's income from that overseas branch or agency shall, to the extent that it is not treated as mentioned in section 806L(2)(b), be reduced to nil (so that no amount arises which falls to be treated as mentioned in section 806L(2)(a)).

(3) If a company—

(a) at any time ceases to have a particular overseas branch or agency in a particular territory ("the old branch or agency"), but

(b) subsequently again has an overseas branch or agency in that territory ("the new branch or agency"),

the old branch or agency and the new branch or agency shall be regarded as different overseas branches or agencies.

(4) If, under the law of a territory outside the United Kingdom, tax is charged in the case of a company resident in the United Kingdom in respect of the profits of two or more of its overseas branches or agencies in that territory, taken together, then, for the purposes of—

(a) section 806L, and

(b) subsection (3) above,

those overseas branches or agencies shall be treated as if they together constituted a single overseas branch or agency of the company.

(5) Unrelieved foreign tax arising in respect of qualifying income from a particular overseas branch or agency in any accounting period shall only be treated as mentioned in subsection (2) of section 806L on a claim.

(6) Any such claim must specify the amount (if any) of the unrelieved foreign tax—

(a) which is to be treated as mentioned in paragraph (a) of that subsection; and

(b) which is to be treated as mentioned in paragraph (b) of that subsection.

(7) A claim under subsection (5) above may only be made before the expiration of the period of—

(a) six years after the end of the accounting period mentioned in that subsection, or

(b) if later, one year after the end of the accounting period in which the foreign tax in question is paid."

(2) The amendment made by sub-paragraph (1) has effect in relation to unrelieved foreign tax arising in any accounting period ending on or after 1st April 2000.

(3) No such tax shall be treated by virtue of that amendment as foreign tax in respect of income arising in any accounting period ended on or before 31st March 2000.

VALID FROM 28/07/2000

Foreign tax on amounts underlying non-trading credits

24 (1) Amend section 807A of the Taxes Act 1988 (disposals and acquisitions of company loan relationships) as follows.

(2) In subsection (2) (tax which is to be treated as if it were to be disregarded for certain purposes) in paragraph (b), after "is attributable, on a just and reasonable apportionment," insert " (i) " and at the end insert "; or

(ii) to so much of a relevant qualifying payment as, on such an apportionment, is attributable to a time when the company is not a party to the interest rate or currency contract concerned".

(3) In subsection (7), insert the following definition at the appropriate place—

""relevant qualifying payment" means a qualifying payment, for the purposes of Chapter II of Part IV of the [M466]Finance Act 1994, falling within section 153(1)(a) or (b) of that Act;".

(4) This paragraph has effect in relation to accounting periods ending on or after 21st March 2000.

Marginal Citations
M466 1994 c. 9.

VALID FROM 28/07/2000

Royalties: special relationship

25 (1) After section 808A of the Taxes Act 1988 insert—

"808B Royalties: special relationship.

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

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

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

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

(a) the question whether the agreement under which the royalties are paid would have been made at all in the absence of the relationship,

(b) the rate or amounts of royalties and other terms which would have been agreed in the absence of the relationship, and

(c) where subsection (3) below applies, the factors specified in subsection (4) below.

(3) This subsection applies if the asset in respect of which the royalties are paid, or any asset which that asset represents or from which it is derived, has previously been in the beneficial ownership of—

(a) the person who is liable to pay the royalties,

(b) a person who is, or has at any time been, an associate of the person who is liable to pay the royalties,

(c) a person who has at any time carried on a business which, at the time when the liability to pay the royalties arises, is being carried on in whole or in part by the person liable to pay those royalties, or

(d) a person who is, or has at any time been, an associate of a person who has at any time carried on such a business as is mentioned in paragraph (c) above.

(4) The factors mentioned in subsection (2)(c) above are—

(a) the amounts which were paid under the transaction, or under each of the transactions in the series of transactions, as a result of which the asset has come to be an asset of the beneficial owner for the time being,

(b) the amounts which would have been so paid in the absence of a special relationship, and

(c) the question whether the transaction or series of transactions would have taken place in the absence of such a relationship.

(5) The special relationship provision shall be construed as requiring the taxpayer to show—

(a) the absence of any special relationship, or

(b) the rate or amount of royalties that would have been payable in the absence of the relationship,

as the case may be.

(6) The requirement on the taxpayer to show in accordance with subsection (5)(a) above the absence of any special relationship includes a requirement—

(a) to show that no person of any of the descriptions in paragraphs (a) to (d) of subsection (3) above has previously been the beneficial owner of the asset in respect of which the royalties are paid, or of any asset which that asset represents or from which it is derived, or

(b) to show the matters specified in subsection (7) below,

as the case may be.

(7) Those matters are—

(a) that the transaction or series of transactions mentioned in subsection (4)(a) above would have taken place in the absence of a special relationship, and

(b) the amounts which would have been paid under the transaction, or under each of the transactions in the series of transactions, in the absence of such a relationship.

(8) Subsection (2) above does not apply where the special relationship provision expressly requires regard to be had to the use, right or information for which royalties are paid in determining the excess royalties (and accordingly expressly limits the factors to be taken into account).

(9) For the purposes of this section one person ("person A") is an associate of another person ("person B") at a given time if—

(a) person A was, within the meaning of Schedule 28AA, directly or indirectly participating in the management, control or capital of person B at that time, or

(b) the same person was or same persons were, within the meaning of Schedule 28AA, directly or indirectly participating in the management, control or capital of person A and person B at that time."

(2) This paragraph has effect in relation to royalties (as defined in the arrangements) payable on or after the day on which this Act is passed.

VALID FROM 28/07/2000

Postponement of capital allowances to obtain double taxation relief

26 (1) Section 810 of the Taxes Act 1988 (postponement of capital allowances to obtain double taxation relief) shall cease to have effect.

(2) This paragraph has effect in relation to claims made on or after 1st April 2000.

VALID FROM 28/07/2000

Time limits where reduction under s.811 rendered excessive or insufficient

27 (1) Amend section 811 of the Taxes Act 1988 (deduction for foreign tax where no credit allowable) as follows.

(2) After subsection (3) insert—

"(4) Where the amount by which any income is treated under subsection (1) above as reduced is rendered excessive or insufficient by reason of any adjustment of the amount of any tax payable either—

(a) in the United Kingdom, or

(b) under the law of any other territory,

nothing in the Tax Acts limiting the time for the making of assessments or claims for relief shall apply to any assessment or claim to which the adjustment gives rise, being an assessment or claim made not later than six years from the time when all such assessments, adjustments and other determinations have been made, whether in the United Kingdom or elsewhere, as are material in determining whether any and if so what reduction under subsection (1) above falls to be treated as made.

(5) Subject to subsection (7) below, where—

(a) the amount of any income of a person is treated under subsection (1) above as reduced by any sum, and

(b) the amount of that reduction is subsequently rendered excessive by reason of an adjustment of the amount of any tax payable under the law of a territory outside the United Kingdom,

that person shall give notice in writing to an officer of the Board that an adjustment has been made that has rendered the amount of the reduction excessive.

(6) A notice under subsection (5) above must be given within one year from the time of the making of the adjustment.

(7) Subsections (5) and (6) above do not apply where the adjustment is one whose consequences in relation to the reduction fall to be given effect to in accordance with regulations made under—

(a) section 182(1) of the [M467]Finance Act 1993 (regulations relating to individual members of Lloyd's); or

(b) section 229 of the [M468]Finance Act 1994 (regulations relating to corporate members of Lloyd's).

(8) A person who fails to comply with the requirements imposed on him by subsections (5) and (6) above in relation to any adjustment shall be liable to a penalty of an amount not exceeding the amount of the difference specified in subsection (9) below.

(9) The difference is that between—

(a) the amount of tax payable by the person in question for the relevant chargeable period, after giving effect to the reduction that ought to be made under subsection (1) above; and

(b) the amount that would have been the tax so payable after giving effect instead to a reduction under that subsection of the amount rendered excessive as mentioned in subsection (5)(b) above.

(10) For the purposes of subsection (9) above "the relevant chargeable period" means the chargeable period as respects which the reduction was treated as made."

(3) This paragraph has effect in relation to adjustments made on or after 21st March 2000.

Marginal Citations

M467 1993 c. 34.

M468 1994 c. 9.

VALID FROM 28/07/2000

Mutual agreement procedure

28 (1) After section 815A of the Taxes Act 1988 insert—

"815AA Mutual agreement procedure and presentation of cases under arrangements.

(1) Where, under and for the purposes of arrangements made with the government of a territory outside the United Kingdom and having effect under section 788—

(a) a case is presented to the Board, or to an authority in that territory, by a person concerning his being taxed (whether in the United Kingdom or that territory) otherwise than in accordance with the arrangements; and

(b) the Board arrives at a solution to the case or makes a mutual agreement with an authority in that territory for the resolution of the case,

subsections (2) and (3) below have effect.

(2) The Board shall give effect to the solution or mutual agreement, notwithstanding anything in any enactment; and any such adjustment as is

appropriate in consequence may be made (whether by way of discharge or repayment of tax, the allowance of credit against tax payable in the United Kingdom, the making of an assessment or otherwise).

(3) A claim for relief under any provision of the Tax Acts may be made in pursuance of the solution or mutual agreement at any time before the expiration of the period of 12 months following the notification of the solution or mutual agreement to the person affected, notwithstanding the expiration of the time limited by any other enactment for making the claim.

(4) Where arrangements having effect under section 788 include provision for a person to present a case to the Board concerning his being taxed otherwise than in accordance with the arrangements, subsections (5) and (6) below have effect.

(5) The presentation of any such case under and in accordance with the arrangements—

(a) does not constitute a claim for relief under the Tax Acts; and

(b) is accordingly not subject to section 42 of the Management Act or any other enactment relating to the making of such claims.

(6) Any such case must be presented before the expiration of—

(a) the period of 6 years following the end of the chargeable period to which the case relates; or

(b) such longer period as may be specified in the arrangements."

(2) Subsections (1) to (3) of the section inserted by sub-paragraph (1) have effect where the solution or mutual agreement is reached or made on or after the day on which this Act is passed.

(3) Subsection (6) (and subsection (4) so far as relating to subsection (6)) of that section has effect in relation to the first presentation of a case on or after the day on which this Act is passed.

VALID FROM 28/07/2000

Restriction of interest on repayment of tax resulting from carry back of relievable tax

29 (1) Amend section 826 of the Taxes Act 1988 as follows.

(2) After subsection (7B) insert—

"(7BB) Subject to subsection (7BC) below, in any case where—

(a) within the meaning of section 806D, any relievable underlying tax or relievable withholding tax arises in an accounting period of a company ("the later period"),

(b) pursuant to a claim under section 806G, the whole or any part of that tax is treated as mentioned in section 806D(4)(c) or (5)(c) in relation to the single related dividend or the single unrelated dividend arising in an earlier accounting period ("the earlier period"), and

(c) a repayment falls to be made of corporation tax paid for the earlier period or of income tax in respect of a payment received by the company in that period,

then, in determining the amount of interest (if any) payable under this section on the repayment referred to in paragraph (c) above, no account shall be taken of so much of the amount of the repayment as falls to be made as a result of the claim under section 806G, except so far as concerns interest for any time after the date on which any corporation tax for the later period became due and payable (as mentioned in subsection (7D) below).

(7BC) Where, in a case falling within subsection (7A)(a) and (b) above—

(a) as a result of the claim under section 393A(1), an amount or increased amount of eligible unrelieved foreign tax arises for the purposes of section 806A(1), and

(b) pursuant to a claim under section 806G, the whole or any part of an amount of relievable underlying tax or relievable withholding tax is treated as mentioned in section 806D(4)(c) or (5)(c) in relation to the single related dividend or the single unrelated dividend arising in an accounting period before the earlier period,

then subsection (7BB) above shall have effect in relation to the claim under section 806G as if the reference in the words after paragraph (c) to the later period within the meaning of that subsection were a reference to the period which, in relation to the claim under section 393A(1), would be the later period for the purposes of subsection (7A) above."

(3) In subsection (7D) (date on which corporation tax is due and payable for the purposes of certain provisions) after "(7B)" insert " , (7BB) ".

(4) In subsection (7E) (which, for the purposes of certain provisions, restricts the power in section 59A of the [M469]Taxes Management Act 1970 to alter the date on which corporation tax is due and payable) after "(7B),", in both places where it occurs, insert " (7BB), ".

Marginal Citations

M469 1970 c. 9.

VALID FROM 28/07/2000

Time limits where deduction under s.278 of the 1992 Act rendered excessive or insufficient

30 (1) Amend section 278 of the [M470]Taxation of Chargeable Gains Act 1992 as follows.

(2) At the beginning, insert " (1) ".

(3) At the end add—

"(2) Where the amount of any deduction allowed under subsection (1) above is rendered excessive or insufficient by reason of any adjustment of the amount of any tax payable either—

(a) in the United Kingdom, or

(b) under the law of any other territory,

nothing in this Act, the Management Act or the Taxes Act limiting the time for the making of assessments or claims for relief shall apply to any assessment or claim to which the adjustment gives rise, being an assessment or claim made not later than six years from the time when all such assessments, adjustments and other determinations have been made, whether in the United Kingdom or elsewhere, as are material in determining whether any and if so what deduction falls to be made under subsection (1) above.

(3) Where—

(a) a deduction has been allowed under subsection (1) above in the case of the person making the disposal, and

(b) the amount of that deduction is subsequently rendered excessive by reason of an adjustment of the amount of any tax payable under the law of a territory outside the United Kingdom,

that person shall give notice in writing to an officer of the Board that an adjustment has been made that has rendered the amount of the deduction excessive.

(4) A notice under subsection (3) above must be given within one year from the time of the making of the adjustment.

(5) A person who fails to comply with the requirements imposed on him by subsections (3) and (4) above in relation to any adjustment shall be liable to a penalty of an amount not exceeding the amount of the difference specified in subsection (6) below.

(6) The difference is that between—

(a) the amount of tax payable by the person in question for the relevant chargeable period, after giving effect to the deduction that ought to be made under subsection (1) above; and

(b) the amount that would have been the tax so payable after giving effect instead to a deduction under that subsection of the amount rendered excessive as mentioned in subsection (3)(b) above.

(7) For the purposes of subsection (6) above "the relevant chargeable period" means the chargeable period as respects which the deduction was treated as made."

(4) This paragraph has effect in relation to adjustments made on or after 21st March 2000.

Marginal Citations

M470 1992 c. 12.

VALID FROM 28/07/2000

SCHEDULE 31 U.K.

Section 104.

CONTROLLED FOREIGN COMPANIES

. . . .

SCHEDULE 32 U.K.

Section 116(2).

STAMP DUTY ON SEVEN YEAR LEASES: TRANSITIONAL PROVISIONS

Introductory

1 In this Schedule—

"additional duty", in relation to an instrument, means additional stamp duty chargeable on the instrument as a result of section 116;

"the appropriate amount of duty", in relation to an instrument, means the stamp duty that would have been chargeable on the instrument if section 116 had been in force when it was executed; and

"the commencement date" means 28th March 2000.

Instruments to which this Schedule applies

2 The instruments to which this Schedule applies are—

(a) leases of land for a term of seven years, and

(b) agreements for leases of land for a term of seven years,

executed on or after 1st October 1999 and before the commencement date.

Instruments which remain duly stamped

3 An instrument to which this Schedule applies which is stamped with the appropriate amount of duty is duly stamped, whenever it was executed.

Instruments which cease to be duly stamped

4 (1) An instrument to which this Schedule applies which—

(a) immediately before the commencement date was duly stamped, but

(b) was stamped with less than the appropriate amount of duty,

ceases to be duly stamped on the commencement date.

(2) Sub-paragraph (1) applies even if the instrument has been stamped in accordance with section 12(5) of the [M471]Stamp Act 1891 with a stamp denoting that it is duly stamped.

(3) If an instrument ceases to be duly stamped on the commencement date as a result of sub-paragraph (1)—

(a) section 12(6) of the M472 Stamp Act 1891 (adjudicated instruments admissible in evidence) does not apply to it at any time when it is not duly stamped, and

(b) section 14(1) of that Act (receipt in evidence of insufficiently stamped instruments if unpaid duty paid to court) does not apply to it at any time when it is not duly stamped, unless the unpaid duty and any interest or penalty is paid in accordance with that subsection.

Marginal Citations

M471 1891 c. 39.

M472 1891 c. 39.

Stamping following earlier adjudication

5 Section 12A(1) of the Stamp Act 1891 (adjudicated instruments not to be stamped other than in accordance with adjudication decision) does not prevent an instrument to which this Schedule applies which is stamped with less than the appropriate amount of duty from being stamped with additional duty.

Use of instruments in evidence, etc.

6 Section 14(4) of the Stamp Act 1891 (instruments not to be used unless duly stamped in accordance with law in force when executed) applies in relation to an instrument to which this Schedule applies as if, as respects any time on or after the commencement date, the reference to the law in force at the time when it was executed were to the law in force on the commencement date.

Adjudication, interest and penalties

7 (1) This paragraph applies for the purpose of applying sections 12 to 13B and 15 to 15B of the Stamp Act 1891 (adjudication by Commissioners and interest and penalties on late stamping) in relation to any additional duty chargeable on an instrument to which this Schedule applies.

(2) Those sections continue to apply without modification as respects any other stamp duty chargeable on the instrument.

(3) Those sections have effect as respects the additional duty as if—

(a) the additional duty were the only stamp duty chargeable on the instrument;

(b) the instrument had been executed on the commencement date; and

(c) in the case of an instrument executed outside the United Kingdom and first received in the United Kingdom before the commencement date, the instrument had been first received in the United Kingdom on the commencement date.

(4) Accordingly, those sections apply as respects additional duty as if—

(a) references to duty were to additional duty;

(b) references to stamping were to stamping with additional duty;

(c) references to an instrument's being stamped were to its being stamped with additional duty;

(d) references to an instrument's being duly stamped were to its being stamped with all the additional duty chargeable on it;
(e) references to an instrument's being unstamped were to its not being stamped with any additional duty;
(f) references to an instrument's being insufficiently stamped were to its being stamped with insufficient additional duty;
(g) references to adjudication, or an appeal, under any of those sections were to adjudication or an appeal under the section in question as it has effect as respects additional duty; and
(h) references to the maximum penalty were to the maximum penalty as respects additional duty.

VALID FROM 28/07/2000

SCHEDULE 33 U.K.

Section 117.

POWER TO VARY STAMP DUTIES

Power of Treasury to make provision by regulations

1 (1) The Treasury may if they consider it expedient in the public interest make provision by regulations for the variation of an existing stamp duty.

(2) The power conferred by this paragraph includes, in particular, power to alter the descriptions of document in respect of which an existing stamp duty, or an existing rate or amount of duty, is chargeable.

(3) The power to make regulations under this paragraph is exercisable by statutory instrument.

Power only to be used for cases involving land or shares etc.

2 (1) The power conferred by paragraph 1 does not include power—
(a) to vary the amount chargeable by way of stamp duty on an excepted instrument, or
(b) to cause stamp duty to become chargeable on an excepted instrument.

(2) For the purposes of this paragraph—
(a) an "excepted instrument" is any document that is not a relevant property instrument, and
(b) a "relevant property instrument" is a document that (whether or not it also relates to any other transaction) relates to a transaction that to any extent involves—
(i) land, stock or marketable securities, or
(ii) any estate or interest in land, stock or marketable securities.

Power not to be used to vary rates or thresholds

3 The power conferred by paragraph 1 does not, except as mentioned in paragraph 1(2), include power to vary—

(a) the rate, or rates, of an existing*ad valorem* stamp duty,

(b) the amount of an existing fixed stamp duty,

(c) any threshold specified in paragraph 4 of Schedule 13 to the [M473]Finance Act 1999 (rate bands for conveyance or transfer on sale), or

(d) any threshold specified in paragraph 11 or 12 of that Schedule (duty on leases) in respect of rent or the term of a lease.

Marginal Citations

M473 1999 c. 16.

Approval of regulations by House of Commons

4 (1) An instrument containing regulations under paragraph 1 shall be laid before the House of Commons after being made.

(2) If the regulations are not approved by the House of Commons before the end of the period of 28 days beginning with the day on which they are made, they shall cease to have effect at the end of that period if they have not already ceased to have effect under sub-paragraph (3).

(3) If on any day during that period of 28 days the House of Commons, in proceedings on a motion that (or to the effect that) the regulations be approved, comes to a decision rejecting the regulations, they shall cease to have effect at the end of that day.

(4) Where regulations cease to have effect under sub-paragraph (2) or (3), their ceasing to have effect is without prejudice to anything done in reliance on them.

(5) In reckoning any such period of 28 days take no account of any time during which—

(a) Parliament is prorogued or dissolved, or

(b) the House of Commons is adjourned for more than four days.

Claim for repayment if regulations not approved

5 (1) Where regulations cease to have effect under paragraph 4(2) or (3), any amount paid by way of stamp duty, or interest or penalty on late stamping, that would not have been payable but for the regulations shall, on a claim, be repaid by the Commissioners.

(2) Section 110 of the [M474]Finance Act 1999 (interest on repayment of duty overpaid etc.) applies to a repayment under this paragraph of any amount paid by way of stamp duty or penalty on late stamping.

In the case of a repayment under this paragraph, the relevant time for the purposes of that section is 30 days after the day on which the instrument in question was executed or, if later, the date on which the payment of duty or penalty was made.

(3) A claim for repayment must be made within two years after the date of the instrument in question or, if it is not dated, within two years after its execution.

(4) No repayment shall be made on a claim until the instrument in question has been produced to the Commissioners for such cancelling of stamps, and such stamping to denote the making of the repayment or the producing of the instrument under this paragraph, as the Commissioners consider appropriate.

(5) Any repayment shall, subject to any regulations under sub-paragraph (6)(d), be made to such person as the Commissioners consider appropriate.

(6) The Commissioners may make provision by regulations—
- (a) for varying the time limit having effect under sub-paragraph (3);
- (b) for varying or repealing the condition having effect under sub-paragraph (4);
- (c) as to any other conditions that must be met before repayment is made;
- (d) as to the person to whom repayment is to be made.

(7) Regulations under this paragraph shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of the House of Commons.

Marginal Citations
M474 1999 c. 16.

Use in evidence, etc. of instruments affected by regulations ceasing to have effect

6 (1) Where regulations cease to have effect under paragraph 4(2) or (3), the following provisions apply to an instrument that—
- (a) was executed at a time when the regulations were in force, and
- (b) was at that time chargeable with any amount of stamp duty with which it would not have been chargeable apart from the regulations.

(2) If the instrument was stamped while the regulations were in force, nothing done in pursuance of paragraph 5 (repayment of duty etc.) prevents it being treated for any purpose as duly stamped in accordance with the law in force at the time when it was executed.

(3) If the instrument was not stamped while the regulations were in force, the law in force at the time when it was executed shall be deemed to have been what the law would have been apart from the regulations.

Temporary effect of regulations

7 (1) Regulations under paragraph 1 shall not apply in relation to instruments executed after the end of—
- (a) the period of 18 months beginning with the day on which the regulations were made, or
- (b) such shorter period as may be specified in the regulations.

(2) This does not affect the power to make further provision by regulations under paragraph 1 to the same or similar effect.

Power to make transitional etc. provision

8 Any power to make regulations under this Schedule includes power to make such transitional, supplementary and incidental provision as appears to the authority making the regulations to be necessary or expedient.

Interpretation

9 [F33(1) In relation to a bearer instrument (as defined in paragraph 3 of Schedule 15 to the M475Finance Act 1999), references in this Schedule to the execution of the instrument shall be read as references to its issue.]

(2) This Schedule shall be construed as one with the M476Stamp Act 1891.

Textual Amendments

F33 Sch. 33 para. 9(1) repealed (with effect as mentioned in Sch. 40 Pt. III Note 4 of the amending Act) by 2000 c. 17, s. 156, **Sch. 40 Pt. III**

Marginal Citations

M475 1999 c. 16.

M476 1891 c. 39.

SCHEDULE 34 U.K.

Section 129.

ABOLITION OF STAMP DUTY ON INSTRUMENTS RELATING TO INTELLECTUAL PROPERTY: SUPPLEMENTARY PROVISIONS

Introduction

1 In this Schedule "intellectual property" has the same meaning as in section 129(1).

Stamp duty reduced in certain other cases

2 (1) This paragraph applies where—

(a) stamp duty under Part I of Schedule 13 to the Finance Act 1999 (conveyance or transfer on sale) is chargeable on an instrument, and

(b) part of the property concerned consists of intellectual property.

(2) In such a case—

(a) the consideration in respect of which duty would otherwise be charged shall be apportioned, on such basis as is just and reasonable, as between the part of the property which consists of intellectual property and the part which does not, and

(b) the instrument shall be charged only in respect of the consideration attributed to such of the property as is not intellectual property.

(3) This paragraph applies to instruments executed on or after 28th March 2000.

Apportionment of consideration for stamp duty purposes

3 (1) Where part of the property referred to in section 58(1) of the M477Stamp Act 1891 (consideration to be apportioned between different instruments as parties think fit) consists of intellectual property, that provision shall have effect as if "the parties think fit" read "is just and reasonable".

(2) Where—

(a) part of the property referred to in section 58(2) of the Stamp Act 1891 (property contracted to be purchased by two or more persons etc.) consists of intellectual property, and

(b) both or (as the case may be) all the relevant persons are connected with one another,

that provision shall have effect as if the words from "for distinct parts of the consideration" to the end of the subsection read ", the consideration is to be apportioned in such manner as is just and reasonable, so that a distinct consideration for each separate part or parcel is set forth in the conveyance relating thereto, and such conveyance is to be charged with*ad valorem* duty in respect of such distinct consideration.".

(3) In a case where sub-paragraph (1) or (2) applies and the consideration is apportioned in a manner that is not just and reasonable, the enactments relating to stamp duty shall have effect as if—

(a) the consideration had been apportioned in a manner that is just and reasonable, and

(b) the amount of any distinct consideration set forth in any conveyance relating to a separate part or parcel of property were such amount as is found by a just and reasonable apportionment (and not the amount actually set forth).

(4) For the purposes of sub-paragraph (2)—

(a) a person is a relevant person if he is a person by or for whom the property is contracted to be purchased;

(b) the question whether persons are connected with one another shall be determined in accordance with section 839 of the Taxes Act 1988.

(5) In sub-paragraph (3) "the enactments relating to stamp duty" means the Stamp Act 1891 and any enactment amending or which is to be construed as one with that Act.

(6) This paragraph applies to instruments executed on or after 28th March 2000.

Marginal Citations

M477 1891 c. 39.

Certification of instruments for stamp duty purposes

4 (1) Intellectual property shall be disregarded for the purposes of paragraph 6 of Schedule 13 to the M478 Finance Act 1999 (certification of instrument as not forming part of transaction or series of transactions exceeding specified amount).

(2) Any statement as mentioned in paragraph 6(1) of that Schedule shall be construed as leaving out of account any matter which is to be so disregarded.

(3) This paragraph applies to instruments executed on or after 28th March 2000.

Marginal Citations
M478 1999 c. 16.

Acquisition under statute

5 (1) Section 12 of the [M479]Finance Act 1895 (property vested by Act or purchased under statutory powers) does not require any person who is authorised to purchase any property as mentioned in that section on or after 28th March 2000 to include any intellectual property in the instrument of conveyance required by that section to be produced to the Commissioners.

(2) If the property consists wholly of intellectual property no instrument of conveyance need be produced to the Commissioners under that section.

(3) This paragraph applies where the Act mentioned in that section, and by virtue of which property is vested or a person is authorised to purchase property, is passed on or after 28th March 2000.

Marginal Citations
M479 1895 c. 16.

VALID FROM 28/07/2000

SCHEDULE 35 U.K.

Section 135.

VALUE ADDED TAX: CHARGE AT REDUCED RATE

. . . .

VALID FROM 28/07/2000

SCHEDULE 36 U.K.

Section 136(8).

NEW SCHEDULE 3A TO THE VALUE ADDED TAX ACT 1994

The Schedule inserted after Schedule 3 to the [M481]Value Added Tax Act 1994 is as follows:

"SCHEDULE 3A U.K.

REGISTRATION IN RESPECT OF DISPOSALS OF ASSETS FOR WHICH A VAT REPAYMENT IS CLAIMED

Liability to be registered

1 (1) A person who is not registered under this Act, and is not liable to be registered under Schedule 1, 2 or 3, becomes liable to be registered under this Schedule at any time—

(a) if he makes relevant supplies; or

(b) if there are reasonable grounds for believing that he will make such supplies in the period of 30 days then beginning.

(2) A person shall be treated as having become liable to be registered under this Schedule at any time when he would have become so liable under sub-paragraph (1) above but for any registration which is subsequently cancelled under paragraph 6(2) below, paragraph 13(3) of Schedule 1, paragraph 6(2) of Schedule 2 or paragraph 6(3) of Schedule 3.

(3) A person shall not cease to be liable to be registered under this Schedule except in accordance with paragraph 2 below.

2 A person who has become liable to be registered under this Schedule shall cease to be so liable at any time if the Commissioners are satisfied that he has ceased to make relevant supplies.

Notification of liability and registration

3 (1) A person who becomes liable to be registered by virtue of paragraph 1(1)(a) above shall notify the Commissioners of the liability before the end of the period of 30 days beginning with the day on which the liability arises.

(2) The Commissioners shall register any such person (whether or not he so notifies them) with effect from the beginning of the day on which the liability arises.

4 (1) A person who becomes liable to be registered by virtue of paragraph 1(1)(b) above shall notify the Commissioners of the liability before the end of the period by reference to which the liability arises.

(2) The Commissioners shall register any such person (whether or not he so notifies them) with effect from the beginning of the period by reference to which the liability arises.

Notification of end of liability

5 (1) Subject to sub-paragraph (2) below, a person registered under paragraph 3 or 4 above who ceases to make or have the intention of making relevant supplies shall notify the Commissioners of that fact within 30 days of the day on which he does so.

(2) Sub-paragraph (1) above does not apply if the person would, when he so ceases, be otherwise liable or entitled to be registered under this Act if his registration and any enactment preventing a person from being liable to be registered under different provisions at the same time were disregarded.

Cancellation of registration

6 (1) Subject to sub-paragraph (3) below, where the Commissioners are satisfied that a registered person has ceased to be liable to be registered under this Schedule, they may cancel his registration with effect from the day on which he so ceased or from such later date as may be agreed between them and him.

(2) Where the Commissioners are satisfied that on the day on which a registered person was registered he was not registrable, they may cancel his registration with effect from that day.

(3) The Commissioners shall not under sub-paragraph (1) above cancel a person's registration with effect from any time unless they are satisfied that it is not a time when that person would be subject to a requirement, or entitled, to be registered under this Act.

(4) In determining for the purposes of sub-paragraph (3) above whether a person would be subject to a requirement, or entitled, to be registered at any time, so much of any provision of this Act as prevents a person from becoming liable or entitled to be registered when he is already registered or when he is so liable under any other provision shall be disregarded.

Exemption from registration

7 (1) Notwithstanding the preceding provisions of this Schedule, where a person who makes or intends to make relevant supplies satisfies the Commissioners that any such supply is zero-rated or would be zero-rated if he were a taxable person, they may, if he so requests and they think fit, exempt him from registration under this Schedule.

(2) Where there is a material change in the nature of the supplies made by a person exempted under this paragraph from registration under this Schedule, he shall notify the Commissioners of the change—

(a) within 30 days of the date on which the change occurred; or

(b) if no particular date is identifiable as the day on which it occurred, within 30 days of the end of the quarter in which it occurred.

(3) Where there is a material alteration in any quarter in the proportion of relevant supplies of such a person that are zero-rated, he shall notify the Commissioners of the alteration within 30 days of the end of the quarter.

(4) If it appears to the Commissioners that a request under sub-paragraph (1) above should no longer have been acted upon on or after any day, or has been withdrawn on any day, they shall register the person who made the request with effect from that day.

Supplementary

8 Any notification required under this Schedule shall be made in such form and shall contain such particulars as the Commissioners may by regulations prescribe.

9 (1) For the purposes of this Schedule a supply of goods is a relevant supply where—

(a) the supply is a taxable supply;

(b) the goods are assets of the business in the course or furtherance of which they are supplied; and

(c) the person by whom they are supplied, or a predecessor of his, has received or claimed, or is intending to claim, a repayment of VAT on the supply to him, or the importation by him, of the goods or of anything comprised in them.

(2) In relation to any goods, a person is the predecessor of another for the purposes of this paragraph if—

(a) that other person is a person to whom he has transferred assets of his business by a transfer of that business, or part of it, as a going concern;

(b) those assets consisted of or included those goods; and

(c) the transfer of the assets is one falling by virtue of an order under section 5(3) (or under an enactment re-enacted in section 5(3)) to be treated as neither a supply of goods nor a supply of services;

and the reference in this paragraph to a person's predecessor includes references to the predecessors of his predecessor through any number of transfers.

(3) The reference in this paragraph to a repayment of VAT is a reference to such a repayment under a scheme embodied in regulations made under section 39."

Marginal Citations
M481 1994 c. 23.

Marginal Citations
M481 1994 c. 23.

VALID FROM 28/07/2000

SCHEDULE 37 U.K.

Section 142.

Landfill tax: new Part VIII of Schedule 5 to the Finance Act 1996

"Part VIII U.K.

Secondary liability: controllers of landfill sites

Meaning of controller

48 (1) For the purposes of this Part of this Schedule a person is the controller of the whole, or a part, of a landfill site at a given time if he determines, or is entitled to determine, what disposals of material, if any, may be made—

(a) at every part of the site at that time, or

(b) at that part of the site at that time,

as the case may be.

(2) But a person who, because he is an employee or agent of another, determines or is entitled to determine what disposals may be made at a landfill site or any part of a landfill site is not the controller of that site or, as the case may be, that part of that site.

(3) Where a person is the controller of the whole or a part of a landfill site, that site or, as the case may be, that part of the site is referred to in this Part of this Schedule as being under his control.

(4) Any reference in this Part of this Schedule to a controller (without more) is a reference to a controller of the whole or a part of a landfill site.

Secondary liability

49 (1) Where—

(a) a taxable disposal is made at a landfill site,

(b) at the time when that disposal is made a person is the operator of the landfill site by virtue of section 67(a), (c) or (e) of this Act, and

(c) at that time a person other than the operator mentioned in paragraph (b) above is the controller of the whole or a part of the landfill site,

the controller shall be liable to pay to the Commissioners an amount of the landfill tax chargeable on the disposal.

(2) The amount which the controller is liable to pay shall be determined in accordance with the following provisions of this paragraph.

(3) In a case where the whole of the landfill site is under the control of the controller, he shall be liable to pay the whole of the landfill tax chargeable.

(4) In a case where a part of the landfill site is under the control of the controller, he shall be liable to pay an amount of the landfill tax calculated in accordance with sub-paragraphs (5) and (6) below.

(5) The amount of landfill tax which the controller is liable to pay is the amount which would have been chargeable had a separate taxable disposal consisting of the amount of material referred to in sub-paragraph (6) below been made at the time of the disposal mentioned in sub-paragraph (1)(a) above.

(6) That amount of material is the amount by weight of the material comprised in the disposal mentioned in sub-paragraph (1)(a) above which was disposed of on the part of the landfill site under the control of the controller.

(7) If the amount mentioned in sub-paragraph (6) above is nil, the controller shall have no liability under sub-paragraph (1) above in relation to landfill tax chargeable on the disposal.

(8) For the purposes of sub-paragraph (1)(b) and (c) above—

(a) section 61 of this Act, and

(b) any regulations made under section 62 of this Act,

shall not apply for determining the time when the disposal in question is made.

Operator entitled to credit

50 (1) This paragraph applies where—

(a) the operator of a landfill site is liable to pay landfill tax on a taxable disposal by reference to a particular accounting period,
(b) a controller of the whole or a part of that site is (apart from this paragraph) liable under paragraph 49 above to pay an amount of that tax, and
(c) for the accounting period in question the operator is entitled to credit under regulations made under section 51 of this Act.

(2) The amount of the tax which the controller is (apart from this sub-paragraph) liable to pay shall be reduced by the amount calculated in accordance with the following formula—

$$\frac{A \times C}{G}$$

where—

A is the amount of tax mentioned in sub-paragraph (1)(b) above;

C is the amount of credit mentioned in sub-paragraph (1)(c) above; and

G is the operator's gross tax liability for the accounting period in question.

(3) For the purposes of sub-paragraph (2) above, the operator's gross tax liability for the accounting period in question is the gross amount of landfill tax—
(a) which is chargeable on disposals made at all landfill sites of which he is the operator, and
(b) for which he is required to account by reference to that accounting period.

(4) In sub-paragraph (3) above, the gross amount of landfill tax means the amount of tax before any credit or any other adjustment is taken into account in the period in question.

(5) If the amount calculated in accordance with the formula in sub-paragraph (2) above is greater than the amount of tax mentioned in sub-paragraph (1)(b) above, the amount of the tax which the controller is liable to pay shall be reduced to nil.

Payment of secondary liability

51 (1) This paragraph applies where a controller is liable under paragraph 49 above (after taking account of any reduction under paragraph 50 above) to pay an amount of landfill tax ("the relevant amount").

(2) The controller is required to pay the relevant amount to the Commissioners only if—
(a) a notice containing the required information is served on him, or
(b) other reasonable steps are taken with a view to bringing the required information to his attention,

before the end of the period of two years beginning with the day immediately following the relevant accounting day.

(3) The relevant accounting day is the last day of the accounting period by reference to which the landfill site operator liable to pay the landfill tax in question is required to account for that tax.

(4) If the controller is required to pay the relevant amount by virtue of this paragraph, the amount shall be paid before the end of the period of thirty days beginning with the day immediately following the notification day.

(5) The notification day is—

(a) in a case where notice is served on a controller as mentioned in sub-paragraph (2)(a) above, the day on which the notice is served, or

(b) in a case where other reasonable steps are taken as mentioned in sub-paragraph (2)(b) above, the day on which the last of those steps is taken.

(6) For the purposes of sub-paragraph (2) above the required information is the relevant amount and, if that amount is one reduced in accordance with paragraph 50 above, also—

(a) the amount of the controller's liability under paragraph 49 above apart from the reduction,

(b) the amount of credit to which the operator is entitled, and

(c) the operator's gross tax liability.

Assessments

52 (1) Where an amount of landfill tax is—

(a) assessed under section 50 of this Act, and

(b) notified to a licensed operator,

the Commissioners may also determine that a controller of the whole or a part of any landfill site operated by the licensed operator shall be liable to pay so much of the amount assessed as they consider just and equitable.

(2) A controller is required to pay an amount determined under sub-paragraph (1) above only if—

(a) a notice stating the amount is served on him, or

(b) other reasonable steps are taken with a view to bringing the amount of the liability to his attention,

before the expiry of the period of two years beginning with the day immediately following the assessment day.

(3) The assessment day is the day on which the assessment in question is notified to the licensed operator.

(4) If a controller is required to pay an amount by virtue of this paragraph, it shall be paid before the end of the period of thirty days beginning with the day immediately following the notification day.

(5) The notification day is—

(a) in a case where notice is served on a controller as mentioned in sub-paragraph (2)(a) above, the day on which the notice is served, or

(b) in a case where other reasonable steps are taken as mentioned in sub-paragraph (2)(b) above, the day on which the last of those steps is taken.

(6) For the purposes of this paragraph a licensed operator is a person who is the operator of a landfill site by virtue of section 67(a), (c) or (e) of this Act.

Assessment withdrawn or reduced

53 (1) Where—

(a) a controller is liable to pay an amount determined under paragraph 52 above, and

(b) the assessment notified to the licensed operator is withdrawn or reduced,

the Commissioners may determine that the controller's liability is to be cancelled or to be reduced to such an amount as they consider just and equitable.

(2) Sub-paragraphs (3) to (5) below apply where the Commissioners make a determination under sub-paragraph (1) above that the controller's liability is to be reduced (but not cancelled).

(3) In such a case they shall—

(a) serve the controller with notice stating the amount of the reduced liability, or

(b) take other reasonable steps with a view to bringing the reduced amount to the controller's attention.

(4) If the controller has already been served with notice of the amount determined under paragraph 52 above, or if other steps have already been taken to bring that amount to his attention—

(a) the Commissioners shall serve the notice mentioned in sub-paragraph (3)(a) above, or take the steps mentioned in sub-paragraph (3)(b) above, before the end of the period of thirty days beginning with the day immediately following that on which they make the determination under sub-paragraph (1) above, and

(b) the reduced amount shall be payable, or treated as having been payable, on or before the day on which the amount referred to in sub-paragraph (1)(a) above would have been payable apart from this paragraph.

(5) In a case where the controller has not been served with notice of the amount determined under paragraph 52 above, or no other steps have been taken to bring that amount to his attention, he shall be liable to pay the reduced amount only if—

(a) the notice mentioned in sub-paragraph (3)(a) above is served, or

(b) the other steps mentioned in sub-paragraph (3)(b) above are taken,

before the expiry of the period of two years beginning with the day immediately following that on which the Commissioners make the determination under sub-paragraph (1) above.

(6) Sub-paragraph (7) below applies where—

(a) the Commissioners make a determination under sub-paragraph (1) above that the controller's liability is to be cancelled, and

(b) the controller has already been served with notice of the amount determined under paragraph 52 above, or other steps have already been taken to bring that amount to his attention.

(7) In such a case the Commissioners shall—

(a) serve the controller with notice stating that the liability has been cancelled, or

(b) take other reasonable steps with a view to bringing the cancellation to the controller's attention,

before the end of the period of thirty days beginning with the day immediately following that on which they make the determination that the liability is to be cancelled.

Adjustments

54 (1) This paragraph applies in any case where the liability of a licensed operator to pay landfill tax is adjusted otherwise than by—
(a) his being entitled to credit under regulations made under section 51 of this Act,
(b) his being notified of an amount assessed under section 50 of this Act, or
(c) the withdrawal or reduction of an assessment under section 50 of this Act which was notified to him.

(2) In such a case the Commissioners may determine that a controller of the whole or any part of a landfill site operated by the licensed operator—
(a) shall be liable to pay to the Commissioners such an amount as they consider just and equitable, or
(b) shall be entitled to an allowance of such an amount as they consider just and equitable.

(3) A controller is required to pay an amount determined under sub-paragraph (2)(a) above only if—
(a) a notice stating the amount is served on him, or
(b) other reasonable steps are taken with a view to bringing the amount of the liability to his attention,

before the end of the period of two years beginning with the day immediately following the relevant accounting day.

(4) The relevant accounting day is the last day of the accounting period of the operator within which the adjustment in question was taken into account.

(5) If a controller is required to pay an amount by virtue of sub-paragraph (3) above, it shall be paid before the end of the period of thirty days beginning with the day immediately following the notification day.

(6) The notification day is—
(a) in a case where notice is served on a controller as mentioned in sub-paragraph (3)(a) above, the day on which the notice is served, or
(b) in a case where other reasonable steps are taken as mentioned in sub-paragraph (3)(b) above, the day on which the last of those steps is taken.

(7) The Commissioners may determine in what manner a controller is to benefit from an allowance determined under sub-paragraph (2)(b) above.

(8) For the purposes of this paragraph a licensed operator is a person who is the operator of a landfill site by virtue of section 67(a), (c) or (e) of this Act.

Amounts payable to be treated as tax

55 An amount which a controller is required to pay under paragraph 52, 53 or 54(2)(a) above or under paragraph 58 below shall be deemed to be an amount of tax due from him and shall be recoverable accordingly.

Controller not carrying out taxable activity

56 A controller is not to be treated for the purposes of this Act as carrying out a taxable activity by reason only of any liability under this Part of this Schedule.

Joint and several liability

57 (1) In any case where the condition in sub-paragraph (4), (5) or (6) below is satisfied, the controller and the operator shall be jointly and severally liable for the principal liability.

(2) But the amount which may be recovered from the controller in consequence of such liability shall not exceed the amount of the secondary liability.

(3) For the purposes of this paragraph—

(a) the principal liability is the amount referred to in sub-paragraph (4)(a), (5)(a) or (6)(a) below, as the case may be, and

(b) the secondary liability is the amount referred to in sub-paragraph (4)(b), (5)(b) or (6)(b) below, as the case may be.

(4) The condition in this sub-paragraph is satisfied if—

(a) the operator of a landfill site is liable under section 41 of this Act for landfill tax, and

(b) a controller is liable under paragraph 49 above, after taking account of any reduction under paragraph 50 above, to pay an amount of that tax.

(5) The condition in this sub-paragraph is satisfied if—

(a) the operator of a landfill site is notified of the amount of an assessment made under section 50 of this Act, and

(b) in consequence of a determination made under paragraph 52 above by the Commissioners in connection with the assessment, a controller is liable to pay an amount (after taking account of any reduction under paragraph 53 above).

(6) The condition in this sub-paragraph is satisfied if—

(a) the liability of the operator of a landfill site to pay landfill tax is adjusted in such a way that paragraph 54 above applies, and

(b) in consequence of a determination made under paragraph 54(2)(a) above by the Commissioners in connection with the adjustment, a controller is liable to pay an amount.

Interest payable by a controller

58 (1) This paragraph applies where—

(a) the operator of a landfill site and the controller of the whole or a part of that site are by virtue of paragraph 57 above jointly and severally liable for an amount, and

(b) that amount carries interest by virtue of any provision of this Schedule.

(2) The controller and the operator shall be jointly and severally liable to pay the interest.

(3) But the amount which may be recovered from the controller in consequence of such liability shall not exceed the amount calculated in accordance with the following formula—

$$\frac{(I - [A + B])xS}{P}$$

where—

I is the total amount of interest in question;

A is the amount of interest carried for the period which—

(a) begins with the first day of the period for which interest is carried, and

(b) ends with the day on which the controller becomes liable to pay the secondary liability;

B is the amount of interest carried for any day falling after that on which the secondary liability is met in full;

S is the amount of the secondary liability;

P is the amount of the principal liability.

In this paragraph secondary liability and principal liability have the same meaning as in paragraph 57 above.

(4) The controller is liable for an amount of interest only if—
- (a) a notice stating the amount is served on him, or
- (b) other reasonable steps are taken with a view to bringing the amount of the liability to his attention,

before the end of the period of two years beginning with the day immediately following the final day.

(5) The final day is the last day of the period for which the interest in question is carried.

(6) If the controller is required to pay an amount in accordance with this paragraph, it shall be paid before the end of the period of thirty days beginning with the day immediately following the notification day.

(7) The notification day is—
- (a) in a case where notice is served on a controller as mentioned in sub-paragraph (4)(a) above, the day on which the notice is served, or
- (b) in a case where other reasonable steps are taken as mentioned in sub-paragraph (4)(b) above, the day on which the last of those steps is taken.

(8) Where by virtue of sub-paragraph (2) above a controller is liable to pay interest which arises under paragraph 27 above, paragraph 28 above shall apply in relation to that interest as it applies to interest which a person is liable under paragraph 27 above to pay.

Reviews

59 Section 54 of this Act shall apply to a decision of the Commissioners under this Part of this Schedule—
- (a) that a person is a controller,
- (b) that a person is liable under this Part of this Schedule to pay any amount (including a penalty under paragraph 60 below),
- (c) that a person is not entitled under this Part of this Schedule to an allowance, or

(d) as to the amount of any liability or any allowance under this Part of this Schedule,

as it applies to the other decisions of the Commissioners specified in subsection (1) of that section.

Notice that person is, or is no longer, a controller

60 (1) This paragraph applies where—

(a) on the date when this paragraph comes into force, a person is a controller of the whole or a part of a landfill site, or

(b) after that date, a person becomes or ceases to be a controller of the whole or a part of a landfill site.

(2) The controller, and the operator of the landfill site in question, shall be under a duty to secure that notice which complies with the requirements of sub-paragraph (3) below appropriate to the case in question is given to the Commissioners.

(3) The requirements of this sub-paragraph are that the notice—

(a) states that a person is, has become or has ceased to be a controller,

(b) identifies that person and the site under his control or formerly under his control,

(c) states the date when he became or ceased to be the controller, and

(d) is given within the period of thirty days beginning with the day immediately following—

(i) the day when this paragraph comes into force, in a case falling within sub-paragraph (1)(a) above, or

(ii) the day when the person in question becomes or ceases to be the controller, in a case falling within sub-paragraph (1)(b) above.

(4) If a person fails to comply with sub-paragraph (2) above, he is liable to a penalty of £250.

(5) Paragraph 25 above applies to a penalty under sub-paragraph (4) above as it applies to a penalty under Part V of this Schedule.

Extension of time limits where notice not served

61 (1) This paragraph applies where—

(a) a person is liable under paragraph 49 above to pay an amount of landfill tax or liable under paragraph 58 above to pay interest, or

(b) the Commissioners are entitled under paragraph 52, 53 or 54 above to determine an amount which a person is liable to pay.

(2) The reference to two years in paragraph 51(2), 52(2), 53(5), 54(3) or 58(4) above (as the case may be) shall be treated as a reference to twenty years if the requirement of paragraph 60(2) above to give notice to the Commissioners in relation to the person mentioned in sub-paragraph (1) above being or becoming a controller has not been complied with.”

VALID FROM 28/07/2000

SCHEDULE 38 U.K.

Section 143(1).

REGULATIONS FOR PROVIDING INCENTIVES FOR ELECTRONIC COMMUNICATIONS

. . . .

VALID FROM 28/07/2000

SCHEDULE 39 U.K.

Section 149(2).

NEW SCHEDULE 1AA TO THE TAXES MANAGEMENT ACT 1970

The Schedule inserted after Schedule 1 to the [M486]Taxes Management Act 1970 is as follows:

"SCHEDULE 1AA U.K.

ORDERS FOR PRODUCTION OF DOCUMENTS

Introduction

1 The provisions of this Schedule supplement section 20BA.

Authorised officer of the Board

2 (1) In section 20BA(1) an "authorised officer of the Board" means an officer of the Board authorised by the Board for the purposes of that section.

(2) The Board may make provision by regulations as to—

(a) the procedures for approving in any particular case the decision to apply for an order under that section, and

(b) the descriptions of officer by whom such approval may be given.

Notice of application for order

3 (1) A person is entitled—

(a) to notice of the intention to apply for an order against him under section 20BA, and

(b) to appear and be heard at the hearing of the application,

unless the appropriate judicial authority is satisfied that this would seriously prejudice the investigation of the offence.

(2) The Board may make provision by regulations as to the notice to be given, the contents of the notice and the manner of giving it.

Obligations of person given notice of application

4 (1) A person who has been given notice of intention to apply for an order under section 20BA(4) shall not—

(a) conceal, destroy, alter or dispose of any document to which the application relates, or

(b) disclose to any other person information or any other matter likely to prejudice the investigation of the offence to which the application relates.

This is subject to the following qualifications.

(2) Sub-paragraph (1)(a) does not prevent anything being done—

(a) with the leave of the appropriate judicial authority,

(b) with the written permission of an officer of the Board,

(c) after the application has been dismissed or abandoned, or

(d) after any order made on the application has been complied with.

(3) Sub-paragraph (1)(b) does not prevent a professional legal adviser from disclosing any information or other matter—

(a) to, or to a representative of, a client of his in connection with the giving by the adviser of legal advice to the client; or

(b) to any person—

(i) in contemplation of, or in connection with, legal proceedings; and

(ii) for the purpose of those proceedings.

This sub-paragraph does not apply in relation to any information or other matter which is disclosed with a view to furthering a criminal purpose.

(4) A person who fails to comply with the obligation in sub-paragraph (1)(a) or (b) above may be dealt with as if he had failed to comply with an order under section 20BA.

Exception of items subject to legal privilege

5 (1) Section 20BA does not apply to items subject to legal privilege.

(2) For this purpose "items subject to legal privilege" means—

(a) communications between a professional legal adviser and his client or any person representing his client made in connection with the giving of legal advice to the client;

(b) communications between a professional legal adviser and his client or any person representing his client or between such an adviser or his client or any such representative and any other person made in connection with or in contemplation of legal proceedings and for the purposes of such proceedings; and

(c) items enclosed with or referred to in such communications and made—

(i) in connection with the giving of legal advice; or

(ii) in connection with or in contemplation of legal proceedings and for the purposes of such proceedings,

when they are in the possession of a person who is entitled to possession of them.

(3) Items held with the intention of furthering a criminal purpose are not subject to legal privilege.

Resolution of disputes as to legal privilege

6 (1) The Board may make provision by regulations for the resolution of disputes as to whether a document, or part of a document, is an item subject to legal privilege.

(2) The regulations may, in particular, make provision as to—
(a) the custody of the document whilst its status is being decided;
(b) the appointment of an independent, legally qualified person to decide the matter;
(c) the procedures to be followed; and
(d) who is to meet the costs of the proceedings.

Complying with an order

7 (1) The Board may make provision by regulations as to how a person is to comply with an order under section 20BA.

(2) The regulations may, in particular, make provision as to—
(a) the officer of the Board to whom the documents are to be produced,
(b) the address to which the documents are to be taken or sent, and
(c) the circumstances in which sending the documents by post complies with the order.

(3) Where an order under section 20BA applies to a document in electronic or magnetic form, the order shall be taken to require the person to deliver the information recorded in the document in a form in which it is visible and legible.

Procedure where documents are delivered

8 (1) The provisions of section 20CC(3) to (9) apply in relation to a document delivered to an officer of the Board in accordance with an order under section 20BA as they apply to a thing removed by an officer of the Board as mentioned in subsection (1) of section 20CC.

(2) In section 20CC(9) as applied by sub-paragraph (1) above the reference to the warrant concerned shall be read as a reference to the order concerned.

Sanction for failure to comply with order

9 (1) If a person fails to comply with an order made under section 20BA, he may be dealt with as if he had committed a contempt of the court.

(2) For this purpose “the court” means—
(a) in relation to an order made by a Circuit judge, the Crown Court;
(b) in relation to an order made by a sheriff, a sheriff court;
(c) in relation to an order made by a county court judge, a county court in Northern Ireland.

Notice of order etc.

10 The Board may make provision by regulations as to the circumstances in which notice of an order under section 20BA, or of an application for such an order, is to be treated as having been given.

General provisions about regulations

11 Regulations under this Schedule—

(a) may contain such incidental, supplementary and transitional provision as appears to the Board to be appropriate, and

(b) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.”.

Marginal Citations

M486 1970 c. 9.

Marginal Citations

M486 1970 c. 9.

SCHEDULE 40 U.K.

Section 156.

REPEALS

VALID FROM 28/07/2000

PART I U.K.

EXCISE DUTIES

Commencement Information

I2 Sch. 40 Pt. I(1) in force in accordance with Sch. 40 Pt. I(1) Notes 1-3

(1) Hydrocarbon oils

Chapter	Short title	Extent of repeal
1979 c. 5.	The Hydrocarbon Oil Duties Act 1979.	In section 13(1) the words from “; and the Commissioners" to the end.
		Section 13A(1B), (1C) and (2).

		In Schedule 1, paragraph 2(1)(b) and the word "or" immediately preceding it, and paragraph 2(4).
		In Schedule 2A—
		(a) paragraph 8(4);
		(b) in paragraph 11(1), the definitions of "leaded" and "unleaded" petrol.
1997 c. 16.	The Finance Act 1997.	Section 7(3) and (9)(e).
		In Schedule 6, paragraph 6(2).

1. The repeals in section 13A of and Schedule 2A to the Hydrocarbon Oil Duties Act 1979 and section 7 of the Finance Act 1997 come into force on the day appointed under section 5(6) of this Act.

2. The repeals in section 13 of the Hydrocarbon Oil Duties Act 1979 and Schedule 6 to the Finance Act 1997 have effect in accordance with section 8 of this Act.

3. The repeals in Schedule 1 to the Hydrocarbon Oil Duties Act 1979 have effect in relation to the use of rebated heavy oil as fuel on or after 1st May 2000.

(2) Tobacco

Chapter	Short title	Extent of repeal
1979 c. 7.	The Tobacco Products Duty Act 1979.	Section 7(1)(c)(i).

(3) Amusement machine licence duty

Chapter	Short title	Extent of repeal
1981 c. 63.	The Betting and Gaming Duties Act 1981.	In section 25(1B)(b), the words ", other than one consisting only in a blank surface onto which light is projected".
		In section 25(7), the word "or" at the end of paragraph (c).

These repeals have effect in accordance with paragraph 7 of Schedule 2 to this Act.

(4) Air passenger duty

Chapter	Short title	Extent of repeal

1994 c. 9.	The Finance Act 1994.	In section 31, subsections (1), (2) and (6).
		In section 43, in subsection (2), the words “Subject to subsection (3) below" and subsection (3).
1997 c. 16.	The Finance Act 1997.	Section 9.

1. The repeals in the Finance Act 1994 have effect in accordance with section 19(6) of this Act.

2. The repeal in the Finance Act 1997 has effect in accordance with section 18(8) of this Act.

Part II U.K.

Income tax, corporation tax and capital gains tax

VALID FROM 28/07/2000

(1) Giving to charity

Chapter	Short title	Extent of repeal
1988 c. 1.	The Income and Corporation Taxes Act 1988.	In section 202, in subsection (6), the words “must not be paid by the employee under a covenant", and subsection (7).
		In section 339, subsections (2), (3), (3A), (3F), (6), (7) and (8) and, in subsection (9), the words “in subsections (1) to (4) above includes".
		In section 347A, subsections (2)(b), (7) and (8).
		In section 505(6), the words “and, for this purpose, all covenanted payments to charity (within the meaning of section 347A(7)) shall be treated as a single item".
1989 c. 26.	The Finance Act 1989.	Section 59.
1990 c. 29.	The Finance Act 1990.	In section 25, in subsection (2), paragraphs (c) and (g) and, in subsection (12), paragraphs

		(b) and (e) and the word “and" immediately preceding paragraph (e).
1998 c. 36.	The Finance Act 1998.	In section 48, subsections (3), (6) and (7).

1. The repeals in section 202 of the Taxes Act 1988 have effect in accordance with section 38(7) of this Act.

2. The repeals in section 339 of the Taxes Act 1988 have effect in accordance with section 40(11) of this Act.

3. The repeals in sections 347A and 505 of the Taxes Act 1988 and the repeal of section 59 of the Finance Act 1989 have effect in accordance with section 41(9) of this Act.

4. The repeals in section 25 of the Finance Act 1990 have effect in accordance with section 39(10) of this Act.

VALID FROM 28/07/2000

(2) Benefits in kinds: deregulatory amendments

Chapter	Short title	Extent of repeal
1988 c. 1.	The Income and Corporation Taxes Act 1988.	Section 155(2).
		Section 160(1C).
		Section 161(1A) and (1B).
1994 c. 9.	The Finance Act 1994.	Section 88(5).

These repeals have effect in accordance with section 57(2) of this Act.

VALID FROM 28/07/2000

(3) Cars available for private use

Chapter	Short title	Extent of repeal
1996 c. 8.	The Finance Act 1996.	In Schedule 20, paragraph 40.
1999 c. 16.	The Finance Act 1999.	Section 47.

These repeals have effect in accordance with section 59 of this Act.

VALID FROM 28/07/2000

(4) Occupational and personal pension schemes

Chapter	Short title	Extent of repeal
1988 c. 1.	The Income and Corporation Taxes Act 1988.	In section 611(3), the words “retirement benefits" in both places where they occur.
		Section 630(3).
		Section 633(2).
		In section 638(4), the words “the aggregate of", paragraph (b) and the word “and" immediately preceding it.
		Section 641.
		Section 642.
		In section 645(3), the word “and" immediately preceding paragraph (c).
		Section 646(7).
		Section 660A(7).
1996 c. 8.	The Finance Act 1996.	In Schedule 21, paragraph 18.

1. The repeal of section 633(2) of the Taxes Act 1988 has effect in accordance with paragraph 9 of Schedule 13 to this Act.

2. The repeals in section 638(4) of that Act have effect in relation to contributions paid in the year 2001-02 and subsequent years of assessment.

3. The repeals of section 641 of that Act and paragraph 18 of Schedule 21 to the Finance Act 1996 have effect in accordance with paragraph 17 of Schedule 13 to this Act.

4. The repeal of section 642 of the Taxes Act 1988 has effect in accordance with paragraph 19 of Schedule 13 to this Act.

5. The repeal of section 646(7) of that Act has effect for the year 2001-02 and subsequent years of assessment.

6. The repeal of section 660A(7) of that Act has effect for the year 2001-02 and subsequent years of assessment.

VALID FROM 28/07/2000

(5) Enterprise investment scheme and venture capital trusts

Chapter	Short title	Extent of repeal
1988 c. 1.	The Income and Corporation Taxes Act 1988.	Section 293(6)(b) and the word "and" immediately preceding it.
		Section 299B(7).
		In section 312(1), the definition of "the seven year period".
1992 c. 12.	The Taxation of Chargeable Gains Act 1992.	In Schedule 5B, in paragraph 19(1)—
		(a) the definition of "the five year period";
		(b) the definition of "the seven year period".
1994 c. 9.	The Finance Act 1994.	In Schedule 15, paragraph 10(c).

1. The repeal in section 293(6) of the Taxes Act 1988 has effect in accordance with paragraph 12 of Schedule 17 to this Act.

2. The repeal in the Finance Act 1994 has effect in accordance with paragraph 13(2) of that Schedule.

3. The repeal in section 299B of the Taxes Act 1988 has effect in accordance with paragraph 14 of that Schedule.

4. The other repeals have effect in accordance with paragraph 8 of that Schedule.

VALID FROM 28/07/2000

(6) Taper relief for business assets

Chapter	Short title	Extent of repeal
1992 c. 12.	The Taxation of Chargeable Gains Act 1992.	In Schedule A1, in paragraph 22(1), the definitions of "full-time working officer or employee" and "qualifying office or employment".

These repeals have effect in accordance with section 67(7) of this Act.

VALID FROM 28/07/2000

(7) Meaning of "research and development"

Chapter	Short title	Extent of repeal
1990 c. 1.	The Capital Allowances Act 1990.	Section 136.
		In section 139(1)(d)—
		(a) in the opening words, the words "or a class of trades";
		(b) in sub-paragraphs (i) and (ii), the words "or, as the case may be, of trades of that class".
		Section 139(3).

These repeals have effect in accordance with section 68(2) of this Act.

VALID FROM 28/07/2000

(8) Capital allowances

Chapter	Short title	Extent of repeal
1990 c. 1.	The Capital Allowances Act 1990.	In section 41, in subsection (1), paragraphs (b) and (c) and the word "or" at the end of paragraph (a) and, in subsection (4), paragraph (a) and, in paragraph (b), the words from "or within (1)(b) or (c)" to "subsection (1)(c)" and the words "or subsection (1)(b) and (c)".
		Section 53(1)(bb).
1994 c. 9.	The Finance Act 1994.	In section 118, subsections (1) to (5) and (7) to (9).

1. The repeals in section 41 of the Capital Allowances Act 1990 have effect in accordance with section 74(1) of this Act.

2. The repeal in section 53 of that Act has effect in accordance with section 75(6)(a) of this Act.

3. The repeals in section 118 of the Finance Act 1994 have effect in accordance with section 73(2) of this Act.

VALID FROM 28/07/2000

(9) Contributions to local enterprise agencies, etc.

Chapter	Short title	Extent of repeal
1988 c. 1.	The Income and Corporation Taxes Act 1988.	In section 79(11), the words “and before 1st April 2000". In section 79A— (a) in subsection (5)(b), the references to the Scottish Development Agency and the Highlands and Islands Development Board; (b) in subsection (7), the words “and before 1st April 2000".
1994 c. 9.	The Finance Act 1994.	Section 145(1).

VALID FROM 28/07/2000

(10) Capital gains tax: gifts and trusts

Chapter	Short title	Extent of repeal
1992 c. 12.	The Taxation of Chargeable Gains Act 1992.	In Schedule 10, paragraph 14(42).
1996 c. 8.	The Finance Act 1996.	In Schedule 38, paragraph 10(2)(c) and (f).

1. The repeal in Schedule 10 to the Taxation of Chargeable Gains Act 1992 has effect in accordance with section 92(5) of this Act.

2. The repeals in Schedule 38 to the Finance Act 1996 have effect in relation to disposals made on or after 9th November 1999.

VALID FROM 28/07/2000

(11) Groups and group relief

Chapter	Short title	Extent of repeal

1970 c. 9.	The Taxes Management Act 1970.	In section 87A(3), the word "or" preceding "paragraph 75A(2)".
1988 c. 1.	The Income and Corporation Taxes Act 1988.	In section 402(4), the words from "if the share in the consortium" to "is nil or".
		In section 413—
		(a) in subsection (5), the words from the beginning to "Kingdom; and", paragraph (c) and the word "or" immediately preceding it;
		(b) subsections (8) and (9).
1992 c. 12.	The Taxation of Chargeable Gains Act 1992.	In section 170(8), the words ", or subsections (7) to (9),".
		In section 228(10)(b), the words "to (9)".
1992 c. 48.	The Finance (No.2) Act 1992.	In Schedule 6, paragraph 3.
1998 c. 36.	The Finance Act 1998.	Section 81.

1. The repeal in section 87A(3) of the Taxes Management Act 1970 has effect in accordance with section 98(2) of this Act.

2. The repeal in section 402(4) of the Taxes Act 1988, the repeal of section 413(8) and (9) of that Act, the repeals in the Taxation of Chargeable Gains Act 1992 and the repeal of section 81 of the Finance Act 1998 have effect in accordance with section 100(5) of this Act.

3. The repeals in section 413(5) of the Taxes Act 1988 and the repeal in Schedule 6 to the Finance (No.2) Act 1992 have effect in accordance with paragraph 6 of Schedule 27 to this Act.

VALID FROM 28/07/2000

(12) Groups of companies: chargeable gains

Chapter	Short title	Extent of repeal
1970 c. 9.	The Taxes Management Act 1970.	In section 87A(3), the words "or 179(11)".
1988 c. 39.	The Finance Act 1988.	In section 132(6), in the definition of group, the words "references to residence in the United Kingdom were omitted and".

1992 c. 12.	The Taxation of Chargeable Gains Act 1992.	In section 14(4)(b), the words "without subsections (2)(a), (9) and (12) to (14)". Section 25(4). In section 30(2)(b), the words "178 or". In section 31(7)(b), the words "178 or". In section 35(3)(d)(i), the words "172,". In section 170— (a) subsection (2)(a); (b) in subsection (9)(b), the words "(although resident in the United Kingdom)". Section 172. Section 174(1) to (3) and (5). In section 176(7), paragraph (c) and the word "and" immediately preceding it. Section 178. Section 179(11) and (12). Section 180. Section 181(5). In section 192(4), the words "178 or". In section 197(2)(b), the words "178(3) or". In section 211— (a) in subsection (2), the words "Subject to subsection (3) below" and paragraph (b) and the word "or" immediately following it; (b) subsection (3). In section 216(2)(b), (3) and (4), the words "178 or". In Schedule 4—

		(a) in paragraph 4(2), the words "178(3), 179(3)"; (b) paragraph 4(3); (c) paragraph 9(1)(a). In Schedule 7B, paragraph 7.
1992 c. 48.	The Finance (No.2) Act 1992.	Section 25(1).
1993 c. 34.	The Finance Act 1993.	Section 90.

1.The repeal in the Finance Act 1988 has effect in accordance with paragraph 15 of Schedule 29 to this Act.

2.The repeal in section 14 of the Taxation of Chargeable Gains Act 1992 has effect in accordance with paragraph 16 of that Schedule.

3.The repeal in section 25 of that Act has effect in accordance with paragraph 6(5) of that Schedule.

4. The repeals in section 170 of that Act have effect in accordance with paragraph 1 of that Schedule.

5. The repeal of section 172 of that Act, and the repeals in section 35 of and Schedule 7B to that Act, have effect in accordance with paragraph 3 of Schedule 29 to this Act.

6. In section 174 of that Act—

(a) the repeal of subsections (1) to (3) has effect in accordance with paragraph 12 of that Schedule; and

(b) the repeal of subsection (5) has effect in accordance with paragraph 13 of that Schedule.

7. The repeals in section 176 of that Act have effect in accordance with paragraph 24 of that Schedule.

8. The repeals in section 87A(3) of the Taxes Management Act 1970 and in section 179 of the Taxation of Chargeable Gains Act 1992 have effect in accordance with paragraph 4(7) of that Schedule.

9. The repeal in section 181 of the Taxation of Chargeable Gains Act 1992 has effect in accordance with paragraph 28 of that Schedule.

10.The repeals in section 211 of that Act, and the repeal of section 90 of the Finance Act 1993, have effect in accordance with paragraph 30 of that Schedule.

11. The repeal in section 25 of the Finance (No.2) Act 1992 has effect in accordance with paragraph 4(6) of that Schedule.

(13) Double taxation relief

Chapter	Short title	Extent of repeal

1970 c. 9.	The Taxes Management Act 1970.	In section 42(7)(a), the words “,810".
1988 c. 1.	The Income and Corporation Taxes Act 1988.	In section 750(3)(b), the words “other than section 810".
		In section 788(5), in the second sentence, paragraph (b) and the word “and" preceding it.
		Section 794(2)(c).
		Section 799(3)(b).
		Section 800.
		Section 802.
		Section 810.
		In Schedule 19AC, in paragraph 13, sub-paragraph (1) and, in sub-paragraph (2), the subsection (3) which is treated as inserted into section 794 of the Act.
1989 c. 26.	The Finance Act 1989.	In section 82(1)(a), the words “or foreign tax”.

These repeals have effect in accordance with Schedule 30 to this Act.

Commencement Information

I3 Sch. 40 Pt. II(13) partly in force at 1.4.2000 see Sch. 30 para. 1

Commencement Information

I3 Sch. 40 Pt. II(13) partly in force at 1.4.2000 see Sch. 30 para. 1

VALID FROM 28/07/2000

(14) Controlled foreign companies

Chapter	Short title	Extent of repeal
1988 c. 1.	The Income and Corporation Taxes Act 1988.	In section 756(3), paragraph (a) and the words following paragraph (b).
		In Schedule 25, in paragraph 11(1), the word “and”

		immediately preceding paragraph (g).

These repeals have effect in accordance with paragraph 9 of Schedule 31 to this Act.

VALID FROM 28/07/2000

(15) International matters

Chapter	**Short title**	**Extent of repeal**
1993 c. 34.	The Finance Act 1993.	In section 149, in subsections (4) and (5), the words “the asset or contract was held, or the liability was owed, by the company solely for trading purposes and".
		Section 164(6) and (7).

These repeals have effect in accordance with section 106(17) of this Act.

VALID FROM 28/07/2000

(16) Insurance

Chapter	**Short title**	**Extent of repeal**
1988 c. 1.	The Income and Corporation Taxes Act 1988.	In section 431(2), the definition of “investment reserve".
		In Schedule 19AC, paragraph 7(3)(c).
1993 c. 34.	The Finance Act 1993.	Section 177.
1994 c. 9.	The Finance Act 1994.	Section 224.

1. The repeals in the Taxes Act 1988 have effect in accordance with section 109(10) of this Act.

2. The other repeals have effect in accordance with section 107(12)(c) of this Act.

VALID FROM 28/07/2000

(17) Payments under deduction of tax

Chapter	Short title	Extent of repeal
1970 c. 9.	The Taxes Management Act 1970.	In columns 1 and 2 of the Table in section 98—
		(a) the words “regulations under section 118D, 118F, 118G, 118H or 118I"; and
		(b) the words “regulations under section 124(3)".
1988 c. 1.	The Income and Corporation Taxes Act 1988.	In Part IV, Chapter VIIA.
		Section 124.
		In section 348(3), the words “or to any payment which is a relevant payment for the purposes of Chapter VIIA of Part IV".
		In section 349—
		(a) in subsection (1), the words “or to any payment which is a relevant payment for the purposes of Chapter VIIA of Part IV";
		(b) in subsection (3), paragraph (e).
		Section 468M(4)(b).
		Section 482(11)(a).
		In section 582A(1), the words “and section 118B(4)".
		Section 841A.
		In Schedule 23A—
		(a) in paragraph 1(1), in the definition of “overseas securities", paragraph (b) and the word “and" preceding it;
		(b) in paragraph 1(1), in the definition of “UK securities", the words

		“quoted Eurobonds (as defined by section 124) held in a recognised clearing system or";
		(c) paragraph 4(8).
1989 c. 26.	The Finance Act 1989.	In section 178(2)(m), the reference to section 118F of the Taxes Act 1988.
1996 c. 8.	The Finance Act 1996.	In Schedule 7, paragraph 28.
		Schedule 29.
		In Schedule 38, paragraph 6(2)(a) and (3).
1997 c. 58.	The Finance (No.2) Act 1997.	Section 38.

1. The repeal of Chapter VIIA of Part IV of the Taxes Act 1988, and related repeals, have effect in accordance with section 111(6)(a) of this Act.

2. The repeal of section 124 of that Act, and related appeals, have effect in accordance with section 111(6)(b) of this Act.

.3. The repeal of section 482(11)(a) of that Act has effect in accordance with section 111(6)(c) of this Act.

VALID FROM 28/07/2000

(18) Tax treatment of expenditure on production or acquisition of films

Chapter	Short title	Extent of repeal
1992 c. 48.	The Finance (No.2) Act 1992.	In section 43(3), paragraph (b) and the word “or” preceding it.

This repeal has effect in accordance with section 113(6) of this Act.

VALID FROM 28/07/2000

Part III U.K.

Stamp duty and stamp duty reserve tax

Chapter	Short title	Extent of repeal
1949 c. 15 (N.I.).	The Finance Act (Northern Ireland) 1949.	Section 8.

1977 c. 37.	The Patents Act 1977.	Section 126.
1986 c. 41.	The Finance Act 1986.	In sections 67(9), 70(9), 95(1) and 97(1), the words "and is resident in the United Kingdom" and "and is so resident".
1993 c. 34.	The Finance Act 1993.	In section 204(3), the word "first" (in each place where it occurs).
1994 c. 26.	The Trade Marks Act 1994.	Section 61.
2000 c. 17.	The Finance Act 2000.	Section 133.
		Section 134.
		In Schedule 33, paragraph 9(1).

The repeals in the Patents Act 1977 and the Trade Marks Act 1994 have effect in accordance with section 129(5) of this Act.

2. The repeals in the Finance Act 1986 have effect in accordance with section 134(5) of this Act.

3. The repeals of sections 133 and 134 of this Act have effect—

(a) so far as relating to stamp duty on bearer instruments, in accordance with section 107 of the Finance Act 1990;

(b) so far as relating to stamp duty on instruments other than bearer instruments, in accordance with section 108 of that Act; and

(c) so far as relating to stamp duty reserve tax, in accordance with section 110 of that Act.

4. The repeal in Schedule 33 to this Act has effect in accordance with section 107 of the Finance Act 1990.

VALID FROM 28/07/2000

PART IV U.K.

VALUE ADDED TAX

Chapter	Short title	Extent of repeal
1994 c. 23.	The Value Added Tax Act 1994.	In Schedule A1, in paragraph 1(1), the word "and" at the end of paragraph (b).

VALID FROM 28/07/2000

PART V U.K.

INFORMATION POWERS

Chapter	Short title	Extent of repeal
1970 c. 9.	The Taxes Management Act 1970.	In section 17, subsections (4B) and (4C).
		In section 18, subsections (3) and (3AA).
1988 c. 1.	The Income and Corporation Taxes Act 1988.	Section 482A.

These repeals have effect in relation to amounts paid, credited or received on or after 6th April 2001.